VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeals: offices and premises; uplift for office fit out and rent-free period in dispute; Local Government Finance Act 1988; Dawn Bunyan (VO) v Acenden Limited [2023] UK UT 17 (LC); rental evidence; appeals dismissed.

RE: (1) CHG100093597: 1st Floor, St Michaels House, London, EC3V 9DH
(2) CHG100093956: 2nd Floor, St Michaels House, London, EC3V 9DH
(3) CHG100094003: 3rd Floor, St Michaels House, London, EC3V 9DH

(the appeal properties)

BETWEEN:

Lycett, Browne-Swinburne & Douglass Ltd
Rethink Recruitment Solutions Limited
BIE Executive Ltd — Appellants

and

Andrew Ricketts
(Valuation Officer) — Respondent

SITTING: Remotely using Microsoft Teams

ON: Monday 17 March 2025

BEFORE: Mr P Blythe-Bartram, Presiding Senior Member
Miss R Punia, Member

CLERK: Mrs L Horne

APPEARANCES: Mr M Morrison from Ryan (previously Altus Group) representing the Appellants

Mr P Emmerton representing the Valuation Officer

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are dismissed. The panel confirmed the rateable values (RV) of the appeal properties as follows:

1st Floor, St Michaels House, London, EC3V 9DH - £117,000 RV effective from 1 April 2017.
2nd Floor, St Michaels House, London, EC3V 9DH - £128,000 RV effective from 1 April 2017.
3rd Floor, St Michaels House, London, EC3V 9DH - £127,000 RV effective from 1 April 2017.

Introduction

2. These are 2017 rating list appeals. Challenge proposals were submitted by Altus Group on behalf of the appellants, and were received by the Valuation Officer in May 2019. They had been made on the grounds that the RVs shown in the 2017 rating list on 1 April 2017 were inaccurate. Revised RVs had been proposed based upon a reduction in the adopted price from £525 per m^2 to £490 per m^2.

3. The Valuation Officer issued challenge case decision notices on 11 December 2020, which disagreed with the proposed alterations of the list, and stated that the rating list entries were reasonable based on the evidence and information available.

4. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeals to this Tribunal have been made on the grounds that the valuations for the hereditaments are not reasonable. The appeals were lodged by Altus Group on behalf of the appellants, and received by the Tribunal on 9 April 2021.

5. Appeals in respect of office fit out costs (a rental uplift for Category A to Category B) had been suppressed, pending an Upper Tribunal decision. In *Dawn Bunyan (VO) v Acenden Limited* [2023] UK UT 17 (LC), it had been determined that there was a difference in value between a building in Category A condition and one in Category B condition, with the latter having a higher value. The Valuation Officer's approach of applying an uplift for tenant's fit out was upheld. Following this decision, there had been an agreement between a consortium of Central London rating agents and the Valuation Office Agency to apply £25 per m^2 for office fit out in Central London; previously the Valuation Officer had applied an uplift of 8%.

6. Mr Morrison appeared on behalf of the appellants 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), he declared that he was instructed under a contingency based fee. He confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported the clients' case.

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

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

Preliminary issue

9. Prior to the hearing, Mr Emmerton requested the introduction of the following new evidence:
    - Marketing Brochure for 1 George Yard, dated September 2016.

- Official copy of the lease for 1st Floor, 1 George Yard dated 27 June 2014.
- Central London Offices fit-out addition – 2017 Rating List.

10. In response, Mr Morrison provided photographs dated 2 February 2018 and a floor plan of the 1st Floor. He also confirmed that the rental analysis of the 1st Floor had been agreed at £510 per m^2. As there was no objection raised by either party, the panel was satisfied that the additional documents should form part of the proceedings.

Relevant Law

11. Rateable value is determined in accordance with paragraph 2(1) of Schedule 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.

12. 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).

13. 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 appeals, the material day is 1 April 2017.

