

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Hart Commercial Surveyors agent for Naunton Jones Le Masurier

Appeal Property: 1st Floor, 24 St Andrews Crescent, Cardiff CF10 3DD

Appeal number: 681534568353/285NV17/1

The Matter Appealed against: 2017 Rating List

Date of Hearing: 18th May 2022

Appearances: Mr J Hart, agent representative, and Mr M Allen, Valuation Officer

Date of Decision: 16th June 2022

Decision of Tribunal: Appeal Allowed in Part

Members of the Tribunal: Mr J Uzzell (Chair), Mr J Pickering and Mr J C Alexander

Tribunal Clerk: Mrs M S Minty

Introduction:

1. The appeal before the Tribunal followed a proposal made by Hart Commercial Surveyors in respect of 1st Floor, 24 St Andrews Crescent, Cardiff, received by the respondent Valuation Officer on 20th August 2020. The proposal sought a reduction in the Rateable Value (RV) from £18,250 to £1 with effect from 1st April 2017 on the following grounds –

The current assessment is incorrect, excessive and bad in law and should be reduced to RV £1.

2. The appeal property comprised offices and premises and the matters for consideration by the Tribunal was the £/m² to be applied to the valuation.
3. The valuation under consideration had been produced in accordance with Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 which stated –

2(1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from 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.*

4. Schedule 6 also provided for the Antecedent Valuation Date (AVD), the date by reference to which the rateable value of the hereditament was to be determined, the 1st April 2015 for the 2017 Rating List.
5. Being mindful of the basis of valuation, the Tribunal was aware that it also had to consider the basket of rents and not just one rent in isolation as per the formulated valuation process set down in the leading case of *Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council*.

Decision and Reasons

6. Having considered the information provided, the Tribunal noted that the decision sought by Mr Hart was a reduction in the RV from £18,250 to £11,750 based upon an analysed rent of £75/m² with effect from 1st April 2017. Consequently, he proposed the following Valuation: -

Floor	Description	Area	£/m ²	Value
First	Offices	148.32	75.00	11,124
Additional				
	Car Parking	1	800	800
Total				£11,924
RV				£11,750

7. The Tribunal also noted that, where a joint inspection had been undertaken of the appeal property in relation to the areas to be incorrect, Mr Hart opined that the boxed ducting area should be excluded, however, he accepted under the RCIS measuring Code of Practice there was no allowance for this. Mr Allen contended that the appeal property's assessment should be revised to take into consideration the amended area from 155.03 to 148.32 and should be valued with a base rate of £113/m², in line with other hereditaments similar in nature, with effect from 1st April 2017, as per the following proposed valuation:

Floor	Description	Area	£/m ²	Value
First	Offices	148.32	113.00	16,760
Additional Features of the property included in the Valuation				
	Surfaced Open Spaces	1	800	800
Valuation sub-total				17,560
Total (rounded down)				RV £17,500

8. The appeal property was let on a 5-year lease commencing 9th September 2013 at a rent of £12,736 pax on effective FRI terms with a 6-month rent free period and including one car space. Mr Hart referred to the lease which detailed the area of the premises as 1,592 sq ft (147.95m²), equating to £8.00 psf or £86.08/m². He explained that if the rent was adjusted, £800 for the car parking space and 6 month rent free period (incentive due to market conditions), this would derive at £11,134, equating to £75.06/m². At the time, he opined that there were plenty of vacant offices on the market, including the lower ground and ground floors in St Andrews House, and therefore a 6-month rent free period was agreed, since there was quite a variable in quality and that St Andrews House was distinctly at the lower end. Mr Hart considered that this was supported by the lettings on the Lower Ground Floor and Ground Floor, 24 St Andrews Crescent.
9. The building, 24 St Andrews Road, in which the appeal property was situated was also known as St Andrews House, its entrance was located on St Andrews Crescent off St Andrews Place. This building was a refurbished four-storey Victorian bay-fronted building

with a lift, which in 1980's to 1990 had been extended to the side and rear.

Refurbishment works were undertaken around 2000/2001 under the planning permission entitled "Internal fitout and refurbishment including external elevational alterations". The appeal property was situated on the 1st Floor and used as an office, the rear section was of open plan and used as archive and storage for the accounting business, with a small separate staff kitchen. The front section, which occupies the older original section of 24 St Andrews Crescent, has been divided to subdivide the area into separate office and reception spaces. Photographs and location plans were provided for the Tribunal's consideration.

