VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: Local Government Finance Act 1988; offices; tone of the rating list; rental evidence; appeal dismissed.

APPEAL NUMBER:	CHG100822384	
RE:	3rd Floor, 32 Old Burlington Street, London W1S 3AT (the "subject property")	
BETWEEN:	LTAS Capital LLP	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	28 January 2025	
BEFORE:	Mr G McGill, Presiding Senior Member Mr G Bhakar, Senior Member	
CLERK:	Mrs A Sloan	
APPEARANCES:	Mr D Semple (Ryan Property Tax Services Ltd, representing the appellant) Mr C Cates (representing the Valuation Officer)	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel made no alteration to the entry in the rating list and confirmed the rateable value (RV) at £56,000 with effect from 1 April 2017.

Introduction

3. The appellant made a proposal on 28 June 2022 to challenge the entry in the 2017 Rating List of £56,000 with effect from 1 April 2017. The proposal sought a reduction to £36,250 as the appellant considered the valuation unreasonable. The Valuation Officer (VO) did not

agree, and a Challenge decision was issued on 24 August 2023 maintaining the existing entry in the rating list. An appeal against that decision was received by the Tribunal on 12 December 2023.

4. Mr Cates stated that he was appearing before the Tribunal as Advocate, presenting evidence prepared by a colleague. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Semple declared that he was 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 Semple'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 an office and premises on the third floor of a multi occupancy building. The building is located on Old Burlington Street in the Mayfair area of London and originally dates back to the 1700s. The building has a retail unit on the ground floor, plus a basement level, and four floors of office accommodation.

8. The issue to be determined by the panel was whether the existing valuation, based on an unadjusted rate of £625/m^2 was unreasonable. The unadjusted rate had been uplifted by 10% for full air-conditioning but then reduced by 4.55% to reflect the inferior quality of that air-conditioning. This resulted in a unit price of £656.22/m^2. Mr Semple's valuation was originally based on an unadjusted rate of £405.51/m^2. However, in his appeal to the Tribunal, he revised his valuation to £500/m^2 and sought a reduction to £44,750 RV.

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, with effect from 1 April 2015.

10. Both parties referred 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.

Discussion

11. In accordance with *Lotus and Delta*, the panel first considered the rent agreed on the subject property. The rent was a new lease effective from 10 January 2014, around 15 months

before the AVD, at £35,000 per year for a term of five years and six months. There was a six-month rent-free period at the beginning of the lease. Mr Semple analysed this rent to £349.58/m^2 and submitted that, when toned to the AVD, it analysed to £405.51/m^2. The VO's analysis was similar, arriving at £348/m^2 increased to £403.30/m^2 when toned to the AVD. The lease was renewed in 2019 at £52,000. Mr Semple placed great weight on the subject property's 2014 rent and contended that it demonstrated the existing valuation at £625/m^2 was not reasonable.

12. The panel found that the subject property's rent must be the starting point of any valuation, and in this case it was a new let, agreed reasonably close to the AVD. However, it held that no one rent should be taken in isolation and consideration must be given other rents in the same building to test the market at the AVD.

13. Mr Cates submitted that the rent agreed on the subject property was out of kilter with others in the same building. He presented lease renewals on the first and second floors dated 1 December 2015 and 30 October 2014, respectively. Both were closer to the AVD than the subject property's rent and agreed at higher amounts. The first-floor rent was £81,000 and the second floor £62,500. The panel found that these rents supported the unadjusted rate of £625/m^2 applied to those hereditaments, along with the subject property.

14. The rent agreed on the fourth-floor offices was a new lease at £68,965 from 2 September 2015. The panel noted that this was an open market let from just five months post AVD, which fully supported the tone within the building for offices. The subject property's measurements were agreed at 89.77m^2 in terms of meters squared (ITMS) between the parties. The offices on the first, second, and fourth floors ranged in size from 88.62m^2 to 102.27m^2. The panel was therefore satisfied these were comparable office assessments to the subject property.

15. Mr Semple contended that the rents on the first and second floor offices in the building seemed high for this type of office accommodation and were at a level expected on higher specification properties. He pointed out that the VO had not used the analysed rent on these comparable offices but had applied a lower unit price of £625/m^2. He highlighted that the new lease on the fourth floor analysed to £561.15/m^2 when toned to the AVD, and this was closer to his own proposed valuation for the subject property at £500/m^2.

16. In support of his case for a reduction at the subject property, Mr Semple introduced a settlement on 2nd-3rd Floors,11 Savile Row, London W1S 3PG. He submitted that this was a similar office assessment that had previously been valued at £625/m^2, the same as the subject property, but had been reduced by agreement to £500/m^2. The panel noted the photographs provided of the properties and found that 11 Saville Row was comparable in character externally to the subject property. However, it was not persuaded that more weight should be given to a settlement on a property in neighbouring street over rental evidence in the subject property's building. It therefore considered the basket of rental evidence available in 32 Old Burlington Street.

17. Mr Cates pointed out that the appellant was seeking a reduced RV for the subject property that was below the entry in the 2010 rating list and to accept the proposed valuation would mean ignoring the rents on comparable offices in the same building. He submitted that the rent agreed on the fourth floor reflected an office slightly larger than the subject office, at 102.27m^2 ITMS but from photographs it appears that it is located in the mansard roof, with lower ceilings and smaller windows. The offices on the first and second floors were more

comparable in size to the subject property and the rents agreed analysed higher than the tone applied in the building.

18. After considering all the evidence presented, the panel concluded that the strongest evidence was the rents agreed in the subject property's building. There were rents available on all four floors of office accommodation, all agreed reasonably close to the AVD. While the starting point must always be the rent passing on the subject property, the panel found that it did appear out of step with other rents in the same building on comparable offices. The panel considered that the correct approach was taken by the VO in taking an overview of the basket of rental evidence. Although the panel noted that the highest rents were agreed on the two lease renewals for the first and second floors, it found that there was no evidence to suggest that the rents were not agreed at an open market level and the analysis suggested £625/m^2 was not excessive for the building. The rent on the fourth-floor office would reflect the attributes of the top floor accommodation and, although analysing lower than the rents on the first and second floor, the results were still higher than the £500/m^2 proposed by Mr Semple.

19. 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. Mr Semple sought to place great weight on the subject property's rent, which was not in line with others in the building, and a settlement on a property in another street. The panel found that, where rents are available, the whole basket of evidence must be considered, and the subject property's rent must be tested against others on comparable offices in the same building. It concluded that, taking into account all rental evidence on offices in the building, the tone at £625/m^2 was not unreasonable.

Disposal

20. In view of the above findings and conclusions, the panel confirmed the existing entry in the 2017 rating list at £56,000 RV and dismissed the appeal.

Date issued to parties: 13 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.
