

IN THE UPPER TRIBUNAL (LANDS CHAMBER)



**Neutral Citation Number: [2017] UKUT 230 (LC)
Case No: RA/21/2016**

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

RATING – valuation – offices and premises – comparables - differential rates - quantum allowance – lack of parking – allowances for occupational disabilities – appeal and cross-appeal allowed in part - rateable value determined at (2010 list): £1,550,000 w.e.f. 25 March 2013 and £1,530,000 w.e.f. 12 April 2013

**IN THE MATTER OF AN APPEAL & CROSS-APPEAL FROM
THE VALUATION TRIBUNAL FOR ENGLAND**

BETWEEN:

CITY OF YORK COUNCIL

Appellant

- and -

**CHRIS SYKES
(VALUATION OFFICER)**

Respondent

Re: West Offices, Station Rise, York YO1 6GA

Hearing date: 15 & 16 March 2017

**Before:
Paul Francis FRICS**

Leeds Employment Tribunal, 4th Floor, City Exchange,

11 Albion Street, Leeds LS1 5ES

Jenny Wigley instructed by SW Solicitors, Kingston upon Hull, for the Appellant
Mark Westmoreland Smith instructed by HM Revenue & Customs Solicitors, for the Respondent
The following case is referred to in this decision:

S G Hughes (VO) v York Museums & Galleries Trust [2017] UKUT 200 (LC)

The following cases were also referred to in argument:

Proudfoot v Hart (1890) 25 QBD 42

Futures London Ltd v Stratford (VO) RA/47/2005 (LT), [2005] EWLands RA_47_2005

British Telecommunications PLC v Broadway (VO) (No2) [1996] RA 297

DECISION

Introduction

1. This is an appeal and cross-appeal relating to offices and premises known as West Offices, Station Rise, York YO1 6GA (“the appeal hereditament” or “the Council offices”) against a decision of the Valuation Tribunal for England (“VTE”) dated 25 January 2016 which allowed in part an appeal (by the Council) relating to the 2010 rating list. The rateable values which had been entered into the list at RV £1,810,000 with effect from 25 March 2013 and £1,790,000 w.e.f. 12 April 2013 (to reflect the transfer of the part of the ground floor occupied by the Citizens Advice Bureau into a separate hereditament) were reduced by the VTE to £1,350,000 and £1,340,000 respectively.

2. The appellant contends that the VTE erred in finding that, over and above the 10% allowance it made from its adopted unit rates per sq m for the old and new parts of the building for “*the hybrid nature of the building along with the layout and differing floor levels*”, no additional end allowances were appropriate to reflect quantum, the lack of car parking facilities and the increased repair and maintenance costs that were likely to apply because (part at least) of the building was listed Grade II*. The appellant argues now for the assessments to be reduced to RV £1,073,000 and RV £1,060,000 respectively.

3. The cross-appellant Valuation Officer (hereafter referred to as “the respondent VO”) argues that there should be no differential unit prices per sq m between the old and new parts of the building, and that there is no evidence to support the appellant’s claims for the various

additional end allowances it argues for. An increase of the assessments to £1,700,000 and £1,680,000 is thus sought.

4. Ms Jenny Wigley of counsel appeared for the Council and called Mr Ian Asher, Head of Property Design and Facilities Management with City of York Council, who gave evidence of fact relating to the construction and historical significance of the appeal hereditament. Expert valuation evidence was provided by Mr Colin Hunter MRICS IRRV (Hons) of Lambert Smith Hampton, Leeds.

5. Mr Mark Westmoreland Smith of counsel appeared for the respondent VO and called Ms Lucy Edwards of the VOA who gave expert valuation evidence.

Facts

6. I undertook an accompanied inspection of the appeal hereditament and the exterior of some of the comparable premises within the centre of York on Thursday 16 March 2017. From this, a comprehensive and helpful statement of agreed facts and issues, and the evidence, I find the following facts.

