VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeals: Local Government Finance Act 1988; tone of the rating list; offices and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141; comparable properties; rental evidence; appeals dismissed.

APPEAL NUMBERS: CHG100866034, CHG100401470, CHG100401478

RE: 7th Floor 199 Bishopsgate, London EC2M 3TT
10th Floor 199 Bishopsgate, London EC2M 3TT
11th Floor 199 Bishopsgate, London EC2M 3TT
(the "subject properties")

BETWEEN:

SAS Software Limited
Dorsey & Whitney (Europe) LLP — Appellants
RBB Economics LLP

and

(Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 24 February 2025

BEFORE: Mrs N Carman, Presiding Senior Member
Ms T M Blades, Senior Member

CLERK: Mrs A Sloan

APPEARANCES: Mr P Smith (of Ryan Property Tax Services Ltd, representing the appellants)
Mr C Cates (representing the Valuation Officer)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are dismissed.

2. The panel made no alteration to the entries in the rating list and confirmed the rateable values (RV) from 1 April 2017 at;

- £680,000 for 7th Floor 199 Bishopsgate, London EC2M 3TT
- £500,000 for 10th Floor 199 Bishopsgate, London EC2M 3TT
- £495,000 for 11th Floor 199 Bishopsgate, London EC2M 3TT

Introduction

3. The appellants' agent made proposals on 18 September 2020 (for the 10th and 11th floor assessments) and 12 October 2022 (for the 7th Floor assessment) to challenge the entries in the 2017 Rating List. The proposals sought a reduction in the unit price from £510/m^2 to £440/m^2, as the appellants considered the valuations unreasonable. The Valuation Officer (VO) did not agree, and a Challenge decision was issued for each hereditament on 14 February 2022, for the 10th and 11th Floors, and 12 April 2023 for the 7th Floor, maintaining the existing entries in the rating list. Appeals against those decisions were received by the Tribunal on 1 June 2022, for the 10th and 11th Floors, and 26 May 2023 for the 7th Floor.

4. Mr Cates stated that he was appearing before the Tribunal as Advocate for the VO, presenting evidence prepared by a colleague. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Smith declared that he was appearing for the appellants as both Advocate and Expert Witness, and he was instructed under a conditional or other success-based fee arrangement. He confirmed that he understood his duty was to the Tribunal, regardless of whether the evidence supported his client's case.

5. The panel accepted Mr Smith's expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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). It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

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

Preliminary issues

7. Shortly before the hearing, Mr Smith provided some additional submissions. The Tribunal's directions permit photographs and maps to be provided before the hearing and there was no objection from Mr Cates to the admission of these items. Mr Smith also confirmed that, although the appeal submission for the 7th Floor assessment sought a revised valuation based on £475/m^2, he now considered that this would be incorrect and he was asking the Tribunal to order a reduction to £440/m^2, as with the 10th and 11th Floors. As the originating proposal sought £440/m^2 for the 7th Floor, the panel was content to accept his change in position on this matter.

8. Finally, Mr Smith provided a table showing updated rental analysis following an agreement between the VO and rating surveyors on how to treat the value between Category A and B fit out for offices and a method of toning rents to 1 April 2015. No objection was raised to this by Mr Cates, so the panel treated this addition as evidence agreed by both parties for admission.

9. As all three appellants are represented by the same agent and Mr Cates was representing the VO on these appeals, the parties consented to the Tribunal consolidating the hearing. The issue is the same on each appeal and the same revised tone sought by the appellants. The panel had all evidence covering the three hereditaments available and the parties referred to relevant pages during their presentations.

Issue and Relevant Law

10. The subject hereditaments are offices within 119 Bishopsgate, a building constructed in 1990 and fully refurbished in 2012. The building has twelve storeys and a second entrance on Primrose Street.

11. The issue to be determined by the panel was whether the existing valuations, based on an unadjusted rate of £510/m^2, were unreasonable. Mr Smith contended that the tone of the rating list in this locality supported a lower rate of £440/m^2, whereas Mr Cates defended the existing valuations.

12. The material date on which to consider the physical state of the hereditaments and the locality was 1 April 2017, when the entries were made in the rating list. The valuation date for the 2017 rating list is 1 April 2015, the antecedent valuation date (AVD). The rateable value (RV) must represent the statutory definition of the annual rent the property might reasonably achieve from year to year, assuming the tenant is responsible for repairs and insurance, with effect from 1 April 2015.

13. Both parties referred to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141, which provided guidance on the weight to be applied to different forms of evidence.

