VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: offices and premises; price per m^2, valuation of basement and end allowance for disabilities in dispute; Local Government Finance Act 1988; rental evidence; comparable assessments; appeal allowed in part.

APPEAL NUMBER:	CHG100895169	
RE:	2 North Terrace, Newcastle upon Tyne, NE2 4AD (the "appeal property")	
BETWEEN:	Clancy Consulting Ltd	Appellant
	and	
	A Hitchings (Valuation Officer)	Respondent
SITTING:	*Remotely using Microsoft Teams*	
ON:	Friday 3 May 2024	
BEFORE:	Mr A Hussain, Presiding Senior Member Mr K Everett, Senior Member	
CLERK:	Mrs L Horne IRRV(Hons) BA (Hons)	
APPEARANCES:	Mr K Batty, from Ken Batty Chartered Surveyors, representing the appellant Ms S Taylor representing the Valuation Officer	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part. The panel determined a revised rateable value (RV) of £10,750 to reflect the addition of a 5% end allowance for disabilities.

Introduction

2. This is a 2017 rating list appeal. 2 North Terrace, Newcastle upon Tyne, NE2 4AD 2 North Terrace, Newcastle upon Tyne, NE2 4AD (the appeal property) had been entered in the 2017 rating list as 'offices and premises' at £11,250 RV with effect from 1 April 2017.

3. The challenge proposal was submitted by Ken Batty Chartered Surveyors on behalf of Clancy Consulting Ltd and was received by the Valuation Officer on 12 January 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £9,000 was proposed with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice on 5 September 2023 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by Ken Batty Chartered Surveyors on behalf of the appellant, and received by the Tribunal on 20 October 2023.

6. As Mr Batty appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7. Mr Batty stated that historically he had been instructed on a conditional fee arrangement, however, he declared that he had received payment for this hearing. He confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported the client's case.

8. The appeal property is a mid-terrace, four storey, converted office and premises constructed in the early 20th century. It is located to the north of Newcastle city centre in a mixed commercial and residential area. The present valuation of £11,250 RV is based upon a total area of 144.40 m^2 at an adopted price of £95 per m^2 and two car parking spaces at £500 per space.

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

Issues

10. There were three issues in dispute:
    - A reduction in the unadjusted price from £95 per m^2 to £80 per m^2.
    - A reduction in the value to be applied to the basement to reflect quality.
    - End allowance of 5% for disabilities.

Evidence and submissions

11. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: appellant's challenge submission and Valuation Officer's challenge case decision notice.

12. In support of his proposed valuation of £9,000 RV, Mr Batty provided photographs of the appeal property and reference to comparable properties valued between £65 and £80 per m^2.

13. On behalf of the Valuation Officer, Ms Taylor provided rental evidence and comparable assessments in defence of £11,250 RV.

Decision and reasons

14. In accordance with paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, the appeal property must be viewed vacant and to let and valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions. The date of the hypothetical rent is 1 April 2015, the AVD for the 2017 rating list.

15. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017. As the appeal property was held freehold, no direct rental evidence was available.

16. The panel referred to the evidence and arguments provided in support of each issue in dispute.

Unadjusted price per m^2

17. In support of an adopted price of £80 per m^2, Mr Batty provided details of five comparable properties:
    - Units 5 and 6, Second Floor, Maling Court, Union Street, NE2 1BP - £80 per m^2.
    - 184 Portland Road, Shield Field, NE2 1EJ - £75 per m^2.
    - Ground Floor, Portman House, Portland Road, Shield Field, NE2 1AQ - £80 per m^2.
    - 59 Blandford Square, NE1 4HZ - £65 per m^2.
    - 196 Portland Road, Shield Field NE2 1DJ - £75 per m^2.

18. Mr Batty submitted that those properties were superior, being modern or purpose-built offices, yet they were assessed at a lower price per m^2.

19. In support of the present £95 per m^2, the Valuation Officer provided rental evidence in respect of the following:
    - 23 Portland Terrace, NE2 1QS, a new letting in December 2014 on a converted pre-1900s office, larger than the subject, but in a similar location. The rent analysed at £90.37 per m^2, and it was assessed at £95 per m^2.
    - Rooms 1-2 & 7-8 at 3 Benton Terrace, NE2 1QU, a new letting in June 2014 on a converted pre-1900s office, similar in size to the subject. The rent analysed at £133.01 per m^2 and it was assessed at £100 per m^2.
    - Ilex House, 7 Holly Avenue West, NE2 2AR, a lease renewal in September 2014 on a converted pre-1900s office, similar in size to the subject. The rent analysed at £129.82 per m^2 and it was assessed at £95 per m^2.
    - 1st Floor, 68 Clayton Park Square, NE2 4DP, a rent review in November 2015 on a 1920s/30s office over a shop. The rent analysed at £124.04 per m^2 and it was assessed at £100 per m^2.

