THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; offices and premises; price per m^2 in dispute; lack of rental evidence and comparable assessments; appeal allowed in part.

RE: EMC Tower, Great West Road, Brentford, Middlesex TW8 9DF

APPEAL NUMBER:	CHG100414158	
BETWEEN:	Dell Corporation	Appellant
	and	
	Ms D Bunyan, Valuation Officer	Respondent
PANEL:	Mrs F Cortese (Senior Member) Mr O Miller	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Monday 10 July 2023	
APPEARANCES:	Mr E Jones from CBRE, representing the appellant Mr D Alford representing the Valuation Officer	

Summary of decision

1 Appeal allowed in part. The panel determined a revised base price of £150 per m^2 and confirmed the present uplift of 10% for air conditioning. This resulted in an adopted price of £165 per m^2 and a revised rateable value (RV) of £2,030,000 with effect from 1 April 2017.

Introduction

2 This is a 2017 rating list appeal. EMC Tower, Great West Road, Brentford, Middlesex TW8 9DF (the ‘appeal property’) had been entered in the 2017 rating list as ‘offices and premises’ at a RV of £2,520,000 with effect from 1 April 2017.

3 The challenge proposal was submitted by CBRE on behalf of Dell Corporation and was received by the Valuation Officer on 5 October 2020. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £1,670,000 was proposed with effect from 1 April 2017.

4 The Valuation Officer issued a challenge case decision notice on 14 March 2022 which disagreed with the proposed alteration of the list but stated that the rating list entry was unreasonable based on the evidence and information available. A revised RV of £2,220,000 was notified.

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 received by the Tribunal on 27 April 2022.

6 Mr Jones 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) he confirmed that he was instructed under a contingency fee. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

7 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).

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

9 The appeal property was a brick-built office block of seven floors, constructed in 1989 and located one mile from Brentford train station. At 11,418m^2, it was the second largest office in Brentford. The present valuation of £2,220,000 RV was based upon an unadjusted price of £165 per m^2, uplifted by 10% to reflect the presence of air conditioning.

10 This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issues

11 The appellant's challenge submission identified two issues:

i. The level of quantum to be applied in the adopted price per m^2.
ii. Whether parts of the 3rd and 4th floors should be valued as storage.

12 At the hearing, Mr Jones confirmed that he was no longer challenging the valuation of parts of the 3rd and 4th floors as storage.

Evidence and submissions

13 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge, Valuation Officer's challenge case decision notice, and appellant's challenge submission.

14 On behalf of the appellant, Mr Jones submitted that the appeal property was visually unappealing and had reached the end of its economic life. The appellant was trying to sell the property and had received outline planning permission for conversion to residential property. Mr Jones described the subject as unique, as it was significantly smaller than other large HQ campus sites (such as GSK and British Airways), but significantly larger than other office assessments. He questioned the Valuation Officer's uplift of 10% for air conditioning which he submitted had not been applied to all of the comparable properties. He proposed a revised adopted price of £150 per m^2 and a RV of £1,800,000.

15 Representing the Valuation Officer, Mr Alford disputed the relevance of the appellant's smaller comparable office assessments, which he considered to be in a completely different market to that of the subject, a large HQ campus building. He contended that the settlement of GSK at £175 per m^2 and the VT decision confirming £175 per m^2 for British Airways supported the base price for the subject at £165 per m^2. In response to Mr Jones' query regarding the uplift for air conditioning, he explained that for offices built after 1990, air conditioning was included in the price per m^2. Older style offices built pre 1990 did not always have air conditioning and therefore the Valuation Officer applied a 10% uplift if it was present.

16 Mr Alford acknowledged that there were no other office properties similar in size to the appeal property and it was therefore a matter of judgement to be made based upon the basket of evidence. He submitted that at £165 per m^2, the appeal property was valued at a lower basis than all of the cited comparable properties.

Decision and reasons

17 In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, 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.

18 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).

19 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.

20 There was limited rental evidence available for consideration by the panel, as the subject property was owner occupied, which was common for this type of large office assessment. The Valuation Officer scheduled a rent in respect of West Cross House, West Cross Centre, Great West Road, Brentford TW8 9DY. This was an office of 6,666.6m^2 subject to a rent of £1,349,694 effective from 1 April 2014. Mr Alford commented that the rent had not changed from 2004. The panel noted that the rent analysed at £203.21 per m^2 and the property had been assessed at £196.00 per m^2. This was a property nearly half the size of the subject and therefore the panel attached little weight to it.

