VALUATION TRIBUNAL FOR ENGLAND

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

APPEAL NUMBER:	CHG101229153	
RE:	4th Flr Waterfront, Manbre Road, London W6 9SF (the "subject property")	
BETWEEN:	Cathay Pacific Airways Limited	Appellant
	and	
	Andrew Ricketts (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:	M Parvin of Ryan LLP, for the appellant T Adeyemi, for the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

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

Introduction

3. This appeal has been brought in respect of the following: 4th Flr Waterfront, Manbre Road, London W6 9SF which entered in the 2023 Rating List as 'offices and premises' at £402,500 RV effective from 1 April 2023.

4. A challenge was submitted on 12 June 2024 which disputed the determination of the RV. The current RV was based on an unadjusted rate of £475/m^2. The challenge proposed a reduction to £360/m^2 which produced a reduced RV of £305,000.

5. 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), Mr Parvin, for the appellant, declared that he was instructed under a conditional fee. He declared that he accepted and understood that his overriding duty was to the Tribunal.

6. 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.

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

Issue and Relevant Law

8. The issue between the parties concerned the RV of the subject properties, specifically, the unadjusted rate per m² that should apply.

9. 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;
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> 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;
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> 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."

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

11. 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

12. The subject property is an office located on Manbre Road, which is a busy commercial area close to amenities. It had an area of 848m^2. The only issue in dispute was the unadjusted rate applied. The rate currently applied was £475/m^2. The appellant, having regard to the evidence provided, considered the rate to be excessive and sought a reduction to £360/m^2.

13. In deciding this appeal, bearing the six propositions in mind, the panel acknowledged that the starting point was the actual rent passing on the subject property. It was let in September 2016 for an annual rent of £441,513. The panel found that as the rent was agreed over four years prior to the AVD, it does not reflect the rental market at the AVD. It was reviewed in 2021 but there was a nil increase to the rent. Whilst great weight could not be applied to a nil change renewal, the panel was mindful of the rent agreed and that it was higher than the current rateable value. As per *Lotus v Delta*, the subject rent was the starting point, not necessarily the best evidence. The panel therefore found it necessary to turn to the third proposition and examined rents passing on comparable properties and considered the correct approach in this appeal was to examine the whole ‘basket of evidence’.

14. In support of a reduction, the appellant referred to three rents which had been analysed to figures ranging from £296.12/m^2 to £405.37/m^2. The panel gave less weight to the rent on

Evesham Street as this was located further away so not as comparable in terms of locality and could therefore attract a different rental market. In respect of the other two rents, it was submitted that 2nd Flr & 3rd Flr Front 174, Hammersmith Road, London was within a grade A office building constructed in 2018 and is in the same scheme as the subject property. The rental evidence provided comprised two new leases from June 2019 for the same occupier. The second floor is held on a lease effective from 25 June 2019 for a term of ten years with a break in the fifth year. The passing rent was £262,236 per annum with a rent free period of eighteen months agreed. Amortising to the break date with three months analysed as fit-out and the remaining fifteen months as incentive, the appellant adjusted the rent to £188,497 per annum which analysed to £405.37/m^2. The third floor was also held on a lease effective from 25 June 2019 for a term of ten years with a break in the fifth year. The passing rent was £692,952 per annum, also with a rent free period of eighteen months agreed. The rent was adjusted to £498,100 per annum which had been analysed to £404.46/m^2. The unadjusted rate applied to each RV assessment was £500/m^2.

15. The respondent commented on this evidence and submitted that a copy of the leases were requested but not received. Based on the information provided on the Form of Return held, it was a new letting agreed in June 2019 and the respondent had analysed it to £530/m^2 plus £25 for fit out, so £555/m^2.

16. The respondent referred to rental evidence within the subject property. It was for Basement, first and second floor, Waterfront, Manbre Road, London W6 9SF. It was a lease renewal effective from 1 June 2020. It was an eight year and seven months lease for an annual rent of £2,214,586, which had been analysed to £508.84/m^2. The unadjusted rate applied was £475/m^2.

17. The panel found that the rents on 2nd Flr & 3rd Flr Front 174, Hammersmith Road, London were new leases but were agreed just short of two years prior to AVD and a full copy of the lease was not provided to check each parties respective analysis. In any case, the panel considered that when viewing this rental evidence with the basket, it did not prove that the subject property was over assessed. It was also mindful that the unadjusted rate applied to both was £500 so £25/m^2 more than the subject property. The rental evidence in the same building carried weight as it was clearly comparable in terms of locality and it was agreed closer to the AVD, albeit it was a lease renewal so is given less weight that a new lease. Nevertheless, looking at all three rents, and the unadjusted rates applied, this demonstrated that the subject property was reasonably assessed.

18. Both parties had also provided supplementary assessment evidence. The appellant referred to a settlement which would carry more weight given it had been tested and agreed, however, it was for a different locality and therefore, the panel was not persuaded that this meant the subject property was over assessed. The respondent provided a table of assessments of offices on Manbre Road all of which had a rate of £475/m^2. This supported that the subject property was not out of kilter with other offices in the immediate locality and in the absence of any compelling rental evidence close to the AVD, the panel were not minded to disrupt this tone.

19. In conclusion, having reviewed the totality of evidence provided, the panel placed greater weight on offices in the locality and the rental evidence and unadjusted rates applied supported that the subject property's RV was reasonable. In such appeals, the burden rests

with the appellant to prove that the RV is incorrect and, in this case, the panel was not persuaded that the unadjusted rate should be reduced.

Disposal

20. In view of the above findings and conclusions, the appeal is dismissed.

Date issued to parties: 22 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.