7. The appeal hereditament, the freehold of which is owned by City of York Council and is occupied by it as its new headquarters, comprises slightly more than 11,000 sq m (118,000 sq ft) of part new and part fully refurbished office accommodation over four floors. It occupies a total site area of about 2.25 acres that includes 12 disabled and two visiting contractors' car parking spaces. It is located immediately adjacent to, and inside, the historic city walls on the south-western fringe of York city centre in a mixed area dominated principally by office and retail premises, and close to York railway station and the main bus interchange. The hereditament, together with most the comparable premises referred to in evidence, is within what is described as the 'York Central Historic Core Conservation Area.'

8. The site of what is now known as West Offices was the former home of York's first railway station, constructed as a terminus in 1841 consisting of platforms, concourse and a rail head with part brick and part sandstone ashlar three storey buildings on each side, covered with slated roofs. An hotel was added later, in 1852-53, this joining the office buildings at the north-eastern end, thus creating a "U" shape around the rail head. The central platforms were covered with a massive ornate steel and glass canopy roof. Following the decision to extend the railway northwards, and the construction of York's current railway station in 1877, the old central station area became sidings and offices. Several additions to the north-western building were made in the 1960s. The original Grade II * Listing was applied in 1974 under the description "Old Station and Former Station Hotel".

9. City of York Council, having resolved in 2005 to consolidate most its city centre buildings which were spread over 16 separate sites, into a single principal hub, with just one

other city centre building to remain, acquired the site in 2010 for £6.25 million (net of Stamp Duty Land Tax). It embarked upon a major redevelopment project to refurbish most the existing buildings, demolish and replace the 1960's additions, and construct a new central core. This architecturally impressive steel framed and part glazed roofed core, whilst freestanding, is linked into the three wings and provides four floors (with part mezzanine) of open plan high grade new offices. The original roof structure that covered the station concourse and platforms has been relocated to the south-western end of the new core, filling in the square and providing covered shelter for up to 300 bicycles. The roof over the central new build section is curved to simulate a typical station roof and the south-western end wall giving onto the cycle store is glass curtain walled creating a very light internal working area. A rainwater capture system has been incorporated and the whole of the property has new heating systems. What were the original station buildings and hotel have been fully refurbished, and the former 1960s additions replaced with traditionally constructed brick and slate roofed sections to match and blend in with the period buildings. Parts have been provided with raised floors and this accommodation now provides cellular offices and meeting rooms with circulation areas and gently sloping bridge links between the old and new parts to account for some minor variations in floor levels. The Council took occupation in March 2013.

10. Externally, the main pedestrian, cycle and vehicular access is off Station Rise which gives onto Toft Green. There is also secondary, emergency access to the adjacent Hampton by Hilton Hotel. To the north-east (former hotel end) there is an outlook over the recently refurbished and restored Grand Hotel, and there is vehicular service access to the appeal hereditament on the north-western side (running parallel with the city wall), shared with Hudson House and George Stevenson House office buildings, and the rear entrance to the Hampton by Hilton Hotel and its car park.

11. The completed development achieved several architectural and design awards in 2013 and 2014, was shortlisted for the Royal Town Planning Institute (RTPI) awards and has a BREEAM "Excellent" Rating, and an Energy Performance Certificate rated "B". The cost of the redevelopment works amounted to £23.64 million, bringing the overall cost including land purchase to almost £30 million.

Issues

12. The appeal concerns the application of established principles of valuation and the remaining issues before me are:

1. The price per square metre (psm) to be applied to the office accommodation, and particularly:
 - a) Whether the appeal hereditament should be valued at an overall rate psm for the office space or whether different rates should be applied to the old and new parts of the building;

- b) Whether the applied values should be adjusted to reflect a quantum allowance.
2. Whether there should be a further end allowance to reflect lack of car parking, and if so, how much.
3. The level of allowance, if any, that should be applied to reflect the fact that the original part of the premises is listed Grade II*.
4. The level of allowance, if any, to reflect layout and split floor levels.

13. It is agreed that the appropriate method of valuation is the rentals method – applying the appropriate unit price (or prices) per square metre to the agreed Net Internal Area. The Antecedent Valuation Date (AVD) is 1 April 2008, and the material and effective dates are 25 March 2013 and 12 April 2013, the latter date being to reflect the transfer of the part of the ground floor occupied by the Citizens Advice Bureau into a separate hereditament.

