VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List appeals; offices and premises; Lotus & Delta Ltd v Culverwell (LO) and Leicester City Council [1976]; rental evidence; assessments of comparable properties; unadjusted rate in dispute; appeals dismissed.

APPEAL NUMBERS: CHG101142253 and CHG101143283

RE: 1st Floor North, 1 Farriers Yard, Fulham Palace Road, London W6 8JA (Appeal 1)

2nd Floor North Front West, 1 Farriers Yard, Fulham Palace Road, London, W6 8JA (Appeal 2)

(the "appeal properties")

BETWEEN:	Thomas Murray Network Management Limited (Appeal 1) Sybersolve Solutions Limited (Appeal 2)	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 8 January 2025

BEFORE: Mr PJ Ward (Presiding Senior Member)
Mr C Derrick (Senior Member)

CLERK: Mrs J Smith IRRV(Tech)

APPEARANCES: Mr M Parvin of Altus Group – representing the Appellant
Miss R Begum – representing the Valuation Officer

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are dismissed.

2. The panel confirmed rateable values (RV) for the appeal properties with effect from 1 April 2023 as follows:

   i) Appeal 1 – RV £156,000
   ii) Appeal 2 – RV £68,500

Introduction

3. These are appeals against the entries in the 2023 rating list.

4. Since the appeal properties were in the same locality and for each appeal the appellant's evidence was the same, the panel decided to hear both cases together.

5. These appeals have been brought in respect of the following:

   i) (Appeal 1) 1st Floor North, 1 Farriers Yard, Fulham Palace Road, London W6 8JA; office and premises. The challenge proposal was submitted by Altus Group on behalf of the appellant. It had been made on the grounds that the RV shown in the rating list was inaccurate. A revised RV of £116,000 was proposed with effect from 1 April 2023. The Valuation Officer issued a challenge notice on 1 July 2024 which confirmed the RV was unreasonable and notified a lower RV of £156,000 with effect from 1 April 2023.

   ii) (Appeal 2) 2nd Floor North Front West, 1 Farriers Yard, Fulham Palace Road, London W6 8JA; office and premises. The challenge proposal was submitted by Altus Group on behalf of the appellant. It had been made on the grounds that the RV shown in the rating list was inaccurate. A revised RV of £51,000 was proposed with effect from 1 April 2023. The Valuation Officer issued a challenge notice on 1 July 2024 which confirmed the RV was unreasonable and notified a lower RV of £68,500 with effect from 1 April 2023.

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 2023 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2021, in accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No. 832). In respect of the subject appeals, the material day is 1 April 2023.

8. Mr Parvin 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 Parvin 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 appeals were 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. Miss Begum appeared on behalf of the respondent Valuation Officer as advocate only.

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

Background

13. The appeal properties were part of a modern 6 storey office building built in 1988. They were part of a courtyard complex benefitting from underground car parking and bicycle racks, located approximately 300m from the Broadway/Centre West shopping development and close to Hammersmith Underground Station. Appeal property 1 has a total area of 444.1m^2 and appeal property 2 is 195.68m^2. Both are valued at an unadjusted rate of £370/m^2.

14. Mr Parvin had argued that, whilst the unadjusted rate had been reduced at challenge stage from £420/m^2 to £370/m^2, it was still excessive, and he sought a reduction to £275/m^2 in both cases.

15. The Valuation Officer defended the present assessments of £156,000 RV (Appeal 1) and £68,500 RV (Appeal 2)

16. The evidence bundles submitted by the parties included copies of the documents exchanged as part of the challenge process, photographs and location plans of the appeal properties and an internal photograph of the 4th Floor South East office in Horatio House.

Relevant Law

17. 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

18. The panel had to determine the rateable values for the appeal properties, which represented a rent that a hypothetical landlord and tenant would agree, as at the AVD, 1 April 2021. The common date was used to ensure that every property was treated in a consistent way.

19. The panel was aware from The Lands Tribunal judgment in Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 that whilst the best evidence was the subject rent, especially when close to the AVD, this was a starting point, and where available, rents on similar properties should also be taken into account and weight applied to the entire basket of evidence according to its merits.

