VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Price per m² to be adopted; method used to analyse rent free periods; rental evidence; appeal allowed

APPEAL NUMBERS:	CHG100087038 and CHG100086353
RE:	5th and 6th floors, Finwell House, 26 Finsbury Square, London, EC2A 1DS and 5th floor, Finwell House, 26 Finsbury Square, London, EC2A 1DS (the “subject properties”)
BETWEEN:	M J Quinn Integrated Ltd and Mc Bains Cooper Consulting Ltd — Appellant
	and
	Andrew Ricketts (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	Monday 9 December 2024
BEFORE:	Mr A N Backway (Presiding Senior Member) Ms T M Blades (Senior Member)
CLERK:	Mr A Jolly
APPEARANCES:	Mr P Barney of the Altus Group representing both appellants Mr G Singh representing the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are allowed in part. The panel confirm the following: Rateable Value (RV) £715,000 with effect from 1 April 2017 for 5th and 6th Floors, Finwell House, 26 Finsbury Square and RV £358,750 with effect from 11 August 2017 for 5th Floor, Finwell House, 26 Finsbury Square based on a price per m² of £465.

Introduction

2. These appeals have been brought in respect of the following: the appeals were lodged by the Altus Group on behalf of the occupiers on 28 January 2021 against the Valuation Officer's decisions of 13 October 2020.

3. Mr Barney appeared on behalf of the appellant as both Advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Barney's declaration of truth included a statement that he was instructed under any conditional fee arrangement.

4. Mr Barney declared 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.

5. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was 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).

6. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

7. Mr Singh informed the panel he was acting as advocate only.

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

Issue

9. The issue before the panel concerned the price per m² to be adopted for the subject properties.

10. Mr Barney had originally sought a reduction from £485 per m² to £445 per m² but at the hearing stated that he was now seeking a reduction to £465 per m².

11. Mr Singh stated that he raised no objection to the revised valuations provided by Mr Barney, but he was not in a position to accept the valuations as higher authority was required and therefore was seeking the price per m² to remain at £485.

12. The subject properties were within a 1950s building which was re-clad in the 1980s and refurbished in 2012. It was located on the corner of Finsbury Square just out of the city.

Decision and reasons

13. Mr Barney stated that the original assessment under appeal was split into two on 11 August 2017 with the 5th floor also under appeal and being considered. He provided details of the rent passing for the subject property prior to its split in 2017 which commenced in January 2014 and had been analysed at £466 per m² prior to having regards to fitting out uplift. The rent for the 5th floor after its split on 11 August 2017 had been analysed to £439.47 per m².

14. Mr Barney referred to the rents on the other floors within Finswell House which he had analysed to between £374.35 per m² and £502 per m² and then he added £25 per m² to the

calculation in accordance with the fitting out uplift as per the Upper Tribunal decision of *Bunyan (VO)* v *Acenden Limited* [2023] UKUT 17 (LC).

15. Mr Barney stated that the difference between his analysed rents and the respondent was due to how the rent was analysed especially the rent free period. He had analysed rent free periods to the 1st review in accordance with the city protocol. He considered the most compelling evidence was the rent for 1st Floor, Finwell House which commenced on 10 March 2015 and both parties had analysed this rent to £443 per m² which did not include the uplift. He considered the rental evidence for the 8 and 9 floor were outliers as these floors were rebuilt so were not 1950s shells and also there was a roof terrace so a premium would have been paid.

16. Mr Barney requested the panel allow the appeals and confirmed Rateable Value (RV) £715,000 with effect from 1 April 2017 for 5th and 6th Floors, Finwell House, 26 Finsbury Square and RV £357,500 with effect from 11 August 2017 for 5th Floor, Finwell House, 26 Finsbury Square.

17. Mr Singh stated that the subject properties were located outside of the city and therefore not covered by the city protocol, so he had analysed the rent free periods to the 2nd review In line with the Carter Jonas Office Market Update report.

18. Mr Singh accepted that the closest rent to the antecedent valuation date (AVD) was for 1st Floor which both had analysed to £443 before having regards to the £25 per m² uplift for fitting out. This provided a value of £468 per m². However, Mr Singh referred to *Lotus and Delta* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 where the basket of evidence should be considered and not one rent in isolation. He stated that the rent on the subject property analysed to £503 per m² (plus £25 per m² for fitting out cost) and the 3rd floor with a lease from July 2014 had analysed to £415 per m² (plus £25 per m² for fitting out costs). He accepted that the 8th and 9th floors were superior and that the rents showed a premium.

19. Mr Singh requested the panel dismiss the appeal and confirm RV £745,000 for 5th and 6th floor from 1 April 2017 and £372,500 for 5th floor from 11 August 2017.

20. The panel first considered the issue of how to analyse the rents especially the period for rent free periods. The subject properties, although close to what was considered the city, was not within the city locality and therefore rental evidence was analysed differently by the Valuation Office. The panel was informed by the respondent that rent free periods in the city were analysed to the first review and those out of the city were analysed to the second review in accordance with the Jonas Carter report. It was noted that the appellant’s representative had analysed the rent free period until the first review due to the closeness to the city.

21. The panel accepted that as the subject properties were not within the city for valuation purposes then the rent free period should be analysed up to the second review period in line with other hereditaments in the locality and in accordance with the identified report. The panel therefore accepted the respondent’s analysed rents.

22. In considering the rents for both subject properties and the other floors within Finwell House the panel paid minimal weight to the rents for the 8th and 9th floors as both parties accepted that those floors were newer, enjoyed roof terraces and a premium would appear to have been paid. It noted the remaining rents analysed prior to the £25 per m² uplift to values between £415 per m² to £466 per m² or with the uplift between £440 per m² and £491 per m².

23. It considered the most compelling rent to be for 1st floor which commenced from 10 March 2015 and analysed (with the uplift) to £468. It also considered the rents for the 2nd and 3rd floors to be of assistance having commenced in June 2014 and July 2014 which analysed at (with the uplift) £441 and £440 per m².

24. The panel was satisfied that the current price per m² adopted of £485 was not reasonable and in considering the rental evidence had been persuaded by the appellant's representative that £465 per m² was reasonable.

25. The panel therefore allows the appeals in part and confirms RV £715,000 with effect from 1 April 2017 for 5th and 6th Floors, Finwell House, 26 Finsbury Square and RV £358,750 with effect from 11 August 2017 for 5th Floor, Finwell House, 26 Finsbury Square based on a price per m² of £465.

Valuations

5th and 6th floors with effect from 1 April 2017

Floor	**Description**	**Area m²**	**£ m²**	**Value**
fifth floor	offices	772.00	£ 465.00	£ 358,980.00
six floor	offices	773.00	£ 465.00	£ 359,445.00
				£ 718,425.00
		say RV		£ 715,000.00

5th floor with effect from 11 August 2017

Floor	**Description**	**Area m²**	**£ m²**	**Value**
fifth floor	offices	772.00	£ 465.00	£ 358,980.00
		Say RV		£ 358,750.00

Order

26. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry for 5th and 6th floor, Finwell House, 26 Finsbury Square, London, EC2A 1DS to £715,000 with effect from 1 April 2017 and 5th Floor 26 Finsbury Square, London, EC2A 1DS to £358,750 with effect from 11 August 2017 within two weeks of the date of this order.

Refund of appeal fee

27. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.
28.

Date issued to parties: 9 January 2025

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.