VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal appeasl: office and premises; subject rents; new office and residential building; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council 1976; RV was reasonable; appeal dismissed

APPEAL NUMBERS: CHG101089121; CHG100817180; CHG100816482; CHG100843905; CHG100816453; CHG101055838 & CHG100816450

RE: 1ST & 2ND FLR; 4 TH FLR; 3 RD FLR; 5 TH FLOOR; PT 2ND FLR WEST; 1 ST FL & PT 2ND FLR EAST AT 55, ST JAMES STREET, LONDON SW1A 1LA
(the "subject properties")

BETWEEN: AlbaCore Capital LLP; Aermont Capital LLP;
Ferrexpo Finance PLC & Vision Capital Group Limited — Appellants

and

Andrew Ricketts
(Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 10/01/2025

BEFORE: Mr J Thomas, Presiding Senior Member
Mrs T Watson, Senior Member

CLERK: Mrs C McAvoy IRRV(Dip)

APPEARANCES: Matthew Evans of Altus Group, for the appellants
Christopher Cates, for the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel found that the rateable values (RV) shown in the 2017 rating list to be reasonable.

Introduction

3. This appeal has been brought in respect of various offices at 55 St James Street, London SW1A 1LA. Both parties agreed for a consolidated hearing of the seven appeals as they all concerned the same issue. The subject properties are currently shown in the 2017 rating list as follows:

- 1st & 2nd Flr, 55 St James Street, London SW1A 1LA
  'Office and Premises'
  £695,000 RV with effect from 11 June 2021

- 4th Flr; 55 St James Street, London SW1A 1LA
  'Office and Premises'
  £477,500 RV with effect from 1 April 2017

- 3rd Flr 55 St James Street, London SW1A 1LA
  'Office and Premises'
  £477,500 RV with effect from 1 April 2017

- 5th Floor 55 St James Street, London SW1A 1LA
  'Office and Premises'
  £477,500 RV with effect from 1 April 2017

- Pt 2nd Flr West, 55 St James Street, London SW1A 1LA
  'Office and Premises'
  £317,500 RV with effect from 14 November 2017

- 1st Fl 55 St James Street, London SW1A 1LA
  'Office and Premises'
  £234,000 RV with effect from 1 April 2017

- Pt 2nd Flr East, 55 St James Street, London SW1A 1LA
  'Office and Premises'
  £143,000 RV with effect from 1 April 2017

4. A challenge was made on each office on the grounds that the rateable value was unreasonable. The unadjusted rate applied to the assessments is £1,100/m^2. The appellant's representative proposed a reduction to £1,000/m^2.

5. Mr Cates, for the respondent, appeared as advocate. Mr Evans, for the appellant, appeared in a dual role of 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 Evans, for the appellant, advised that he was instructed under a conditional fee via a third party company (CPRA Group). He declared that he accepted and understood that his duty was to the Tribunal in giving his evidence regardless of whether or not the evidence supported the client's case.

6. The panel accepted the expert witness evidence on this basis as the appeal was not considered to be 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

Tribunals' rules concerning 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 statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Preliminary issue

8. An additional evidence request was made by the appellant's representative. In accordance with the Tribunals consolidated practice statement, this was sent four weeks prior to the hearing date. The evidence related to settlements that Mr Evans submitted were not available at the time of the challenge. Prior to the commencement of the hearing, and following discussion between the parties, Mr Cates confirmed that he was content for it to be admitted.

9. The panel therefore considered this evidence in conjunction with the evidence already submitted, which included the challenge decision for each appeal and the appellant's supporting evidence statement.

Issue and Relevant Law

10. The issue before the panel concerned the RV of the subject properties, specifically, the unadjusted rate per m² that should apply.

11. The term 'rateable value' as defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating) shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year 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 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."

12. The antecedent valuation date (AVD) for 2017 list rating appeals is 1 April 2015.

13. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta v Culverwell and Leicester City Council (*LVC/376/1975). This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

‘(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.’

Discussion

14. In deciding this appeal, bearing the six propositions in mind, the panel acknowledged that the starting point was the actual rent passing on the subject property.

15. Rental evidence was provided for 1st FL, 2nd Flr, 3rd Flr, 4th Flr and 5th Floor, 55 St James Street. The rents ranged from £252,670 to £563,280 agreed between November 2015 to December 2016. The respondent had analysed the rents to £1015.06 to £1278.94 which included a £25 uplift for fit out and had been toned back in line with changes in £/m2 in the St James submarket from Costar data. The assessment value was £1,100/m^2.

16. The appellant’s representative had analysed the rents on 1st FL, 55 St James Street to £1051.05 and 2nd Fl, 55 St James Street to £1050.13. Mr Evans confirmed that he had also included a £25 uplift for fit out but did not agree with the respondent’s valuation approach, specifically the use of Costar data. No analysis was provided for the other three.

17. The panel was aware that a copy of the lease had not been provided for 5th Floor so the analysis was less reliable. The rent agreed on 1st Fl and on 2nd Fl were further removed from the AVD (30 March 2016 and 21 December 2016 respectively). The panel placed weight to the rent on 3rd floor 55 St James Street as it was a new lease let on 22 January 2016 and

the terms were available. It analysed to £1166.33/m^2. Strong weight was applied to 4th Fl, 55 St James Street as it was agreed closer to the AVD, on 1 December 2015, and terms were available. It was analysed to £1,146.55/m^2. There was no opposing analysis and the panel found that this rental evidence strongly supported that the subject properties were reasonably assessed at £1100/m^2.

18. The appellant's representative submitted a wealth of rental evidence for other offices in the locality. The majority were further removed from the AVD and the panel found that rental evidence for the subject building carried more weight, especially those agreed closer to the AVD. Furthermore, the panel was mindful that the subject building was a new bespoke modern office and residential development. It was described within the respondent's challenge decision as being built to a high quality finish, without the need to retain period facades. The building provides Grade A office accommodation with an Excellent BREEAM rating arranged over ground and four upper floors, with an entrance fronting on St James's Street and boasting imposing specially designed oak double doors. The building offers accessible raised floors, air conditioning, passenger lift, a manned reception, cycle storage, showers and changing facilities. It is the most modern building on St James's Street as it has not been refurbished or redeveloped from an older building. It is close to the Northern end of St James's Street which puts it in close proximity to Piccadilly, and the Green Park and Piccadilly Circus underground stations. Whilst the panel considered the rent for other properties on St James Street it had to consider that the subject was new and the rent agreed appeared to reflect this.

19. It was evident that Mr Evans was placing more weight on the settlement evidence on St James's Street. 1st Flr 20, St James Steet was agreed at £950/m^2, 1st Flr 2 St James Street was agreed at £1000/m^2, 3rd Flr 16 St James Street was agreed at £950/m^2 and 3rd Flr 63 St James Street was agreed at £925/m^2. The panel considered that there were differences, for example, 16 St James Street is much older than the subject and whilst the others had been refurbished between 2016-2019, the panel found that given the specification of the subject and the rent it demanded close to the AVD, this settlement evidence did not conclusively support that the subject should also be reduced.

20. The panel concluded that the subject properties did appear unique to those presented and differences would impact the decision of the occupier. The panel agreed that this was a deliberately different building and that rents would be sensitive to this.

21. For the reasons stated, the panel was not persuaded to reduce the unadjusted rate. It found it could not ignore the rental evidence available for the subject building and this evidence supported the current adopted rate of £1100/m^2.

Disposal

22. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the RV is reasonable. The appeal is dismissed.

Date issued to parties: 3 February 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.