20. The rent on the property in appeal 1 had been agreed in January 2019 at £216,720 with a 9 month rent free period. The lease on appeal property 2 was renewed in June 2020 on a stepped rent basis. Since both these rents had been agreed some time prior to the AVD, the panel went on to consider the rents of five other comparable properties in either the same or the adjacent building.

21. <u>Unit N3 4th Floor North, Horatio House, 77 Fulham Palace Road</u>
Situated in the adjacent building and similar in size to appeal property 2 at 185.20m². Four year lease agreed in November 2022 at a stepped rent of £53,801 per annum which Mr Parvin had analysed at £305.79/m².

<u>2nd Floor North Rear East, 1 Farriers Yard, 77-85 Fulham Palace Road</u>
In the same building as the appeal properties, although significantly smaller at 56.70m². Three year lease agreed in June 2021 at £12,500 per annum which the parties had analysed at between £232.08/m² and £236.55/m².

<u>4th Floor South East, Horatio House, 77-85 Fulham Palace Road</u>
Lease renewal in July 2021 at £71,240 per annum with a 12 month rent free period. The parties disagreed on the analysis of this rent – Mr Parvin had arrived at £355/m² on the basis that 1 month was sufficient time to fit out what he described as a small, basic, office

space, whereas Miss Begum had allowed a three month fit out period, treating the remaining 9 months rent free period as incentive in her analysis of £366.93/m^2.

2nd Floor North Front East, 1 Farriers Yard, 77-85 Fulham Palace Road
Lease renewed June 2020 at £28,773 per annum, analysed at £373.93/m^2. Miss Begum suggested that the rent agreed may have been impacted by the Covid-19 pandemic.

3rd Floor South (East) Horatio House, 77 Fulham Palace Road
Lease renewed June 2020 at £51,128 per annum, analysed at £292.62/m^2. Miss Begum suggested that the rent agreed may have been impacted by the Covid-19 pandemic

22. Mr Parvin had taken the analysed rents of 4th Floor South East, Horatio House and 2nd Floor North Rear East, to arrive at a mid-point figure of £295.5/m^2 which he suggested supported his assertion that the current unadjusted rate of £375/m^2 for the appeal properties was excessive. Miss Begum disagreed with this approach, stating that the lease details from the second floor of 1 Farriers Yard were unknown and that at three years, the term of the lease and the level of rent for 2nd Floor Rear North East appeared to be outside the market norm for the building.

23. Regarding the disputed fit out period for 4th Floor South East, Horatio House, Miss Begum had carried out another analysis of the rent, this time allowing the full 12 months' rent free period as incentive and arrived at a figure of £351.78/m^2, which she pointed out was still not as low as the appellant's proposed price of £275/m^2.

24. In reaching a decision, the panel gave little weight to the rent of the appeal properties as they had been agreed some time prior to the AVD. It was left to consider the rental evidence of the five comparable properties. The panel placed more weight on the rents attached to 4th Floor South East, Horatio House and 2nd Floor North Rear East. Although these were both lease renewals, and therefore not reflective of the open market, these rents had been agreed close to the AVD.

25. 4th Floor South East, Horatio House was similar in size to appeal property 2 and whilst a three month fit out period may have been on the generous side, the panel noted that both parties largely agreed on the analysed rate. 2nd Floor North Rear East was significantly smaller than both the appeal properties – appeal property 1 was over eight times larger – and whilst the panel was not persuaded by Miss Begum's argument that a three year lease was outside the norm for the building, the panel considered that nevertheless its much smaller size would be reflected in the rental value.

26. Of the remaining comparable properties, the panel was aware that the leases for 2nd Floor North Front East and 3rd Floor South (East) Horatio House had been agreed in 2020 and, whilst Miss Begum had suggested that the impact of the Covid-19 pandemic may have been taken into consideration when these lease renewals were being negotiated, no evidence had been submitted to support this.

27. Having considered the submissions of both parties, the panel was not satisfied that sufficient evidence had been provided by the appellant to demonstrate that £370/m^2 was excessive for the appeal properties.

28. Ultimately the burden of proof is on the appellant to persuade the Tribunal that the RVs were unreasonable, and, in these cases, the panel was not persuaded by the arguments put forward by Mr Parvin.

Disposal

29. Accordingly, the panel dismissed the appeals.

Date issued to parties: 3 February 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.
