THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: challenge against compiled list entry; office and premises; quantum allowance in dispute; accuracy of rateable value; allowed in part

APPEAL NUMBER: CHG101211806

RE: First And Second Floor, 55 Colmore Row, Birmingham B3 2AP
(the "subject property")

BETWEEN: Pinsent Masons — Appellant

and

(Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 11 March 2025

BEFORE: Mr A Iqbal, Presiding Senior Member
Mr A Hussain, Senior Member

CLERK: Miss F Willson

APPEARANCES: Mr M Gill of Avison Young (on behalf of the appellant as advocate and expert witness)
Mr J Green (on behalf of the respondent as advocate and expert witness)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel reduced the rateable value (RV) to £790,000 with effect from 26 July 2017.

Introduction

3. This appeal had been brought in respect of First and Second Floor, 55 Colmore Row, Birmingham B3 2AP (the subject property), which was entered in the 2017 Rating List as 'office and premises' at an RV of £900,000 effective from 26 July 2017.

4. The appellant's Challenge was submitted by Avison Young on behalf of the appellant on 25 April 2024 and sought a reduction in the RV to £715,000 with effect from 26 July 2017. The appeal to this Tribunal was made on 22 October 2024, following the (valuation officer's) VO's Decision Notice of 1 October 2024 in respect of the subject property.

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 received by the Tribunal on 22 October 2024.

6. The subject property is located on two floors of a seven storey building that was constructed in the 1900's of brick with partial glazed frontage to the entrance. The subject property provides an office space of 3,766m^2. It was refurbished in 2017 to grade A specification but retained some traditional features. It is situated in the heart of the Central Birmingham District close to two railway stations and opposite St Phillips Cathedral and Cathedral Square. It has an RV of £900,000 with effect from 26 July 2017 based on a main space rate of £240/m^2. The appellant proposed a reduction to an RV of £715,000 with a main space rate of £190/m^2.

7. Mr Gill was appearing on behalf of the appellant as advocate and expert witness. Therefore, it was important to ascertain 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).

8. Mr Gill had confirmed that he was representing the appellant in this appeal on a fixed fee basis which was unrelated to the outcome

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9. During the course of the hearing there were occasions when the member dropped out and the presiding senior member froze. On those occasions, the hearing was adjourned whilst they returned. It was confirmed that both panel members had heard all the submissions and evidence presented by both parties in full.

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

Issue

11. The parties had agreed a main space rate for the subject property of £210/m^2 giving a reduced RV of £790,000. Therefore, the only remaining issue for the panel to make a finding on was the proposal made by the appellant that a further 5% allowance should be made to the RV reducing it to £750,000 to take into account quantum.

Relevant Law

12. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

    2(1) 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 on these three assumptions—

    (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

    (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic

    (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

13. In respect of an appeal against an entry in the 2017 rating list, 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 (SI 2014 No. 2841).

14. 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 date is 26 July 2017 being the date the subject property entered the 2017 rating list.

Discussion

15. The panel found that in relation to the main space rate of the subject property this had already been agreed by the parties at £210/m^2. As such, there was therefore no requirement for the panel to hear submissions in relation to this issue.

16. The subject property was refurbished between 2015 and 2017 and so there was no rental evidence available for the subject property between those dates. The subject property was only occupied via a new letting with effect from 8 February 2017 for a term of 15 years with a five yearly rent review, a 20 month rent free period which was analysed to the break at the 10th year, being £249.87/m^2. Mr Gill submitted that this rental evidence on the subject property should have little weight placed on it as the market had risen sharply between the AVD and 2017. The panel found that as the lease was two years post AVD it was too remote to be of any assistance in assessing the rateable value of the subject property.

17. The panel turned to the comparable properties put into evidence by Mr Gill in support of a quantum allowance of 5% for the subject property. Mr Gill referred the panel to his email of 11 February 2025 and the comparable properties in that email. Although this email was sent after the Challenge stage had been concluded it related to recent settlements which had taken

place after the end of the Challenge stage. Both parties had agreed in writing that this evidence should be included. Accordingly, the panel allowed that evidence to be submitted. The comparable properties were:

(1) 78-90 Colmore Row, which had a reduction in the main space rate applied following Challenge discussions and it was then reduced from £230/m^2 to 190/m^2 resulting in an RV of £470,000. The panel noted that the reduced assessment was as a result of a reduction to the main space rate and not due to a quantum allowance

(2) 115 Colmore Row had a main space rate reduction but also had a 15% quantum allowance. This property was however significantly larger than the subject property. This comparable has an RV of £1,480,000. Mr Gill submitted that although it was larger, it also had a larger quantum allowance than he was proposing for the subject property. This comparable property, he submitted, supported the need for a quantum allowance to reflect size.