- 6 Brandling Park, NE2 4QA, a new letting in July 2014 on a pre-1900s dental surgery, smaller than the subject. The rent analysed at £216.64 per m^2 and it was assessed at £100 per m^2.

20. In further support of an established tone, the Valuation Officer scheduled the following comparable properties assessed at £95 per m^2: 113 Osbourne Road, NE2 2TA, 2 Benton Terrace, NE2 1QU, 20 Osborne Road NE2 2AD, 22 Osbourne Road, NE2 2DA, 3 Chester Street, NE2 1AT, 3 North Terrace, NE2 4AD, East Lodge, Old Jesmond Cemetery, Jesmond Road NE2 1NL, Environmental Services, Jesmond Dene House, Jesmond Dene Road, NE2 2EY, Ground & First Floors, 1 Lambton Road, NE2 4RX, Ground Floor, 22 Osborne Avenue, NE2 1JQ, Harley Medical Group, 1st Floor, 48A Osborne Road, NE2 2AL.

21. Ms Taylor submitted that the rental evidence of relevant comparable properties carried the most weight, in accordance with *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141. She stated that Mr Batty's comparable properties were situated to the east of the city centre where values ranged from £47 to £159 per m^2. The appeal property was situated to the north of the centre where values ranged from £90 to £216 per m^2. Ms Taylor contended that for office properties, it was the location which was the driving factor, rather than modernity.

22. On this issue, the panel found in favour of the Valuation Officer. The panel decided to attach less weight to Mr Batty's comparable properties which were different in character and location. The panel attached most weight to the rental evidence of comparable assessments drawn from the north of the city centre. The panel also attached significant weight to the unchallenged comparable properties assessed at £95 per m^2, one of which was located next to the appeal property.

Valuation of the basement

23. With reference to a photograph which showed part of the basement in a poor state, Mr Batty proposed to value the three basement areas at £20 per m^2. This represented a reduction in the factor to be applied from 0.35 to 0.25 (applied to his proposed base price of £80 per m^2).

24. In response, the Valuation Officer explained that the area depicted in Mr Batty's photograph was an old coal store which was not included in the valuation. Photographs of the other parts demonstrated that the basement was in a reasonable state of repair and in use as storage.

25. On the second issue, the panel was not persuaded to adjust the factor applied in the valuation for all of the basement area, in order to take into account an area which was not included in the assessment.

5% end allowance for disabilities

26. Mr Batty submitted that as a converted house, the arrangement of the rooms was ad hoc, and subject to changes of levels and steps on the ground and first floors: there were four steps at the front of the property and steps up to the ground floor washroom and toilet. In addition, parts of the second floor were restricted due to sloping ceilings. Mr Batty referred to 23 Portland Terrace, one of the Valuation Officer's comparable properties, which had a 5% end allowance, in support of the same allowance being applied to the appeal property.

27. The Valuation Officer considered that it was not appropriate to apply an allowance, when the features described were common for properties of this age, and reflected in the rental

evidence. In respect of the second floor, it was confirmed that as a loft conversion, only areas with headroom of more than 1.5m had been included in the valuation, in line with the Code of Measuring Practice. Ms Taylor stated that the 5% end allowance for 23 Portland Terrace reflected seven/eight steps at the front and different issues with the internal layout.

28. On the third and final issue, the panel found in favour of the appellant. The panel was satisfied that Mr Batty had outlined a number of disabilities which could affect a hypothetical tenant's rental bid. The subject property was held freehold, and therefore no direct rental evidence was available to compare with the rents of comparable properties.

29. In conclusion, the panel confirmed the present adopted price of £95 per m^2 and the valuation factor applied to the basement area, but determined that a 5% end allowance for disabilities was warranted. This resulted in a revised RV of £10,750:

Floor	Description	Area m^2	£ per m^2	Value (£)
Ground	Offices	34.60	95.00	3,287
First	Office	40.10	95.00	3,810
Second	Office	27.90	71.25	1,988
Basement	Internal Storage	3.40	33.25	113
Basement	Internal Storage	23.30	33.25	775
Basement	Internal Storage	15.10	33.25	502
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION				
	Surfaced open spaces	2	500	1,000
			sub-total	11,475
			Less 5% for disabilities	(574)
				10,901

Rounded down to £10,750 RV

Order

30. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to alter the entry in the rating list to £10,750 with effect from 1 April 2017.

31. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

32. A refund of the paid fee will now be arranged provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date issued to parties: 24 May 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.