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: Pt 4th Flr East (Excl Meeting Rooms) & 5th Flr, Prospect House, 80-110 New Oxford Street, London WC1A 1HB

APPEAL NUMBER: CHG100797130

BETWEEN:	WME	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 R Proctor of Cushman & Wakefield, Representative for the Appellant
Mr C Cates, 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 £1,200,000 with effect from 1 April 2017 was not unreasonable.

Introduction

2. This was a 2017 compiled Rating List appeal. The assessment of the subject property was £1,200,000 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 10 November 2021, with no change to the assessment of the subject property. A challenge was submitted on 5 April 2022, and the challenge completed on 25 May 2023. An appeal was received by the Tribunal on 21 September 2023, made on the grounds that the unit rate applied to the office accommodation of the subject hereditament did not reflect the tonal value which had already been established by the Valuation Office within the building.

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

5. Mr Proctor 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), Mr Proctor stated that he was instructed on a long standing merit fee basis. This consisted of a fee basis, but does include some aspect of a success related fee.

6. Mr Proctor 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.

7. 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).

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

9. Mr Cates, on behalf of the Respondent appeared as advocate only.

10. The subject property comprised of a mixed use building arranged over eight floors. It was constructed circa 1939 and renovated in 1997, comprising of retail accommodation on the ground floor with storage and office space on the upper floors. The area of the subject property is 2,010.30 m² net internal area (NIA).

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

12. It was noted during the hearing that the breakout room for the panel to retire to did not work and as such, the panel requested that the parties leave the hearing and rejoin in five minutes in order for the panel to discuss the case and consider whether further questions to be asked of either party were required or not. The parties rejoined the hearing and came straight into the main virtual hearing room instead of the lobby. Therefore, the clerk advised the parties that even though each party joined within a minute of each other, the appeal was not discussed further until all parties were present.

Issue

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

Evidence and submissions

14. Mr Proctor sought a reduction to £1,160,000 RV based on an unadjusted base rate (UAR) of £575 per m². In support of this he had submitted his evidence pack, which included a photograph of the subject property; history of the assessment; a statement of the issues in dispute; supporting legal arguments, tonal evidence and a copy of his revised valuation.

15. Mr Cates sought to defend the existing RV of £1,200,000 which was based on an UAR of £600 per m². In support of his assessment, he had provided the panel with a copy of the Valuation Officer's Challenge Case Decision Notice and rental evidence of comparable properties.

Decision and reasons

16. 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).

17. 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.

18. Mr Proctor was reliant upon tonal evidence from other assessment within the same property and Mr Cates submitted that the best evidence for determining the main base rate was rental evidence from comparable properties. No rental evidence had been provided with regards to the subject property, as it was owner occupied by the appellant.

19. Mr Proctor submitted that his case was one of purely consistency within the Rating List and the tone of the List. He stated that he was seeking an overall rate compared to other properties within the building. Mr Proctor stated that some of the properties within the building were at different values than others. He did state that there had been alterations within the building due to works that had been carried out.

20. The panel considered the tonal evidence provided by Mr Proctor. There were three properties within Prospect House of 3rd Flr, Prospect House; Pt 4th Flr (Meeting Rooms) Pt 4th Flr West (Ex Meeting Rooms) within Prospect House. Each comparable property had areas of 1,298.70, m², 61.10 m² and 524.86 m². The RV's were £745,000, £35,000 and £300,000, all with values of £575 per m².

21. The panel referred to the details of 3rd Flr and 4th Flr West (including Meeting Rooms), Prospect House, 80-110 New Oxford Street. This property had an area of 1,184.75 m² with an RV of £975,000. Its value had been set at £575,000.

22. The panel also considered two other comparable properties provided by Mr Proctor. These were located at 1st Flr and 2nd Flr New Oxford Street. The areas of the two properties were 1,460.50 m² and 1,306.70 m² with values of £475 per m². The panel noted that they were new lettings which commenced in August 2015 for a period of 10 years with rents passing of £874,019 and £942,552, which had analysed to £667.04 and £643.15. The RV's of these two properties were £875,000 and £700,000. 1st Flr New Oxford Street had an eight month rent free period on full repair and insuring terms and had an adjusted rate of £548.63 per m². Whereas, 2nd Flr New Oxford Street had a 16 month rent free period on full repair and insuring terms. This had an adjusted rate of £568.22 per m².

23. Mr Cates informed the panel that the properties of 1st Flr and 2nd Flr New Oxford Street, had had a temporary reduction due to building works. Once they had been re-valued, they had incorrectly retained the pre-refurbishment address and the old values had been adopted, but an uplift had been applied with regards to the new facilities. Therefore, Mr Cates stated that when a property is re-valued due to a temporary reduction for building works, the valuation scheme for Prospect House should have been used, which was the £600 per m² value. Both floors one and two had retained their old addresses and as such, were not valued as they should have been. Mr Cates stated that this was an error, as the sub code used was incorrect. It should have been BSPB but had been mistyped as BSP3. Therefore, the correct value had not been applied.

24. Mr Cates had provided rental evidence of properties located on the 6th floor. These properties were 6th Flr East and 6th Flr West at Prospect House, New Oxford Street. They were office and premises and had been valued like the subject property at £600 per m². The areas of these two properties were 597.87 m² and 569.60 m². The RV's were £357,500 and £340,000. Both had new lettings from 25 March 2015 and 11 September 2015 respectively. The terms were for a period of 10 years, with three months rent free for Pt 6th Flr West and 18 months rent free for Pt 6th Flr East. Both had five year rent reviews.

25. The panel noted that even though Pt 6th Flr East's new letting had been set close to the AVD of 1 April 2015, it had a sum paid of £178,563 by the tenant. Therefore, the panel considered the details of Pt 6th Flr West, as this property had a three month rent free period, was assumed to be on full repair and insurance terms. Mr Cates informed the panel that the rental analysis of both these properties had been £608.40 and £623.41, which supported the value placed upon these properties of £600 per m².

26. Having heard both parties' submissions, the panel found that Mr Cates' submission of his comparable properties and reasons had demonstrated that the current tone of £600 per m² for the subject property was not excessive and was correct. The tonal evidence provided by Mr Proctor had not had any settlements agreed, therefore, the panel placed less weight on the details of the values applied, as it was shown that there was no consistency with regards to the values within the subject property's building. 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.

27. 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 £1,200,000 RV was unreasonable and therefore, dismissed the appeal.

Date: 2 April 2024

Appeal number: CHG100797130

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.