VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal; Local Government Finance Act 1988; office and premises; end allowance: appeal dismissed.

APPEAL NUMBER:	CHG100381799	
RE:	GND FL QANTAS HOUSE,395, KING STREET,LONDON,W6 9NJ (the "subject property")	
BETWEEN:	Qantas Airways Limited	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	18 March 2025	
BEFORE:	Mr WJ Read, Presiding Senior Member	
CLERK:	Miss N Shepherd, IRRV (Hons)	
APPEARANCES:	Mr M Parvin, on behalf of the appellant Ms L Tang, on behalf of the Valuation Officer	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. I found that the entry for the subject property in the 2017 rating was not unreasonable and confirmed the Rateable Value (RV) at £147,000 with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. The subject property had been entered into the 2017 rating list as 'office and premises' at an RV of £147,000 with effect from 1 April 2017.

4. The challenge proposal was submitted on behalf of the appellant and was received by the Valuation Officer on 24 August 2020. It had been made on the grounds that the RV shown in the rating list from 1 April 2017 was inaccurate. A revised RV of £133,000 was proposed with effect from 1 April 2017, based upon a 10% allowance to reflect the disadvantages of the subject property being situated on the ground floor.

5. The Valuation Officer issued a challenge case decision notice on 23 August 2021 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by the appellant's representative on behalf of the appellant and received by the Tribunal on 20 December 2021.

7. Mr Parvin 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 Dyson explained that he was instructed on a conditional fee basis and he declared that he understood and accepted his duty 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 the evidence supported the client's case.

8. 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.

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

Senior member sitting alone

10. A second panel member had been allocated to this hearing. However, on the morning of the hearing they were no longer able to sit.

11. I referred to the Valuation Tribunals Consolidated Practice Statement Part 1 Tribunal Business Arrangements paragraph 11 "Hearings where a member is unable to sit": -

> "Where a panel member is allocated to a hearing and unable to sit for any reason or fails to appear……. a hearing will proceed with a Senior Member alone where a member gives notice of unavailability within one working day of the hearing, to avoid postponing the hearing."

12. I duly proceeded alone.

Preliminary Issue

13. One day prior to the date of the hearing Ms Tang sought permission to include new evidence which pertained to a form of return relating to the subject property.

14. I was aware that the Tribunal's standard directions, which had been sent to the parties, prescribed that a party may make an application to include any further evidence no later than four weeks before the hearing. This would give the other party an opportunity to consider the submission and object to, or support, the application. I would therefore need to consider the reasons for the late application under the three-stage test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926. If I was satisfied there were good reasons why the application could not have been made on time, I would then need to decide on admissibility with consideration of the limits set out in Regulation 17A of the Procedure regulations. Regulation 17A restricts new evidence to matters which relate to the appeals and were not known to the party before the VO issued her decision on the proposals

15. Mr Parvin objected to the inclusion of any new evidence as it would place him at a disadvantage as he had limited time in which to review it. Furthermore, he submitted that the Valuation Officer had been in receipt of the form of return for over three years, meaning the evidence could easily have been submitted prior to four weeks before the hearing. This was confirmed by Ms Tang. I retired briefly after hearing from both parties and determined that based upon their submission that there was no good reason as to why the application for the inclusion of the new evidence could not have been made on time. Taking this into consideration, I determined that the form of return would not be admitted.

Relevant Law

16. I am governed by Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, which provides that:

> 2(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.

17. 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).

18. 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 appeal, the material day is 1 April 2017.

Discussion

19. The starting point in any valuation for rating purposes was usually the rental evidence for the subject property. Mr Parvin referred to the rent in respect of the subject property to demonstrate that the current RV was not reasonable and that an allowance should be applied. The passing rent at the subject property was £200,777 per annum with effect from January 2020 and for which there was a 10.5 month rent free period, equating to £165,641 per annum. Mr Parvin submitted that taking into account that average office rents rose over 24.95% between 2015 and 2018 and applying this to the 2020 rent resulted in a figure of £132,565, which was almost identical to the requested RV.

20. Whilst I had regard to Mr Parvins contention, I ultimately attached little weight to this evidence. I considered that the start date of the passing rent was too far removed from the AVD to accurately reflect the rental value that could have been achieved at the AVD. I noted that there were no details as to the calculation of the 24.95% increase referred to nor as to whether this figure was specific to the area in which the subject property was located or nationwide.

21. Mr Parvin submitted that the situation of the subject property, in that it was located on the ground floor of an office building floor and overlooking the pavement created a disadvantage that warranted a 10% allowance due to a fishbowl effect. He contended that this meant there was a lack of privacy leading to the need for frosted windows. Mr Parvin stated that whilst he had inspected the subject property from the outside pavement, he had not entered the offices to see the privacy problems for himself.

22. Mr Parvin referred to settlements at three properties where a 10% allowance had been agreed for what he considered to be identical circumstances to those of the subject property, and which he therefore considered to support a 10% allowance to be applied in respect of the subject property. These were 177-179 Hammersmith Road, 16 Great Guildford Street and 526- 528 Fulham Road.

23. Ms Tang submitted that the allowances at these properties had been awarded due to the individual circumstances at each. She contended that these were all situated in busier areas and did not have the advantage of frosted windows which the subject property benefitted from. Furthermore, these properties were all disadvantaged by a lack of natural light and the reduction was also based on the individual rental details for each of these properties, which was significantly less than the RV prior to any allowance being applied.

24. In consideration of the allowances sought in the subject property’s assessment, I accepted that any adjustments I made had to be reflective of the nature of, and the disabilities affecting, the subject property; therefore, allowances given to other properties which were reflective of specific factors pertinent to those properties were not useful in the subject appeal.

25. Ms Tang submitted that the subject property was located in a mainly residential area and that the lack of privacy there was minimal. Therefore, she did not consider an allowance in respect of this to be applicable. I had regard to the photograph provided of the subject property and noted that it was not situated on a main road and there appeared to be no footfall or traffic, demonstrating it was not a busy road.

26. On the issue of whether any allowance was applicable to reflect the disadvantages at the subject property in respect of it being located on the ground floor, I ultimately found in favour of the Valuation Officer. I was not satisfied that I had been provided with sufficient evidence to demonstrate that there would be any impact upon the hypothetical rental value that could have been achieved at the AVD. I did not consider the circumstances of the subject property to be comparable to that of the other assessments referred to by Mr Parvin.

Disposal

27. In view of the above findings and conclusions, the panel therefore confirmed the RV at the subject property to be £147,000 with effect from 1 April 2017 and dismissed the appeal

Date issued to parties:17 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.