14. For completeness, I record here that it was common ground that the appeal hereditament contains rateable plant and machinery, the value for that having been agreed. It has been further agreed that the areas of the hereditament having raised floors should attract an addition of 2.5% to the unit price; the basement area is valued at 35% of the main office unit price; the storage areas are valued at 70% and the covered bicycle shelter should be valued at £10 psm.

The VTE decision

15. At paragraph 22 of its decision, on the question of the appropriate unit price psm to be applied to the appeal hereditament, where the Council had sought a basic price (before allowances) of £120 psm for the new build and £100 psm for the older areas, but the respondent VO valued the whole of the hereditament at a single unit price of £155 psm, the VTE said:

“From the description and photographs the panel determined that there was a clear, considerable distinction between the two areas in respect of the qualities of the old and new areas. The differences were in respect of the window glazing, heating and costs of repairs/maintenance due to its listed status. The panel found that the two areas were completely different and if marketed separately would attract different values as such they would be valued on differing rates”.

Considering the arguments relating to the various end allowances claimed by the appellant council, the VTE was not persuaded that there should be any discount for lack of parking (10% having been sought). However, on the 10% sought for ‘mixed ages’/layout/differing floor levels, the VTE said, at paragraph 28:

“The panel was however persuaded that a 10% allowance was warranted in respect of floor levels, layout and the hybrid nature of the construction. This in the panel’s opinion

reflected the access issue from one floor to another, the varying lift accesses and the connection between the old and new constructions.”

At paragraph 29 they said:

“In conclusion, the panel adopted the areas presented by the appellant’s representative, applying a basic rate of £110 psm to the old areas [based upon the comparable at 1-9 St Leonard’s Place] and £145 psm to the new areas [based upon George Stephenson House], a 10% allowance was then applied to reflect the hybrid nature of the building and the differing floor levels...”

Statutory provisions

16. Schedule 6 of the Local Government Finance Act 1988 as amended provides, at paragraph 2(1):

“(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.”

The evidence

17. I consider first, by way of background, the evidence of fact provided on behalf of the Council by Mr Ian Asher before turning to the evidence and argument relating to the outstanding areas of disagreement between the parties, and deal with those on an issue by issue basis.

18. As the Council’s Head of Property Design and Facilities Management, **Mr Ian Asher** was the officer responsible for the procurement of the developer who undertook the West

Offices redevelopment, and the subsequent contract management of the project. He said that the consolidation of the Council's scattered portfolio of buildings into two principal locations (it also continues to occupy a building at Hazel Court) was intended to provide a sustainable and economically worthwhile solution to the costs and problems associated with the multi-site arrangements of hitherto. Many of the original buildings were listed (including the main Georgian terrace of former houses at 1-9 St Leonards Place), costly to maintain and operate and several were also leasehold. The public had difficulty establishing which premises to visit, and a "silo" mentality existed amongst the staff within the various outlying departments.

19. The Council was seeking a low carbon footprint building, and a low-carbon attitude to transport for both staff and visitors – hence the extremely limited car parking and the extensive bicycle storage facilities at the new site. The reasons for choosing the West Offices site (over one other potential new-build alternative) were its central and convenient location for staff and users, good local transport links and with the original buildings being of historic importance and in an attractive setting, it would provide an impressive civic presence. Able to accommodate some 1400 staff, it would provide a fully integrated and welcoming York Customer Centre that was fully Disability Discrimination Act (DDA) compliant. It now provides a "fully inclusive environment supporting an open and interactive culture and a flexible working regime". The project to transform the site from what had become a run-down former station and goods yard area, with adjoining poor quality offices and a former hotel was a major task, made the more difficult because of the Grade II* listing and the constraints that brought in terms of satisfying English Heritage and the planners. Whilst it now offers an attractive and highly impressive working environment, there have had to be a number of compromises and it cannot, due to those constraints, offer the level of environmental features that would have been achieved if the City Council had constructed a new building from scratch – which would have been the case if they had opted to go for a larger, virgin site in Hungate. That option was not pursued due to apparently insurmountable planning problems.

