**Case Name:** *David Jackson (VO)* [2020] UKUT 0078 (LC) (24 March 2020)

**Topic:** Valuation – installation of internal staircase linking office floors and effect on rateable value

**Full case:** click here

**Summary:** Premises at 65 Gresham Street in the City of London had undergone fitting out, which included the installation by the appellant of an internal staircase linking the second and third floors. Following a proposal made on 22 July 2016 (arising from the adverse effect of building work at 55 Gresham Street) the VTE reduced the RV from £1.83m to £1.72m with effect from 1 May 2016 (the material day). The VO appealed (Avison Young as the ratepayer was not party to the appeal) and the Upper Tribunal ordered that the RV be altered to £1.74m from 1 May 2016, being neutral in respect of the internal staircase but reflecting an MCC deduction (the works to number 55) of 5%.

**Commentary:** This decision followed the Upper Tribunal's ruling on 25 February 2020 (separately summarised by us) following an earlier proposal, in which the Deputy President held that the VTE was empowered to limit an RV deduction to the period during which the same premises were incapable of beneficial occupation (by reason of landlord's works as well as the tenant's internal staircase installation). This case involved a separate proposal relating to the valuation of contiguous floors linked by the internal staircase, which reduced the floor area by a little under 50 sqm. The ratepayer had argued before the VTE for an RV of £1.8m to reflect the staircase, which was used as the starting point for the MCC deduction of 5% (leading to an RV of £1.72m in the VTE's decision, as above). The question before the Upper Tribunal was whether the reduction in floor area should be simply reflected in the RV or whether the RV should be increased to reflect the benefit to the actual occupier of the connected floors.

The Upper Tribunal accepted the VO's argument that the internal staircase must have been of benefit to the actual tenant, else it would not have spent £164,000 for its installation (and potentially around £56,000 for its removal). The VO also considered that it would be of value to the hypothetical tenant, but the Tribunal did not agree. It did not accept a valuation method based on the amortised cost of installation plus a deferred cost of reinstatement, but instead took the view that the hypothetical tenant would not necessarily derive benefit from the connecting staircase. Although it is currently the case that tenants seek to install connecting staircases, the valuer must have regard to the market practice at the 2008 AVD, as to which no evidence was produced.

The Tribunal concluded that there is no evidence that the hypothetical tenant at the AVD would have paid more for the whole premises with the benefit of the internal staircase than without it. However, it was satisfied that the hypothetical tenant would not have paid less. Accordingly, the appeal was allowed and the Tribunal ordered an RV of £1.74m with effect from 1 May 2016. Thus, the valuation was neutral in respect of the staircase, but reflected a 5% deduction (from £1.83m) of the MCC.

It should be noted that the Tribunal sounded a note of caution – the method applied here (no loss – no gain) may not be appropriate in all circumstances and ultimately it will be a case

of valuer judgment. By way of example, where an atrium had been formed by the removal of a large floor area leaving a gallery overlooking the floor below would the hypothetical tenant be prepared to offer the same rent as it would if the floors had remained intact? The answer is obvious in that situation, but perhaps less so where a relatively small area has been given up to form a staircase.

**Town Legal LLP**