

VALUATION TRIBUNAL FOR ENGLAND



2010 rating list appeals; offices and premises; rental and comparable evidence considered; weight attached to 2007 rent for appeal property on 4th Floor; Valuation Officer's comparables considered to be superior to appeal property on second floor; appeals allowed in part.

APPEAL NUMBERS: 599017103099/088N10 and 599016998779/058N10

BETWEEN: Plothire Ltd and Alaco Ltd Appellants
and The Valuation Officer Respondent

RE: 4th Flr Meadows House, 20-21 Queen Street, London W1J5PR; and
2nd Flr Meadows House, 20-21 Queen Street, London W1J5PR

PANEL: Mr A Chesters (Chairman)
Mr V Eyles
Mr M Nwosu

SITTING AT: Tribunal Offices, 2nd Floor, Black Lion House, 45 Whitechapel Road,
London, E1 1DU

ON: 23 April 2013

APPEARANCES: Mr Andrew Bacon of City Surveyors Ltd for Plothire Ltd (appellant)
Mr Harris Makhdumi of Evans & Payne for Alaco Ltd (appellant)
Mr Matt Patel and Mr Alan Hickman for the Valuation Officer
(respondent)

Summary of Decision

1. Appeals allowed in part. The rateable value (RV) of 4th Flr Meadows House is reduced from £65,000 to £44,500 and the RV of 2nd Flr Meadows House is reduced from £92,500 to £87,000, both reductions being effective from 1 April 2010.

Introduction

2. The appeal properties are offices situated in Meadows House, Queen Street, which lies in a secondary office location in the south west corner of Mayfair. The surrounding area contains a mixture of offices and some very valuable residential properties. Meadows House was built around 1960 and is a mixed use building, with restaurants on the basement/ground floor,

offices on each of the second to fourth floors and a residential flat on the fifth, top floor. The restaurants have separate entrances but all of the upper floor premises share the same entrance and reception area.

3. The appeal property on the 4th Floor is used for office purposes but is an unmodernised residential flat with bathrooms and kitchen.
4. The appeal property on the 2nd Floor has been modernised to provide basic office accommodation, with suspended ceiling, secondary glazed windows and cassette system air conditioning.

Issue

5. The issue between the parties was the RV that was correctly applicable to each of the appeal properties. At the start of proceedings the Panel considered and allowed the parties' requests to make some amendments and/or additions to the evidence and contentions within their respective statements of case.
6. With regard to the 4th Floor, the VO now sought a reduced RV of £50,000, based on a rate per m² of £450. Mr Bacon maintained that the RV should be reduced to £40,000, which was in line with the 2007 rent for the property.
7. With regard to the 2nd floor, the VO sought an increase to £97,500 RV, as the existing assessment reflected a 10% reduction on the incorrect assumption that the property had no air conditioning. His revised figure was based on a rate per m² of £650, with a 5% reduction for basic air conditioning. Mr Makhdumi had revised his valuation of the 2nd Floor upwards in the light of information of which he was previously unaware relating to the 4th floor. He now sought a revised RV for the 2nd Floor of £65,500, based on £395 per m².
8. The definition of RV is contained within Schedule 6 to the Local Government Finance Act 1988, paragraph 2 of which provides as follows.

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(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.”

9. For the 2010 rating list the antecedent valuation date (AVD) is 1 April 2008. Economic factors must be assumed to be as they were at that date for the purposes of estimating RV. Apart from the statutory assumptions as to reasonable repair, matters affecting the physical state or physical enjoyment of the hereditaments are taken to be as they were at the “material day”. The material day for the purposes of both appeals is 1 April 2010, being the date of compilation of the 2010 rating list.

10. Although the Panel in reaching its decision had regard to all of the evidence given and submissions made by the parties, their respective cases are not fully restated in this brief decision document.

Decision and Reasons

11. The Panel noted the disagreements concerning the weight to be attached to the rental evidence of the two appeal properties. The rent for the 4th Floor was set at £40,040 from 1 August 2007 for a term of one year. The rent analysed to £360 per m². The VO submitted that such a rent fell outside the security afforded by the Landlord & Tenant Act 1954; that it did not accord with the statutory assumption of a letting from year to year, and that as it was an annually renewable rent it was likely to increase and consequently the rent for the first year was likely to be low. He did not therefore believe that it represented open market rental value.
12. Mr Bacon submitted that the rent for the 4th Floor was an annual rent on full repairing and insuring terms on a one-year rolling tenancy. It was agreed shortly before the AVD and he considered it to be close to the best evidence one could get in terms of the rating hypothesis. He said that the VO was mistaken as the lease did have security of tenure under the Landlord & Tenant Act.
13. The Panel attached weight to this rent and considered that it provided a good starting point in the determination of the rental value of the 4th Floor. It found, however, that the rent was likely to be a little below that which might reasonably be expected under a tenancy for a more usual term of years, as the lease terms effectively established a one-year review period.
14. The 2nd Floor was let from November 1999 on a five-year term at an annual rent of £69,950. The Panel agreed with the VO's submission that this rent did not provide useful guidance as it had been set after the AVD at a time when the property market had been affected by the recession.
15. The Panel had regard to the other rental and comparable evidence put forward by the parties, together with the submissions made by each of them concerning the relevance or otherwise of this evidence. The VO referred to rents of 11 other office premises in the W1J or W1K postcode areas. These ranged in age from period buildings to 1980s office buildings and their rents in 2007 and 2008 analysed to values ranging from £556 to £915 per m². He submitted that this evidence clearly demonstrated that the revised basic rate of £617.50 per m² in respect of the 2nd floor was not excessive.
16. With regard to the appeal property on the 4th Floor, the VO also introduced two further comparables, both assessed at £450 per m². The first comprised offices in a mid-Victorian mansion building at 2nd Floor, 27 Berkeley House, 15 Hay Hill, of which the assessment had been agreed. He noted that this office was similarly a flat with minimal conversion to office use. He also referred to an assessment in a 1950s building, namely the 3rd and 4th Floors, 18 Queen Street. This appeared to have been occupied as offices since 1991. He submitted that these two comparables constituted the best evidence in relation to the appeal property on the 4th floor and that they supported his revised rate of £450 per m². He did not regard the appellants' comparables in Park Lane as helpful, as he said that Park Lane was an atypical office location comprising hotels and luxury residential properties while the appeal properties were in a largely purpose built office building in a mixed use area of offices and residential properties more typical of Mayfair.
17. Mr Bacon referred to offices in two 1950s buildings at 55 Park Lane and Avensfield House, 118-120 Park Lane, noting that the assessment of the latter had been agreed at £360 per m²,

