VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating List; 2017 Rating List; Local Government Finance Act 1988; offices and premises; appeal against the accuracy of the rateable value for the hereditament; appeal allowed.

APPEAL NUMBER:	CHG100132784	
RE:	5-8 Dysart Street, London, EC2A 2BX (the "subject property")	
BETWEEN:	GB Group PLC	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	Friday 14 June 2024	
BEFORE:	Mr G McGill, Presiding Senior Member Mrs U Naseem, Senior Member	
CLERK:	Mrs K Edhouse-Thomas IRRV(Hons)	
APPEARANCES:	Mr P Willmore of Rupert David Ltd, representative for the appellant Mr G Singh, representative for the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The Tribunal Panel determined a revised rateable value (RV) of £136,000, with effect from 1 April 2017.

Introduction

3. The appellant's representative had made a challenge against the accuracy of the RV in the 2017 Rating List, by way of a proposal that he served on the valuation officer on 10 October 2019. After considering the proposal and evidence submitted during the challenge period, the

valuation officer decided that the proposal was not well founded and refused to alter the existing assessment of £161,000 RV. A decision notice to this effect was served on the appellant on 19 April 2021 and its representative then appealed the valuation officer's decision to the Tribunal on 18 August 2021, on the grounds that the current valuation for the hereditament is not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009. The material day was 1 April 2017, this being the date of the compiled list.

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

Background

5. The subject hereditament comprised a five-storey property with office accommodation on the basement to the third floor. The building was constructed prior to 1939 and was refurbished in 1985. It entered the Rating List as offices and premises on 1 April 2017.

6. The RV for the hereditament with effect from 1 April 2017 was £161,000 which was based on an unadjusted main space price of £220/m^2, adjusted to £198.55/m^2.

7. The appellant's representative was seeking a reduction to £136,000 based on a main space price of £170/m^2. This was calculated using the actual rent for the subject hereditament and uplifting the rate to take into consideration the lease commencement on 1 May 2012, which was three years prior to the antecedent valuation date (AVD) of 1 April 2015. He stated at the hearing that he had ignored the rent free period in this calculation.

8. The valuation officer argued that the RV of £161,000 was not unreasonable having regard to the 2010 Rating List entry, comparable rental evidence and comparable assessment evidence.

9. The evidence submission before the panel comprised all the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' skeleton arguments, expert witness statements and a photograph of the appeal property.

10. The valuation officer's representative, Mr Singh, appeared before the panel as advocate only.

11. Mr Willmore appeared before the panel in a dual role of advocate and expert witness. He indicated that he was on a success related fee. He did, however, accept that first his duty was to the Tribunal and that he would comply with this duty together with the requirements of his professional body, regardless of whether or not the evidence supported the appellant's case. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), 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 in England). The panel, therefore, considered the "expert" evidence and attached such weight to it as it saw fit.

Relevant Law

12. The term ‘rateable value’ was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

Discussion

13. In the case under consideration, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141.

14. The starting point for consideration was the actual rent passing on the appeal hereditament. The rent resulted from a new letting, with the appellant responsible for internal repairs only. The appellant benefited from a rent-free period of nine months. The rent passing was £124,315, with the lease commencing on 1 May 2012, this being three years before the AVD of 1 April 2012. At the hearing the appellant’s representative stated that this rental figure was obtained directly from the appellant.

15. Mr Willmore argued that the rent passing on the subject property was the best evidence. He further argued that the subject hereditament was the only property in its valuation scheme which, in his opinion, demonstrated that the property was unique with no similar properties in the vicinity. However, Mr Singh contended that little weight should be attached to the actual rent because the lease was agreed three years before the AVD.

16. The valuation officer argued that CoStar stated a rent of £143,323 with effect from 1 November 2012 and that no form of return or copy of the 1 May 2012 lease had been received. However, at the hearing, in response to a question from the appellant’s representative, the valuation officer stated that CoStar data is not always reliable. In addition, he stated that a form of return had been received in 2016. The panel noted that this was after the AVD for the 2017 Rating List and before the list came into force, however this had not been disclosed in the evidence submission and it was not admissible under regulation 17 of the Procedure regulations.