Discussion

14. The appeal properties comprise the first, second and third floors of St Michaels House, an office building consisting of a basement and seven upper floors. St Michaels House is located in the City of London, and was built circa 1860.

15. The parties provided evidence and submissions in respect of 1st Floor St Michaels House, which was applicable to the 2nd and 3rd Floors. The challenge submissions and Valuation Officer’s decision notices contained reference to rental evidence and comparable assessments, however, having agreed the analysis of the 1st Floor rent at £510 per m^2, the parties’ submissions to the panel concentrated on whether further adjustments should be made.

16. Mr Morrison proposed a revised main space price of £510 per m^2, while the Valuation Officer's adjustments resulted in an increased main space price of £555 per m^2.

17. The 1st Floor had been let on a five year lease commencing 27 June 2014, at a rent of £127,157.50 per annum, with a rent free period of ten months. The adjusted rent of £103,476 analysed at £464.00 per m^2. When toned to the AVD, this resulted in an analysed rent of £510 per m^2.

18. Further rents from St Michaels House had been scheduled by the Valuation Officer:

- 6th Floor – a five year lease which commenced on 1 December 2016, at a shell rent of £132,228, with an assumed 10 months' rent free period. The Valuation Officer's analysis of £574.56 per m^2 reflected an adjustment of 8% for fit out and toning to the AVD.
- 2nd Floor – a five year lease which commenced on 1 August 2017, with 12 months rent free. The Valuation Officer's analysis of £603.72 per m^2 reflected an 8% uplift for fit out.

19. As the 2nd and 6th Floor rents were post AVD, and an updated analysis had not been provided, the panel could not attach any significant weight to those rents.

20. On behalf of the appellants, Mr Morrison submitted that the best evidence was derived from the analysis of the 1st Floor rent at £510 per m^2. He disputed the Valuation Officer's addition of £25 per m^2 for fit out, based upon photographs taken during an inspection in 2018. When compared with letting particulars, he considered that there had been little to no expenditure on fit out.

21. For the Valuation Officer, Mr Emmerton provided revised valuations for the appeal properties based on adjustments for an additional rent free period and an uplift of £25 per m^2 to reflect tenant's fit out. While he suggested that the Tribunal may determine if the assessments should be increased, the panel was aware that the 2017 Rating List was now closed. This was acknowledged by Mr Emmerton, and he therefore requested that the appeals be dismissed on the basis that the present £525 per m^2 was justified.

22. Mr Emmerton referred to a marketing brochure for 1 George Yard dated September 2016 and the Central London Offices fit out addition – 2017 Rating List in support of an uplift from the agreed analysis of £510 per m^2 for fit out.

23. It appeared to the panel that there was a difference in opinion regarding the condition of St Michaels House at the material date. Mr Morrison described the accommodation as quite basic, having been refurbished in the 1980s, whereas the Valuation Officer cited a 2016 refurbishment which had improved the condition, as shown in the marketing particulars for 1 George Yard. The panel noted that the only photographs provided of the subject properties were of the 1st Floor as at 2 February 2018; there were no photographs provided of the 2nd or 3rd Floors.

24. It had been established during questions that Mr Morrison accepted that the analysis of £510 per m^2 did not reflect fit out, and it was significant that he acknowledged that the first floor may have been fitted out. His argument not to apply an uplift appeared to rely on his belief that the extent and quality of the fit out did not justify such an uplift.

25. The panel attached most weight to the marketing particulars provided by the Valuation Officer, which demonstrated that the building had been refurbished in 2016, prior to the material date. As such, the panel was satisfied that the correct approach was to adjust the analysed rent to reflect fit out, in line with the agreement for Central London offices. The panel was not persuaded that there was any compelling evidence or arguments in support of Mr Emmerton's contention that there should be no uplift applied.

Disposal

26. In view of the above findings, the panel concluded that it had not been demonstrated that the present RVs of the appeal properties were unreasonable, and therefore the appeals were dismissed.

Date issued to parties: 14 April 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.
