

THE VALUATION TRIBUNAL FOR ENGLAND



Non-Domestic Rating; 2010 Rating List; Proposal to include a new assessment entry into the rating list; Heliport and premises; Schedule 6 of the Local Government Finance Act 1988, as amended by the Rating (Valuation) Act 1999; Rental value of the subject premises supports the RV sought; Appeal allowed.

RE: 188 Westferry Road London E14 3RY

APPEAL NUMBER: 590025532160/053N10

BETWEEN: London Borough of Tower Hamlets Appellant

and

Mr D Jackson (Valuation Officer) Respondent

PANEL: Mr R White (Chairman)
Professor P Catterall

SITTING AT: The VTS Offices, 2nd Floor, 120 Leaman Street, London E1
8EU

ON: Tuesday 30 April 2019

APPEARANCES: Mr S Horsington and Mr R Messinger of Wilks Head and Eve
LLP for the appellant.
Mr K List of the Valuation Office Agency

Summary of Decision

1 Appeal allowed. Heliport and Premises, 188 Westferry Road, London E14 3RY to be entered into the rating list at rateable value (RV) £50,000 with effect from 1 April 2010.

Introduction

2 The absence in this decision of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as being overlooked by the panel.

- 3 The appeal arose from a proposal received by the Valuation Office Agency (VOA) on 31 March 2015. It was made by Wilks Head & Eve LLP on behalf of London Borough of Tower Hamlets, the Billing Authority (BA). The proposal sought to include a new assessment, Heliport and Premises, into the rating list at RV £50,000 with effective from 1 April 2010. Notice of the hearing had also been served on the occupier of 188 Westferry Road, Vanguard Holdings Limited.

Issue

- 4 The issue for the panel to consider was whether a new assessment, Heliport and Premises, should be entered into the rating list with effect from 1 April 2010.

Submissions and evidence

- 5 In view of the Upper Tribunal's judgement in *Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC)*, Mr Horsington and Mr Messinger's declaration of truth included a statement that they were instructed under a contingency fee arrangement. They declared that they understood and accepted that their duty was to the tribunal in giving their evidence and they would comply with this as well as the requirements of their professional body regardless of whether or not the evidence supported the client's case.
- 6 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.
- 7 The appellant's representatives submitted that the heliport was not shown in the rating list and ought to be shown. They stated that it was a hereditament that satisfied the four ingredients of rateable occupation as specified in the Court of Appeal's decision in the case of *John Laing and Sons v Kingswood Assessment Committees, 1949*, namely, actual occupation; exclusive occupation; beneficial occupation and not too transient occupation.
- 8 In respect of a valuation for the heliport, the appellant's representatives referred to the assessments of six heliports as follows:

Address	RV
Helicopter Station, Lombard Road, London SW11 3RE	£335,000
Heliport, Yarmouth Road, Caister-on-sea, Great Yarmouth, NR30 5TE	£158,000
H M Coastguard Sar Helicopter Unit, Chark Lane, Lee-on-the-solent, PO13 9FL	£335,000
Bristow Helicopters, St Athan Aerospace Business Park, Barry, CF62 4LZ	£162,000
Bristow Helicopters Caernarfon Airport, Dinas Dinlle, Caernaffon, LL54 5TP	£159,000
Search & Rescue Facility, Newquay Airport, New Road, St Mawgan, TR8 4RQ	£191,000

- 9 They pointed out that it appeared that only one heliport was rated in London at the Lombard Road site, which was also described as “Battersea Heliport” in available commercial records.
- 10 Therefore, the subject heliport was the closest to Canary Wharf for flights in and out of the City of London and was located on the Isle of Dogs and it provided quick access to London City Airport and venues such as the O2 arena, Excel Centre as well as the ability to travel distances such as Manchester and Paris. The subject heliport had two areas for landing as opposed to the Battersea Site which had $\frac{3}{4}$ landing area for helicopters and which had a RV of £335,000.
- 11 Referring to a fee schedule which showed landing fees ranging from £150 to £500 and parking fees from £50 to £150 plus an additional charge of £200 to £300 for opening outside of published hours, the representatives stated that the subject heliport was slightly more modest than the one at Battersea (the only other helipad rateable in London) as there were restrictions on flight times and helicopters that were able to use the helipad. There were approximately 10 to 20 movements per day. Therefore, the representatives were of the opinion that the RV for the subject heliport should be £50,000 with effect from 1 April 2010.
- 12 The respondent VO submitted that he was acting in the capacity of advocate only and had intended to seek a dismissal of the appeal but now accepted that there was a heliport operated by a company who paid rents to Vanguard Holdings Limited.
- 13 However, referring to his valuation for Vanguard at 188 Westferry Road, London E14 3RY, Warehouse and Premises, RV £156,000 with effect from 1 April 2010, he pointed out that it had two line entries for Wharfage, part of which was the area occupied by the helipad and the best course of action would have been to divide the assessment but he was precluded from doing so due to the scope of the proposal, under regulation 4(1)(g) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 which sought to include a new assessment into the rating list. He accepted the appellant’s point that an area could be in common occupation and used for more than one purpose and that each could be separately rateable.
- 14 Nonetheless, he concluded that having obtained information from the Land Registry that there was a 2015 rent of £70,000 per annum for the heliport, he accepted the RV of £50,000 sought by the appellant’s representatives.

Decision and reasons

- 15 In deciding this appeal the panel had regard to Schedule 6 of the Local Government Finance Act 1988, as amended by the Rating (Valuation) Act 1999. This provides that the rateable value of a Non-Domestic hereditament 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.
- 16 On the basis of the evidence that had been presented, the panel is satisfied that the heliport was a new hereditament and should be entered into the rating list.
- 17 The panel considers that the heliport had been in operation for many years and on the basis of its rent and the RVs of other heliports, it is the panel’s view that a RV of £50,000 is not unreasonable.

- 18 The panel considers that its view is supported by the evidence that the heliport had a rental value of £70,000 per annum. Furthermore, a RV of £50,000 was the only valuation that had been presented and the only proposal before the panel is to include the assessment into the rating list.
- 19 Accordingly, the appeal is allowed and the panel directs that a new entry be made into the rating list as Heliport and Premises, 188 Westferry Road, London E14 3RY at RV £50,000 with effect from 1 April 2010, as sought by the appellant's representatives.

Order

- 20 Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the VTE orders the Valuation Officer to enter into the 2010 Rating List, an entry for Heliport and Premises, 188 Westferry Road, London E14 3RY at RV £50,000 with effect from 1 April 2010 within two weeks of the date of this order.

Date: 22 May 2019

Appeal Number: 590025532160/053N10