while his firm had prepared a statement of case in respect of the former contending that a rate of £350 per m² should apply. He said that the VO's comparable at 18 Queen Street was under appeal and that no weight should therefore be attached to it. The VO's comparable in the mid-Victorian mansion at Berkeley House was situated some way away from Queen Street in a more fashionable area. Mr Bacon referred to the assessment of an office in a Victorian building at 22 South Audley Street, which had been agreed at a basic price of £350 per m² and questioned why the VO had not also included it in his evidence. Mr Bacon remained of the opinion that the RV of the 4th Floor should be reduced to the level of the rent passing as that figure was supported by other relevant evidence.

18. Mr Makhdumi submitted that the VO had wrongly valued the appeal property as a 1980s built building, which it clearly was not. He noted that as well as the 2nd Floor, his client now also occupied the 1st floor, which was valued at a lower rate of £550 per m², despite there being no difference in value between the two floors.
19. He described the subject building as unattractive and not typical of offices in Mayfair. Referring to photographs, he compared the building unfavourably to the comparables put forward by the VO. He also pointed out that the 2nd floor offices were of basic quality and had the disadvantage of pillars which ran through them and had to be worked around. He placed weight on the 2007 rent for the 4th Floor, but added 10% to the analysed price per m² to reflect the advantages of the 2nd Floor offices and a further 5% in respect of comfort cooling within the latter. He also had regard to the 2009 rental evidence relating to the 2nd and 1st floors. In addition, he referred to the comparable at Avensfield House, which he noted was valued at an agreed rate of £360 per m², despite being a more attractive building in a more prestigious area. Mr Makhdumi therefore sought a reduction to £65,500 RV
20. Turning first to the appeal property on the 4th Floor, the Panel found that there was limited evidence of relevant comparables. It placed little weight on the assessment of 3rd and 4th Floors, 18 Queen Street, as it appeared to be under appeal. The VO's comparable at Berkeley House appeared to share some of the characteristics of the appeal property but was in a building of a different character. The Panel found that greatest weight should be attached to the 2007 rent passing on the appeal property, but considered that a modest adjustment of some 10% or so was warranted, to reflect the short lease term and the prospect of more frequent reviews in the event of further lettings from year to year. An addition of 10% suggested a rate per m² in the region of £400. The Panel accordingly found that the RV of the 4th Floor should be reduced to a rounded figure of £44,500 and allowed the first appeal to that extent.
21. With regard to the second appeal, concerning the 2nd Floor, the Panel did not accept Mr Makhdumi's adjustment of the rent for the 4th Floor as a reliable indication of value, as the 4th Floor was significantly different, still having the appearance of residential property. In addition, the Panel attached little weight to the 2009 rental evidence from the same building. Nor did it find the evidence relating to Avensfield House to be conclusive, given the differences in terms of location.
22. The Panel agreed with Mr Makhdumi, however, that the majority of the VO's comparables appeared to be situated in more attractive buildings and it found that the value of the 2nd Floor might reasonably be expected to lie at the lower end of the range of values shown in the VO's rental evidence. From the evidence available it considered the 2nd Floor appeal property to be reasonably similar to, but somewhat less valuable than, the VO's comparable at 7 Hertford Street, which was assessed at £600 per m². The Panel concluded that it would be reasonable to value the 2nd floor appeal property at a rate of £550 per m², which would reflect the existence of pillars and its basic air conditioning. It therefore found that the RV of

the 2nd Floor should be reduced to £87,000 and accordingly allowed the second appeal to that extent.

Orders

23. The Valuation Tribunal for England orders the Valuation Officer to amend the entry in the 2010 rating list in respect of 4th Flr Meadows House, 20-21 Queen Street, London W1J 5PR to show a rateable value of £44,500, and the entry in the same list in respect of 2nd Flr Meadows House, 20-21 Queen Street, London W1J5PR to show a rateable value of £87,000; both alterations to have effect from 1 April 2010.

Date: 22 May 2013

Appeal Numbers: 599017103099/088N10 and 599016998779/058N10