VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; offices and premises; rental evidence; tonal evidence; appeal against the accuracy of the rateable value for the hereditament; appeal dismissed.

APPEAL NUMBER:	CHG100758579
RE:	Bst & Grd Flr 74-78, Seymour Place, London,W1H 2EH (the "subject property")
BETWEEN:	Happy Kids Dental Practice Ltd — Appellant
	and
	(Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	5 February 2025
BEFORE:	Mr APS Crawford, Presiding Senior Member Mrs N Carman, Senior Member
CLERK:	Miss N Shepherd IRRV (Hons)
APPEARANCES:	Mr M Parvin of Ryan Property Tax Services UK, on behalf of the appellant Mr C Cates, on behalf of the respondent

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel made no change to the rating list entry of the subject property, confirming it at £173,000 with effect from 1 April 2017.

Introduction

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal has been made to this Tribunal on the grounds that the rateable value (RV) for the appeal property was not reasonable.

4. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

5. The appeal process began with a challenge made by the appellant's representative on 7 June 2023 in respect of the Valuation Officer's rating list entry of the subject property at £173,000 RV with effect from 1 April 2017. The appellant's representative proposed a revised assessment of £143,000 RV from that date based on a reduced value for main space.

6. The respondent issued a challenge case decision notice on 24 April 2023, which found that the proposal was not well founded, and that the current rating list entry with a main space rate of £425/m2 was reasonable based on the information and evidence available. The appellant's representative appealed that decision to this Tribunal on 6 June 2023 on the grounds that the valuation for the subject hereditament remained unreasonable and sought an unadjusted rate of £350/m2.

7. The evidence submission before the panel comprised all the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, and comparable assessment evidence.

8. Mr Parvin, as representative for the appellant, appeared in as advocate. He stated that he was being paid on a contingency fee basis but was aware that in giving expert evidence his responsibility was to the Tribunal.

9. The dual role is allowable in this Tribunal's proceedings having regard to the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009) (regulation 3 (Discharge of VTE functions – general) and rules regarding admissibility of evidence (regulation 17(2)(a)). However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue.

Relevant Law

10. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis on these three assumptions:

    (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

(b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;
(c) the third assumption is that the tenant undertakes to pay all the usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

11. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

12. The material day (the date by which physical factors have to be taken into account) 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 appeals, the material day is 1 April 2017.

Discussion

13. The panel had regard to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The panel was aware that this was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence. The starting point was the subject rent. Consideration of how the time, subject matter and conditions related to the statutory requirements was required in order to determine how much weight should be attached to the subject rent. The remaining propositions required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

14. Rental evidence had been submitted in respect of the subject property. Mr Parvin submitted this was for an amount of £230,000 per annum, with 16 months' rent free and one month deducted for fit out costs. Factoring this in, he had analysed net rent agreed to be £168,590 per annum, which equated to £412.36/m2. He submitted that taking this into account and that the lease had been agreed on 25 April 2017, two years following the AVD in a growing market, that he considered this agreement to support his proposed reduction.

15. Mr Cates submitted that limited weight should be attached to this rental evidence. Not only was the date of the agreement over two years following the AVD, but he also contended that the analysis of Mr Parvin did not include a plausible amount for fit out costs. He submitted that no list of works carried out nor the cost of these had been provided. The amount of £19,166.76 submitted by Mr Parvin was based upon one month's rent and just an estimate which appeared to be extremely low in respect of the actual works done. Furthermore, a copy of the lease had been requested but none had been provided.

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16. The panel had regard to the rental details at the subject property but ultimately found these to be of limited assistance. It considered the date of the lease to be too far removed from the AVD to accurately reflect the rental value that could have been achieved at the subject property at that date. It also considered Mr Cate's argument regarding fit out costs to be compelling, and found the figure quoted for these to be unreasonable when having regard to the fact that the subject property had been refurbished and refitted out from an office to a dental surgery. As such it attached little weight to this evidence.

17. The panel then addressed the comparable evidence provided. Ground Floor 11 Upper Berkeley Street measured 62.5m^2 and had an unadjusted rate of £425/m2, Ground Floor 63

Upper Berkely Street measured 48.46m^2 and had an unadjusted rate of £473/m2 and Ground Floor 19 Upper Berkeley Street measured 46m^2 and had an unadjusted rate of £473/m2. Rental details had been provided in respect of these properties, however the panel noted these were dated from 2013 and therefore considered them to be too far-removed from the AVD to be useful.

18. The panel did however consider these assessments to be useful in respect of tonal evidence. Based upon the sizes of Ground Floor 63 Upper Berkely Ground Floor 19 Upper Berkeley Street and taking into consideration an element for quantum, the panel found that based upon the adjusted rate of £473/m2 at these properties that the current unadjusted rate at the subject property was not unreasonable.

19. The panel found it was not persuaded by Mr Parvin's argument that the unadjusted rate of £425/m2 at the subject property was not reasonable. It considered that he had placed too much reliance upon the subject rent which ultimately the panel attached little weight to. The burden of evidential proof in this type of appeal rests with the appellant to demonstrate the current entry in the rating list is wrong. Unfortunately for the appellant, the panel was not satisfied that this burden had been discharged.

Disposal

21 Having regard to the evidence, the panel determined that the tone of value for the main space at the subject property was fair and reasonable at £425m2 . The RV at the subject property was therefore confirmed at £173,000, with effect from 1 April 2017.

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

Date issued to parties: 4 March 2025

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.
