THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; *Office and premises; main space price; appeal allowed.*

RE: 2nd Floor South The Quorum, Bond Street South, Bristol BS1 3AE

APPEAL NUMBER: CHG100689495

BETWEEN:	Planglow Ltd	Appellant
	and	
	Ms L Formela-Osbourne (Valuation Officer)	Respondent

PANEL: Ms A Griffiths (Presiding Senior Member)
Mrs S Saleem (Senior Member)

CLERK: Mr R Gath IRRV Hons

REMOTE HEARING on 6 February 2024

APPEARANCES: Mr D Johnstone from Colliers International (Appellant's representative);
Mr P Hunter (Valuation Officer's representative)

Summary of decision

1. Appeal allowed. The panel concluded that the main space price should be reduced to £75/m^2. The resultant rateable value (RV) was £25,250.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer on 19 April 2021. After considering the proposal and evidence submitted during the challenge period, the Valuation Officer (VO) decided that the proposal was well founded and agreed to alter the assessment down to £33,500 RV based on a main space price of £95/m^2. A decision notice to that effect was served on the appellant on 26 April 2021 and his representatives then appealed the VO's decision to the Tribunal on 30 November 2021, on the grounds that the current valuation for the

hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. The appeal property was an office and premises with an agreed gross internal area (GIA) of 329.37m². The appeal property also benefits from comfort cooling.

4. As Mr Johnstone appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

5. Mr Johnstone declared that he was not instructed under any conditional or success fee arrangement, but a fixed fee. Mr Johnstone confirmed 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 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).

7. Mr Hunter confirmed that he was representing the VO as advocate and expert witness.

8. This document is not and does not purport to be a full verbatim record of proceedings.

Issue

9. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Mr Johnstone sought a reduced entry of £25,250 RV based on a tone of value of £75/m² with a 2.5% addition for comfort cooling. The VO agreed to reduce the RV down to £32,000 following removal of additions for raised flooring and air conditioning. However, Mr Hunter defended the VO's revised assessment of £32,000 based on a tone of value of £95/m² with a 2.5% addition for comfort cooling.

Evidence and submissions

10. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' skeleton arguments and a number of photographs of offices within The Quorum.

Decision and reasons

11. 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.

12. Although Mr Johnstone had initially sought a RV of £14,000 based on a main space price of £43/m^2, at the hearing he sought a RV of £25,250 based on a main space price of £75/m^2.

13. Mr Johnstone submitted that the office block where the appeal property was situated was sold in May 2015. After the sale, when each of the offices become vacant, the landlord would refurbish the offices before reletting them. He argued that when the refurbished offices were relet, the rent increased and therefore he considered that any rents after May 2015 were not reliable.

14. The rent passing on the appeal property was £37,480 effective from 24 June 2013. However, the panel applied less weight to the rental evidence for the appeal property as it was too far from the AVD to be reliable.

15. In terms of indirect rental evidence, Mr Johnstone provided four rents for other offices in the same block, 4th Floor Central; 4th Floor Central North; 6th Floor North and 1st floor North which he had analysed to between £63.54/m^2 to £91.45/m^2. He averaged these rents to £74/m^2 which he argued supported a main space price of £75/m^2. The panel applied significant weight to these rents as the lettings ranged from May 2014 to April 2015 which were close to the AVD and were unimproved offices.

16. Mr Hunter had analysed the rents for 4th Floor Central; 4th Floor Central North and 1st floor North to between £64.86 to £101.28/m^2 and referred to 3rd Floor North Block which had been analysed to £88.64/m2 and supported the VO adopting a main space price of £95/m2. However, Mr Johnstone had argued that the VO had analysed the rents using incomplete data from the Form of Returns. The panel applied weight to Mr Johnstone's argument that he had analysed them from the actual leases as Colliers had managed the letting of the offices.

17. Mr Hunter had also argued that an appeal for one of the offices had been settled at £95/m^2. However, the panel considered that there was a drawback with this tonal evidence as it was based on a refurbished office, whereas the rents that Mr Johnstone had referred to were offices which had not been refurbished.

18. On weighing up the evidence, the panel found Mr Johnstone's arguments the most compelling and concluded that the appeal property should be valued at 75/m^2. The appeal was therefore allowed.

19. The Valuation is as follows:

Description	Area	Rate/£	Value
Second floor Office	329.37	75.00	24,703
		Sub total	24,703
2.5% addition for comfort cooling	329.37	1.88	619
		total	25,322
		Rateable value say	25,250

Order

20. 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 reduce the entry in the rating list to rateable value £25,250 with effect from 1 April 2017.

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

Refund of appeal fees

22. As the grounds of the appeal have been made out, a refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision.

Date: 19 February 2024

Appeal number: CHG100689495

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.