20. Thus, by mixing the new and old at West Offices, there are difficulties in achieving full DDA access due to differing floor levels creating the need for double-sided lifts between floors at the junction of the new and old parts. It was not possible to replace the old single glazed timber frame sash windows with modern powder coated aluminium double glazed units that would have been more efficient for heat retention and would also be much less expensive to repair and maintain. Costs of maintenance generally in a listed building are much higher than in a new one. Heating and cooling the old and new parts of the building due to their different thermal energy characteristics is problematical and costly. Indeed, Mr Asher said it had been necessary to install a series of destratification fans to circulate warm air from the upper parts of the new part of the building (which gets extremely hot) to the ground floor which was difficult to heat to the required temperatures. These have been partly but not wholly successful, and there is still a temperature difference between lower and upper floors for most of the time. Cooling the building in the summer months is also difficult, and energy costs in creating an acceptable working environment have been higher than would be the case in a bespoke new building. There are also problems with acoustics in the cellular offices within the older parts of the building due to the high ceilings.

21. It was certainly the case, Mr Asher explained, that costs of occupation of this building were higher than could be expected in a complete new-build, although he was unable to say if insurance costs were increased because all the Council's buildings were covered under a single block policy. As to the lack of car parking, whilst it was the Council's intention to "lead by example" and encourage staff (and visitors) to walk, ride or use public transport, this has created many difficulties. Cars are required for many staff to carry out their duties, and the Council has a pool of 12 for those purposes. But, they need to be housed somewhere and the costs of keeping them in public car parks is considerable. They also rent another 12 spaces in the adjacent multi-storey car park – six for staff with mobility issues and six for general visitors. Other staff must use taxis to go about their business when a pool car is not available, and fare reimbursement is another considerable cost. The lack of parking, whilst laudable in environmental terms, has proved to be a huge inconvenience in the operation of the Council's business, and Mr Asher said he felt sure this would be a major consideration and possible deterrent by any other potential occupier.

22. Mr Asher acknowledged that, whilst he was arguing that the costs of maintenance and repair to listed buildings was higher than it would be if they were not, the Council was aware when it decided on West Offices that they were listed too. Nevertheless, there were other considerable advantages in choosing that location including its high profile and convenient position within the City Centre and a quality office building was an important consideration. He accepted that the costs of occupation of the new building were relatively low in comparison with those that had been vacated, but low maintenance costs at this stage were due to the refurbishment and redevelopment having only recently been completed, and thus were still in "as new" condition.

The issues

23. Mr Hunter provided, as an appendix to his main report, a substantial and immensely detailed portfolio of comparable assessments, to support the figures for which he was arguing. Ms Edwards did likewise to support hers. They both then filed similarly comprehensive rebuttal reports, commenting on each other's reports almost on a paragraph by paragraph basis. Due to there being broad agreement on the appropriate values psm for old and new, small and large, office accommodation in York (as recorded in the statement of agreed facts), I have not considered it necessary to record the detail of all that evidence.

Issue 1: Price per sq m and quantum allowance

24. **Mr Colin Hunter** explained his view that it was appropriate to apply separate unit base prices psm to the agreed net internal floor areas of the old and new parts of the hereditament. It was clear from the extensive comparable evidence that had been agreed between the experts that there were different rates for old and new office buildings. Based principally on the assessments on George Stephenson House for the new parts, and 1-9 St Leonard's Place for the original buildings, he adopted figures of £145 psm and £110 psm respectively, the same figures argued before, and accepted by the VTE as the appropriate initial values prior to adjustments. He said that, in principle, he did not disagree with Ms Edwards' opinion that a single rate

applied to all the offices was an approach that could be adopted and would be the likely outcome of negotiations with a prospective tenant, but that overall unit price must necessarily comprise a balance between the differential values that are applicable to the separate parts. However, in adopting a rate for the whole, at £147.50 psm, Ms Edwards had applied a figure that was higher than had been agreed upon any other office space in York. It was towards the upper end of the range for the best new office accommodation, and much more than for any older, refurbished units. That overall figure therefore makes no allowance for the occupational disadvantages of the older parts of the building. The only building where the assessment was higher, at £150 psm (General Accident – now Aviva, Wellington Road, York), which is the imposing modern development on the Ouse Riverside adjacent to Station Bridge and extends to 8,400 sq m, is currently under appeal.

