THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating: 2017 Rating List; Offices and premises; Compiled List Entry; Price per square metre; Rental evidence; Evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

RE: Second Floor Room A2.21, 13 Cavendish Square, London W1G 0AN

APPEAL NUMBER: CHG100757653

BETWEEN:	Private Healthcare Information Network Ltd	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

PANEL: Dr T Webb, Presiding Senior Member
Mrs S Nix, Senior Member

CLERK: Ms R Muller

HEARING: Remote Hearing No. 1: 18 March 2024

APPEARANCES: Mr P Wilmore of Rupert David Ltd, Representative for the Appellant
Miss W Leung, Representative for the Respondent

Summary of decision

1. The appeal was dismissed. The panel found that the existing Rateable Value (RV) for the subject property at £21,250 with effect from 1 April 2017 was not unreasonable.

Introduction

2. This was a 2017 compiled Rating List appeal. The original assessment of the subject property was £27,000 RV, with effect from 1 April 2017 and it was described as office and premises. For this appeal, matters that affect the physical state or enjoyment of the property and the locality were to be taken as at the material day, which was 1 April 2017 with the Antecedent Valuation Date (AVD) being 1 April 2015.

3. A check had been submitted on 3 August 2021, with no change to the assessment of the subject property. A challenge was submitted on 9 December 2021, and the challenge completed on 24 May 2023 where the Valuation Officer (VO) altered the assessment of the subject property and reduced the unadjusted price per m² from £735 to £525 per m². This produced a revised RV of £21,250 with effect from 1 April 2017. This was based on an outstanding appeal for (Excel Pts) 11-12 Cavendish Square, London W1G 0AN (appeal number CHG100146572) where following its challenge, the VO reduced the tone for the older parts of building from £568.58 per m² (before adjustment) to £525 per m² and included a 5% adjustment for the divided/split unit at the challenge stage where the adjusted price per m² was £551.

4. An appeal was received by the Tribunal on 22 September 2023, made on the grounds that the price per m² was excessive and should be reduced.

5. Due to the revised RV by the VO, Mr Willmore, on behalf of the Appellant revised his proposed RV to £19,250, based on an amended unadjusted price per m² of £475 with a 5% uplift adjustment for the divided / split unit that had been added to arrive at a price per m² of £498.

6. In accordance with the normal procedure, the Appellant's representative presented his case first followed by the Respondent.

7. Mr Willmore appeared 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 Willmore stated that he was instructed on a success related fee.

8. Mr Willmore declared that he understood the above judgment and therefore, 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 his client's case.

9. Miss Leung, on behalf of the Respondent appeared as both expert witness and advocate.

10. 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).

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

12. The subject property under discussion was a spacious office complex situated partially facing Cavendish Square. Comprising of three units at 11, 12 and 13 Cavendish Square, these buildings were divided by access to Deans Mews, yet interconnected at basement and upper floor levels.

13. The initial structure dated back to circa 1925, with additional extensions constructed behind the façade during the mid 1990's. These newer additions include a section equipped with air conditioning. Certain parts of the property have been sublet, with access granted via common areas. Records indicate that the subject property had a total area of 38.86 m² and was situated on the second floor.

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

Issue

15. The issue before the panel concerned the RV of the subject property and specifically, the base rate per m² that should apply.

Evidence and submissions

16. The panel had been provided with an evidence pack, which contained details from both parties, as well omitted evidence that had been exchanged at the challenge stage, provided in October 2023. There were no objections by either party for inclusion of these details.

17. Mr Willmore sought a reduction to £19,250 RV based on an unadjusted price per m² of £475.

18. Miss Leung sought to defend the existing RV of £21,250 which was based on an unadjusted price per m² of £525.

Decision and reasons

19. The subject property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let for from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988).

20. The actual date of valuation is 1 April 2015, this being the AVD. As also noted above matters that affect the physical state or enjoyment of the property (termed hereditament) or the locality were to be taken as at 1 April 2017, the material day for this appeal. When assessing the RV of any hereditament, rating law also requires that it must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both its physical nature and mode or category of use.

21. The panel was informed that there was a rent passing on the subject property of £18,980 and had commenced on 2 January 2018. The commencement date of the lease was too far removed from the AVD of 1 April 2015 to be of any assistance to the panel.

