VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; office and premises; tone of value of main space; comparable rental evidence; appeal dismissed.

APPEAL NUMBER: CHG100686848

RE:	Gnd Flr 4, Brownlow Mews, London WC1N 2LD (“the subject hereditament”)	
BETWEEN:	Balmain Design Limited	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	4 December 2024	
BEFORE:	Mrs N Crawshaw (Presiding Senior Member) Mr I Lonsdale (Senior Member)	
CLERK:	Mr S Fletcher	
APPEARANCES:	Mr T Bosley of Altus Group (Appellant’s representative) Mr G Emery (Respondent’s representative)	

DECISION and STATEMENT OF REASONS

Decision

1. Appeal dismissed. The panel confirmed the rateable value (RV) of the subject hereditament to be £20,500 with effect from 1 April 2017.

Introduction

2. The appeal process began with a proposal made by the appellant’s representative on 26 April 2021 in respect of the Valuation Officer’s (VO) list entry of the subject

hereditament at £20,500 RV with effect from 1 April 2017. The appellant's representative proposed a revised assessment of £19,000 RV from that date based on a reduced tone of value for main space.

3. The respondent issued a challenge case decision notice on 23 June 2022 which stated that, based on the evidence available, the existing rating list entry was reasonable. Mr Bosley appealed that decision to this Tribunal on 26 August 2022 on the grounds that the valuation for the subject hereditament was unreasonable and sought a reduced tone of value for main space of £255 per m^2 from £275 per m^2.

4. The subject hereditament was an office and premises of $71.2m^2$ on the ground floor of a mid-terraced three-storey Mews. It was located to the north of Holborn on the edge of Clerkenwell.

5. Mr Bosley 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), the representative confirmed that he was instructed under a conditional fee arrangement. He 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.

6. The panel accepted this expert witness evidence on the above basis as the parties agreed the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of Valuation Tribunal for England (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.

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

Issue

8. The issue for the panel to determine was the correct RV to be attributed to the subject hereditament in the 2017 rating list. The dispute concerned the tone of value for main space.

Evidence and submissions

9. Arguments and factual evidence from both the appellant's representative and the respondent was provided. This comprised documentation exchanged between the parties as part of the challenge process, the appellant's representative's challenge submission, the respondent's challenge decision notice and reference to, location plans and photographs of, the subject hereditament and properties deemed comparable to it by the parties. The Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 was also referred to.

Discussion

10. 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.

11. 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.

12. 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 is 1 April 2017.

13. It is a well-established rating principle that the starting point in the determination of a property's RV should be the rent passing on the subject hereditament itself as held in *Lotus and Delta.* No such evidence was available in this instance as the subject hereditament was freehold.

14. The respondent provided rental evidence deemed in close proximity to the AVD of two assessments within the locality it deemed comparable to the subject hereditament to support its value of tone for main space of £275 per m^2. Bst & Gnd F 4 & Gnd F 5, North Mews and Bst 2-3, North Mews were offices and premises of 138.20 m^2 and 112.20m^2 respectively. Bst & Gnd F 4 & Gnd F 5, North Mews had a rent review agreed effective from 10 February 2015 of £40,000 per annum that the respondent had analysed to £345 per m^2. The respondent stated that property was similar in terms of age and type to the to the subject hereditament. Bst & Gnd F 4 & Gnd F 5, North Mews had a new letting with effect from 1 August 2015 at £14,400 which the respondent devalued to £300 per m^2. The respective tones of value for main space were £350 per m^2 and £425 per m^2. Mr Emery contended that quantum was a comparable factor at those assessments as they were significantly larger than the subject hereditament and demonstrated that the tone of value at the subject was reasonable.

