VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; offices and premises; rental evidence; tonal evidence; appeal against the accuracy of the rateable value for the hereditament; appeal allowed in part.

APPEAL NUMBER:	CHG101070871	
RE:	60, GREAT PORTLAND STREET,LONDON,W1W 7ND (the "subject property")	
BETWEEN:	Next Fifteen Communications PLC	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	5 February 2025	
BEFORE:	Mr APS Crawford, Presiding Senior Member Mrs N Carman, Senior Member	
CLERK:	Miss N Shepherd, IRRV Hons	
APPEARANCES:	Mr D Semple, on behalf of the appellant Mr C Tawonezvi, on behalf of the Valuation Officer.	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel determined that the main space rate at the subject property should be reduced to £600/m2. The resultant rateable value (RV) was £3,290,000 from 1 April 2017.

Introduction

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal has been made to this Tribunal on the grounds that the rateable value (RV) for the appeal property was not reasonable.

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

Background

5. The subject property is an office and premises located over seven floors. The building is located at the junction of Great Portland Street and Mortimer Street, close to Goodge Street and Oxford Circus underground stations. It measures 5499.89m^2 ITMS.

6. The appeal process began with a challenge made by the appellant's representative on 7 June 2023 in respect of the Valuation Officer's (VO) rating list entry of the subject property at £3,980,000 RV with effect from 1 April 2017. The appellant's representative proposed a revised assessment of £3,160,000 RV from that date based on a reduced value for main space.

7. The respondent issued a challenge case decision notice on 14 December 2023, which found that the proposal was not well founded, but that the current rating list entry was unreasonable based on the information and evidence available. The Valuation Officer subsequently reduced the RV to £3,380,000 with effect from 1 April 2017 based upon an unadjusted rate of £615/m2. The appellant's representative appealed that decision to this Tribunal on 6 March 2024 on the grounds that the valuation for the subject hereditament remained unreasonable and sought an unadjusted rate of £575/m2.

8. The evidence submission before the panel comprised all the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, and comparable assessment evidence.

9. Mr Semple, as representative for the appellant, appeared in a dual role of advocate and expert witness. He stated that he was being paid on a contingency fee basis but was aware that in giving expert evidence his responsibility was to the Tribunal.

10. The dual role is allowable in this Tribunal's proceedings having regard to the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009) (regulation 3 (Discharge of VTE functions – general) and rules regarding admissibility of evidence (regulation 17(2)(a)). However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue.

Relevant Law

11. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property

as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

12. 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).

13. 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 appeals, the material day is 1 April 2017.

Discussion

14. The panel had regard to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The panel was aware that this was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence. The starting point was the subject rent. Consideration of how the time, subject matter and conditions related to the statutory requirements was required in order to determine how much weight should be attached to the subject rent. The remaining propositions required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

15. The panel noted that rental details had been provided in respect of the subject property. The appellant held multiple separate leases within the building, each of which had commenced from 25 January 2008 for 20 years with five yearly rent reviews and a combined rental figure of £3,380,000. The rent review in 2013 had not been exercised and had subsequently been increased to £3,923,310 with effect from 25 January 2018 upon review.

16. Mr Semple submitted that this rental evidence was of limited assistance due to the fact that both 2013 and 2018 rent review dates were too far removed from the AVD to accurately reflect the rental amount that may have been achieved at that date.

17. Mr Tawonezvi submitted that although the rent review dates were two years either side of the AVD, that he still considered this to be the best evidence. He contended that there had been a 11.58% in the rental amount between 2013 and 2018, which equated to 2.3% per annum. The 2013 value resulted in an unadjusted rate of £630/m2 and the 2018 value resulted in an unadjusted rate of £718/m2. Based upon these figures he submitted that at the AVD the rental figure which could have been achieved equated to £669/m2, and therefore the current unadjusted rate of £615/m2 was reasonable.

18. The panel had regard to both parties' arguments regarding the subject weight. Ultimately, it attached little weight to this evidence as it considered the proximity of the 2013 and 2018 dates to be too far removed from the AVD to be reliable.

19. The panel then addressed rental evidence submitted by Mr Semple to support his argument that the current rateable value was not reasonable. He had provided details regarding a number of properties located at 1 and 2 Fitzroy Place. Of these the panel paid particular attention to Pt 4th-8th Floors 1 Fitzroy Place, as this was the most similar in size to the subject property, measuring 6821.90m^2.

20. This property had a 20-year lease commencing on 1 January 2015 at £6,496,475 with a two-year rent-free period. Mr Semple had analysed this rent to £596/m2, and the unadjusted rate was £650/m2. The panel considered this to be good evidence due to the proximity of the lease start date to the AVD. The panel noted that this property had been constructed in 2016 and therefore was considerably newer than the subject property. As such, it would not be unreasonable to expect this property to have achieved a higher rental value than the subject property had both been let out at the AVD.

21. Mr Semple had also provided details of several other assessments which he considered supported the unadjusted rate of £615/m2 being excessive. He referred to 160 Great Portland Street, which was located on the same street as the subject property and had an unadjusted rate of £575/m2. He submitted this had a more recent refurbishment than the subject property and was situated in a more prestigious part of the street . He could see no reason why this property was valued any differently to the subject property. The panel noted 160 Great Portland Street was larger than the subject property at 7675m^2 , and therefore there may have been an element of quantum within its assessment, meaning it not unreasonable that the subject property would have a higher unadjusted rate. Nevertheless, the panel considered this property to be a good comparable.

22. The panel also considered the assessments of 1 Rathbone Square and 30 Berners Street to be useful. Both were larger than the subject property, with 1 Rathbone Suare measuring 22,633m^2 and 30 Berners Street measuring 8051m^2. However, both properties were self-contained and significantly newer having been built in 2018 and 2022 respectively. 1 Rathbone Square had an unadjusted rate of £622/m2 and 30 Berners Street £600/m2. The panel considered that although quantum may be a factor within the assessment of these properties, the fact that they were new buildings, which the subject property was not, would also have been considered.

23. The panel had consideration to the evidence and submissions of both parties and found that the comparables submitted by Mr Semple, particularly 160 Portland Road, did support a reduction in RV. However, based upon the evidence provided the panel did not consider the proposed unadjusted rate of £575/m2 to be appropriate. The panel instead found an unadjusted rate of £600/m2 to be more reasonable.

COMPONENT PARTS OF THE PROPERTY					
Ref	**Floor**	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
1.1	Basement	Internal Storage	102.60	142.50	14,621
1.2	Ground	Reception/Entrance	180.40	570.26	102,875
1.3	Ground	Office	155.30	570.26	88,561
1.4	Ground	Storage	57.90	57.00	3,300
1.5	First	Office	1093.10	600.00	655,860

1.6	Second	Office	1126.40	600.00	675,840
1.7	Third	Office	1126.40	600.00	675,720
1.8	Fourth	Office	1055.30	600.00	633,180
1.9	Fifth	Office	750.10	600.00	450,060
				Valuation subtotal	3,299,930

Say £3,290,000 RV

Disposal

24. In view of the above findings and conclusions the panel therefore allowed the appeal in part.

25. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, that the Valuation Officer, within two weeks of the date of this order, shall alter the rateable value in the 2017 list in respect of the subject property to an RV of £3,290,000 with effect from 1 April 2017.

26. A refund of the paid fee will now be arranged (Regulation 13E of the Non-Domestic Rating (Alteration of Lists & Appeals) (England) Regulations 2009. Provided there is no review of the Tribunal's decision the refund will take around six weeks to process.

Date issued to parties: 4 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.

Amended decision in accordance with Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 due to a clerical error