22. Mr Willmore stated that the subject property was one room under appeal, it did not have a raised floor or air conditioning. He provided the panel with tenancy details for the other properties within Cavendish Square. He informed the panel that they were arms length tenancy agreements. He referred the panel to specific properties:

    a. Attend, located on the first floor of 11-12 Cavendish Square – this property had a lease which commenced on 1 May 2015 with a rent passing of £75,837.06 per annum, which devalued to £473.98 per m².

b. Digitone, located on the second floor of 11-12 Cavendish Square – this property had a lease which commenced on 23 April 2015 with a rent passing of £9,551.07 per annum, which devalued to £451.81 per m².

c. Foundation of Nursing Studies, located on the second floor of 11-12 Cavendish Square – this property had a lease which commenced on 1 June 2015 with a rent passing of £23,905.72 per annum, which devalued to £478.70 per m².

d. Beacon Health Strategies UK, located on the third floor of 11-12 Cavendish Square – this property had a lease which commenced on 1 September 2015 with a rent passing of £22,962.24 per annum, which devalued £459.24 per m².

23. Mr Willmore stated that the above details support the unadjusted rate of £475 per m² as a starting point. This produced a revised RV of £19.381, rounded to £19,250.

24. Mr Willmore had provided the Respondent with the plans and tenancy agreement for the subject property but had not been asked to provide these details regarding the comparable rental evidence properties. However, he informed the panel that there were no rent free periods or anything else that had to be considered with regards to the above comparable properties lease details.

25. The panel placed less weight on the details of the properties located within Cavendish Square, as Mr Willmore had supplied limited information. No RV or current price per m² had been provided with regards to any of these properties. The panel had been provided with insufficient information to form an opinion.

26. Mr Willmore had provided a settlement schedule extracted from Challenge CHG100146572. It included properties located at Stratford Place, London W1C 1BD; 18 Cavendish Square, London W1G 0PJ and Wigmore Street, London W1U 1 PQ. The properties were built pre 1990s and had total areas, which ranged between 20.70 m² and 1,831.26 m². The price per m² had been agreed between £475 and £700. Miss Leung stated that the best comparable with regards to the subject property was Gnd Flr at 18 Cavendish Square and placed the most weight on the details of this property. It was similar in size at 43.40 m² at an unadjusted rate of £600, adjusted to £630 with an 5% uplift for size.

27. Miss Leung informed the panel that the comparable property of 1st Flr 17, Wigmore Street, London, which had been provided as evidence by both parties had entered the list at £475 per m² and that the price per m² had been reduced by settlement. This was due to the fact that this property was located at a retail location on a busy street. The subject property's price per m² should be higher due to its location and the comparable properties details provided. When it referred to the location plan, the panel noted that the subject property fronts Wigmore Street and looks onto the main road and not Cavendish Square. Whereas 1st Flr 17, Wigmore Street, was located further down Wigmore Street, away from Cavendish Square. Wigmore Street was a retail area unlike where the subject property was located.

28. The panel turned its attention to the rental evidence provided by Miss Leung. She had provided a list of rental evidence from properties located within the postcode areas of W1G *** and W1U***. These properties had leases which commenced during 2014. However, one property had a lease which commenced on 1 April 2015. The panel noted that some were lease renewals or rent reviews. Therefore, it paid particular attention to the leases that were new leases:

a. Bst East & Grd Flr East 24-25, Manchester Square, London, W1U 3PY. This property had a lease which commenced on 2 August 2014 for a period of 15 years. The rent had been set of £36,500 with no rent reviews. It was larger in size than the subject property with an area of 69.18 m². Its unadjusted price per m² was £525.

b. 2nd Flr 58, Queen Anne, Street, London, W1G 8HW. This property had a lease which commenced on 12 September 2014 for a period of five years. The rent had been set of £68,550. It was located 0.2 miles from the subject property and was larger in size with an area of 98.2 m². It had an adjusted price per m² of £575.

c. 1st Flr 17, Wigmore Street, London, W1U 1PQ. This property, as had previously been discussed, had a lease which commenced on 1 April 2015 for a period of five years. The rent had been set of £32,500 with a three month rent free period. There was an option to break at year three. Again, Miss Leung stated that the price per m² of £475 reflected a retail area within a poorer location.

29. Having heard both parties' submissions, the panel found that Miss Leung's submission of her comparable properties and reasons had demonstrated that the unadjusted price per m² of £525 per m², which included an uplift for the subject property was not excessive and was correct. The panel held that the rental evidence that had been provided of new lettings around the AVD of 1 April 2015 carried the most weight when making its decision.

30. The panel was aware that the burden of proof rests on the Appellant to show that the current assessment was incorrect. In the appeal before the panel, it found that it had not been provided with substantiated evidence to demonstrate that the current assessment of £21,250 RV was unreasonable and therefore, dismissed the appeal.

Date: 3 April 2024

Appeal number: CHG100757653

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.