VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal: Local Government Finance Act 1988; Offices and premises; Rental evidence; Comparable evidence; Appeal allowed in part.

APPEAL NUMBER: CHG101175087

RE: 2 ND FLR SIDNEY HOUSE, CHRISTY CLOSE, BASILDON, SS15 6TN (the "subject property")

BETWEEN:	WTC Logistics (UK) Ltd (represented by Altus Group)	Appellant
	and	
	Jo Moore (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 4 December 2024

BEFORE: Mr W Hussain, Presiding Senior Member
Mrs U Naseem, Senior Member

CLERK: Mrs S Hodgson IRRV(Dip)

APPEARANCES: Mr M Clayton for the appellant
Mr L Stevens for the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel found that the current rateable value(RV) was unreasonable and determined a revised RV of £22,250 with effect from 1 April 2023, based on an unadjusted base rate of £165 per square metre (psm).

Introduction

3. This was a 2023 rating list appeal. The subject property had been entered in the 2023 rating list as “Offices and Premises” at an RV of £25,250 with effect from 1 April 2023.

4. The challenge proposal was submitted by Altus Group on behalf of WTC Logistics and was received by the Valuation Officer (VO) on 20 October 2023. It had been made on the grounds that the RV shown in the rating list was wrong and proposed a revised RV of £18,750 for the subject property.

5. The VO issued a challenge case decision notice on 5 June 2024. The VO’s decision was to treat the appellant’s challenge as not well-founded and proposed no change to the rating list.

6. Mr Clayton 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) he confirmed that he was instructed under a contingency fee. 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.

7. 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).

8. The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

Background

10. The subject property was an office in an office block located on the Southfields Industrial Estate. The premises was built in 2003 and the subject property measured 135.40m^2.

11. Mr Clayton originally requested a reduction in the unadjusted base rate from £180 psm to £140 psm. Prior to the hearing, he accepted the VO’s comments on the rental analysis of the subject property which was adjusted to account for external repairs and building insurance. Due to this analysis, Mr Clayton amended his valuations and now sought a reduction to £125 psm which resulted in an RV of £16,750.

Relevant Law

The Local Government Finance Act 1988

12. Schedule 6 of the Act provides that:

    2(1)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.

13. 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.

14. 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 appeal, the material day is 1 April 2023.

Discussion

15. This appeal was heard in conjunction with 1st Flr Sidney House, Christy Close, Basildon SS15 6TN. Mr Clayton was representing for both appeals and the evidence for the properties was the same.

16. The parties had provided rents from Sidney House, Astra House, and Argent Court. All of these office blocks were located on the same industrial estate. Sidney House and Astra House were located at the West end of the estate, and Argent Court was located at the East end of the estate.

17. Ground Floor Sidney House had a passing rent of £20,000 per annum with an effective date of 23 September 2019. This was a 5 year lease and the property measured 126.24m^2. Mr Clayton had analysed the rent to £125.96 psm, adjusting the rent to allow 5% for insurance and 5% for external repairs.

18. 2nd Flr Sidney House, the subject property, had a passing rent of £20,000 per annum with an effective date of 13 October 2019. This was a 5 year lease and the property measured 135.4m^2. Mr Clayton had analysed the rent to £121.40 psm, adjusting the rent to allow 5% for insurance and 5% for external repairs.

19. Gnd Flr West Astra House had a passing rent of £35,775 per annum with an effective date of 1 September 2020. This was a 3 year lease and the property measured 227.21m^2. Mr Stevens had analysed the rent to £134.19 psm adjusting the rent to allow a total of 11% for internal and external repairs and insurance.

20. 1st Flr West (South) Astra House had a passing rent of £21,600 per annum with an effective date of 1 October 2020. This was a 3 year lease and the property measured 89.64m^2. Mr Stevens had analysed the rent to £210.44 psm adjusting the rent to allow a total of 8.5% for external repairs and insurance.

21. 6 Argent Court had a passing rent of £50,000 per annum with an effective date of 1 February 2021. This lease was open ended lease agreement and was agreed with a stepped rent. Mr Stevens had analysed the rent to £170.64 psm making adjustments for the stepped rent, external repairs, and insurance.

22. 12 Argent Court had a passing rent of £73,000 per annum with an effective date of 1 May 2021. This was an 8 year lease renewal with 4 yearly rent reviews. Mr Stevens had analysed the rent to £153.44 psm adjusting the rent to allow for external repairs and insurance.

23. Mr Clayton contended that the best evidence was the rent from the subject building. He stated the subject building was in close proximity to the Ford test track where vehicle motors were tested and they conducted test track days. He argued that this caused excessive noise and disruption to the subject property which was supported by the lower rents within the subject building, compared to others on the same industrial estate.

24. The panel heard from Mr Clayton that he agreed that the rents on Argent Court, agreed close to the AVD, supported the unadjusted base rate of £155 psm in that building. However, he did not consider that they were a like for like comparison with the subject property as Argent Court was located on the other side of the industrial estate which was not affected by the Ford test track in the same was the subject property was.

25. Mr Stevens contended that the rents in Sidney House were too far removed from the AVD to be useful and that the best evidence was Argent Court which were both agreed within two months of the AVD. He argued Argent Court was older than the subject property having been built in 1991, compared to 2003.

26. The panel considered all of the evidence before it. It acknowledged Mr Clayton's submissions on the test track, however it found there was no evidence to support the argument. The subject property was a modern office block which had double glazing. It was the panel's view that this would have minimised some external noise. However there was no evidence to demonstrate the level of noise, how often it occurred, and when it occurred, to determine whether it was disruptive to a significant extent. Therefore little weight was given to the effect of the test track.

27. The panel noted that only one of the rents was analysed in excess of £180 psm which the subject property had been valued at. There was a rent of £50,000 listed at Sidney House which Mr Stevens had analysed at £347.37 psm, however it was confirmed at the hearing that this was a rent for the full building, and that was not what the panel was considering.

28. It was the panel's view that based on the evidence before it, the current rateable value was unreasonable. It then looked at the basket of evidence. The panel placed the most weight on the rents at Argent Court which were closest to the AVD. It recognised the age difference between Argent Court and Sidney House and was of the view that the subject property would not be valued at the same rate as Argent House.

29. The panel placed the least weight on the rent of the subject building due to its remoteness to the AVD. Where there were rents on the same estate within two months of the AVD, it was the panel's opinion that these were stronger evidence.

30. The evidence table showed rents on six properties on the same estate that were in the rating list between £155 psm and £180 psm. It was the panel's view that Astra House was located on the same side of the estate and only 0.1 miles from the subject property, and the rents on Astra House had also been agreed relatively close to the AVD in September and October 2020. 1st Flr West (South) appeared to be a slight anomaly in terms of the analysis and was smaller than all of the other properties. For this reason, it was the panel's opinion that the RV of the subject property should be reduced to £22,250 by way of an unadjusted base rate of £165 psm.

Disposal

31. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the existing assessment is unreasonable and determined an RV of £18,000 with effect from 1 April 2023.

Floor	**Description**	**Area (m^2)**	**£/m^2**	**Value (£)**
Second	Office	135.40	165.00	£22,341
	Total	**135.40**	**Total**	**£22,341**
			Rateable Value	**£22,250**

32. The Tribunal Panel orders pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (England) Regulations 2009 [SI 2009 No 2269] that the respondent shall alter the 2023 list in respect of 2nd Flr Sidney House, Christy Close, Basildon SS15 6TN within two weeks, to £22,250 RV with effect from 1 April 2023.

Date issued to parties: 31 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.
