VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal appeal: Local Government Finance Act 1988; office and premises; rental evidence; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council 1976; RV was reasonable; appeal dismissed.

APPEAL NUMBER:	CHG101202057 & CHG101201912
RE:	9 Commerce Road, Peterborough PE2 6LR & Gnd Flr North Wing Park House, Lynch Wood, Peterborough PE2 6FZ (the "subject property")
BETWEEN:	Greenstones Limited & Circle Select Limited — Appellants
	and
	Joanne Moore IRRV (Hons) (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	24 March 2025
BEFORE:	Mr AN Backway, Presiding Senior Member Ms S Bains, Senior Member
CLERK:	Mrs C McAvoy
APPEARANCES:	C Taylor of Ryan LLC, for the appellant companies T Manyadza, for the respondent

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeals were dismissed.

2. The Tribunal Panel found the current Rateable Values (RV) to be reasonable.

Introduction

3. This was a consolidated hearing of two appeals which had been brought in respect of 9 Commerce Road, Peterborough PE2 6LR & Gnd Flr North Wing Park House, Lynch Wood, Peterborough PE2 6FZ. The properties were situated within minutes of each other and had the same appeal grounds.

4. To comply with the evidential restrictions imposed on such appeals, in accordance with regulation 17A of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (referred to hereafter as the VTE procedure regulations), both parties agreed for the appeals to be consolidated and the evidence held for each appeal to be admissible.

5. 9 Commerce Road, Peterborough PE2 6LR was shown in the 2023 rating list as ‘offices and premises’ with a RV of £41,750 with effect from 1 April 2023. Gnd Flr North Wing Park House, Lynch Wood, Peterborough PE2 6FZ was also shown as ‘offices and premises’ with an RV of £28,500 with effect from 1 April 2023. Both assessments had an unadjusted rate of £120/m^2.

6. A challenge was submitted on each assessment on 2 April 2024. Both proposed a reduction in the unadjusted rate to £96/m^2.

7. The panel had a copy of the appellant’s expert witness and challenge decision for each appeal. Leading up to the hearing date, the respondent also provided a pack which contained photographs and location maps. The admission of which was agreed by both parties.

8. Both representatives appeared in a dual role as advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Ms Taylor, for the appellant, declared that she was instructed under a conditional fee. She declared that he accepted and understood that his overriding duty was to the Tribunal.

9. The panel accepted the expert witness evidence on this basis as the appeal was not considered to be 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 Tribunals’ rules concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

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

Issue and Relevant Law

11. The issue between the parties concerned the RV of the subject properties, specifically, the unadjusted rate per m² that should apply. The unadjusted rate is currently £120/m^2, the appellant is seeking a reduction to £96/m^2.

12. The term ‘rateable value’ as defined in paragraph 2(1), 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."

13. The antecedent valuation date (AVD) for 2023 list rating appeals is 1 April 2021. The material day was 1 April 2023.

14. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta v Culverwell and Leicester City Council (*LVC/376/1975). This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

'(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

Discussion

15. 9 Commerce Road is an office suite comprising of both ground and first floor accommodation with a significant floor area of 348.49m^2. Gnd Flr North Wing Park House is a ground floor office suite with a significant floor area of 238.80m^2.

16. When deciding these appeals, bearing the six propositions in mind, the panel acknowledged that the starting point was the actual rent passing on the subject properties. Neither party had relied or provided full details on the rent for 9 Commerce Road as it was between connected parties. Gnd Flr North Wing Park House was held on a lease effective from 17 June 2021, for a term of five years at a headline rent of £33,000 per annum, with an initial 18-month period of half-rent agreed. The appellant had analysed it to £98.46/m^2. No analysis was provided from the respondent, but it was stated that the half rent period was for two and a half years and required too much adjustment. Furthermore, it was contracted outside of the Landlord and Tenant Act 1954.

17. The panel found that the Gnd Flr North Wing Park House was a new lease agreed close to the AVD. However, it was highly incentivised and a copy of the lease was not provided to verify the length of the half rent period. The panel therefore found it necessary to examine the basket of evidence brought before it.

18. The appellant relied on the same rental evidence for both properties. This included the aforementioned rent on Gnd Flr North Wing Park House and two other rents for properties on Southgate Park which were new leases with effect from July 2020 and analysed to £96.28 and £96.66. Both had an unadjusted rate of £120/m^2.

19. The respondent relied on four properties which had rents effective from between October 2021 to December 2021 and analysed to figures between £131 to £150. The unadjusted rate applied was £120/m^2.

20. The respondent's representative made great play in respect of the difference in localities. It was stated that Lynch Wood was located on a prominent business park, was purpose built with nearby hotels and close to motorway connections. It was submitted that this was more sought after than Southgate Park. The panel did not find this to be the case, the map provided demonstrated that both were close to motorway connections, and the rates applied to the assessments were £120/m^2 so the respondent's own valuation did not support a difference in value.

21. In viewing the basket, less weight was attached to the rents with a three and a half years of half rent. Whilst the panel accepted that incentives may have reflected the rental market at the time, this was heavily incentivised for a longer period than you would typically find, and therefore would require a lot of adjustment.

22. More weight was placed to Gnd Flr 25, Commerce Road, Peterborough, PE2 6LR as this was a new lease with a four month rent free period agreed seven months post AVD and

analysed to £132/m^2. The property was smaller at 105.40m^2 but considering this rent with the basket supported that the adopted tone was reasonable. The rents provided analysed to between £96.28/m^2 and £150/m^2 and were for properties ranging from 105.40m^2 to 890.20m^2. All those presented had an adopted tone of £120/m^2 and in the absence of any compelling evidence to support a reduction, the panel was not minded to alter the unadjusted rate for the subject properties.

23. In such cases, the burden of proof rests with the appellant and having regard to the evidence brought before it, the panel was not persuaded that the RV's were unreasonable.

Disposal

24. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the current RV's are reasonable and the appeals were dismissed.

Date issued to parties: 15 April 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.
