THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; club and premises; accuracy of rateable value in list; allowance for excessive bedrooms; appeal dismissed.

RE: 6 Park Place, London SW1A 1LR

APPEAL NUMBER: CHG100159723

BETWEEN:	The Royal Over-Seas League	Appellant
	and	
	Mr Andrew Ricketts (Valuation Officer)	Respondent

PANEL: Miss K Riddy (Presiding Senior Member)
Mrs N Yang (Senior Member)

CLERK: Ms R Muller

HEARING: Remote Hearing No. 1 on 24 August 2022

APPEARANCES: Mr Laurence Hatchwell from Colliers, the representative for the appellant
Mr Christopher Cates, the representative for the respondent

Summary of decision

1. Appeal dismissed.

Introduction

2. This was a 2017 rating list appeal. The rateable value (RV) of the subject property was originally £1,340,000 from 1 April 2017, with a description of Club and Premises. This was a compiled list appeal, so the material day was also 1 April 2017. A check had been completed on 1 May 2019 and the RV remained unchanged. A challenge was submitted on 23 January 2020 and was completed on 21 July 2021.

3. On 27 July 2021 the Valuation Officer (VO) reduced the RV to £825,000 and altered the rating list with effect from 1 April 2017.

4. An appeal was received by the Tribunal on 3 January 2022, made on the grounds that the valuation for the hereditament was not reasonable. The proposed RV sought by the appellant was £765,000.

5. Mr Hatchwell 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), his declaration of truth included a statement that he was instructed on a contingency fee basis. He 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.

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

7. The subject property was a Grade I Listed building which comprised of a total of 83 bedrooms and various dining facilities as well as a bar. Within the buildings were a basement which has offices and storerooms, members rooms on the ground and first floors, with bedrooms on the second, third, fourth, fifth and sixth floors. The property consists of two separate buildings (originally known as Rutland House which was built in 1735 and Vernon House which was built in 1835. Access to these buildings is confined to one opening at ground floor level within Rutland House and access to both houses are located on third, fourth and fifth levels only.

8. Mr Cates, the representative for the respondent joined the hearing without his camera working. However, he was able to hear and present his case with no issues.

9. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as an indication that that statement or item of evidence has been overlooked.

Issue

10. The issue between the parties at the time of the hearing, was whether an allowance should be granted to reflect the fact that the proportion of bedrooms within the property was excessive. Whether the basis used by the Valuation Officer (VO), which was designed originally for hotels rather than clubs, was correct.

Evidence and submissions

11. The panel was presented with a combined bundle of evidence which included details of the subject property, the issue in dispute and the contentions by both parties. It was noted that all areas had been agreed before the hearing except for an allowance that Mr Hatchwell sought to reflect the fact that the proportion of bedrooms within the subject property was excessive.

12. Mr Hatchwell had sought a reduction to £765,000 with effect from 1 April 2017, which was based on a ratio of 0.04 for an allowance with regards to the excessive number of bedrooms within the subject property.

13. Mr Case sought to defend the existing assessment of £825,000 with effect from 1 April 2017, where he stated that no evidence had been provided to support that the number of bedrooms at the subject property was excessive and therefore requested that the panel dismiss the appeal.

14. All other matters had been resolved and were not disputed by the parties.

Decisions and reasons

15. The subject hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to be let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 February 2019 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

16. Mr Hatchwell referred to mode and category of use as a club and premises. The subject property was owned by the members and was a non-profit organisation. He informed the panel that even though members are allowed to invite guests to the subject property, the bedrooms are only allowed to be used by the members. He also stated that other non-commercial club operators would not necessarily want such a large establishment with the number of bedrooms the subject property holds. Therefore, the assessment of the subject property should be revised to consider the proportions of excessive bedrooms within the property.

17. Mr Hatchwell provided his revised assessment, where he contended that an allowance of 18.74% should be granted for excessive bedrooms within the subject property, at a ratio of 0.040, which reduced the assessment by £61,620. Therefore, his revised assessment for the subject property was £765,000 RV.

18. In support of his contention, Mr Hatchwell had provided a table of West End Gentlemen's clubs which contained a total of 23 Gentlemen's clubs with a ratio of bedrooms to the main space. The panel referred to the following:

	Main space (m^2)	Equivalent double bedrooms	Ratio
* Royal Over-seas League	1,150.54	73.60	0.064
East India Club	1293.59	51.20	0.040
RAF Club	1303.876	82.80	0.064
Arts Club	707.5407	65.16	0.032

*Subject property

19. Due to the similarity in the main space and the number of equivalent double bedrooms that the East India club had in relation to the subject property, Mr Hatchwell was of the opinion that the ratio between the double bedrooms and the main space for the subject property should be the same as the East India Club at 0.04.

20. The panel noted the differences between the main space, the number of equivalent number of bedrooms and the ratio assigned to each of the comparable properties above. However, the panel did not receive an explanation as to Mr Hatchwell's calculations on ratio, not how the other properties had used this within the table above. The panel also noted that the subject property was smaller than the East India club and the RAF club, however, its equivalent double bedrooms figure was closer to the RAF club than the East India club. It was also noted that the Arts club, which was much smaller in size, had a closer amount of equivalent double bedrooms to the subject property than the East India club and had a ratio of 0.032.

21. Taking the differences noted above, the panel held that the listing officer had assigned the correct ratio to the subject property, as the above did not indicate that the ratio of 0.064 was excessive.

22. Mr Hatchwell stated that the subject property had been categorised using the Inner London Borough Wide Hotels/Guest House/B&B basis which was agreed in September 2019. However, he informed the panel that when valuing a hotel, the basis applied to hotels do not include bedrooms that are not let to the public. However, for bedrooms within clubs, the valuation officer values all bedrooms whether or not they are open to the public or just the members. The panel found that this statement was not helpful when it had to determine the correct ratio of the double bedroom allowance.

23. The panel turned its attention to the evidence provided by the listing officer. Mr Cates stated that the hypothesis is that a property is vacant and to let.The current occupier is of the opinion that there is an excessive number of bedrooms and, as such, a higher allowance should be used.

24. However, Mr Cates informed the panel that the appellant uses all of the bedrooms. Therefore, he does not believe that within the hypothesis, this argument would be accepted and is not a unique position. Taking into account that the assessment had already been reduced from £1,340,000 to £825,000, Mr Cates requested that the panel dismiss the appeal.

25. The panel held that no credible evidence had been submitted to show that not all of the bedrooms are being used. The subject property, if vacant and to let, would suit its purpose for other clubs and that Mr Hatchwell's statement that other non-commercial club operators would not necessarily want this number of rooms, had not been followed up by any evidence in support of this statement.

26. In appeals of this nature the burden of proof is on the appellant to show that the current assessment was excessive. Having regard to the above factors the panel found the appellant's representative had not discharged this burden and it therefore dismissed the appeal.

Date: 13 September 2022

Appeal number: CHG100159723

Right of 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.