VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal; Local Government Finance Act 1988; office and premises; material change of circumstances; whether a temporary allowance was applicable; comparable properties: appeal dismissed.

APPEAL NUMBER: CHG101202604

RE: Nexus House, St James Boulevard, Newcastle Upon Tyne, NE1 4AX (the "subject property")

BETWEEN: Nexus — Appellant

and

(Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 1 April 2025

BEFORE: Mr APS Crawford, Presiding Senior Member
Miss EA Howard, Senior Member

CLERK: Miss N Shepherd IRRV (Hons)

APPEARANCES: Mr P Davinson, on behalf of the appellant
Mr T Brown, on behalf of the Valuation Officer

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel found that no allowance was applicable at the subject property for the period of 8 January 2024 to 14 May 2024.

Introduction

3. This is a 2023 rating list appeal. The subject property had been entered into the 2023 rating list as ‘office and premises’ at an RV of £525,000 with effect from 1 April 2023.

4. The challenge proposal was submitted on behalf of the appellant and was received by the Valuation Officer on 3 April 2024. It had been made on the grounds that a temporary 15% allowance should be awarded to account for a material change of circumstances (MCC) due to external roadworks next to the subject property . A revised RV of £449,500 was proposed with effect from 8 January 2024.

5. The respondent issued a challenge case decision notice on 9 September 2024, which stated that based on the evidence available, the existing rating list entry of £525,000 RV was unreasonable and determined a revised entry of £515,000 RV with effect from 8 January 2024. The revised RV accounted for parking spaces being removed from the assessment for the duration of the roadworks. The appellant’s representative appealed that decision to this Tribunal on 17 October 2024 on the grounds that the valuation for the subject hereditament remained unreasonable.

6. The subject hereditament was an office building consisting of four floors, located in Newcastle City Centre, on the corner of Westgate Road and St James Boulevard.

7. Mr Davinson 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 Davinson explained that he was instructed on a conditional fee basis and he declared that he understood and accepted his duty to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body, regardless of whether the evidence supported the client’s case.

8. 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). 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.

Relevant Law

10. Matters which constitute an MCC are defined in paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988.

11. The subject property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let for from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988).

12. Therefore, having regard to the above, in reaching its decision, the panel considered, would the MCC affect the hypothetical tenant’s bid? In doing so, economic factors must be considered as at the antecedent valuation date of 1 April 2021, whereas the physical factors are as they existed on the material date. In accordance with the Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No.556) and 4c of the Non-Domestic Rating

(Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No. 2268), the material day is the date on which the ratepayer confirms the accuracy of the information included in check. For this appeal, the material date was 19 February 2024.

Discussion

13. Mr Davinson submitted that he considered the disturbance due to effects of the roadworks were such as to warrant a temporary allowance of 15% to account for the impact caused. The roadworks were located on Rutherford Street which was the vehicle access road for the subject property. Due to the roadworks, Rutherford Street was closed meaning there was no access to the Nexus House car park, nor vehicle access to suppliers, waste services and guests to nexus House approaching form Rutherford Street. There was also noise disturbance at the subject property as a result of the roadworks.

14. The panel had regard to the photographs provided; whilst these illustrated the road works were visible from the main entrance of the subject property; they showed that the main entrance was still in use and not impacted. The panel questioned Mr Davinson as to the impact on the access to suppliers and waste services to which he had referred, and whether access for these services was completely limited. Mr Davinson submitted that although the access had been impacted, that it was not completely restricted, just substantially more difficult for these services to be delivered.

15. Mr Davinson also referred to a previous allowance for 15% which was awarded at the subject property with effect from 1 October 2017 due to a temporary disturbance caused by the development of Hadrian Tower and which he considered comparable. He also provided details of a number of properties throughout Newcastle at which allowances had been awarded, submitting that those of Time Central Building at which temporary MCC allowances had been awarded for 10% and 5% to reflect neighbouring office developments were of particular relevance.

16. Mr Brown submitted that the Valuation Officer acknowledged that there had been an impact on the car park of Nexus caused by the closure of Rutherford Street, and as a result the parking spaces had been removed from the assessment of the subject property. However, he submitted that there was nothing to suggest that the proposed 15% allowance was warranted. No schedule of works had been provided as to the duration and intensity of the road works and the subject property was still accessible via the main entrance.

17. Mr Brown referred to the fact that he did not consider the previous allowance at the subject property to be comparable to the current situation at the subject property. He submitted that this allowance was in respect of the disturbance caused by the development of a 26-storey building, Hadrian Tower, which shared a party wall with the subject property, and which lasted for a duration of over three years. With regards to the other properties provided by Mr Davinson which had allowances awarded, Mr Brown contended that these allowances had been awarded due to their own individual circumstances, with many being shops and restaurants where trade may have been impacted.

18. With regards to the Time Central Building Mr Brown submitted that a 10% allowance was awarded here to reflect the development of six-storey building directly behind and which had lasted for over a year. He contended that this was not comparable to temporary road works. During questions, Mr Brown submitted that the roadworks at the subject property were initially anticipated to last two months, and that even when taking into account the actual four-month

duration, he did not consider that hypothetical landlord would have given a rental allowance for the roadworks, other than car parking.

19. On the issue of whether any allowance was applicable to reflect the disturbance at the subject property as a result of the roadworks and subsequent closure of Rutherford Street, the panel ultimately found in favour of the Valuation Officer. The panel considered that whilst the works would have caused some impact, it was not satisfied that it had been provided with sufficient evidence to demonstrate that there would be any effect upon the hypothetical rental value that could have been achieved as a result of the roadworks, other than the car park, which had already been removed from the assessment. It did not consider the current circumstances of the subject property to be similar to that as to when the previous allowance had been awarded at the subject property to reflect the disturbance of the construction of Hadrian's Tower, nor the circumstances at Times Central Building for which the allowance had been awarded.

Disposal

20. In view of the above findings and conclusions, the panel therefore confirmed the RV at the subject property to be £515,000 RV with effect from 8 January 2024 to 14 May 2024.

Date issued to parties: 1 May 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.