Discussion

14. There were four rents presented from within the subject building, 119 Bishopsgate, including the three subject properties under appeal. The 7th Floor was let from 2 July 2013 for a ten-year term at £699, 709 per annum. After adjustments, this rent was analysed to £517.13/m^2 by the VO and £492.13/m^2 by Mr Smith. The 10th Floor was let from 25 June 2013 for a ten-year term at £539,923 per annum. After adjustments, this rent was analysed to £487.74/m^2 by the VO and £462.74/m^2 by Mr Smith. The 11th Floor was let from 22 November 2013 for a ten-year term at £483,557 per annum. After adjustments, this rent was analysed to £515.46/m^2 by the VO and £490.46/m^2 by Mr Smith.

15. In addition to the rents on the subject properties, the 8th Floor was let from 15 March 2013 for a ten-year term at £700,970 per annum. After adjustments, this rent was analysed to £489.91/m^2 by the VO and £464.91/m^2 by Mr Smith. The panel found that as all four rents are new lettings in the subject building, they were strong evidence of the market at that time. The assessment for the 8th Floor was the oldest rent and therefore the furthest from the AVD. This hereditament is identical in size to the 7th Floor at 1342.73m^2. The 10th and 11th Floors are smaller, 982.74m^2 and 856.00m^2, respectively.

16. In accordance with *Lotus & Delta*, the panel found that the starting point of the valuations must be the rents agreed on the subject properties. It noted that all three rents were agreed less than two years before the AVD, with the 11th Floor rent being the closest in November 2013. There were two adjustments applied when analysing these rents. Firstly, to apply a flat rate of £25 per m^2 to reflect the fit out, in line with the agreed approach between the VO and

the rating surveyors. Secondly, the rents required adjustment to reflect the market changes between the date of the rents and the AVD. This was capped at twelve months. As the rents on the subject properties were agreed in 2013, Mr Cates highlighted that adding a further twelve months onto these rents only brought them to a level reflecting the market in 2014, rather than at the AVD. The panel noted there was some difference in the analysis from each party but found it generally supported the existing valuation of £510/m^2. Certainly, the analysis from Mr Smith did not support his proposed valuation based on £440/m^2.

17. In support of his case, Mr Smith provided the panel with a table of comparable assessments in the same Broadgate development. Reference was made to assessments in 201, 250, 280, and 288 Bishopsgate, which ranged from £376/m^2 to £450/m^2. Others in Exchange Square, Primrose Street, Norton Folgate, and Principal Place ranged in value from £335/m^2 to £440/m^2. Mr Smith contended that these buildings were all in close proximity to the subject properties and supported a lower tone than that applied to 199 Bishopsgate.

18. The panel noted that 199 Bishopsgate was built in 1990 but refurbished in 2012. The other four buildings in Bishopsgate presented by Mr Smith were built between 1999 and 2008 but had not been refurbished since. 10 Exchange Square was constructed in 2004, Exchange House in Primrose Street was built in 1990, and Broadgate Tower in Primrose Street was built in 2008. The panel found these buildings were likely to be less modernised than the refurbished subject property from 2012. The two properties in Norton Folgate were built in 1986 but refurbished in 2016, and 1 Principal Place dated from 2017. Mr Smith accepted that 250 Bishopsgate, 280 Bishopsgate, and 1 Principal Place were valued at a lower tone (under £400/m^2) because the hereditaments are large and there would be an element of quantum reflected in the valuation. However, he submitted that the other assessments supported his case for a reduction to £440/m^2 for the subject properties.

19. The panel was only provided with an external image of the subject property, but Mr Cates submitted that it had been extensively refurbished in 2012. He submitted that the landlord had sacrificed office space on the first floor to create an impressive double height reception area and this would indicate the level of improvement works involved in the renovation. The panel was of the opinion that a refurbished 2012 property would likely command a higher value than older unmodernised buildings from between 1999 and 2008 in Bishopsgate. It accepted that the Norton Folgate properties had been refurbished in 2016 and were valued at £425/m^2.

20. After considering all the evidence, the panel found that the comparable properties in the locality could not carry more weight than the rental evidence in the subject building. In these appeals there were new lettings from less than two years before the AVD on the subject properties themselves and this must provide the strongest evidence of the tone in the building. The panel considered that there could be a different tone of values in different buildings to reflect the standard of the accommodation and attributes of the property. It found that the open market rents agreed on the subject properties were compelling evidence of value and supported the existing entries in the list. The panel was not persuaded that comparison with assessments in other buildings could provide a better indication of value than rents from relatively close to the AVD on the actual subject properties. It was therefore not satisfied that the appellants had demonstrated the existing valuations were unreasonable.

Disposal

21. In view of the above findings and conclusions, the panel confirmed the existing entries in the 2017 rating list and dismissed the appeals.

Date issued to parties: 19 March 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.