21 The panel then turned to the comparable assessments cited by the parties in support of their respective cases. Mr Jones' presented the following:

8th Floor West 1000, Great West Road, Brentford TW8 9ES

An office of 466m^2 within "The Mille", a landmark building which had been extensively refurbished. It had been assessed at £200 per m^2, uplifted by 10% for air conditioning. Following an appeal, the Valuation Tribunal determined a revised value of £160 per m^2, uplifted by 10% to £176 per m^2.

5th Floor Profile West 950, Great West Road, Brentford TW8 9EJ

An office of 678m^2 within a 1995 built, refurbished building. Mr Jones stated that this property and various assessments in the building had been reduced from £200 per m^2 to £170 per m^2.

Great West House, Great West Road, Brentford TW8 9DF

In Mr Jones' opinion, this was one of the most visually high-quality buildings which had been refurbished to a high standard. Floors were valued on a basis of £190 per m^2, uplifted by 15% for air conditioning and raised floors, which resulted in a price of £219.45 per m^2.

Vantage West, Great West Road, Brentford TW8 9EJ

This was a 15 floor newly refurbished high specification building immediately adjacent to the subject. Floors were valued on a basis of £200 per m^2, uplifted by 15% for raised floors and air conditioning, which resulted in a price of £231 per m^2.

22 The comparable assessments put forward by the Valuation Officer comprised:

GSK House, Great West Road, Brentford TW8 9GS

Occupied by GlaxoSmithKline, this was the largest office in Brentford at 61,350m^2. An appeal had been settled at £175 per m^2 (including air conditioning as the property was bult in 2002).

British Airways Waterside, Speedbird Way, Harmondsworth, West Drayton, UB7 0GA

A property of 44,833m^2 built in 1998. The Valuation Tribunal had dismissed an appeal and confirmed the adopted price of £175 per m^2.

23 In consideration of the available evidence, the panel found that there were no similar properties relevant for comparison with the appeal property.

24 The Valuation Officer's comparable properties were significantly larger, GSK five times the size of the subject and British Airways was four time larger. Mr Jones also highlighted that both were superior campus style properties whereas the appeal property was more in the nature of a HQ building. It was also the case that the appeal property had been valued at a lower price per m^2 than both GSK and British Airways in the 2010 list.

25 Equally, the panel considered that the appellant's comparable properties did not assist in arriving at a price per m^2 for the appeal property as they were significantly smaller office assessments.

26 The appeal property was presently assessed at a base price of £165 per m^2, uplifted by 10% for air conditioning. This resulted in an adopted price of £181.50 per m^2, which the panel found excessive for an unrefurbished, 1980's built property. The panel determined a revised base price of £150 per m^2 with a 10% uplift for air conditioning which resulted in an adopted price of £165 per m^2.

Floor	Description	Area m^2	£ per m^2	Value (£)
Basement	Gymnasium	45.60	41.25	1,881
Basement	Cinema & Projection Room	84.50	41.25	3,486
Basement	Internal storage	152.60	57.75	8,813
Ground	Office	1,898.80	165.00	313,302
Ground	Canteen/dining area	126.70	165.00	20,906
First	Office	2,039.90	165.00	336,584
Second	Office	2,049.50	165.00	338,168
Third	Office	2,049.50	165.00	338,168
Fourth	Office	1,496.50	165.00	246,923
Fifth	Office	958.70	165.00	158,186
Sixth	Office	410.30	165.00	67,700
Seven	Cafe	105.91	165.00	17,475
			Sub Total	1,851,592
	Surfaced Covered Spaces	161	550	88,550
	Surfaced Open Spaces	209	475	99,275
			Valuation Sub Total	2,039,417

Rounded down to £2,030,000 RV with effect from 1 April 2017

27 The panel determined a revised RV of £2,030,000 with effect from 1 April 2017, and therefore the appeal was allowed in part.

Order

28 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 rating list to rateable value £2,030,000 with effect from 1 April 2017.

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

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

Date: 21 July 2023

Appeal number: CHG100414158

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.