THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; compiled list entry; reasonableness of the rateable value; Offices and premises; whether there should be an end allowance following disturbance created by nearby building redevelopment/refurbishments; appeal dismissed.

RE: LGnd-Gnd, 95 Queen Victoria Street, London, EC4V 4AB

APPEAL NUMBER: CHG100090196

BETWEEN: The SR Group (UK) Limited Appellant

and

Valuation Officer for the City of London Respondent

PANEL: Mr B Beyzade (Chairman)
Mr M Nwosu

CLERK: Mr A Johnson Tech IRRV

HEARING: 13 May 2021

APPEARANCES: Mr V Newbury (of CBRE, for the Appellant)
Mr M Paterson (for the Respondent)

Summary of decision

1. Appeal dismissed. The Panel were not satisfied that an allowance should be made, and the rateable value was unchanged at £605,000.

Introduction

2. This is not intended to be an exhaustive record of the proceedings. The absence of a reference to any statement or item of evidence placed before

the Panel should not be construed as that statement or item of evidence being overlooked.

3. This appeal has been brought in respect of LGnd-Gnd, 95 Queen Victoria Street, London (the “appeal property”), which was entered into the 2017 rating list as ‘Offices and premises’ with an RV of £605,000 effective from 1 April 2017.

4. The appellant had made a proposal to the Valuation Officer on the grounds that the entry shown in the rating list on 1 April 2017 should be reduced to reflect ongoing redevelopment/refurbishment works at 85 Queen Victoria Street (an adjacent property) and Bracken House (situated opposite and separated by a public highway). The Valuation Officer determined that no allowance for the works was justified and the valuation list was not amended.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal was made to the Valuation Tribunal for England (VTE) on the grounds that the valuation for the appeal property was not reasonable.

Remote hearing

6. 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.

7. 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. The panel were satisfied that it was just and equitable to hear this appeal by way of a remote hearing.

Issue

8. The appellant had sought a reduction of 12.5% in respect of the RV ascribed to the appeal property to reflect an allowance for the disturbance caused by redevelopment / refurbishment works that were taking place at 85 Queen Victoria Street and Bracken House. The percentage split was 7.5% and 5% respectively. The Panel had to determine, from the evidence and submissions of the parties, if such a reduction was reasonable.

Evidence and submissions

9. Both parties' representatives appeared in a dual role of advocate and expert witness. Mr Newbury declared that he was representing the appellant on a contingency fee basis and he acknowledged that when presenting evidence as an expert witness, he understood and accepted that his duty was to the Tribunal regardless of whether or not the evidence supported his client's case.

10. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 253 (LC), the Panel accepted the expert witness evidence on this basis as the appeal was not complex and to do otherwise would have been contrary to regulation 3 (Discharge of VTE functions - general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 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).

11. It was therefore appropriate for the Panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

12. The appeal property comprised primarily of office accommodation. It was built in 2003 and was arranged over the lower ground and ground floor of 95 Queen Victoria Street, London. It was 2,114.08m^2 in size, split between 941.58m^2 for the lower ground floor and 1,172.5m^2 for the ground floor.

13. For the purpose of this appeal, the parties had agreed that the material date was 18 December 2017.

14. The basis of the appellants appeal concerned redevelopment/refurbishment works at 85 Queen Victoria Street and Bracken House. Although a precise start for these works was not known, it was understood that they commencement around early April 2017. It was believed that the works were completed by the end of December 2018.

15. The Panel understood that the works at 85 Queen Victoria Street comprised a complete refurbishment of all floors, alterations to the building, the erection of a roof pavilion, the addition of a café, the creation of a roof terrace, the creation of additional pedestrian and cycle entrances, recladding, external landscaping and various other amendments and extensions. These works and surrounding scaffolding abutted the appeal property. The works at Bracken House comprised a complete shell and core refurbishment to encompass an enlarged entrance hall, new internal courtyards and a roof garden with a running track.

