THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of the RV in the Rating List; Offices and Premises; Material change in circumstances; End allowance for works in the locality; Material Day; Appeal dismissed.

RE: 1st Floor, 71 Hopton Street, London SE1 9JL

APPEAL NUMBER: CHG100700737

BETWEEN:	MCM Architecture Ltd	Appellant
	and	
	Mr A Ricketts	Respondent
	(Valuation Officer)	

PANEL: Mr A Jobanputra (Presiding Senior Member)

Mr M Smith (Senior Member)

CLERK: Mrs S Morgan

REMOTE HEARING: Wednesday 19 July 2023

PARTIES PRESENT: Mr S Issacs of Kinney Green representing the appellant.

Mr C Cates – representing the Valuation Officer.

Summary of decision

1. The appeal was dismissed. The panel confirmed the appeal property had been correctly valued as an office and premises at £51,500 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal. 1st Floor, 71 Hopton Street, London SE1 9JL (the ‘appeal property’) had been entered in the 2017 rating list as ‘office and premises’ at a RV of £51,500 with effect from 1 April 2017.

3. The check submission was made on 25 January 2021 with the challenge submission being made on 11 June 2021. Mr Issacs of Kinney Green was acting on behalf of MCM Architecture Ltd who occupied the ground, 1st, 2nd and 4th floors of 71 Hopton Road, London as separate assessments. The challenge had been made on the grounds of a material change in circumstances (MCC). The appellant’s representative was originally seeking an end allowance of 20% due to works at nearby Ludgate House and Sampson House in SE1. However, at the hearing he requested this be amended to a 10% end allowance and a revised RV of £46,350 on the 1st floor assessment.

4. The Valuation Officer issued a challenge case decision notice in which it stated that based upon the evidence and information available, at the material day, the premises would not have been affected by the works.

5. The appeal property together with the ground floor, 2nd and 4th floors were held under a lease from August 2010. The lease was due to be reviewed on 20 March 2020 and at this point an extension was agreed until 20 August 2020, when the tenants vacated the premises due to the disruption from these works being so immense.

6. The appeal property was situated on the east side of Hopton Steet which ran parallel with Blackfriars Road in London.

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

Issue

8. The issue in dispute was whether or not a 10% end allowance was justified for works carried out on nearby Sampson House, 64 Hopton Street and the neighbouring Ludgate House, SE1.

Evidence and submissions

9. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge, VO’s challenge case decision notice, and appellant’s challenge submission.

10. The appellant's representative stated, "that their clients had experienced • Deterioration in air quality due to asbestos removal, and • Disruption daily between 8 and 6 but in 2-hour noise slot and then a break".

11. Details of some of the key dates for the scheme of works for Sampson House were provided by the appellant's representative. The appellant's representative also referred to the next stage in the development works which had already been agreed with further works agreed on 22 December 2020 to include some minor changes to the scheme of works. Sampson House was deleted from the Rating List in September 2018.

12. The appellant's representative explained that their clients had complained to the council on a number of occasions but did not submit a check to the VOA until 25 January 2021 (the material day). This was the date that the Valuation Officer received confirmation of the check, in accordance with Regulation 4C of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 NO. 2268).

13. The respondent referred to the aerial photograph submitted in the evidence bundle which showed the appeal property, Sampson House and Ludgate House. He contended that the appeal property would have only been affected by the works at Sampson House and not Ludgate House, which was located further away from the appeal property. The appellant's representative did not challenge this point at the hearing.

Decision and reasons

14. The Local Government Finance Act 1988 makes provision for the payment of a non-domestic rate in respect of non-domestic hereditaments in England. The rateable value of a non-domestic hereditament, which is used to determine the amount of the rate payable, is defined at paragraph 2(1) of Schedule 6 to the Act.

15. Briefly, the rateable value of any hereditament is to be taken to be the amount, determined in accordance with the statutory assumptions, equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on 1 April 2015 (the "antecedent valuation date").

16. The material day (the date by which physical factors have to be taken into account) for an MCC 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 was 25 January 2021.

17. The issue for determination was the level of allowance, if any, warranted as a result of the cited MCC. The appellant's representative referred to the nuisance created by the work being carried out to demolish Sampson House and the standard impact of being close to the demolition works. This included noise, dirt and vibration as nuisance factors.

18. The appellant had not appreciated the situation and it was not until 25 January 2021 that the assessment for the appeal property was challenged. The appellant's representative understood that allowances had been given in the same location and despite their late challenge, he contended that it was unfair that a similar allowance had not been followed on the appeal property. The appellant's representative believed that the Valuation Office Agency (VOA) had a duty to maintain a correct Rating List to cover these works. He sought

a 10% end allowance on the appeal property with the same allowance being applied to the ground, 2nd and 4th floor assessments in the same building. No challenge had been received on the third-floor assessment at the appeal property address.

19. The respondent contended that as at the material day the appeal property was not suffering any effects from the works to Sampson House which took place three years earlier. Bearing in mind the constraints of the regulations, he had to apply the material day fairly. As a result, there were no works that would warrant an allowance and furthermore, the tenants had moved out of the premises in August 2020 when their lease ended, five months prior to the material day.

20. Having regard to the rating hypothesis, the hypothetical tenant coming fresh to the scene would have made enquiries as to how long the works were likely to take and when the nuisance/disability would come to an end before making his rental bid. The panel determined that a hypothetical tenant coming fresh to the scene could not expect any concessions from the landlord, as the works had come to an end.

21. Having considered the evidence presented by the parties, the panel determined that at the material day there was no evidence of disturbance as the works had already been and gone. It therefore upheld the respondent's argument that no allowance was justified.

22. In view of the foregoing the appeal was dismissed.

Date: Tuesday 15 August 2023

Appeal number: CHG100700737

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.