VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal appeal: Local Government Finance Act 1988; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Office and premises; main space price; appeal allowed in part.

APPEAL NUMBER:	CHG101067751
RE:	Ground & 1st Floor, 1 Colton Square, Leicester LE1 1QH (the “appeal property”)

BETWEEN:	C	Appellant
	and	
	Joanne Moore IRRV (Hons) (Valuation Officer)	Respondent

SITTING:	*Remotely using Microsoft Teams*
ON:	6 January 2025 10:05
BEFORE:	Mrs T Watson, Presiding Senior Member Ms L Dubow, Senior Member
CLERK:	Mr R Gath IRRV(Hons)
APPEARANCES:	Mr A Simons for Altus Group (Appellant’s representative) Mrs K Cockhill (Respondent’s representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel The panel concluded that the main space price should be reduced to an unadjusted rate of £115/m^2. The resultant rateable value (RV) was £221,000.

Introduction

3. The Appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 26 May 2023. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded and refused to alter the existing assessment of £231,000 RV effective from 30 January 2020. A decision notice to this effect was served on the Appellant on 10 April 2024 and his representatives then appealed the VO's decision to the Tribunal on 18 January 2024, on the grounds that the current valuation for the hereditament was not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

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

Background

5. The appeal property was an Office and premises with an agreed total area of 1,791m². The appeal property was built in 2007 and benefits from insulted walls and roof. It has a raised floor. Appellant company had occupied by Ground Floor, but, it then decided to occupy the First Floor. The VO subsequently merged the two former entries to form the appeal property. The new RV of £2310,00 was based on an unadjusted main space price of £120/m^2. The Appellant was seeking a revised RV of £212,000 based on an unadjusted main space price of £110/m^2 due to a quantum allowance.

6. As Mr Simons appeared on behalf of the Appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC).

7. He declared that he was instructed under a success related fee arrangement. Mr Simons confirmed 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.

8. The panel accepted this 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 Procedure regulations 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).

9. Mrs Cockhill confirmed that she was representing the VO as advocate and expert witness.

10. The issues in dispute before the panel was the correct tone of value to be applied to the appeal property.

11. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties comparable assessments, skeleton arguments and a photograph of the appeal property.

Discussion

12. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

13. The lease for the Ground Floor commenced on 24 March 2017 with a passing rent of £74,868 per year. The lease for the First floor commence on 1 February 2020 with a stepped rent. However, the panel applied little weight to the rent for the appeal property as the First Floor lease was too far from the AVD to be reliable and the lease for the Ground Floor was only for part of the appeal property.

14. The panel applied significant weight to the assessments for 2nd Floor, Arnhem House which had a main space price of £120/m^2 and 4th Floor Arnhem House which had a main space price of £130/m^2. They had a total floor area of 1,015.60m^2 and 491.90m^2 respectively. These offices were located in an office block next to 1 Colton Square. Although these assessments were smaller than the appeal property, Mr Simons had demonstrated that a larger assessment would benefit from a quantum allowance. During questions Mrs Cockhill confirmed that the reduction in the main space price could be as a result of differences in the offices such as lighting, insulation and a quantum allowance. However, as the offices were in the same building, the panel considered that there would be little difference between the build quality and the fixtures and fittings and therefore the only main difference in the values would likely be because it would benefit from a quantum allowance. Given that Mrs Cockhill was an advocate and expert witness and had stated that she deals with offices in the Leicester area, the panel was disappointed that she was unable to give specific reasons for the difference in the two values.

15. Mr Simons had also referred to two other assessments, 7 Barton Close and Fosse House, 6 Smith Way Grove Park, Enderby which had areas of 2,090/m^2 and 1,896/m^2 respectively and had been valued at £10/m^2 less than 5 Smith Way, Grove Park and 1 Grove Court, Thorpe Way which were significantly smaller. However, whilst they supported the Appellant's argument that larger properties would benefit from a quantum allowance the panel applied less weight to these assessments as they were further away from the appeal property and may not support a quantum allowance in the specific locality where the appeal property is located.

16. Turning to the VO's argument that a main space price of £120/m^2 was the value of offices in the locality, the panel applied little weight to the VO's rental evidence as the earliest effective date of a rent was September 2019 which was over four years from the Antecedent Valuation Date (AVD).

17. Mrs Cockhill contended that Mr Simons had not produced any evidence to support his argument that the main space price should be reduced as a result of a quantum allowance. To support their contention that a main space price of £120/m^2 was reasonable, the VO had produced the tonal evidence for a number of comparable properties within Colton Square. However, the panel also applied little weight to these comparable properties as they were smaller than the appeal property and therefore would not prove to the panel's satisfaction that a quantum allowance for a larger property was not justified.

18. However, the panel did find some of the VO's comparable properties compelling. Two properties in Bede Island Road had sizes of 2,024m^2 and 2,388m^2 and were valued at

£125/m^2 and £120/m^2 respectively which supported the Appellant's argument that larger properties would benefit from a quantum allowance. The panel also noted that 9 St Nicholas Place had a size of 1,540m^2 and was valued at £114/m^2. However, during questioning the panel established that these properties were located two miles away from the appeal property.

Disposal

19. There was scant evidence provided by both parties to support their respective cases. However, given the limited evidence, in particular 2nd Floor, Arnhem House which was larger than 4th Floor, Arnhem House had been valued at £10/m^2 less. The panel was therefore satisfied that this supported the Appellant's argument that a larger unit in the locality would benefit from a quantum allowance. During Mrs Cockhill's questioning, she verbally accepted the difference would have been partly due to a quantum allowance. The panel therefore decided that the appeal property should be valued on an unadjusted main space price of £115/m^2 as Mr Simons had not sufficiently proved to the panel that the difference between the two values was purely as a result of a quantum allowance. The appeal was therefore allowed in part.

20. The Valuation is as follows:

Description	**Area**	**Rate/£**	**Value**
Ground floor Office	258.54	123.74	31,991.74
Ground floor Office	569.00	123.74	70,408.06
First floor Office	963.49	123.74	119,222.25
		Sub total	221,622.05
Car parking		17	0
		total	221,622.05
		Rateable value say	221,000.00

Order

21. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list to rateable value £221,000 with effect from 30 January 2020.

22. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Refund of appeal fees

23. As the grounds of the appeal have been made out, a refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision.

Date issued to parties: 13 January 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.