VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Offices and premises; Unadjusted base rate; Comparable assessment evidence; Appeal allowed in part

APPEAL NUMBER:	CHG100863297
RE:	Fifth Floor, 123 Pall Mall, London, SW1Y 5EA (the "subject property")
BETWEEN:	Aravis Capital — Appellant and Andrew Ricketts (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	16 January 2025
BEFORE:	Dr S Penni, Presiding Senior Member Mrs RS Choudhury, Senior Member
CLERK:	Mrs S Hodgson IRRV(Dip)
APPEARANCES:	Mr J Banbury for the appellant Mr C Cates for the respondent

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel found that the current rateable value (RV) was unreasonable and determined a revised RV of £98,000 with effect from 29 January 2019, based on an unadjusted base rate of £700 per square metre (psm).

Introduction

3. This was a 2017 Rating List appeal. The subject property had been entered in the 2017 Rating List as “Office and Premises” at an RV of £119,000 with effect from 29 January 2019. The material day was also 29 January 2019.

4. The challenge proposal was submitted by Allsop LLP on behalf of Aravis Capital and was received by the Valuation Officer (VO) on 4 October 2022. It had been made on the grounds that the RV shown in the 2017 rating list was wrong and proposed a revised RV of £77,000 with effect from 29 January 2019 for the subject property.

5. The VO issued a challenge case decision notice on 18 April 2024. The VO’s decision was to treat the appellant’s challenge as not well-founded and proposed no change to the rating list.

6. Following the exchange of evidence and discussions throughout the challenge period, the VO revised his decision and reduced the RV to £112,000 with effect from 29 January 2019, due to a reduction in the base rate from £850 psm to £800 psm.

7. Mr Banbury 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 Banbury declared that Allsop LLP was instructed under a conditional fee arrangement.

8. Mr Banbury declared that he understood and accepted his duty was to the Tribunal in giving his evidence and he would comply with this regardless of whether or not the evidence supported his client’s case.

9. 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).

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

11. Mr Cates was acting as advocate only at these proceedings.

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

<u>*Background*</u>

13. The subject property was the fifth floor of a five-storey office block located in central London. It was originally a townhouse constructed in the early 1880’s and the fifth-floor assessment measured 140.25m^2. The building was refurbished in 2018.

Relevant Law

<u>*The Local Government Finance Act 1988*</u>

14. Schedule 6 of the Act provides that:

2(1)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.

15. 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).

16. 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 appeal, the material day is 29 January 2019.

Discussion

17. The leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, set out six propositions to be followed when considering the weighting of evidence:

    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 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 differing types of evidence depending on the one hand 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.

18. The subject property had a passing rent of £107,210 per annum on a five-year new lease which was agreed on 5 November 2019. The terms included a five-month rent free period followed by six months at half rent. There was a break clause in year 3 and if not used, a further four months' rent free was given. Mr Banbury had analysed the rent to the break clause at £625.95 psm, and over the full term of the lease to £618.35 psm. He contended that the market growth from the AVD to November 2019 was 13%, and by applying the same rate to the subject property, it would have been valued at £550.44 psm at the AVD. Mr Cates had not analysed the rent at the subject property as he considered it to be too far removed from the AVD to be useful.

19. The panel was inclined to agree with Mr Cates and found that the subject rent was too far removed from the AVD, and any extrapolations to arrive at a figure at the AVD took away from the usefulness of the rent. The panel found that too many adjustments had to be made and therefore it could not truly be considered as a clean rent. Therefore, minimal weight was attributed to the rent at the subject property.

20. Mr Banbury had provided a list of properties that he considered to be comparable to the subject property, which had also been let at a similar time in late 2019 to early 2020. He provided figures for the analysed rents that ranged between £646.52 psm and £786.85 psm. These were located in the same immediate area and included two other properties on Pall Mall, 18-19 Pall Mall and Kinnaird House, 1 Pall Mall. Both were on the opposite side of the street to the subject property, with 1 Pall Mall being diagonally opposite. 2nd Floor and 1st Floor East in Kinnaird House were in the rating list with a base rate of £546 psm and £575 psm. Both were significantly larger than the subject property, and for this reason it was the panels opinion that the subject property would be valued with a higher base rate, however; they were located in the immediate vicinity.