25. The figures adopted (prior to quantity allowance) are, Mr Hunter said, based principally upon the settled tone of values established in York for the 2010 rating list. He also considered the rental evidence provided by Ms Edwards, but it needed to be borne in mind that as to market rental levels, a significant part of the appeal hereditament is new, and was not occupied until some 5 years after the AVD. As to his adopted rate for the new part, his figure was close to that applied by Ms Edwards (£2.50 psm apart) so there was no significant dispute as to that value, although as he had said, hers was for the whole building and she considered that there should be no differential between the old and new parts. Regarding his suggested base figure for the older parts, it was pointed out that they had been assessed in the 2005 rating list as 19 small office suites, 17 of which were at £75 psm, and in accordance with the rating hypothesis it had to be assumed that they were in “a reasonable state of repair.” Those figures were not, as Ms Edwards had wrongly suggested, low because the premises were at the relevant AVD actually in very poor condition. For Ms Edwards to value the older parts of the building now at more than twice the previous assessments was unsupportable. The £110 psm base price he had arrived at for the 2010 rating list was clearly supported by the settled levels of good quality historic offices in York, and indeed Ms Edwards had agreed in cross-examination that that was the appropriate figure for pre-1900 offices.

26. Whilst it was acknowledged that the question of quantum had not been before the VTE, the evidence for a quantum allowance that in Mr Hunter’s view should be applied to the base unit price was primarily shown from settled appeals in other locations. There were two large modern offices in Leeds and Sheffield where specific quantum allowances had been agreed between the ratepayer’s agent and the VO based upon upwards or downwards adjustments at a rate of £1 per 1,000 sq m from a headline net internal area figure. Whilst there was such a scheme in those locations, Mr Hunter acknowledged that the rates psm in those cities were of no assistance to the assessment of rates in York.

27. It was accepted that there is no agreed scheme, either formal or informal, for quantum adjustments in York, which does not contain the volume of large office buildings that are prevalent in those other locations and that there was no evidence of any *specific* quantum allowances being agreed in this city. However, there are a few large buildings, and Mr Hunter said that such an allowance can be inferred from settled appeals. For instance, the former Norwich Union building (Yorkshire House, Rougier Street, York) which is within the City

Centre close to the appeal hereditament, was settled at £120 psm when it was assessed as a single hereditament of 8,297 sq m. It was subsequently split into two hereditaments of 6,560 sq m and 1,734 sq m and the rates applied were £122.50 and £130 psm for the units respectively. Ms Edwards, who had originally suggested that the difference was due to layout disadvantages when they were a single hereditament, was advised that these disabilities were in fact covered by a separate (2.5%) allowance, and accepted that she was otherwise unable to explain the reason for the differences. It was submitted, therefore, that there was a clear implication that a quantum adjustment had indeed been applied. Mr Hunter pointed out that as the respondent VO was cross-appealing, Ms Edwards was under an equal obligation in terms of burden of proof when arguing that no quantum allowance should be made. It was pointed out in closing that Ms Edwards had accepted that this quantum discount had been expressly acknowledged in the VTE decision on 1st, 2nd and 3rd floors, Queens House, Micklegate, York. Whilst these are significantly smaller than the appeal hereditament (approximately 1,925 sq m), the decision in *British Telecommunications PLC v Broadway (VO) (No2)* [1996] RA 297 was said to clearly demonstrate that evidence on considerably smaller hereditaments that support a quantum allowance can be sufficient to justify a quantum allowance on a larger hereditament.

