VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List appeal: Local Government Finance Act 1988; offices and premises; rental evidence close to the valuation date; appeal against the accuracy of the rateable value for the hereditament; appeal dismissed.

APPEAL NUMBER:	CHG101155188
RE:	Units 3-5 Tower House, Tower Centre, Hoddesdon, EN11 8UR (the "subject property")

BETWEEN:	Towers Thompson Limited	Appellant
	and	
	Ms J Moore (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	27 January 2025
PANEL:	Ms T M Blades, Presiding Senior Member Ms J Gittens, Senior Member
CLERK:	Mrs K Edhouse-Thomas
APPEARANCES:	Mr M Clayton (Ryan Property Tax Services UK Ltd), representative for the appellant. Mr K Cheung, representative for the respondent.

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. The panel made no change to the rating list entry in respect of the subject property.

Introduction

2. 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) valuation for the appeal property is not reasonable.

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

Background

4. The subject hereditament comprised of first floor office accommodation, with a total area of 331.78m^2, located in Tower House in Hoddesdon. The building was purpose-built office accommodation over two floors, constructed in the early 1970s.

5. The RV for the hereditament with effect from 1 April 2023 was £52,000 which was based on an unadjusted rate of £150/m^2.

6. The appellant's representative was seeking a reduction to £36,250 based on an unadjusted rate of £110/m^2.

7. 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.

8. Mr Clayton, 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.

9. Mr Cheung for the valuation officer, also appeared in a dual role of advocate and expert witness. He confirmed that he was not instructed under any conditional or other success-based fee arrangement.

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. The term "rateable value" was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant responsible for all rates, taxes, repairs and insurance. In respect of the 2023 rating list, the Rating Lists (Valuation Date) (England) Order 2020 requires the rental levels to be taken on 1 April 2021, the antecedent valuation date (AVD). In respect of the subject appeal, the material day is 1 April 2023.

Discussion

12. In the case under consideration, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141.

13. The starting point for consideration was the actual rent passing on the appeal hereditament. The rent passing was £36,000, with the lease commencing on 11 February 2020.

14. Mr Clayton argued that the rent passing on the subject property was the best evidence. It was close to the AVD and devalued to £108.51/m^2. He further argued that Tower House, which was a small office block, was the only property in this valuation scheme.

15. Mr Cheung argued that the original lease had been agreed in 2016 for a period of 12 years, with a stepped rent. The rent for the first year was £18,000, with £25,000 for the following three years. He argued that a lower rent over four years had been agreed as the landlord did not want to correct faults prior to the tenant moving in. He contended that the rent review in February 2020 would not have reflected a true open market value as tenants have a more favourable proposition for negotiating. He further argued that without a copy of the rent review memorandum, there was not a full picture of what had been agreed.

16. During the hearing, Mr Cheung referred to information on the Form of Return in respect of the appeal property, which had not been disclosed at the check or challenge stage. The panel took a short adjournment to consider the matter. Following which, the panel decided that the information should be omitted. In accordance with Regulation 17A of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (SI No 2009/2269) (as amended), the Valuation Tribunal for England may only admit evidence that was not included in the notice of appeal or any document accompanying the notice of appeal ("new evidence") if –

    (a) that evidence-

        (i) is provided by a party to the appeal;
        (ii) relates to the ground on which the proposal was made; and
        (iii) was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations; or

    (b) all the parties agree in writing to the party providing the new evidence.

    The panel was unable to determine at what stage this evidence was available, however Mr Cheung stated that he had not prepared the initial documents and had identified this evidence when preparing for the hearing. The appellant's representative objected to the inclusion of this information. The panel further concluded that to include this information at this late stage could cause prejudice to the appellant. In any case, form of return information was not admissible under regulation 17(3) and (4) unless two weeks notice of it had been given.

17. The panel found that there was an absence of information in relation to the terms of the rent review in 2020. There had been no evidence provided to demonstrate what work had been required at the appeal property when the lease commenced or what work had been undertaken by the appellant. The rental evidence in respect of the subject property was therefore not reliable in demonstrating that a hypothetical tenant would have agreed the same terms under the rating hypothesis.

18. In terms of indirect rental evidence, the valuation officer provided a schedule of comparable rental evidence for three properties in Hoddesdon. At the hearing, the valuation officer stated that he considered 68 High Street to be the most comparable in terms of location. It was conveniently located in the main town area and the rent review had been agreed close to the AVD in July 2020. He further argued that this property, like the appeal hereditament, did not

benefit from any staff car parking. The rent was analysed to £186.32/m^2, and he considered that £150/m^2 for the appeal property was not unreasonable.

19. The panel noted that the appeal property was in a valuation scheme of its own, and the comparable properties relied on by the valuation officer were all older buildings, which had been converted, unlike the subject property which was a purpose-built office block. Mr Clayton argued that whilst the appeal property was not as old as the comparable properties, it had been built in the 1970s and was therefore less desirable. The panel noted that no photographs of the interiors had been provided to demonstrate that this was the case. On that basis, the panel considered that £150/m^2 was not unreasonable.

20. Mr Clayton argued that whilst the appeal property was in Hoddesdon town centre, it did not have any staff car parking, which made it less convenient. However, no evidence was presented to demonstrate that office accommodation with staff car parking in Hoddesdon was subject to a higher rent.

21. In consideration of the above, the panel found this comparable rental evidence was not ideal but found this to be the best evidence presented. No comparable rental evidence was presented by the appellant's representative, instead he argued that the rent on the subject property was the best evidence to demonstrate that the RV in respect of the hereditament was unreasonable.

22. In terms of comparable assessment evidence, the valuation officer referred to the same properties which he had relied on for the rental evidence, with the addition of one property at Rathmore House, 56 High Street. These comparable assessments all had an unadjusted rate of £150/m^2. Whilst there were some differences in the style and age of these properties, they still demonstrated that a tone had been established in Hoddesdon in respect of office accommodation.

23. Ultimately, it was for the appellant to prove that the RV for the subject property was unreasonable, and on this occasion he had not done so.

Disposal

24. In view of the above findings and conclusions, the Tribunal panel was not satisfied that any reduction in the rating list was warranted. The appeal was therefore dismissed.

Date issued to parties: 17 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.