10. Prior to continuing the formula laid down in *Lotus v Delta*, having considered Mr Hart's preliminary matter relating to the acceptance of rental evidence in relation to Basement, Ground & 1st Floors, 5 St Andrews Crescent, Cardiff CF10 3DD since he was unable to inspect the source of the information in accordance with s31 of the Non-Domestic Rating (Alterations of Lists and Appeals) (Wales) Regulations 2005, the Tribunal decided that as Regulation 31 had been served it would accept the evidence and determine what weight would be attached to that evidence accordingly.
11. In considering the rental schedule presented which was based on an assessment unit value of £113/m², apart from 20 St Andrews Crescent which was based upon £107.50/m². The Tribunal concluded the best evidence was that of 11 St Andrews Crescent, Cardiff.
12. The Tribunal noted that Mr Allen drew attention to the inconsistency between the rents reported in the building 24 St Andrews Crescent, in which the appeal property is situated, and the rents reported for the neighbouring properties, for which there appears to be little difference in terms of character or location.
13. Mr Allen also referred to the rents of both comparable of Ground Floor, 24 St Andrews Crescent and that of the appeal property. Both properties rents were effective within one month of each other, 18 months prior to the AVD in August and September 2013 respectively. Both rents analysed to significantly lower than all other evidence, so the Valuation Officer questioned what was inherently different about 24 St Andrews Crescent to others on the Crescent to command such a low rent. This point remained unexplained by Mr Hart.
14. The Tribunal also considered the schedule of settled appeals and photographs of properties which Mr Allen provided. These properties were No's 15, 9, Basement and 1st Floor 18, 22, Lower Ground Floor 24, 1st Floor 13, Office Front Part Ground Floor 17, St Andrews Crescent, Cardiff. Mr Hart stated that he did not attach any weight to the withdrawals relied by the Valuation Office Agency, which can be made for any number of reasons as highlighted in the case of '*Stock Auto Breakers v Sykes (VO) UKUT 52 (LC)* and "*does not necessarily constitute the establishment of a tone*". Mr Allen reported No: 15 was withdrawn valued at £106.92 for 502m total size; No: 9 was agreed at £107.50 for 283m total area; Basement and 1st Floor 18 was agreed at £107.50 for 281m total area (believe Art Gallery); No: 22 withdrawn at £107.50 for 231m total area; Lower Ground Floor 24 agreed at £113 for 138m total area, however if work backwards on allowances it does support £113/m²; 1st Floor 13 agreed as the basis for a split of the assessment, so the two resultant properties although a lot smaller than the subject property were valued at £129 for 37.5m total area, and £118.5, 11m, total area. It was included for transparency.
15. Mr Allen explained that the appeal property was inspected on 20th May 2021 and with photographs displaying the front, side and rear extensions of the property, he was not

convinced that he could find a discernible reason as to why 24 St Andrews Crescent should command less rent than those included within his schedule of photographs, rental and settlement evidence or to deviate from the standard assumption of average quality stipulated in the hypothetical ratings scenario for 24 St Andrews Crescent. Reference was made to the case law of '*Poplar Metropolitan Borough Assessment Committee v Roberts* ("*Poplar*") {1922} 2AC 93 HL' which warns of such action and promotes the need to adhere to the fundamental principles of equality in rating. And the case law of '*Dawkins (VO) v Ash Brothers and Heaton Ltd* {1969} 2 AC 366, 381-388' demonstrates the purpose of rating.

16. Being mindful of the case law provided and on examination of all the evidence presented, the Tribunal found that, although there were differences between some of the information provided by the parties in relation to the rental information, there still remained supported evidence to demonstrate that a tone had been established in the locality, in particular to the rental evidence of 11 St Andrews Crescent and the settled appeal of Lower Ground Floor, 24 St Andrews Crescent.
17. In weighing the evidence and considering the appeal property's character, size, age and location, the Tribunal concluded that the appeal property was of a quality in line with similar properties in St Andrews Crescent. Subsequently, the Tribunal found that Mr Allen was correct in applying a base rate of £113/m². No evidence was found to have been provided by the Agent to show that there was any value significance or defect with 24 St Andrews Crescent to account for the low rent achieved for the appeal property.
18. In such cases, the burden of proof rests with the Appellant and having examined all the evidence submitted, the Tribunal concluded that Mr Hart had failed to discharge his burden of proof in relation the matter of the £/m².
19. In view of the above information, the Tribunal determined that Mr Allen was correct in his approach and confirmed that the appeal property's RV should be amended in accordance with the Valuation Officer's proposed valuation to reflect the change in the property's area. Therefore, the Tribunal orders the 2017 Rating List be amended as follows:

Offices and Premises
1st Floor, 24 St Andrews Crescent
Cardiff CF10 3DD
RV of £17,500 with effect from 1st April 2017.