THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; offices and premises; price per m^2 in dispute; rental evidence; comparable assessments; appeal dismissed.

RE: Leeds Day, First Floor, Godwin House, George Street, Huntingdon, PE29 3BD

APPEAL NUMBER: CHG100086128

BETWEEN	Leeds Day LLP	Appellant
	and	
	Mrs J Moore (Valuation Officer)	Respondent

PANEL: Mrs N Salh (Senior Member)
Dr PAR Thomson

CLERK: Mrs A Keohane

REMOTE HEARING ON: Wednesday 10 March 2021

APPEARANCES: Mr A Watson of Rapleys on behalf of the appellant, as advocate and expert witness
Mr P Bance on behalf of the Valuation Officer as advocate and expert witness, accompanied by Mr K Bainbridge

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Summary of decision

1 Appeal dismissed. No change was made to the appeal property's existing assessment of £66,500 rateable value (RV), with effect from 1 April 2017.

Introduction

2 The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

3 Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

4 This is a 2017 rating list appeal. First Floor, Godwin House, George Street, Huntingdon, PE29 3BD, (the 'appeal property') had been entered in the 2017 rating list as 'offices and premises' at £66,500 RV with effect from 1 April 2017.

5 The challenge proposal was submitted by Mr Watson of Rapleys LLP on behalf of Leeds Day LLP and received by the Valuation Officer on 1 April 2019. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong. A revised assessment of £53,000 RV was proposed with effect from 1 April 2017.

6 The Valuation Officer issued a challenge case decision notice on 24 September 2020, which stated that based upon the evidence and information available, the rating list entry of £66,500 RV was considered to be reasonable and no amendment would be made.

7 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 22 December 2020.

8 As Mr Watson appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

9 Mr Watson declared that he was not instructed under any conditional fee arrangement but on a fixed fee. He confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client's case.

10 The appeal property is situated on the first floor of a three-storey purpose-built office block with a passenger lift, located just outside of the Huntingdon town centre ring road. When originally constructed, the subject property was fully heated but did not benefit from air conditioning or raised floors. The property was refurbished in October 2005 to include air conditioning but raised flooring was not added. The property was held on a 15-year lease with effect from 1 January 2007 at a rent of £68,000 per annum (pa); this included a six-month half rent period at the start of the lease. The most recent Form of Return indicated a new lease agreement had been drawn up with the same occupier, effective from 1 April 2019 for a 15-year term at the same rent of £68,000 pa.

11 The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.

Issue

12 The issue in dispute was the price/m^2 to be adopted in the valuation of the appeal property. The Valuation Officer contended for the existing unadjusted rate of £125/m^2. Mr Watson argued that a rate of £100/m^2 was more reasonable.

Evidence and submissions

13 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: the appellant's challenge submission and full supporting information; the Valuation Officer's initial response; the exchanges of evidence between the parties; the Valuation Officer's challenge case decision notice, a rental evidence summary; location plans; google maps; schedules; together with lease comparable details. Information was also provided for properties cited by the parties as comparable, including photographs submitted by Mr Watson prior to the hearing date which Mr Bance agreed were admissible.

14 Mr Watson gave a brief history of the building in which the appeal property was situated. In comparing the levels of value adopted in the 2010 and 2017 rating lists, he had found that outside of the Huntingdon town centre ring road where the appeal property was located, assessments had increased by over 30% between lists; however, in the inner ring road area the increase had been in the region of only 5%.

15 As the majority of assessments for the comparable properties in the locality were based on £100/m^2, Mr Watson argued that this level of value was appropriate for the appeal property. He proposed a revised assessment of £53,000 RV, based upon this lower value. After considering the evidence, Mr Watson found that properties inside the ring road had been valued differently; given that car parking was valued separately. Car parking at the appeal property was not ideal as there was no direct access to the car parking spaces from George Street. Adopting a basic price of £100/m^2 and separately assessing the appeal property's 14 car parking spaces at £300 per space, resulted in a revised assessment of £57,500 RV, which he also considered to be more reasonable than the current assessment.

16 On behalf of the Valuation Officer, Mr Bance referred to the details of comparable properties and to rental evidence which he contended supported the unadjusted rate of £125/m^2 adopted for the appeal property. He was aware of the different values applied to properties in the area but submitted that different valuation office schemes applied. There was a scheme for offices deemed to be part of the inner ring road, which was reflective of quantum and within which car parking was valued separately. The scheme for outer ring road offices, in which the appeal property was placed, did not reflect quantum, and had car parking included within the price applied. Having regard to the evidence, he sought confirmation of the existing assessment of £66,500 RV with effect from 1 April 2017.

Decision and reasons

17 In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(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—
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> (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
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> (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;
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> (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.

18 In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April, 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

19 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

20 Within the evidence reference was made to the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which set out six propositions to be followed when considering the weighting of evidence:

1. Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.
2. The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.
3. Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.
4. Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that

list therefore they can properly be referred to as giving an indication of that opinion.
5. In light of all the evidence an opinion can then be formed of the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.
6. In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.

21 In the subject appeal, the appeal property's lease had been agreed for a term of 15 years with effect from 1 April 2019 at £68,000 pa. The Valuation Officer had analysed this rent to £128.82/m^2 which he considered supported the unadjusted rate of £125/m^2 adopted in the current assessment. As outlined in *Lotus and Delta*, the starting point was the consideration of the actual rent, but the circumstances as to time, subject matter and conditions relating to the statutory requirements need to be taken into account when deciding the weight to attach to it. The subject rent had been agreed four years after the AVD. As such, the panel held that little weight should be attached to this and that it should not be considered in isolation.

