VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; offices and premises; tone of value of main space; comparable assessments; appeals allowed.

APPEAL NUMBERS:	CHG100731900 & CHG100147603
RE:	Fifth Floor, & 12th Floor, Blue Fin Building, 110 Southwark Street, London SE1 0SU ("the subject hereditaments")
BETWEEN:	Confirmit Ltd & Sabio Ltd — Appellants
	and
	Andrew Ricketts (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	12 December 2024
BEFORE:	Mrs O Robson (Senior Member) Prof I Solanke
CLERK:	Mr S Fletcher
APPEARANCES:	Mr M Morrison of Altus Group (Appellant's representative) Mr H Hirani (Respondent's representative)

DECISION and STATEMENT OF REASONS

Decision

1. The appeals were allowed. The panel determined the rateable values (RV) of the fifth floor and 12th floor of the Bleu Fin Building, 110 Southwark Street, London SE1 0SU to be £440,000 and £262,500 respectively with effect from 1 April 2017.

Introduction

2. The appeal process began with proposals made by the appellant's representative on 23 September 2021 and 4 December 2019 in respect of the Valuation Officer's (VO) list entries

of the subject hereditaments at £467,500 and £280,000 RV respectively with effect from 1 April 2017. The appellant's representative proposed revised assessments from that date based on a reduced tone of value for main space.

3. The respondent issued challenge case decision notices on 29 November 2022 and 7 June 2021 which stated that, based on the evidence available, the existing rating list entries were reasonable. The appellant's representative appealed those decisions to this Tribunal on 24 February 2023 and 4 October 2021 respectively on the grounds that the valuations for the subject hereditaments were unreasonable and sought a reduced tone of value for main space of £460 per m^2 from £490 per m^2.

4. The subject hereditaments were offices and premises located on the Fifth and 12th floor of the 12-storey Blue Fin Building of 957.63m and 574.41m respectively, constructed in 2007.

5. Mr Morrison 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 RVs to be attributed to the subject hereditaments in the 2017 rating list. The disputes 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.

10. During the submissions from Mr Hirani, he referred to a fresh analysis of some of the rental evidence he had undertaken prior to the hearing which differed to the rental analysis of provided by the respondent. As such, this was new evidence outside the required directions pertaining to evidence disclosure. Mr Hirani stated that he had performed his own analysis after he was allocated this appeal which differed from the analysis by the initial caseworker. Mr Morrison stated he was unable to pass comment on any new analysis as he had not had time to consider it.

11. The panel was referred to the three-stage test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926 and advised to consider this test in deciding whether or not to admit the new evidence with respect of any breach of the tribunal's directions. The panel found the submission of the new evidence to be both a serious and significant breach of the directions. Mr Hirani had submitted his own interpretation of existing evidence, which he had undertaken far before the hearing and chosen not to raise until at the hearing itself. The panel considered this was a prime example of ambush. If Mr Hirani wanted to submit new evidence, he had ample opportunity to do so prior to the hearing in accordance with the tribunal's directions, which also would have afforded for the opinion of the appellant, and a senior member's consequent judicial determination. Furthermore, it was provided in oral form at the hearing. This was not new evidence in the form of material evidence not previously available, it was evidence in the form of Mr Hirani's opinion. As such, the panel did not find it conducive, or in the interests of justice, to allow for any adjournment to consider it, and consequently rejected its admission.

Discussion

12. The subject hereditaments 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.

13. 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.

14. 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 hereditaments, the material days are 1 April 2017.

15. 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.* The fifth floor had a new lease agreed with effect from 1 July 2013 at £490,482 per annum. This was subject to a review agreed with effect from 1 July 2018. The 12th Floor had a new ten-year lease agreed with effect from June 2017 at £476,708 per annum. Both parties considered the rents to be too far removed from the AVD to be of any assistance, and instead preferred comparable assessments to support their perceived tones of value for main space. The panel found the same.

16. Mr Morrison referred to the rents agreed for hereditaments located in the subject building and contended significant weight should be applied to the following. Pt 9th Flr South & East & West had a new eight-year letting agreed at £1,444,150 per annum with effect from 9 June 2014. Mr Morrison had analyzed that rent to £419 per m^2. Pt 2nd Flr (Excl) East Wing had a new ten-year letting agreed at £771,053 per annum which Mr Morrison analyzed to £481 per m^2. Pt 10th Flr South & Pt West was a new ten-year letting with effect from 1 August 2014 at £625,172 per annum which Mr Morrison had analyzed to £551.96 per m^2. Mr Morrsion stated that there were variations between his rental analysis of hereditaments in the building and that of the VO, his ranging from £460 per m^2 to £560 per m^2, and the VO's ranging from £460 per m^2, to £560 per m^2. He contended that demonstrated there were inconsistencies and no clear pattern for a tone of value for main space.

