VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating appeal; Offices and Premises; Proposal seeking a lower £ per m² and end allowances; Appeal dismissed.

APPEAL NUMBER:	CHG100893457
RE:	Suite E 3RD Flr 19, Upper King Street, Norwich NR3 1RB (the 'subject property')

BETWEEN: Clancy Consulting Limited — Appellant

and

The Valuation Officer — Respondent

SITTING:	Remotely using Microsoft Teams
ON:	15 July 2024
BEFORE:	Dr T Webb (Presiding Senior Member) Mr W Hussain (Senior Member)
CLERK:	Mr A Johnson
APPEARANCES:	Mr K Batty, of Ken Batty Chartered Surveyors (for the Appellant) Mrs E Stanhope-Smith (for the Respondent)

DECISION AND STATEMENT OF REASONS

Decision

1. This appeal was dismissed.

2. The panel made no change to the rateable value (RV) of the subject property which remained unchanged at £16,000 with effect from 1 April 2017.

Introduction and background

3. This decision statement is not a contemporaneous or verbatim record of the proceedings and it must not be read in such a manner.

4. The subject property is third floor office accommodation located upon Upper King Street in Norwich, approximately 0.5 miles from Norwich train station. It measured 136.31m^2.

5. The subject property entered the 2017 rating list with effect from 1 April 2017 with a rateable value of £16,000. A proposal was submitted to the Valuation Officer in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 on the grounds that its RV was unreasonable and should be reduced to £13,500. This was on the basis that the price per m^2 should be reduced to £100 (or £105 when the uplift for air conditioning is included) and an allowance of 5% should be made.

6. The representatives appeared in the dual roles of advocate and expert witness. Neither were instructed under a conditional fee arrangement or other success related fee. The panel accepted the expert witness evidence on this basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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.

7. It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issues before it.

Preliminary matters

8. The following additional information had been submitted by Mr Batty prior to the remote hearing:

    i. an extract from an email exchange between an officer from the Valuation Office Agency and Mr Batty regarding an appeal in respect of 25-31 Old Hall Street, Liverpool L3 9HF (CHG100898018) which showed that an allowance of 5% had been agreed for layout/pillars; and

    ii. a copy of email concerning a decision in respect of 2 North Terrace, Newcastle Upon Tyne NE2 4AD (CHG100895169), where a valuation tribunal had granted a 5% allowance for disabilities;

9. Mrs Stanhope-Smith confirmed that she was content for this information to be admitted into evidence and, in view of this, the panel considered it appropriate to do so.

10. Also, the clerk observed that a reference to photographs had been made within the initial submissions but none had actually been included. Upon asking the parties, it became evident that internal photographs of the subject property had

inadvertently been omitted. These were supplied by Mr Batty's office and added to the evidence bundle.

Issues

11. The issues for the panel to determine were as follows:

    a) the subject property should be valued at a rate of £100 per m^2 and not £112.50 per m^2 (or £105 per m^2 and not £118.13 per m^2 when the uplift of 5% for air conditioning is included); and

    b) an allowance of 5% should be granted to reflect the disadvantages caused by the existence of pillars within the subject property.

Discussion

12. This was an appeal against an entry in the 2017 rating list and so the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended). The material day in respect of the subject property is 1 April 2017.

13. Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 provides that 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 based upon three assumptions. These assumptions are well known to the parties and so the panel did not consider it necessary to set them out in this decision notice.

14. The starting point for consideration is the actual rent passing on the subject property. The latest rent was effective from 1 November 2018 at £20,000 per annum. This was the subject of a review in November 2021 and had been analysed by the Valuation Officer to £127.86 per m^2 (which had been adjusted for external repairs and insurance liability as per a FOR and had assumed a nil rental uplift). Another FOR stated that there was a rent free period of four months and a further adjustment for this resulted in a price per m^2 of £118.13.

