VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Accuracy of the RV in the Rating List; Office and premises; Tone; Appeal allowed in part.

APPEAL NUMBER:	CHG100406078
RE:	5th Floor, 51 Sovereign House, 212-214 Shaftesbury Avenue, London WC2H 8EB (the "subject property")
BETWEEN:	EMG Media & Marketing Limited — Appellant and Mr A Ricketts (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	Wednesday 23 October 2024
BEFORE:	Ms T Blades, Presiding Senior Member Ms A Cole-Roberts, Senior Member
CLERK:	Mrs S D Morgan
APPEARANCES:	Mr P Barney - Appellant's representative Ms T Adeyemi – Valuation Officer's representative

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The panel confirmed the rateable value (RV) £44,750 with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. 5th Floor, 31 Sovereign House 212-214 Shaftesbury Avenue, London WC2H 8EB (the subject property) had been entered into the 2017 rating list as 'offices and premises' at a RV of £51,000 with effect from 1 April 2017.

4. The challenge proposal was submitted by Altus Group on behalf of EMG Media and marketing Ltd and was received by the Valuation Officer (VO) on 24 September 2020. It had been made on the grounds that proposer disputes an alteration to the RV made by the VO. The VO issued a challenge case decision notice 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.

5. 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 12 January 2024.

6. Mr Barney 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 Barney explained that he was instructed on a contingency 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.

7. The panel accepted this 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 Procedure regulations 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).

8. Ms Adeyemi who appeared on behalf of the Valuation Officer (VO) also stated she was acting in a dual role capacity, as expert witness and advocate.

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

Background

10. The evidence bundle before the panel comprised of the evidence disclosed and exchanged during challenge. It included comparable assessments, location plans, photographs of the subject property and their skeleton arguments.

The subject property is an office and premises on the fifth floor of a listed building with retail units on the ground floor. There is a small reception / security area. The upper floors of the property are served by a single passenger lift and Victorian style, carpeted staircase. The reception area is decorated to a reasonable standard. The area to the front of the lift area is narrow; occupants waiting for the lift at peak times would restrict access to the staircase area. The property does not benefit from air conditioning or raised floors.

11. The unadjusted main space price of £400/m^2 was originally in dispute. The appellant's representative was seeking an unadjusted main space price of £310/m^2. Prior to the hearing, the unadjusted main space rate was reduced after discussions from £400/m^2 to £375/m^2. This adjusted to £332.25/m^2 giving a revised RV of £48,000. However, the appellant's

representative believed this was still excessive and continued to seek a main space rate of £310/m^2 based on an analysed rent in the same building.

Relevant Case Law

12. Rateable value is to be determined in accordance with paragraph 2(1) of Sch.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.

Discussion

13. 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. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

14. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

15. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day was 1 April 2017.

16. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

17. The subject property had a rent review in September 2016. The rent was £50,750 per annum (pa). This analysed to £396/m^2. The appellant’s representative made comparisons with the 2010 assessment for the subject property where it had been agreed at a main rate of

£350/m^2 which was adjusted to £310/m^2. He contended that given the accepted strong post AVD rental growth it would not make sense that the RV was higher than the figure of £50,750 agreed at the September 2016 rent review on the subject property. Toning back to AVD and assuming a conservative 1% a month rental growth would give £43,250 at 1 April 2015, this equated to £338/m^2.

18. In addition, to support his proposed valuation, the appellant's representative had referred to the rent on 3rd Floor, 31 Sovereign House. The rent on this property was £53,225 pa with effect from 18 May 2015. This analysed to £299.37/m^2. This 2015 letting required no adjustment and, in his opinion, indicated the correct basis should be £310/m^2 for the subject property.

19. The valuation officer's representative stated that she had considered a basket of rental evidence from properties close to the subject property and within the same valuation scheme. The effective dates were not far from the AVD of 1 April 2015. The properties within the scheme were valued on basic office scales. An uplift to the basic price of £400/m^2 had been applied when considering the specification of each property. The subject property was given an allowance of 11.4% for layout and for what was described as a "coffin lift". It was valued at a lower price compared to other assessments within the scheme.

20. The valuation officer's representative referred to four comparable office properties which included High Holborn, New Oxford Street, Shaftesbury Avenue and Denmark Street in London.

    - 2nd floor, Holborn Hall, High Holborn, London is situated close to the subject property. This was a new let from April 2013. It is a 5-year lease with a 3 months' rent-free period, then 6 months at half rent and 3 months deducted for fit-out period. This rent analysed to £443.95/m^2.
    - 1st Floor, 42 New Oxford Road, London was a new let from May 2015. This is 5-year term with five months' rent free. This analysed to £458.35m^2. It was valued at a higher rate of £420/m^2 due to its size (44.55m^2).
    - 7th and 8th floors, Endeavour House, 179-199 Shaftesbury Avenue, London had a rent review from November 2014. The analysed rent was £508/m^2.
    - 1st to 4th floors, 1-3 Denmark Street, London was a new letting from February 2014. It is a 10-year lease with a 5-year rent review. The adopted rate for this property was £462/m^2 in line with its specification.

21. The valuation officer's representative also referred to three properties in Sovereign House where £400/m^2 had not been challenged to support the existing assessment. She was of the opinion that the unadjusted rate of £375/m^2 for the subject property was fair and reasonable.

22. The appellant's representative gave his reasons as to why he did not consider the valuation officer's comparable properties were good evidence. This was either because the rents were too far away from AVD or that the offices had been refurbished to a good/high standard.

23. The panel examined the evidence provided by the parties; the appellant's representative had relied on the single 2015 rent for offices on the 3rd floor, 31 Sovereign House to justify his unadjusted rate of £310/m^2. The valuation officer's representative, on the hand, had referred to a basket of rental evidence from comparable properties in the locality which were within the same valuation scheme. In addition, she had also provided three assessments within Sovereign House which supported £400/m^2 which had remained unchallenged. The valuation

officer's representative believed there was no justification to reduce the level of value any further than the unadjusted rate of £375/m$^{2.}$

24. Having looked at the photographic evidence, the panel found that there appeared to be a quality difference for those within the same scheme, with the subject property appearing to be of a lesser quality than the comparable properties. It believed that the hypothetical tenant would reduce his rental bid taking into account the specification of the subject property. With this in mind, the panel determined that an unadjusted rate of £350/m^2 would take into account the lesser quality of the subject property. With an adjustment of 11.4%, which had already been conceded, the panel determined the following.

Floor	Description	Area	£ per m^2	Value
5th floor	office	142.00	£310.1	£44,034
5th floor	kitchen	2.70	£310.1	£837
				£44,871
			Say	£44,750

21. In view of the foregoing, the panel is satisfied that the subject property should be reduced to £44,750 RV with effect from 1 April 2017. Consequently, the appeal was allowed in part.

Disposal

22. 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 amend the entry in the Rating List to £44,750 RV with effect from 1 April 2017.

23. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

24. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended)) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date issued to parties: 22 November 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.
