VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeals: Local Government Finance Act 1988; Accuracy of the RV in the Rating List; Office and premises; Level of value; Comparable properties; Appeals dismissed.

APPEAL NUMBERS:	CHG100077147, CHG100108650 and CHG100116569
RE:	2nd Floor 61-65 Conduit Street, London, 1st Floor 61-65 Conduit Street, London and 3rd Floor, 61-65 Conduit Street, London (the "subject properties")
BETWEEN:	JRJ Investments Ltd, AKO Capital Management Ltd and Alken Asset Management — Appellants
	and
	Mr A Ricketts (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	Monday 16 September 2024
BEFORE:	Mr A Ramsay, Senior Member
CLERK:	Mrs S D Morgan
APPEARANCES:	Mr S Carter – Appellant's representative (Altus Group) Mr C Cates – Valuation Officer's representative

---

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are dismissed. The assessments were confirmed as follows.

   (i) CHG100108650 - 1st Floor, 61-65 Conduit Street, London - £365,000 RV with effect from 1 April 2017.
   (ii) CHG100077147 - 2nd Floor, 61-65 Conduit Street, London – £382,500 RV with effect from 1 April 2017.
   (iii) CHG100116569 - 3rd Floor, 61-65 Conduit Street, London - £362,500 RV with effect from 1 April 2017.

Introduction

2. These are 2017 rating list appeals. The subject properties had been entered in the 2017 Rating List as 'offices and premises' as follows.

   (i) 1st Floor, 61-65 Conduit Street, London - £365,000 RV with effect from 1 April 2017.
   (ii) 2nd Floor, 61-65 Conduit Street, London – £382,500 RV with effect from 1 April 2017.
   (iii) 3rd Floor, 61-65 Conduit Street, London - £362,500 RV with effect from 1 April 2017.

3. The RVs were disputed on the grounds that they did represent the rental value of the hereditaments under the rating hypothesis at the Antecedent Valuation Date (AVD) 1 April 2015 reflecting the physical factors of the property and locality as at the Material Date 1 April 2017.

4. The appellant's representative had made a challenge against the accuracy of the compiled list assessments in the 2017 Rating List, by way of proposals that he served on the Valuation Officer (VO). After considering the proposals and evidence submitted during the challenge period, the VO decided that the proposals were not well founded. Decision notices to that effect was served on the appellants, and their representatives then appealed the VO's decisions to the Tribunal on the grounds that the current valuations for the hereditaments were still not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

5. Mr Carter appeared on behalf of the appellants as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Carter's' declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.

6. I accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

7. Mr Cates appeared as advocate on behalf of the Valuation Officer.

8. Under Tribunal Business Arrangements, I could hear this appeal alone, as the other member selected to attend this hearing was unable on the morning of the hearing to participate and a replacement member could not be found at short notice.

9. The hearing was held remotely via Microsoft Teams.

10. This statement of reasons is not and does not purport to be a verbatim record of proceedings.

Background

11. The evidence bundles before me comprised all of the evidence disclosed and exchanged during challenge which included comparable assessments, rental evidence, location plans, photographs of the subject properties and their skeleton arguments.

12. The subject properties were part of a mixed-use building arranged over seven floors, also known as St Georges House. The building offered office space on the first to fifth floors with retail space on the ground, basement and mezzanine floors. There was a lift to all floors. The property is located in the heart of Mayfair, situated to the south of Conduit Street close to its junction with Regent Street.

13. The appellant's representative believed that the adopted price of £900/m^2 for 61-65 Conduit Street, London was excessive. His proposed assessments were as follows based on an unadjusted rate of £810/m^2, adjusted by 5% to £755/m^2 on the 1st and 3rd floors to reflect an inferior air conditioning system.

    (i) 1st Floor, 61-65 Conduit Street, London - £330,000 RV with effect from 1 April 2017.
    (ii) 2nd Floor, 61-65 Conduit Street, London – £330,000 RV with effect from 1 April 2017.
    (iii) 3rd Floor, 61-65 Conduit Street, London - £330,000 RV with effect from 1 April 2017.

14. The valuation Officer's representative believed that the existing assessments were not excessive and that the subject properties should be valued in line with similar office accommodation in the locality at £900/m^2. He provided rental and assessment evidence in support of his case.

Relevant Law

15. Rateable value is to be determined in accordance with paragraph 2(1) of Sch.6 to the Local Government Finance Act 1988, which provides:

"(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—

(a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

(b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic.

(c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

Discussion

16. The subject hereditaments must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to be let from year to year on a number of assumptions. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

17. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

18. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditaments, the material day was 1 April 2017.