15. Mr Batty argued that that the adopted price per m^2 of £105 was excessive and he cited the adopted price per m^2 of 3rd Floor, 2 - 4 Queen Street, Norwich and 5-7 Vedast Street, Norwich of £106.77 per m^2 and £62.50 per m^2 respectively in support. In response, Mrs Stanhope-Smith argued that less weight should be placed on this evidence because 2-4 Queen Street was $48m^2$ larger and an allowance had been made to reflect quantum, whilst 5-7 Vedast Street had been based upon the rental evidence of assessments within the same building.

16. The Valuation Officer argued that assessments within 19 Upper King Street of approximately $85m^2$ had been valued at £125 per m^2 whilst the subject property

and Suite C, at 136m^2, had been valued at £112.50. The Valuation Officer also argued that rental evidence relating to other office assessments in Queen Street demonstrated that the £112.50 for the subject property was not unreasonable.

17. The three which were closest in size to the subject property were Lgnd Flr Jacquard House (135.8m^2), which was the subject of a new lease commencing on 1 December 2014 and analysed to £137.09 per m^2; 16 Princes Street (159.85m^2) which was the subject of a lease renewal, effective from 1 April 2014 and analysed to £121.99 per m^2; and 17 Princes Street (127.90m^2), which was the subject of a lease renewal, effective from 9 April 2013 and analysed to £121.99 per m^2. All had an adopted rate of £112.50 per m^2.

18. After considering all of the available rental evidence, the panel attached most weight to the rental evidence from the Valuation Officer and concluded that an adopted rate of £112.50 per m^2 for the subject property was not unreasonable.

19. Turning to the allowance which had been sought due to the disability caused by the existence of pillars, Mr Batty had provided evidence relating to other properties where allowances had been made. These are set out below together with the panel's findings in respect of them:

    37 Red Bank Road, Blackpool – 2.5% allowance
    This property is in a different location and market to the subject property. Whilst an allowance had been granted to reflect pillars, it was assessed on a zonal basis as a ground floor shop. As such it was in a different mode and category of use and not comparable with a sixth floor office in Norwich.

    172-174 Wigan Road, Wigan – 5% allowance
    This property is in a different location and market to the subject property. It had been assessed as a restaurant and an allowance had been granted to reflect its awkward shape. As such, it was not comparable with a sixth floor office in Norwich.

    2nd Floor Corn Exchange, 21 Brunswick Street, Liverpool – 5% allowance
    This property is in a different location and market to the subject property. The panel observed that whilst an allowance had been granted to reflect the existence of pillars in the 2010 rating list, a similar allowance had not been granted in the 2017 list. The panel was also aware that each rating list must considered 'anew' and no evidence had been provided to show how an allowance in the 2010 rating list for an office in Liverpool supported an allowance in the 2017 rating list for an office in Norwich.

    25-31 Old Hall Street, Liverpool – 5% allowance
    An allowance had been granted to reflect the existence of pillars directly in the centre of the office. However, this property is in a different location and market to the subject property and, aside from showing that allowances have been granted to reflect the existence of pillars, no compelling evidence had been provided to show how this supported an allowance for a sixth floor office in Norwich.

2 North Terrace, Newcastle Upon Tyne – 5% allowance
This was originally a domestic property which had been converted into office accommodation. It appeared from reading the valuation tribunal's decision that an allowance had been granted to reflect the arrangement of the rooms, changes of levels, steps on the ground and first floors and sloping ceilings. Aside from being in a different location and market to the subject property, the panel concluded that the allowance was based upon the specific circumstances pertaining to 2 North Terrace and the panel was unable to conclude that it supported an allowance for the subject property.

20. The panel understood that the existence of pillars within an office may be a disadvantage to a tenant and will, to some degree, dictate its layout and arrangement. However, no evidence of allowances to reflect this issue in respect of other office accommodation within the same building or others in the locality had been provided and the panel concluded that their existence would be taken into account by the hypothetical tenant and reflected in their rental bid. Accordingly, the panel was not persuaded that the argument for an allowance to reflect the existence of pillars had been made out.

Disposal

21. In view of the foregoing, the panel dismissed this appeal on both grounds.

Date issued to parties: 29 July 2024

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.