16. Mr Newbury submitted that these works caused a nuisance due to noise, dust, vibration, impaired access and a loss of outlook which compromised the appeal property. Mr Newbury added that many temporary [RV] reductions had been granted in London which he evidenced by providing examples from the

2010 and 2017 rating lists. As this was a 2017 rating list appeal, the Panel preferred the 2017 examples:

Address	Overall allowance	Notes
1st Pt 2nd 3rd & 4th Fs 201 Bishopsgate, London, EC2M 3UG	2%	Temp Disadvantage
8th-9th Flr Nth & 10th Flr 201 Bishopsgate, London, EC2M 3UG	2%	Temp Disadvantage
(Excluding 8th Floor) 1 Fleet Place, London, EC4M 7HY	5%	Temp Disadvantage
Various at 3 Finsbury Avenue, London, EC2M 2PA	5%	Temp Disadvantage
Various at Park House, 16 Finsbury Circus, London, EC2M 7EB	5%	Temp Disadvantage - Crossrail
Various at 8 Finsbury Circus, London, EC2M 7AZ	5%	Temp Disadvantage - Crossrail
20 Finsbury Circus, London, EC2M 7BP	7.5%	Temp Disadvantage - Crossrail
1 Principal Place, Worship Street, London, W1K 3HN	2.5%-4%	Temp Disadvantage
20 Balderton Street, London, W1K 3HN	10%	Temp Disadvantage
10-12 Cork Street, London, W1S 3NP	5%	Temp Disadvantage - DABW
47-48 Berners Street, London, W1T 3NF	2%	Temp Disadvantage
25 Soho Square, London, W1D 4FA	17%-17.75%	Temp Disadvantage - Crossrail
18 Cavendish Square, London, W1G 0PJ	20%	Temp Disadvantage - DABW
1 Great Cumberland Place, London, W1A 7AL	3.25%	Temp Disadvantage - DABW

17. Mr Newbury was of the opinion that these examples demonstrated that allowances were made for disturbances and that an overall allowance of 12.5% was warranted. However, it was Mr Paterson's opinion that these properties were not comparable because they were different works, some of which related to properties that were smaller/narrower and were approximately fifteen metres or less in depth facing the works (the appeal property was approximately 57 metres in depth facing the works).

18. Mr Paterson submitted that, in his opinion, no allowance at all was warranted as only one third (approximately) of the ground floor of the appeal property was exposed to the works being undertaken at 85 Queen Victoria Street and the lower ground floor was entirely sheltered. Mr Paterson explained that due to the limited exposure to the works, any allowance applicable to the ground floor would be zoned for every fifteen metres, halving back for each zone removed from the works. Mr Paterson said that the result of this calculation was de-minimis. Turning to the works at Bracken House, Mr Paterson was of the opinion that any impact upon the appeal property was small given its location opposite and across from a public highway. Both parties referred the Panel to previous decisions of the VTE. Mr Newbury commented that the previous decision he had referred to were decided in 2019 and had resulted in allowances being made on the whole property without applying any type of zoning. Unfortunately, neither party provided copies and the Panel observed that, in any case, it would not have been bound by them.

Decision and reasons

19. After considering the evidence and submissions of the parties, the Panel determined that the appellant had not discharged the burden of proof on him

to show that an allowance should be made. The Panel had to assess the appellant's appeal based on the particular factual circumstances relating to the appeal property.

20. The examples of disturbance allowances that had been provided by the appellant were found by the Panel to be too general (without any sufficient particulars) and in some cases, where an allowance had been made, it was in an entirely different and unrelated factual context. As such, they did not demonstrate how they were directly applicable to this appeal. Therefore, the Panel could not place any significant weight on this evidence.

21. The Panel understood that the works may have created a degree of inconvenience. However, it found that as only one third of the appeal property was exposed to the works at 85 Victoria Street, the sealed double glazing is likely to have reduced the impact of noise and dust. The Panel also found that works on Bracken House were not likely to be substantially disruptive as it was separated from the appeal property by a public highway. The Panel took into account that the works in question were time limited and could not be satisfied on evidence that there was any material or substantial disturbance. The Panel also noted the Valuation Officer's submission that any disturbance is likely to have been de minimis as a result of zoning.

22. Overall, the Panel found that the appellant had not provided sufficient evidence to demonstrate on the balance of probabilities that the works undertaken on either building had a substantial impact upon the appeal property, such that the allowance sought by him should be made. The burden of proof in this case was on the appellant. Consequently, having considered the evidence and submissions set out above the Panel were unable to uphold the appeal, making no alteration to the rating list.

Date: 11 June 2021

Appeal number: CHG100090196