22 The panel turned to the evidence of the comparable properties. In support of the existing valuation, based on £125/m^2 with a 5% uplift for air conditioning, the Valuation Officer referred to the following properties situated outside of the ring road. All were offices and premises, except 26 St John's Street, which was described as a surgery and premises; however, it was valued on an office basis.

Address	Total significant Area m^2	Adjusted Rent	Analysed rent per m^2	Adopted rate per m^2
2nd floor, Godwin House, George Street, PE29 3BD	503.20	£65,000 10/4/2014	£129.17	£125.00
12 George Street, PE29 3DG	166.60	£25,000 1/6/2014	£150.06	£125.00
36 St Johns Street, PE29 3DG	470.43	£53,075 1/7/2018	£130.13	£125.00
Cab Office, Eastfield House, 5 Latham Road, PE29 6YE	88.60	£8,362 1/12/2015	£94.38	£125.00
1st floor Godwin House, George Street, PE29 3BD	508.79	£68,817 1/4/2019	£128.82	£131.25

23 Mr Watson argued that the Valuation Officer's rental evidence was not compelling in this appeal. In support of his proposed valuations for the appeal property, based on £100/m^2 with a 5% uplift, Mr Watson referred to the following:

- Schedules setting out offices in Huntingdon town centre in postcode area P29 3, which confirmed that only four of these had sizeable increases between the 2010 and 2017 rating lists; three of these were in Godwin House.
- The schedules confirmed that only Godwin House and 14 George Street had been valued using £125/m^2, the remainder being at £100/m^2.

- The Lease Comparable Summary identified a number of offices in Huntingdon town centre that had remained on the market for many months.
- Pathfinder House, St Mary's Street, PE29 3TN. A smart and more modern property close to the ring road valued at 100/m^2. It had been assessed at the same level of value as the appeal property for the 2010 rating list.
- Brook House (originally Chorus House), Ouse Walk, PE29 3QW. A more modern office on the fringe of the ring road assessed at 100/m^2. Also assessed at the same level of value as the appeal property in the 2010 rating list.
- Saxongate Community Learning Centre, Bradbury Place, PE29 3RR. Another good quality property valued lower than the appeal property for the 2017 rating list.
- The ground floor of Godwin House, held on a 15-year lease from September 2011 at an initial rent of £68,688 pa with an 18-month half rent period. The adjusted rent was £58.384.80 pa.
- The second-floor office at Godwin House was currently on the market and had been for a number of years with an asking rent of £67,750 pa. The lease agreement referred to by the Valuation Officer had ended early and another lease came into force from February 2016 for a six-month period at a peppercorn rent.
- 30 High Street, PE29 3TB. This property was situated within the ring road area. It was held on a 10-year lease from January 2004 at a rent of £33,000 pa which was not reviewed in 2009. On the expiry of the lease in 2014, a further five-year lease was entered into at the same rent and then again in January 2019. The rent had not increased since 2004.

24 The panel acknowledged Mr Watson's concern at the increase in the values applied to properties outside of the ring road as opposed to those within the ring road area between the 2010 to 2017 rating lists. However, it accepted that each rating list was separate and distinct and based on different AVDs, reflecting different rental markets and economic climates. It did not consider the values applied to properties within different rating lists was a factor it could have regard to when determining this appeal.

25 The panel noted that for the 2017 rating list different schemes were in place for properties situated outside of the ring road and those within. It appeared that car parking was currently included in the scheme applied to the outer ring road offices and therefore it was already included in the appeal property's current rating assessment. However, to reflect that parking was at a premium in the inner ring road area, car parking had been valued separately at £300 per space.

26 In consideration of all of the evidence presented, the panel held that the appeal property should be valued in line with those comparable properties situated outside of the ring road, reflective of its location. Thus, it placed little weight to the details of the comparable properties situated within the ring road, namely, Pathfinder House, Brook House, Saxongate Community Learning Centre and 30 High Street as due to their position, they were in a different valuation scheme. The panel did not consider the rental evidence for the ground floor at Godwin House was compelling as it had been agreed in 2011, some four years prior to the AVD. The panel also had little regard to the evidence for Cab Office at Eastfield House as outlined by the Valuation Officer as the rent for this property was between connected parties.

27 In this appeal, the panel was persuaded that the best evidence was that provided by 2nd floor Godwin House. Whilst accepting that this property was now vacant and the lease did not run for the full two years, it was the closest in size to the appeal property, within the same location and had been let on a two-year lease commencing on 10 April 2014, one year prior to the AVD. The rent had analysed to £129.17/m^2 and its assessment was based on £125/m^2.

28 Mr Watson had indicated that another lease had been agreed in February 2016, for the 2nd floor for a six-month period at a peppercorn rent. However, the details of this lease agreement were not before the panel for consideration. It was also noted that the property was currently on the market at an asking rent of £67,750 pa so it was not apparent what the peppercorn rent reflected. Consequently, the panel preferred to attach the most weight to the letting of this property in 2014.

29 The panel also found the rental evidence for 12 George Street had some relevance. It was situated outside of the ring road and in the same scheme as the appeal property; however, it was not a purpose-built office but a smaller converted pre 1900's domestic dwelling. The Valuation Officer had explained that the appeal property's scheme did not have quantum built in and was set up to reflect that all offices up to 10,000 m^2 were valued at a rate of £125/m^2. This comparable property had been let on a five-year lease with effect from 1 June 2014, 10 months prior to the AVD, and this rent had analysed to £150.05/m^2. The panel found that this analysed rent did not show the tone of £125/m^2 adopted for properties in this locality to be excessive.

30 On balance, the panel considered it had not been demonstrated that the appeal property's current assessment was unreasonable. The subject appeal was therefore dismissed.

Date: 8 April 2021

Appeal Number: CHG100086128