VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeals; 2017 Rating List; paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988; material change of circumstances; end allowance; appeals dismissed.

APPEAL NUMBER:	See attached schedule
RE:	Various Offices at 100 Liverpool Street London EC2M 2AT (the “appeal properties”)

BETWEEN:	British Land T/A Storey	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	Monday 3 March 2025
BEFORE:	Mr GD Coombes (Presiding Senior Member) Mrs AE Fielder (Senior Member)
CLERK:	Miss K Hendry
APPEARANCES:	Mr B Bowles of Knight Frank (Appellant’s Representative) Mr C Cates (Respondent’s Representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals were dismissed.

2. The panel determined that no further allowance was warranted above that already granted by the VO (Valuation Officer) for the disturbance works. No allowance to be granted for ‘lack of amenity’.

Introduction

3. The challenge proposals were submitted by the appellant’s representative on the grounds that the Rateable Values (RV) shown in the 2017 rating list were inaccurate by reason of two material change of circumstances (MCC) which were having a negative impact on the appeal property.

4. The appellant’s representative was seeking an end allowance for each appeal property for the disturbance of building works taking place at 1-2 Broadgate and 1-14 Liverpool Street. He also sought a 2.5% end allowance due to lack of amenity outside the appeal property.

5. The VO made the decision that a reduction in RV was not warranted and consequently, the Challenge decision was appealed to this Tribunal.

6. Mr Bowles 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), he confirmed that he was instructed a conditional fee arrangement. He declared that he understood and 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 the 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). The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

8. Mr Cates appeared before the Tribunal as advocate only.

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

10. At the hearing Mr Cates questioned the evidence bundle which had been provided by Mr Bowles on 26 February 2025. Mr Cates was concerned that the document could contain new evidence as he had not had the opportunity to consider it in detail. Mr Bowles confirmed that the document was the same document that was originally submitted to the tribunal and it contained no new evidence.

11. As Mr Bowles confirmed there was no new evidence contained within the consolidated document, the panel proceeded with the appeal. Before the appellant proceeded with the appeal, the panel asked Mr Cates if he required a brief adjournment to read the document in full, which he declined.

Background

12. The appeal property was located on the southern end of the Broadgate Estate which was situated at the junction of Liverpool Street, Sun Street Passage and Broadgate Circle. It was directly adjacent to Liverpool Street Station in the City of London, with access to the Elizabeth line. It was situated in close proximity to Moorgate, Spitalfield and Shoreditch.

13. The building was redeveloped by the appellant in 2020 to provide commercial office and retail accommodation. The structural frame of the existing building designed by Arup built in 1988 was retained. It is a multi-tenanted building. The appellant occupies the part first floor

and second floor. The appellant provides offices for growing businesses as well as larger organisations seeking space on two to three year leases.

14. The appeal property measured 500,000sq ft and had 12 floors. It benefited from the following specification:

- Dual entrances to Liverpool Street and Liverpool Street Station
- 2.8 – 3.4m ceiling heights
- 200mm fully accessible raised floors
- BREAM outstanding
- Central feature staircase
- Air conditioning – High Fresh Air volume
- Six x 24 person passenger lifts

Relevant Law

15. Matters which constitute an MCC are defined in paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988.

16. The appeal 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. Therefore, having regard to the above, in reaching its decision, the panel considered, would the MCC affect the hypothetical tenant's bid? In doing so, economic factors must be considered as at the antecedent valuation date of 1 April 2015, whereas the physical factors are as they existed on the material date. In accordance with the Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No.556) and 4c of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No. 2268), the material day is the date on which the ratepayer confirms the accuracy of the information included in check. For this appeal, the parties agreed that the material date was 13 January 2023.

Discussion

18. Mr Bowles stated that the appeal properties were situated between two significant office development schemes as follows;

    a) 1-2 Broadgate, which was situated approximately 11 metres away, was an office demolition and rebuild which commenced on 4 May 2021. The work was expected to be ongoing for four years to construct a new office of 546,000sq ft next door to the west of the appeal property. The roof was removed on 25 August 2021, followed by each floor slab. By 2 March 2022 all the floors had been demolished. Looking at the Gantt chart in quarter one in 2023, the temporary works and bulk excavation was coming to an end and the concrete superstructure had commenced.

    b) 1-14 Liverpool Street involved an office demolition and rebuild which commenced on 1 June 2021. The work was expected to be ongoing for five years to construct new office and retail accommodation of 176,000sq ft. This property was situated to the south of the appeal property.

19. Due to the disturbance of building works Mr Bowles was seeking the following allowances;

    a) 10% allowance for Pt 1st Flr, Storey Club, 2nd Flr and Office L 2nd Flr as these were the closest to the works at 1-2 Broadgate. The VO had given 5% for Storey Club and Office L, and 2.5% for Pt 1st Flr.

    b) 5% allowance for Office K 2nd Flr, Office J 2nd Flr and Office I 2nd Flr as these were opposite the works at 1-14 Liverpool Street. The VO had applied a 2.5% allowance for these offices.

    c) 5% allowance to be applied for Lounge 2nd Flr and Office A 2nd Flr as these were opposite the works but slightly set back further away.

    d) 2.5% allowance for Office G & H 2nd Floor as whilst these were opposite, they were slightly more shielded.

