VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: Local Government Finance Act 1988; offices and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141; rental evidence; quality of accommodation; appeal allowed.

APPEAL NUMBER: CHG100771190

RE: 3rd Floor 2 - 4, Great Eastern Street, London EC2A 3NW
(the “subject property”)

BETWEEN: Bucci Freight Services Ltd — Appellant

and

Andrew Ricketts
(Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 7 April 2025

BEFORE: Mr A P S Crawford, Presiding Senior Member
Mr S C Kamalan, Senior Member

CLERK: Mrs A Sloan

APPEARANCES: Mr P Barney (Ryan Property Tax Services UK Ltd, for the appellant)
Mr W Mak (representing the Valuation Officer)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The panel found that the entry in the list was unreasonable and reduced the Rateable Value (RV) to £35,000 with effect from 1 April 2017.

Introduction

3. The appellant made a proposal on 1 February 2022 to challenge the entry in the 2017 Rating List of £40,750 with effect from 1 April 2017. The proposal sought a reduction to £35,000 as

the appellant considered the valuation unreasonable. The Valuation Officer (VO) did not agree, and a Challenge decision was issued on 12 April 2023 maintaining the existing entry in the rating list. An appeal against that decision was received by the Tribunal on 23 June 2023.

4. Mr Mak stated that he was appearing in a dual role as both Advocate for the respondent and Expert Witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Barney declared that he was also appearing for the appellant as both Advocate and Expert Witness, and he was instructed under a conditional or other success-based fee arrangement. He confirmed that he understood his duty was to the Tribunal, regardless of whether the evidence supported his client's case.

5. The panel accepted Mr Barney's 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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 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). It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

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

Issue and Relevant Law

7. The subject property is valued as offices and premises and is situated on the third floor of a 1950s building with a retail unit on the ground floor. 2-4 Great Eastern Street is on a busy junction on the corner of Great Eastern Street and Shoreditch High Street.

8. The issue to be determined by the panel was whether the existing valuation, based on £250/m^2 was unreasonable. The parties had agreed the area measurement at 163.40m^2 and the only issue in dispute was the unit price for the valuation.

9. The material date on which to consider the physical state of the hereditament and its locality was 1 April 2017, when the entry was made in the rating list. The valuation date for the 2017 rating list is 1 April 2015, the antecedent valuation date (AVD). The rateable value (RV) must represent the statutory definition of the annual rent the property might reasonably achieve from year to year, assuming the tenant is responsible for repairs and insurance.

Discussion

10. In deciding this appeal, the panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141, which provided guidance on the weight to be applied to different forms of evidence, referred to in Mr Barney's evidence.

11. In accordance with *Lotus & Delta*, any rent passing on the subject property must be the starting point of the valuation. The subject property was held on a full repairing and insuring (FRI) lease with a term of five years from 24 June 2014. The annual rent agreed was £32,500, which Mr Barney submitted analysed to £198.90/m^2. When the lease was renewed from October 2019, it was at an annual rent of £34,500. Applying a rate of 1% per month to

tone the 2014 rent to the AVD, Mr Barney arrived at £216/m^2 and considered this suggested an RV of £35,000 was reasonable.

12. Mr Mak submitted that this rent was not a new lease, as the appellant ratepayer had been in occupation since 1996. He felt that this renewal was not representative of an open market value and referred the panel to examples of rents agreed on other offices in the locality.

13. Located within 200-300 metres of the subject property are Ground Floor 11-13 Batemans Row, 2nd Floor 67-70 Charlotte Road, and Unit B, 3rd Floor Right 36-42 New Inn Yard. Closest in size to the subject property, at 105.20m^2, was Ground Floor 11-13 Batemans Row. This office let from 24 June 2014 for £48,000, which the VO analysed to £394.68/m^2. 2nd Floor 67-70 Charlotte Road measures 81.56m^2 and was let from 14 May 2015 at £39,500 per annum. The VO analysed this rent to £398.26/m^2. Finally, Unit B, 3rd Floor Right 36-42 New Inn Yard measures 76.40m^2 and was let on 26 February 2014 for £42,900 per annum. The VO's analysis of this property produced £485.72/m^2.

14. The VO's examples also included 3rd Floor, 25 Chart Street, N1 6DD. Although this property was in a different postcode area, Mr Mak submitted that it is around 600 metres from the subject property. This office measures 228.80m^2, larger than the subject property, and was let from 10 July 2015 for £138,424 per annum. The VO analysed this rent to £553.58/m^2. Mr Mak contended that these rents were all new lettings, agreed close to the AVD, and therefore provided more reliable evidence of the market on 1 April 2015. He submitted that all four of the examples were comparable in age to the subject property and they supported the tone applied of £250/m^2.