17. Mr Morrison also referred to comparable assessments within the locality of the subject hereditaments. The 5^{th} and 6^{th} Floor of the Harlequin Building, 65 Southwark Street were newly constructed in 2012 with a tone of value for main space of £433 per m^2. Mr Morrison stated that 30 Stamford Street was ten years newer than the Blue Fin Building, and its tone of value for main space was re-assessed by the VO to £460 per m^2.

18. Mr Morrison again referred to Pt 9^{th} Flr South & East & West. The tone of value for main space at this hereditament had been reduced from £490 per m^2 to £460 per m^2 following an agreement with the VO. The VO stated that the reduction was made in accordance with the floor area of that property. Mr Morrison contended it was unfair to apply different rates based on floor space within the building and argued there were inconsistencies between tone of value of main space and size. Mr Morrison also referred to an agreement at 17^{th} Flr at 240 Blackfriars Road where the tone of value of main space had been reduced from £500 per m^2 to £475 per m^2. Mr Morrison stated it was in the immediate vicinity of the subject hereditaments and newer yet at a lower tone of value for main space. Mr Hirani stated the reduction was based on rental evidence within that building.

18. Mr Hirani contended that the rental evidence of subject hereditaments within the Blue Fin Building supported the VO's tone of value for main space of £490 per m^2 for the subject hereditaments, given its range of rental analysis which was between £460 per m^2 to £560 per m^2. He argued that the subject hereditaments were below 1000m in size, and that the analyzed rents of larger properties in the building were lower. For example, he referred to Pt 9^{th} Flr South & East & West which was approaching 3000m in size, and contended a lower tone of value for main space was appropriate for larger units.

19. Considering the basket of evidence, the panel determined that the respondent's tone of value for main space for the subject hereditaments was not fair or reasonable. The panel found no correlation between, the wide ranges of analysed rental values provided between two parties, and the tone of value for main space at the hereditaments which were largely consistent at £490 per m^2. Mr Morrison had provided an agreement at Pt 9^{th} Flr South & East & West which was within the Blue Fin Building. The VO had agreed to reduce its tone of value for main space from £490 per m^2 to £460 per m^2, and the reason cited by Mr Harani was floor space. However, the panel did not find that reason to be consistent with the size of tone of value for main space of other comparable assessments within the building. For example, 8^{th} Flr was 3644.39m yet had a tone of value for main space at £490 per m^2. 11^{th} Flr South Wing (East & West Side) was 420.66m yet also had the same tone of value for main space. The panel found that the VO had applied a blanket tone of value of main space of £490 per m^2 for properties within the building, however in the main this applied to all properties regardless of size despite Mr Hirani's contention pertaining to Pt 9^{th} Flr South & East & West. Due to this inconsistency, the panel considered that the VO's determined tone of value for main space at the subject hereditaments was not sufficiently justified and should be reduced to £460 per m^2 in line with the agreement at Pt 9^{th} Flr South & East & West.

20. The panel attached little weight to comparable assessments provided in the locality of the subject hereditaments as it was satisfied that the evidence in the subject building itself was sufficient to warrant a reduction in their tones of value for main space alone.

21. The revised assessment for the compiled list entry with effect from 1 April 2017 for Fifth Floor, Blue Fin Building, 110 Southwark Street, London SE1 0SU as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m²/unit**	**£ per m²/unit**	**Value (£)**
Fifth	Office	957.63	460.00	440,510
			Valuation sub-total	440,510
			Say RV	**440,000**

22. The revised assessment for the compiled list entry with effect from 1 April 2017 for 12th Floor, Blue Fin Building, 110 Southwark Street, London SE1 0SU as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m²/unit**	**£ per m²/unit**	**Value (£)**
Twelfth	Office	574.41	460.00	264,229
			Valuation sub-total	264,229
			Say RV	**262,500**

Disposal

23. In view of the foregoing, the appeals were allowed in part.

24. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the entries of the Fifth Floor and the 12th Floor, Blue Fin Building, 110 Southwark Street, London SE1 0SU in the rating list to £440,000 and £262,500 respectively, with effect from 1 April 2017. The respondent must comply with this order within two weeks of its making.

25. Any fees paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date: 6 January 2025

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.