21. Mr Banbury put forward eight properties as comparable that were let close to the AVD between September 2014 and April 2015. He had analysed the rents which ranged between £484.60psm and £628.18 psm. 5th Floor 18-19 Pall Mall was a new letting on a five-year lease, with effect from 1 February 2015, analysed to £628.18 psm. 14-16 Charles II Street was a new letting on a five-year lease, with effect from 28 September 2014, analysed to £579.12 psm.

22. Mr Cates disputed the use of Mr Banbury's comparable evidence. He did not believe that the use of rents from 2019 was useful in determining the RV for the subject property and found Mr Banbury's approach to be flawed. It was his opinion that Mr Banbury had not put enough emphasis on the attractiveness of the address of the subject property, being on Pall Mall, which he believed came with a premium.

23. The VO had put forward rental evidence from two buildings on Pall Mall, numbers 45 and 50. It was Mr Cates opinion that these were the best comparables due to the rental evidence between March 2014 and March 2016, the address being on Pall Mall, and the settlement evidence reducing the base rate from £850 psm to £800 psm. Mr Cates had analysed the rents on five assessments within 45 and 50 Pall Mall between £719.49 psm and £935.28 psm.

24. Mr Banbury contended that the use of 45 and 50 Pall Mall was done by the VO using marketing brochures and no inspections had taken place of the subject property or 45 and 50 Pall Mall by the VO. Mr Cates confirmed he had not inspected any of the properties, and was

unsure if his colleague had inspected the properties. Mr Banbury confirmed he had inspected all of the properties mentioned internally, except for 18-19 Pall Mall.

25. The panel reviewed the evidence before it, including floor layouts and internal photographs of the subject property and 45 and 50 Pall Mall. The subject property had been built in the early 1880’s and was a converted townhouse. It had been refurbished in 2018, however the layout remained that of a townhouse and the images demonstrated it had less open useable space than 45 and 50 Pall Mall. By contrast 45 and 50 Pall Mall were demolished in the 1990’s leaving only the front façade of number 50 and rebuilt as modern offices behind. The VO’s evidence had stated 50 Pall Mall was constructed in 1900 and refurbished in 2006. The panel accepted Mr Banbury’s expert evidence of the demolition and rebuild which was supported by photographs, planning permission documents and his knowledge of the two properties having acted for both the landlord and the tenants of 45 Pall Mall and having inspected both properties.

26. The panel noted that 45 and 50 Pall Mall were located further along Pall Mall than the subject property and the comparables put forward by Mr Banbury. Whilst the panel accepted that the address may add value, it did not consider that 45 and 50 Pall Mall were truly comparable to the subject property as it found them to be of superior quality to the subject property. For this reason, the panel would expect that the value of the subject property would be less, and therefore found the current base rate of £800 psm unreasonable as this was the same base rate used for 45 and 50 Pall Mall.

27. When considering the evidence closer to the subject property, the panel noted that 14-16 Charles II Street which was let in September 2014 on a five-year lease, was a similar size to the subject property and was in the rating list at a base rate of £610 psm. The panel heard from both parties that whilst it was not in a bad location, it was inferior to the subject property. It was the panel’s view that the value of 14-16 Charles II Street would be less than the subject property due to the location.

28. 18-19 Pall Mall Street shared the same address as the subject property and were located on the next block. The panel found this building to be similar to the subject property externally and location wise, however no inspections had been carried out internally and no photographs were available. There were three rental analyses within 18-19 Pall Mall, however one was from 2019 and therefore not as useful. The other two rents were in February and April 2015; however one was for a much smaller assessment, and the other was only a one-year lease renewal. The five-year new letting on 5th Floor, 18-19 Pall Mall had been analysed by Mr Banbury to £628.18 psm. Whilst close to the subject property, less weight was attributed to this building.

29. When considering the basket of evidence as a whole, it was the panel’s opinion that the current RV was unreasonable. It found that the unadjusted base rate should be reduced to £700 psm. This accounted for the superior quality of 45 and 50 Pall Mall and the inferior location of the similar sized assessment on Charles II Street.

Disposal

30. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the existing assessment is unreasonable and determined an RV of £98,000 with effect from 29 January 2019.

Floor	Description	Area (m^2)	£/m^2	Value (£)
Fifth	Office	140.25	700.00	£98,175
			Total	**£98,175**
			Rateable Value	**£98,000**

31. The Tribunal Panel orders pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (England) Regulations 2009 [SI 2009 No 2269] that the respondent shall alter the 2017 list in respect of Fifth Floor, 123 Pall Mall, London SW1Y 5EA within two weeks, to £98,000 RV with effect from 29 January 2019.

Date issued to parties: 13 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.