19. In the cases under consideration, I had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141. The rent on the subject properties is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

20. The 1st floor office at 61-65 Conduit Street is held on a 5-year lease renewal from 22 May 2017, paying a rent of £418,521 per annum (pa) from 22 November 2017. The appellant has been in occupation since 2007 and the 6 months' rent free is pure incentive, the premises having already been fully fitted out. The current rent paid by the appellant for the 1st floor was not regarded as useful evidence, being for a lease renewal and agreed more than 2 years after AVD. However, the adjusted rent being £371,655.26 when taking into account the 6 months' rent-free incentive analysed to £870.31/m^2 based on the floor area of 427.04m^2.

21. The 2nd floor offices at 61-65 Conduit Street adjusted to a rent of £330,624 pa effective from 5 May 2016. The second-floor occupier did not undertake any fit out works at around the review date, and the agreed rent of £367,360 pa was not subject to any rent free. It was set 13 months after AVD in what was a rising market for office rents in the central market. The appellant's representative assumed a 10% increase post April 2015 in rental value for this building. On this assumption the adjusted rent paid was £330,624 which analysed to £775.2/m^2 based on the floor area of 426.5m^2. This gave a revised basis of £775/m^2. The valuation officer's representative had assumed an 8% uplift to give a revised adjusted rent of £360,680 pa which analysed to £845.67/m^2.

22. The 3rd floor, 61-65 Conduit Street is held on a 5-year lease from 9 October 2016, paying a rent of £412,470 pa from 9 June 2017. The office was let in a 'plug and play' condition and the 8 months' rent free is pure incentive, the premises having already been fully fitted out. The appellant's representative had adopted a revised basis of £775/m^2 in his revised valuations.

23. The valuation officer's representative referred to office 2015/2016 rental evidence for hereditaments at 3rd, 52-53 Conduit Road. 1st floor offices at 21 Conduit Street, 5th floor (& 17 Mill Street) 14-15 Conduit Street and 1st offices at 52-53 Conduit Street where the analysed rents ranged from £968.95/m^2 to £1,126.41/m^2 against an adopted rate of £900/m^2 which was applied to each of the assessments. All of these assessments had been

uplifted by 8% for tenant fitouts. He attached greatest weight to the 1st floor, 21 Conduit Street, London assessment.

24. In response, the appellant's representative contended that the 1st floor offices at 21 Conduit Street were 87.7m^2 in size compared to the subject size of 426.5m^2 and were located to the southwest of 61-65 Conduit Street beyond the junction with Savile Row and much closer to the hub of Mayfair. The letting of the 5th floor of 14/15 Conduit Street is also smaller at 71.4m^2 and therefore not comparable in terms of size. The rent review on the 3rd floor of 52-53 Conduit Street is for a different style of building and is in an arguable stronger office location.

25. The valuation officer's representative had acknowledged that his comparable properties were smaller than the subject properties however they had been devalued and valued in line with the Valuation Office scales which allow for quantum. Furthermore, there was a rent review on the 3rd floor of 52-53 Conduit Street with an effective date close to AVD. This building was constructed at a later date than 61-65 Conduit Street however it was in the same valuation scheme.

26. Having examined the evidence presented by the parties, I was more persuaded by and placed more weight on the comparable assessments provided by the valuation officer's representative, who had provided office assessments for other properties in Conduit Street that were also valued at £900/m^2. Of the three rents identified in Conduit Street, two with effective dates close to AVD in 2015 and one in February 2016, some 11 months post AVD. All analysed to rents higher than £900/m^2 without taking into account tenant fit outs. Greatest weight was given to the letting of the 1st floor of 21 Conduit Street. The appellant's representative had relied on one rent review for the 2nd floor of 61-65 Conduit Street which was 13 months post AVD. I was also drawn to the comments made to the Upper Tribunal in *Lamb (VO) v Go Outdoors Ltd* RA/66/2013 in which the member stated: "*Open market lettings must always be preferred to other forms of evidence, particularly when the exact nature of a rent review is unknown, but the difference in time from AVD must also be considered*".

27. I noted the rebuttal comments made by the appellant's representative. However, I found the rental evidence for properties in Conduit Street provided by the valuation officer's representative were closer to AVD, they were in the same locality, on the same range of values within their valuation scheme (£900/m^2 to £990/m^2), which supported the level of value adopted of £900/m^2 for the subject properties, the lowest figure within the range of values within the scheme. The level of value applied to 52-53 Conduit Street was also £900/m^2. I was therefore satisfied that the existing level of value for the subject properties was reasonable.

28. In appeals of this nature the burden of proof rested on the appellant's representative to prove his case for a reduction. However, in the cases before me, I concluded that he had failed to produce sufficient evidence to justify his claim for the assessments to be reduced. Consequently, I was satisfied that the grounds for these appeals were not substantiated, and the appeals were dismissed.

Disposal

29. In view of the above findings and conclusions, I am satisfied that the three appeals at 61-65 Conduit Street, London should be dismissed.

Date issued to parties: 15 October 2024

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.
