VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeall: Local Government Finance Act 1988; should an end allowance be applied to the ground floor; windows level with pavement causing goldfish bowl effect; comparable hereditaments; appeal allowed.

APPEAL NUMBER:	CHG100547851	
RE:	BST-GND FLRS 173-175 CLEVELAND STREET, LONDON, W1T 6QR (the "subject property")	
BETWEEN:	Shah Dodhia & Co	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	31/10/2024 10:00	
BEFORE:	Mr M Aslam (Presiding Senior Member) Mr A Hussain (Senior Member)	
CLERK:	Mr A Jolly	
APPEARANCES:	Mr D Semple of the Altus Group representing the appellant Mr N Green representing the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed. The panel confirmed that a 10% allowance for the ground floor office was applicable due to the lack of privacy and confirm rateable value (RV) £76,500 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: an appeal was lodged by the Altus Group on behalf of the occupier Shah Dodhia & Co on 21 October 2021 against the Valuation Officer's Decision of 5 July 2021.

3. Mr Semple 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 Semple's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

4. Mr Semple 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.

5. 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).

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

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

8. Mr Green representing the respondent appeared in a dual role.

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

Issue

10. The issue before the panel concerned whether an allowance should be given for the lack of privacy to the ground floor office. The appellant's representative considered that an allowance of 10% should be applied to the ground floor office due to the lack of privacy whereas the respondent considered no allowance should be applied.

11. The subject property was offices located on the ground floor and basement of a nineteenth century brick and masonry constructed building. In front of the building was a light well with railings around giving light to the basement. It entered the 2017 rating list at RV £82,500 and the appellant sought RV £76,500. In this instance the material date was 1 April 2017 and the antecedent valuation date was 1 April 2015.

Decision and reasons

12. Mr Semple explained the only issue in dispute was whether an allowance should be granted to the ground floor office due to it being level with the street. He considered that the locality was busy due to being close to Euston Station with a high passing footfall including from the nearby Birkbeck University. Although through questions he accepted that the University was not present at the material date but considered the area would still have been busy. He stated that the effect of being at street level was similar to being in a goldfish and therefore there was a lack of privacy. He accepted that blinds or a film coating on the windows could be applied but this would then cause a lack of natural light.

13. In support of his contention for a 10% allowance Mr Semple provided details of assessments where an allowances of between 10% and 33% had been granted due to lack of privacy. He stated that whilst there was a railing between the building and the office, which covered the lightwell for the basement, it was similar to 14 St George Street and 1 Chapel Place where a 10% allowance had been provided for the ground floor. He considered that if the railings were not in situ, he would have been seeking a higher allowance of 12.5% as applied to 25 Park Lane. He also considered that allowance may not have been applied to some of the respondent's comparable hereditament as the reception and not offices were at street level.

14. Mr Green confirmed the only issue in dispute concerned whether or not an allowance should be applied to the ground floor due to it being on street level. He stated that the burden was upon the appellant's representative to persuade the panel that the current RV was unreasonable.

15. Mr Green stated that in front of the office windows was railings so the window was set back from the pavement and therefore he considered no allowance for a goldfish bowl effect should be applied. He considered that some of the appellant's representative's comparable hereditament were located some distance from the subject property and therefore little weight should be applied.

16. Mr Green stated that some of the allowances given in the comparable hereditaments cited by Mr Morrison had been given with no evidence supporting a goldfish bowl effect. Also, the allowance for 25 Park Lane had been carried over from the previous rating list and considered that it had been needlessly given at that time as there was no rental evidence to support such an allowance. He considered that the RV should be evidence led with analysed rental evidence

17. In support of his contention that no allowance should be given to the subject property he provided details of properties close to the subject property that were located on the ground floor and no allowance had been given.

18. The panel noted that the issue concerned an allowance and not a dispute over the price per m² to be adopted. The panel therefore considered the same weight could be applied to all the comparable hereditaments regardless of distance from the subject property.

19. The panel noted the respondent's comparable hereditaments where no allowances had been applied for the goldfish bowl effect. It noted that 26-28 Conway Street had frosted glass and therefore did not suffer from the lack of privacy. 13 Fitzroy Street appeared to be spilt level with the pavement slightly higher than the floor level of the building together with frosting on the lower windows on the floor above and therefore the effect of the goldfish bowl was limited. It noted that the other two hereditaments were similar to the subject property, but no allowance had been granted.

20. The panel then considered the appellant's representatives comparable hereditaments where allowances had been granted. It considered the most compelling evidence was that of 14 George Street, 10 Lower Grosvenor Place and 1 Chapel Place. These hereditaments were on the ground floor with railings in front where allowances of 10% had been applied for the goldfish bowl effect. The panel considered the subject property was similar to these hereditaments with the lack of privacy and that an 10% allowance should also be applied to the ground floor office.

21. The Panel therefore allow the appeal and confirm RV £76,500 with effect from 1 April 2017.

Valuation

Floor	Description	Area m²	£ per m²	Value
basement	office	89.56	£ 209.99	£ 18,806.70
basement	kitchen/staff room	10.78	£ 209.99	£ 2,263.69
basement	tea room	7.03	£ 209.99	£ 1,476.23
basement	staff toilets			£ -
basement	internal storage (vaults)	3	£ 21.00	£ 63.00
basement	internal storage	2.07	£ 105.00	£ 217.35
ground	office	141.07	£ 377.98	£ 53,321.64
ground	mess/staff room	2.04	£ 377.98	£ 771.08
				£ 76,919.69
		say RV		£ 76,500.00

Order

22. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £76,500 with effect from 1 April 2017 within two weeks of the date of this order.

Refund of appeal fee

23. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date issued to parties: 27 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.