15. The respondent also provided rental evidence from Basement Front, 9 John Street,1st Flr, 1 Doughty Street and Gnd Fl, 16 Doughty Street, which were contended to be smaller properties akin to the size of the subject hereditament and within its locality. The former two properties had new lettings with effect from 1 September 2014 and 1 June 2015 respectively, and a rent was agreed at the latter with effect from 1 March 2015. The respondent had analysed those rents to £342, £353 and £332. The tone of value for main space at those assessments was £350 per m^2, and Mr Emery again contended that the tone of £275 per m^2 at the subject hereditament was therefore not unreasonable.

16. Mr Bosley contended that the most compelling evidence to support a reduction in the tone of value for main space at the subject hereditament to £255 per m^2 was a new letting at Gnd Flr Rear 20A Brownlow Mews. It was let for a term of five years from 7 April 2014 at £40,000 per annum, with a rent-free period of five months. Mr Bosley had allowed for two months rent free for fit out and analysed the rent to £215. The respondent had analysed its rent to £246. The tone of value for main space in its rating list entry was £275 per m^2.

17. Mr Bosley also referred to the two assessments at 24-26 Brownlow Mews, which was stated to be 261m, and Unit B 1st Flr 6 Brownlow Mews, which was stated to be 128 m^2, both of which were agreed with the respondent at a tone of value for main space of £255 per m^2. As such, Mr Bosley contended that the tone at Brownlow Mews was established at £255 per m^2.

He stated that Brownlow Mews was a narrow no-through road and not in a typical location for offices, which was reflected in the agreed reduced tone for main space at those properties. He contended that the rental evidence provided by the respondent did not demonstrate that an uplift for size at the subject hereditament was warranted, and the rents in excess of £300 were due to their more desirable locations.

18. Mr Emery contended that quantum was a significant factor in the assessments of Gnd Flr Rear 20A Brownlow Mews and 24-26 Brownlow Mews as they were over double and triple the size of the subject hereditament respectively. He also argued that Gnd Flr Rear 20A Brownlow Mews was in a less desirable location than the subject as it was located to the north of Brownlow Mews with a narrow and restricted access to Guildford Street. He stated that Unit B 1st Flr 6 Brownlow Mews had no central heating present.

19. The panel upheld the determination of the respondent for the tone of value for main space at £275 per m^2 for the subject hereditament. The respondent had provided rental evidence from two assessments at Bst & Gnd F 4 & Gnd F 5, North Mews and Bst 2-3, North Mews which were agreed either a few months before or after the AVD, and the panel determined carried significant weight. The comparable properties and the subject hereditaments were located either side of where Brownlow Mews met North Mews and therefore the panel was satisfied that they shared the same locality. The respondent had analysed their rents to £345 and £300 and determined tones of value for main space at £350 per m^2. The panel was therefore satisfied that the tone of value for main space at the subject hereditament was not excessive at £275 per m^2.

20. Whilst Basement Front, 9 John Street,1st Flr, 1 Doughty Street and Gnd Fl, 16 Doughty Street were not in the immediate vicinity of the subject hereditament, the panel still considered them to be within its locality to be of relevance. Those properties also had rents agreed in close proximity to the AVD and were similar in terms of size to the subject hereditament. The respondent had analysed their rents to circa £340, and the tones of value for main space were £350 per m^2. As such, the panel found that the assessments for those comparable assessments also supported that the tone of value for main space at the subject hereditament was not excessive.

21. The panel applied little weight to the comparable properties provided by the appellant's representative. Gnd Flr Rear 20A Brownlow Mews and 24-26 Brownlow Mews were significantly larger than the subject hereditament, the latter being almost 190 m^2 larger, and the panel was satisfied they were sufficiently so that quantum was a factor in their assessments and lower tones of value for main space than the subject hereditament. Unit B 1st Flr 6 Brownlow Mews was in the immediate locality of the subject hereditament, however it was larger and lacked central heating.

Disposal

22. Having regard to the evidence, the panel determined that the tone of value for the main space at the subject hereditament was fair and reasonable at £275 per m^2. The subject's RV at £20,500 with effect from 1 April 2017 was confirmed.

23. In view of the foregoing, the appeal was therefore dismissed.

Date: 24 December 2024

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.