15. Mr Mak provided the panel with photographs taken on an inspection of the subject property on 14 October 2024. He presented photographs of both the interior and exterior and contended the subject property is comparable to the examples he relied upon. External photographs were provided of the comparable properties submitted by the VO, taken on the same day as the inspection.

16. Mr Barney also provided internal and external photographs of the subject property taken on an inspection in 2020. He contended that it was a poor qualify office building that had limited works or refurbishment since its construction in the 1950s. He highlighted the crittle windows providing poor thermal and sound insulation. There was a polystyrene suspended ceiling, no ground floor reception, staff showers, or bicycle storage. In the external photograph provided by Mr Barney, there was a large advertising banner attached the building, which covered a number of windows at the subject property, affecting the natural light. He submitted that the landlord rents this advertising space periodically. The panel noted that in October 2024, on the joint inspection when the VO's photographs were taken, the advertising banner was not in place. The panel considered that the advertising banner would affect natural light in the subject property, when it was in place. No evidence was presented to confirm whether the advertising banner was in place on the material day of 1 April 2017.

17. The VO's external photographs of the comparable properties were of limited use. 36-42 New Inn Yard was obscured by scaffolding in the image presented but the panel noted the photographs of the other properties. It observed from the photographs and map that the VO's examples appeared to be in quieter locations on side streets rather than a busy road junction. They also seemed to be different in character, with none of the examples being located above a retail unit as was the case with the subject property.

18. Mr Barney provided some photographs of the VO's comparable properties. The panel noted they appeared to be in quieter locations and the external appearance seemed superior to the subject property. Some internal photographs were provided of 67-70 Charlotte Road, 36-42 New Inn Yard, and 25 Chart Street but, when questioned, Mr Barney confirmed these were taken from marketing brochures. The panel noted the accommodation in each case seemed spacious, modern, and well-lit but found the internal photographs carried limited weight as it could not be established that they represented the properties on the material day of 1 April 2017.

19. The panel noted that the VO's four comparable properties were let for terms ranging from two years to five years. The only lease agreed over a five-year term, comparable to the subject property, was 3rd Floor, 25 Chart Street. The other three examples were shorter leases of two to three years. Mr Mak submitted that shorter leases were not uncommon in this locality. The panel appreciated the rating hypothesis of valuing based on a yearly rent but it considered that shorter leases may be negotiated at a higher rate as they provide less certainty for the landlord. It understood from Mr Barney that the subject property's lease was contracted outside of the Landlord and Tenant Act 1954, meaning the appellant company had limited security of tenure, although Mr Mak contended that many of the leases in this locality are similarly agreed.

20. After considering the evidence available, the panel found Mr Barney's case persuasive. The VO's comparable properties, while originally constructed in the 1950s, had apparently been refurbished to a modern standard. The subject property appeared a lower quality in comparison. While appreciating the requirement to value a property in reasonable repair, the panel found that repair and quality are different. There was a basket of rental evidence presented but the panel found that most weight should be applied to the subject property's rent. It was renewed close to the AVD and, although the appellant had been in occupation for many years, there was nothing to suggest any incentives had been offered by the landlord to secure a further term.

21. The rents on the VO's examples were agreed close to the AVD and were new leases but the panel found that they did not carry as much weight as the rent agreed on the subject property. The panel understood neither party had presented any other rents from 2-4 Great Eastern Street as none were negotiated close to the AVD. Mr Mak submitted that the subject property's rent was out of kilter with the rents agreed on other similar properties. The panel found that the examples he had presented were better qualify accommodation, in quieter locations, and with dedicated entrances, as opposed to the subject property being located on a busy junction over a retail unit. The internal photographs of the subject property demonstrated limited modernisation or refurbishment, and the panel concluded that the rent agreed in 2014 would reflect the standard of accommodation and location.

22. Mr Mak contended that the tone of the list for offices of this age and location had been established in the 2017 rating list. The panel noted that the valuations of the VO's comparable properties had not been challenged but found that this was not surprising as the VO's analysis showed the rents suggested values in excess of the £250/m^2 applied in each case. In contrast the subject property's rent represented an unmodernised office on a busy junction and the panel found that this was the strongest evidence. There was no evidence that the rent was constrained and, although it was a renewal rather than a new lease, no evidence it did not reflect the open market value of the subject property slightly before the AVD.

Disposal

23. In view of the above findings and conclusions, the panel is satisfied that the entry in the 2017 rating list is unreasonable and should be reduced.

24. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to amend the entry for 3rd Floor 2 - 4, Great Eastern Street, London EC2A 3NW in the 2017 Rating List to £35,000 effective from 1 April 2017.

25. The Valuation Officer must comply with this Order within two weeks of its making.

Date issued to parties: 1 May 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.