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(3) Pt Gnd 8th Floors 125 Colmore Row has had a main space rate reduction but also had a quantum allowance of 10%. This property is 12,857.64m^2 and is significantly larger than the subject property. However, it had a 10% allowance for quantum not a 5% allowance as proposed for the subject property. It has an RV of £2,180,000.

(4) 6th and 7th floors Two Chamberlain Square had a main space rate reduction but was almost identical in size to the subject property and had a 5% quantum allowance. It now has an RV of £645,000. This was the strongest comparable to the subject property in Mr Gill's opinion and should carry the most weight in the basket of evidence. It was in the direct vicinity of the subject property and was almost the same size.

(5) Part 1st and 2nd Floors Two Chamberlain Square was also of a similar size to the subject property and had been granted a quantum allowance of 5%. It has an RV of £575,000. This property was again in the direct vicinity of the subject property and was a similar size and had a quantum allowance of 5%.

(6) Part 1st and 2nd Floors One Sow Hill had a main space rate reduction but no quantum allowance. It had an RV of £955,000. The panel noted the reduction but again the reduction was due to a reduction in the main space rate not a quantum allowance.

(7) 7th Pt 8th & 9th Floors 1 Colmore Square had a main space rate reduction and then a 5% quantum allowance and was similar in size to the subject property. It has an RV of £470,000.

18. The panel noted Mr Gill's comparable properties and his submission that they demonstrated that those comparable properties of a similar size to the subject property had a 5% quantum allowance. He also drew the panel's attention to the fact that those that were larger than the subject property had a 10-15% quantum allowance. The panel was aware that Mr Gill's comparable properties were in different buildings to the subject property and were of a different character, style and age to the subject property. The panel therefore found that they were not good comparable properties for the subject property and put little weight on this evidence.

19. The panel then turned to the evidence given by Mr Green who stated that Mr Gill had not raised the issue of a quantum allowance at the Challenge stage and was raising it for the first

time in the appeal stage. Mr Green submitted that the main space rate of £210/m^2 reflected the other settlements in the same building and that no quantum allowance was required. The analysed rent on the floors at 55 Colmore Row ranged between £249.87/m^2 and £275.84/m^2 when analysed to the 10th year are as follows:

Address	Total Area	Effective date of rent	Rent	Adjusted rent	Analaysed rent	Value £/m^2	RV
1st Flr at 55 Colmore Row	3,766	8/2/17	£1,214,100	£941,005	£249.87	£240	£440,000
6th Flr at 55	1,532.79	1/8/17	£559,548	£422,800	£275.84	£240	£377,500
6th Flr at 55	1,532.79	1/8/17*	£559,548	£422,800	£215.03	£240	£377,500
5th Flr at 55	1,903.76	6/7/17	£685,839	£485,156	£254.84	£240	£455,000

*New letting analysed to the 5th year

20. The panel found that the analysed rents demonstrated that there was no difference between the rents based on the size of the assessments within the subject property's building. It therefore found that there was no requirement for a quantum allowance on the subject property

21. The panel was aware that a blanket approach for quantum allowance should not be adopted, each property should be assessed on its own merits. The panel noted that the subject office was a period building with a grade A specification and the comparable properties put into evidence by Mr Gill were not in the same building as the subject property and were offices dating from 2008 onwards. They were therefore different in character and style to the subject property. The panel therefore found that these comparable properties were not 'like for like' comparators with the subject property and would be in a different market for rental purposes.

22. The panel noted that the comparable properties put into evidence by Mr Green were in the same building as the subject property and despite the subject property being larger its rental analysis did not suggest that a further 5% allowance was warranted for quantum. The panel found that the analysed rent of these properties did not support a quantum allowance on the subject property

Disposal

23. In appeals of this nature, the burden of proof was on the appellant to provide evidence to demonstrate that the subject property should have a quantum allowance of 5%. However, the panel found that a quantum allowance was not applicable in relation to the subject property. Accordingly, the panel confirmed that the subject property should be valued at an RV of £790,000 with effect from 26 July 2017 based on a main space rate of £210/m^2 but with no quantum allowance. The panel therefore allowed the appeal in part. A breakdown of the assessment is shown below:

24. The panel found the RV for the subject property was:

Floor	Description	Area	Price/m^2	RV
First	Office	1841.00	210.00	386,610
Second	Office	1925.00	210.00	404,250
		Valuation sub-total		790,860

Rounded to a rateable value of £790,000 effective from 26 July 2017.

Order

25. 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 rateable value £790,000 with effect from 26 July 2017.

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

Date issued to parties: 10 April 2025

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.
