VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: offices and premises; Lotus & Delta Ltd v Culverwell (LO) and Leicester City Council [1976]; rental evidence; assessments of comparable properties; unadjusted rate in dispute; appeal dismissed.

APPEAL NUMBER:	CHG101075732
RE:	4 Trinity Chambers (Unit 3), Ivy Street, Birkenhead, CH41 5EF (the “subject property”)

BETWEEN:	First For Energy Group Limited	Appellant
	and	
	Amanda Hitchings BA (Hons) MRICS (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	6 December 2024
BEFORE:	Mrs RS Choudhury (Presiding Senior Member) Mr P Patel (Senior Member)
CLERK:	Mrs J Smith IRRV(Tech)
APPEARANCES:	Mr A Orme of Orme Associates – representing the Appellant Mr T Brown – representing the Valuation Officer

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel confirmed a rateable value (RV) of £11,750 for the subject property with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. 4 Trinity Chambers (Unit 3), Ivy Street, Birkenhead, CH41 5EF had been entered in the 2017 rating list at £11,750 RV with effect from 1 April 2017.

4. The challenge proposal was submitted by Mr Orme on behalf of First For Energy Limited. It was received by the Valuation Officer on 20 June 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV was proposed of £6,000 with effect from 1 April 2017.

5. The Valuation Officer issued a challenge case decision notice on 4 March 2024 which disagreed with the proposed alteration of the list.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable.

7. 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).

8. Mr Orme, of Orme Associates, 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 Orme confirmed that he was instructed under a contingency fee basis and he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

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 Brown appeared as advocate and expert witness.

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

Background

13. The subject property consists of ground floor office accommodation measuring 118.3m^2. It is located in a modern, two-storey, purpose-built office development on the outskirts of Birkenhead Town Centre.

14. Mr Orme had argued that the RV is excessive based on the rent of the subject property and compared with other offices in the locality. He sought a reduction to £6,000.

15. The Valuation Officer defended the present assessment of £11,750 RV based on an adopted rate of £105/m^2.

Relevant Law

16. The term ‘rateable value’ is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

“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”.

Discussion

17. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the AVD, 1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

18. 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.

19. Mr Orme had referred to the rent of the subject property, which had been agreed on 12 December 2017 at £7,800 per annum and was fixed for the duration of the term. He had

analysed this rent, which included the right to use three parking spaces, at £6.13 per square foot. Mr Orme stated that the units in Trinity Chambers were difficult to let and it was likely that the subject property was vacant at the AVD. In his view, having regard to *Lotus & Delta,* the rental evidence of the subject property was the best evidence and strongly supported his assertion that £6,000 RV was appropriate.

20. However, after having regard to the second proposition set out in *Lotus & Delta*, the panel noted the lease had commenced more than two years after the antecedent valuation date of 1 April 2015, which made it less useful to determine the rent passing on this date. Accordingly, the panel went on to examine the third and fourth propositions outlined in *Lotus and Delta* and had regard to the rents and assessments placed on comparable properties.

21. Mr Orme referred to the rents on other units in Trinity Chambers, although the panel noted that it would have been of assistance if the figures had been converted into decimal. Units 4 and 8 had been let together on 2 June 2021 for a term of 5 years at £12,000 per annum (which he analysed at £4.70 per square foot) and Unit 10, which had been let on 31 August 2017 for a term of three years at £7,800 for the first year, reducing to £7,150 per annum in years' two and three (which he analysed at £5.71 per square foot). Mr Orme had also referred to the rent on 4 Pilgrim Street, although the panel understood this was a much larger Victorian building which had been valued as a workshop with office space above. In the panel's view this property was not comparable to the subject property.

22. Mr Brown had stated that there was a lack of rental evidence around the AVD and had instead provided a schedule detailing the comparable assessments for 7 other units at Trinity Chambers. These office units ranged in size from 51m^2 to 133m^2 and had all been assessed with an adopted rate of £105/m^2. Three of these properties were larger than the subject property, three were smaller and Unit 4 was identical. Mr Brown confirmed that none of these assessments had been challenged in the 2017 Rating list.

23. In appeals of this nature, the burden of proof was on the appellant to provide evidence to demonstrate that the existing assessment was excessive. Whilst the panel acknowledged that there was some disparity between the Valuation Officer's rental figures and those submitted by Mr Orme, in any case they were too remote from the AVD to be helpful. In considering the overall basket of evidence, the panel placed more weight on the tone of value of all the neighbouring office units and was not convinced that the unadjusted rate of £105/m^2 was unreasonable.

Disposal

24. Accordingly, the panel confirmed that the appeal property had been correctly valued at £11,750 RV with effect from 1 April 2017.

25. The appeal was therefore dismissed.

Date issued to parties: 13 December 2024

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.