VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Non-Domestic Rating; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

APPEAL NUMBER:	CHG100869330
RE:	4TH & 5TH FLRS 27, GREVILLE STREET,LONDON,EC1N 8SU (the "subject property")

BETWEEN:	Miller Rosenfalck LLP	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	19 February 2025
BEFORE:	Mrs LR McDermott, Presiding Senior Member Mr I Lonsdale, Senior Member
CLERK:	Mrs J Routledge
APPEARANCES:	Mr M Morrison of Ryan representing the Appellant. Mr G Singh representing the Respondent.

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel confirmed the rateable value (RV) of £188,000 with effect from 13 February 2021.

Introduction

3. The appeal process began when the Appellant served a proposal on the Valuation Officer on 20 October 2022, challenging a Valuation Officer's entry in the 2017 Valuation List. At the date of the proposal, the existing assessment was £86,500 RV based on an unadjusted rate (UAR) of £500 per m^2. The Appellant's proposed valuation, was £69,250 RV, based on a UAR of £400 per m^2. Having considered the merits of the proposal, the Valuation Officer reduced the RV to £82,500 based on an unadjusted rate of £475 per m^2. The decision was issued on 24 October 2023.

4. The Appellant subsequently appealed the Valuation Officer's decision to the tribunal, under Regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (the "NDR Regulations") on 30 January 2023. The appeal was made on the grounds that the valuation for the subject property was not reasonable.

5. Mr Morrison confirmed that he was appearing as advocate and expert witness, he was instructed under a contingency fee and he understood that his duty was first and foremost to the Tribunal. This was in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

6. 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). 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.

Background

8. The subject property was a former industrial building which had been re-purposed as offices arranged over six floors constructed in the 1930s and refurbished in 2020, It had been removed from the rating list in November 2016 and the current assessment was entered into the list on 13 February 2021. The subject hereditament is situated on the 4th and 5th floors of the building. Specification includes Comfort Cooling, Perimeter Trunking, Showers and Lifts.

9. The subject property was 192.48m^2 let under a lease for ten years which commenced on 1 September 2021 at a rent of £124,320 per annum The lease included a six month rent free period.

Relevant Law

10. The term 'rateable value' is defined in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 (the "1988 Act")(: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.

11. 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). Each appeal hereditament had to be valued, having regard to factual matters at the relevant material day, in accordance with paragraphs 2 (6) and (7) of Schedule 6 to the 1988 Act.

12. 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 was 13 February 2021.

Discussion

13. The documents considered by the panel comprised all of the documents exchanged between the parties as part of the challenge process: Appellant's challenge submission, initial response to the challenge, challenge further exchange, Valuation Officer's challenge case decision notice, and Appellant's supporting evidence statement. The Appellant had also submitted additional evidence two weeks before the hearing which was agreed by the Valuation Officer who had also provided a rebuttal to the new evidence.

14. The panel was guided by the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The six propositions in this judgment were:

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

(ii) 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 s19(6) of the General Rate Act 1967, the more weight should be attached to it.

(iii) Where rents of similar properties are available, they too are 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.

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

(v) In the light of all the evidence an opinion can then be formed of the value of the subject hereditament, the weight to be attributed to the different 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.

(vi) 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 clearly be more difficult to reject the evidence of the actual rent."

15. Mr Morrison argued that the Valuation Officer had compared the subject property to modern purpose built office buildings rather than a converted industrial building. He described the various disadvantages of the subject property including Mansard ceilings, layout issues as it was a converted industrial building, and lack of natural light on two sides of the offices. He identified a number of comparable properties nearby that he considered supported his opinion that the RV was excessive.

16. Mr Morrison identified three properties on Greville Street as comparable, they were in converted buildings of a similar age to the subject property. Basement and Ground Floor 28 Greville Street had a UAR of £350m^2, it was slightly larger and had also been refurbished. 2nd Floor left 8-9 Greville Street was much smaller in the same street and refurbished and valued at £392 per m^2. He also identified as comparable the following: 3rd Floor 32-38 Saffron Hill was larger and had been refurbished with an RV of £350 per m^2 and 2nd Floor 29-31 Saffron Hill was similar in size, had been refurbished, and had a UAR of £275 per m^2.

17. Further evidence of two settlements had also been submitted by Mr Morrison : Room 3 3rd Floor 24, Greville Street was smaller in the same street and had been refurbished a settlement had been agreed at £345 per m^2. Basement and Ground floor 18, Kirby Street was a settlement agreed on 24 October 2024 at £375 per m^2. This was also a refurbished office.

18. Mr Singh for the Valuation Officer advised that it was not known that these properties in Greville Street had been refurbished and therefore the RVs did not reflect that. He advised that 24 Greville Street had undergone a challenge and it was not stated in any of the documentation that the property had been refurbished and the value had been agreed based on the information that it was a non-refurbished 1930s converted office. Regarding Saffron Hill it was remarked that the rents in these buildings were lower suggesting the properties were inferior.

19. The Valuation Officer provided comparable properties in Ely Place and Diamond House Hatton Gardens. These had new lettings agreed between February 2014 and 27 August 2015 close to the AVD to demonstrate the market for properties in the same mode and category of occupation to the subject property. The rents on these properties analysed to between £280.60 per m^2 and £908.19 per m^2.

20. The Valuation Officer also provided three properties 1st, 2nd and 3rd floor 27 Greville Street which were valued at £475 per m^2 to demonstrate a tone for the building.

21. The panel carefully considered the evidence put forward by both parties. Mr Morrison had identified a number of properties within the same street which supported the lower RV sought, however, the panel accepted that the RVs on these properties may be based on incorrect information held by the Valuation Officer and did not reflect the fact that they had been refurbished, in particular 8-9 Greville Street was clearly not comparable. Having regard to the principles in *Lotus and Delta* the panel found that some weight should be placed on the subject property rent which analysed to £597.14 although it was several years post AVD, the rent reflected the refurbished condition and the market increase of 16% from the AVD. It then considered the rents agreed on comparable properties close to the AVD. The panel placed most weight on the rental evidence of 5th Floor Diamond House as this was a similar size with a new letting close to the AVD which analysed to £534.02 per m^2. The panel also found that the rental evidence close to the AVD for 3rd Floor 1-6 Ely Place was an outlier and could not be given weight. The other new lettings in Diamond House around the AVD analysed to much higher values which indicated to the panel that the subject property RV was not excessive.

22. The panel also had regard to the evidence of tone within the building itself and placed weight on the UAR of £475 on the 1st 2nd and 3rd floors that had remained unchallenged in the building.

23. The panel concluded that the evidence of the Valuation Officer of rents close to the AVD on comparable properties and the tone within the building outweighed the evidence submitted by the Appellant and therefore the panel found that the UAR of £475 per m^2 was not excessive.

Disposal

24. In view of the above findings and conclusions, the Tribunal Panel was satisfied that the RV of £82,500 based on a UAR of £475 per m^2 was not excessive having had regard to the evidence.

Date issued to parties: 7 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.