17. The valuation officer further argued that the RV for the subject hereditament in the 2010 Rating List was higher than the RV proposed by the appellant. In his opinion the property would have experienced growth from the 2010 Rating List, considering that it was within walking distance of Liverpool Street station, which is a prominent area of London. However, the panel was not persuaded by this evidence as each list should be looked at afresh using the available evidence connected to a different AVD.

18. In view of the above, the panel accepted the appellant’s opinion that the rent of the subject hereditament was the correct starting point. The only drawback was that this was three years before the AVD. This was not perfect and would need adjusting for this, and to take into consideration that the tenant was only responsible for internal repairs.

19. In terms of indirect rental evidence, the valuation officer provided a schedule of comparable rental evidence for six properties. However, the panel had several concerns in relation to this evidence:

a) Whilst the valuation officer's representative demonstrated sound knowledge about rating, he lacked familiarity of the comparable evidence that he had put forward for this hearing. He was unable to explain to the panel the relevance of this evidence in relation to the subject hereditament.

b) The rent schedule provided showed that the properties were assessed between £300/m^2 and 350m^2, which was higher than the subject hereditament. There must therefore be some differences with the subject hereditament, but no explanation was given how these properties compared.

c) The appellant argued that the property was unique, and it has its own valuation scheme. This supported his argument that it was difficult to compare with other premises in the locality.

20. In consideration of the above, the panel gave the comparable rental evidence little weight. No comparable rental evidence was presented by the appellant, he argued that there were no similar properties within the locality to compare with the subject hereditament.

21. In terms of comparable assessment evidence, the valuation officer provided details of two offices where the RV had been challenged and agreement had been reached between the parties. These were Grd-4th floors, 2 Luke Street and 1st floor, 10 Lindsey Street. Mr Willmore argued that the first property was a converted Victorian warehouse and the second was part of the Smithfield Market building and were not in the same locality. He argued that the subject property was in Hackney. At the hearing, Mr Singh agreed that these properties were not like for like. No comparable assessment evidence was presented by the appellant.

22. The panel had concerns over the relevance of the comparable assessment evidence submitted. These properties had unadjusted rates of £300/m^2 and £260/m^2 respectively. The difficulty for the panel was that the valuation officer did not know very much about these properties and did not demonstrate to the panel that these hereditaments were similar to the subject property.

23. The panel was also persuaded by the appellant that the subject property was unique in the area. No other similar properties had been presented, and this was the only property in the valuation scheme. The property had been refurbished some years ago in 1985 and the panel accepted that this should be reflected in the assessment.

Disposal

24. After giving careful consideration of all the evidence presented, the panel found little assistance from the comparable rents and assessments presented by the valuation officer. It was not persuaded that the valuation officer had demonstrated that a main space price of £198.55/m^2 was reasonable. On that basis, the only remaining consideration was for the rent of the subject hereditament. Mr Willmore had not just relied on this rent but had given an uplift to reflect and acknowledge a rise in the market from 1 May 2012 to the AVD. The panel was more persuaded by this argument that the RV was unreasonable and adopted his valuation.

25. The appeal was allowed as the panel upheld Mr Willmore's contention for an alteration to the 2017 Rating List. The revised valuation of £136,000 RV was confirmed as follows:

	Floor	Description	Basic - RDL Area	£170.00 £/m2	Value	
1	Basement	Office	165.98	85.00	14108	
2	Ground	Office	203.70	170.00	34629	
3	First	Office	207.56	170.00	35285	
4	Second	Office	169.61	170.00	28834	
5	Third	Office	136.43	170.00	23193	
6	Basement	Interanl Storage	51.86	42.50	2204	
		Total	**935.14**	**Total**	**136049**	
				Say	**£136,000**	**Rateable Value** with effect from 1st April 2017

26. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to alter the entry in the 2017 rating list to £136,000 with effect from 1 April 2017 within two weeks of the date of this order.

27. A refund of the paid fee will now be arranged provided there is no review sought of the Tribunal's decision. The refund will take around six weeks to process.

Date issued to parties: 2 July 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.