20. Mr Bowles argued that hoarding and scaffolding was erected around 1-2 Broadgate on 12 April 2021 and the site was then handed over to contractors to carry out the strip out and demolition works which commended on 4 May 2021. The roof was removed on 25 August 2021 followed by each floor slab as they demolished the building from top to bottom. By 2 March 2022 all the floor slabs had been demolished. At the material day of 13 January 2023, the bulk excavation works were underway along with the superstructure being erected shortly afterwards as evidenced on the Gantt chart. In order to build the superstructure large cranes arrived on site which involved Elden Street being either closed for short periods in 2023 and 2024 or down to one lane. He further argued that the hoarding outside Broadgate restricted pedestrian access into Broadgate circle from the south. The works at 1-14 Liverpool Street were taking place outside the main entrance to the appeal property meaning that the noise, dust and vibrations could be felt during the works.

21. To demonstrate the impact of the building works, Mr Bowles provided several photographs and videos which showed a timelapse of the demolition and building works. He also provided a letter from Storey which detailed how the floors had been heavily impacted by the works and how they had had to concede a rent discount on lease renewal / new lettings compared to previous leases. Units 2K and L had given a discount of 9.1% on 9 July 2021 and 2I and J had a discount on 7.8% on 1 June 2021. Event bookings had also been significantly reduced compared to forecast, achieving a 32% occupancy versus target.

22. In support of the allowances sought, Mr Bowles turned to comparable evidence where allowances had been agreed in London. He also relied upon a Tribunal decision on 4th Floor Veritas House, 125 Finsbury Pavement (CHG100327665) in which the panel confirmed an allowance of 25% due to the disturbance of building works on an adjacent building.

23. Separate to the building works allowances, Mr Bowles argued that 2.5% allowance was appropriate for all the offices at 100 Liverpool Street for a ‘lack of amenity’. Broadgate Circle area was designed around the concept of place making, a welcoming public space which was a pedestrianised area for office works to enjoy their lunch breaks. This space was impacted by the works due to the ongoing noise and dust as well as the loss of the fitness first gym and several food establishments.

24. In support of the allowance, Mr Bowles relied upon a Tribunal decision on 3rd Floor, 23rd-33rd Floors and 21st Floor at The Broadgate Tower, 20 Primrose Street in which the panel

confirmed a 1.5% allowance for loss of amenity (503025240348/053N10; 503025240338/053N10; and 503025993578/538N10)

25. In response Mr Cates argued that the largest disturbance during building works takes place at the beginning, during the demolition which contributes to the most dust, noise and vibrations. At the material day the demolition works at both developments had finished. The appeal building had achieved a BREEAM outstanding rating meaning that any external noise would be greatly suppressed and as the building was sealed it would be unlikely to be affected by dust. He referred to the photographs provided and stated that they predated the material day and the videos had no timeline meaning it was difficult to pause the video and consider the works at the material day. He also argued that no evidence had been provided from within the appeal building to demonstrate the impact of the works.

26. Mr Cates argued that the best comparable was of those at 1 Finsbury Avenue in which a 5% allowance had been awarded for assessments directly facing the MCC and other offices which were shielded received no allowance. This was in line with the allowances the VO had already award on the appeal properties.

27. In terms of the allowance for the lack of amenity, the VO argued that the open space had not been impacted severely by the works in comparison to the properties. He stated that a premium attached to rents for any property that has ‘square’ in the address. The 5% allowance granted for Hanover Square was demonstrated by a group of agents that the rental premium no longer applied and that there were suites of offices where the asking rents had to be reduced. Over two thirds of Hanover Square was being dug up for a brand new station underneath the square that previously had nothing and therefore allowances were granted in the 2010 rating list. Mr Cates argued that the levels of allowances granted by the VO were more than fair for the disruption of the works at the material day and sought for the panel to dismiss the appeal.

28. Having regard to the evidence presented, the panel found the VO’s arguments were more persuasive and held that the appeals should be dismissed. The works which impacted the appeal property most had already occurred before the material day. The panel held that the works including the bulk excavation and concrete superstructure would mostly be shielded by the BREEAM outstanding rating of the appeal property. Having regard to the rent reductions, the panel placed little weight on this evidence as the reductions occurred at the height of the works when they were most disruptive and too far away from the material day. The panel had regard to the comparable properties provided, specifically 2nd Floor Finsbury Avenue which had been granted a 7.5% allowance. However, little detail had been provided as to the facts of those works at that material date. Therefore, the panel applied little weight to the comparable properties. Mr Bowles had not provided any evidence to demonstrate at the material day, the appeal properties would be any greater disadvantaged than the allowances already applied by the VO.

29. In terms of the allowance for the lack of amenity, the panel held that no allowance should apply as the level of works did not impact the space as severe as the comparable properties given. The VO had explained that a 5% allowance had been given to the redevelopment of Victora which was on a huge scale and not comparable to the appeal property in which a few shops had closed.

30. Therefore, the panel held that the allowances granted by the VO were reasonable and that no further allowances should be granted.

Disposal

31. The panel dismissed the appeals.

Date issued to parties: 26 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.

Schedule of appeals:

Appeal Number	Address
CHG101061703	OFFICE A 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061704	OFFICE B 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061711	OFFICE C 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061712	OFFICE D 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061713	OFFICE E 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061714	OFFICE F 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061715	OFFICE G & H 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061658	OFFICE I 2ND FLR,100, LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061695	OFFICE J 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061696	OFFICE K 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061699	OFFICE L 2ND FLR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061645	LOUNGE, 2ND FLOOR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061702	STOREY CLUB, 2ND FLOOR, 100 LIVERPOOL STREET, LONDON EC2M 2AT
CHG101061700	PT 1ST FLOOR , 100 LIVERPOOL STREET, LONDON EC2M 2AT