VALUATION TRIBUNAL

**VALUATION TRIBUNAL FOR ENGLAND**

*Non-Domestic Rating appeal; Offices and Premises; Proposal seeking a lower £ per m$^2$ and end allowances; Appeal dismissed.*

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| APPEAL NUMBER: | CHG100897630 |
| RE: | Henderson Administration Pt 6TH Flr, Charles House, Great Charles Street, Queensway, Birmingham B3 3HT (the 'subject property') |

BETWEEN: Clancy Consulting Limited — Appellant

and

The Valuation Officer — Respondent

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| SITTING: | Remotely using Microsoft Teams |
| ON: | 15 July 2024 |
| BEFORE: | Dr T Webb (Presiding Senior Member)<br>Mr W Hussain (Senior Member) |
| CLERK: | Mr A Johnson |
| APPEARANCES: | Mr K Batty, of Ken Batty Chartered Surveyors (for the Appellant)<br>Miss M Warren (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 £19,750 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 was situated on the sixth floor of Charles House in Birmingham, a building which had been built in the 1920's/1930's and refurbished in the 1980's. It was described as 'offices and premises' measuring 179.8m$^2$.

5. The subject property entered the 2017 Rating List with effect from 1 April 2017 with a rateable value of £19,750. 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 £17,250. This was on the basis that the price per m$^2$ should be reduced to £105 and allowances totalling 7.5% 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. Prior to the remote hearing the parties had exchanged additional information. In brief summary, this was:

    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;

    ii. a copy of email exchange with Miss Warren 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; and

    iii. a plan of the subject property from the Valuation Officer's representative.

9. Upon reviewing each other's additional information, both parties confirmed that they were content for all of them to be admitted into evidence. In view of this agreement the panel considered it appropriate to accepted.

10. Also, the clerk observed that a reference to photographs had been made within the initial submissions but had not 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 £105 per $m^2$, and not £110 per $m^2$;

b) an allowance of 2.5% should be granted to reflect the disadvantages caused by the existence of pillars within the subject property; and

c) an allowance of 5% should be granted to reflect the disadvantages caused by the fact the subject property did not have self-contained toilets and, instead, had to use facilities that were shared and located on different floors.

**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 took the form of a lease renewal, effective from 5 January 2015 at £20,162 per annum. This had been analysed by the Valuation Officer on a FRI basis (which had assumed the payment of a separate service charge) to £112.14 per $m^2$. Although this was a lease renewal it had commenced less than three months prior to the AVD. Therefore, the panel gave this significant weight.

15. Mr Batty argued that that the adopted price per $m^2$ of £110 was excessive and he cited the adopted price per $m^2$ of twenty four other office assessments in the locality which ranged from £70 per $m^2$ to £105$m^2$ and he contended that this evidence supported his conclusion that the subject property had been over-valued. However, no rental evidence in respect of them had been provided.

16. Miss Warren argued that rental evidence of office assessments within the same building demonstrated that £110 per $m^2$ was not unreasonable and she referred the panel to two of them. The first related to Fifth Floor, Charles House which was 359.5$m^2$ in size. The rent was based upon a lease renewal which had commenced on 15 April 2014 at £50,235 per annum and, after adjustment for FRI had been analysed to £144 per $m^2$. The second related to Part Second Floor, Charles House which was 163.5$m^2$ in size. This was a new letting which had commenced on 1 January 2016 at £26,325 and, after adjustment for FRI, a twelve month rent free period and a nine month incentive period, had been analysed to £145 per $m^2$. The adopted rate for both was £110 per $m^2$.

17. The panel concluded that this evidence, together with rental evidence relating to the subject property, demonstrated that the adopted rate of £110 per $m^2$ was reasonable.

18. Turning to the first of the allowances which had been sought; the disability caused by the existence of pillars. Mr Batty had provided evidence relating to other properties where allowances had been made to support his contention. These are set out below together with the panel's findings in respect of them:

    <u>*37 Red Bank Road, Blackpool – 2.5% allowance*</u>
    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 Birmingham.

    <u>*172-174 Wigan Road, Wigan – 5% allowance*</u>
    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 Birmingham.

    <u>*2nd Floor Corn Exchange, 21 Brunswick Street, Liverpool – 5% allowance*</u>
    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 Birmingham.

    <u>*25-31 Old Hall Street, Liverpool – 5% allowance*</u>
    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 a sixth floor office in Birmingham.

*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.

19. The panel accepted 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.

20. Turning to the second allowance that had been sought, the panel accepted that the lack of self-contained toilets may be a disadvantage to a tenant but, again, 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. Also, the panel concluded that the lack of self-contained toilets would also have been taken into account by the hypothetical tenant and reflected in their rental bid. The panel was not persuaded that the argument for an allowance to reflect the lack of self-contained toilets had been made out.

**Disposal**

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