28. Finally, Mr Hunter accepted that the 10% allowance for quantum that he had adopted (making £130 psm for the new areas and £99 psm for the old) has no empirical basis other than general precedent – this including a decision of the VTE in respect of Selby Civic Centre.

29. **Ms Edwards** is an officer of the Valuation Office Agency and is authorised to act for the purposes of this appeal on behalf of the respondent VO, Mr Christopher Sykes LLB MRICS. She said that the rental evidence coupled with the agreed tone evidence supports an acceptable range of values for the appeal hereditament of £130 - £150 psm. An analysis of the tone applied to smaller offices (between 1,000 and 5,000 sq m – of which there are 18 in York) produced a value range of £110 psm for pre-1900 hereditaments, and £120 to £130 psm for more modern units. The available rental evidence indicated a prevailing level of around £135 psm for the smaller units of all ages. Larger offices, of which there are fewer examples, produced a value range of £140 to £160 psm, and the tone of assessments gave levels from £130 to £150 psm (Mallard & Foss House – two separate modern buildings assessed as a single hereditament at £130 psm, George Stephenson House adjacent to the appeal hereditament at £145 psm and General Accident at £150 psm, although that is subject to appeal). Thus, there was no marked difference between levels for the largest and smaller office buildings in York, hence her view that Mr Hunter’s arguments for differing levels between the old and new parts were ill founded. There were no hereditaments at all in York that had a mixture of old and new accommodation to support his opinions.

30. Due to the recent high quality refurbishment, the building’s significant historic importance, its excellent green credentials and the overall award winning design, it was appropriate to apply a figure at the upper end of the range - £147.50 psm. For example, the BREEAM Excellent rating and Energy Performance Rating “B” was remarkable given that some 30% of the building’s floorspace is Victorian. This would contribute to low running costs, although to counter that Mr Hunter said that the best new office buildings could be expected to achieve a Grade A rating.

31. Ms Edwards said that the quality of the refurbishment of the older parts of the building (including the complete rebuilding of the 1960s additions) and the fact that the blend of old and new serve to complement each other and enhance the overall working environment negated any argument for applying different levels of assessment. The new part of the building provides open plan office space, and the older parts provide cellular offices, meeting rooms, canteen and breakout areas and accommodation for activities that need general confinement and privacy. The building is occupied by the council as a single user and has been designed and laid out in a way that covers all its occupational requirements. Whilst it was argued by the appellant ratepayer that the prospective hypothetical tenant would not see this allegedly beneficial blend of old and new or that fact that it had won prestigious awards as adding value, Ms Edwards said she did not agree. An example was the new Hiscox Insurance building in Peaseholme Green York which is owned freehold and where Hiscox in designing it was looking to achieve a unique and highly impressive design. That was a building of 4,422 sq m that had been assessed at £140 psm but it was also under appeal.

32. Regarding Mr Hunter's reference to the assessments in the 2005 rating list, Ms Edwards said that there was simply no comparison between what the old parts of the building were like when nearly all 19 separate hereditaments were assessed at £75 psm irrespective of size and age, and what was there now. The areas ranged from 20 sq m to 2,000 sq m and the total was 5,900 sq m, were run down and in poor order and had been let as a range of small offices and storage areas. The buildings were described in the promotional document following completion of the rebuilding and refurbishment "West Offices – Safeguarding Heritage" as having no viable future and at risk of being added to the English Heritage Register of "listed buildings at risk." The 2005 RV reflected these facts and that the buildings surrounded an old and by then disused railway sidings. All the post 1900 parts of the "old" buildings (which made up around 42% of total) were demolished as part of the development project so a significant portion of what was the original area is now in fact new. The run down and decrepit nature of the site and buildings prior to the project has been transformed into a building of the highest quality and its immediate surroundings have been enhanced to make it an attractive and important location just off the city centre.

33. Ms Edwards pointed out that if all the allowances being sought by the appellant ratepayer (-10% for quantum, - 10% for lack of car parking, - 10% for layout and split floor levels and – 12% for the fact it was Grade II* listed (Victorian part only), this would give a net figure for the modern part of £104 psm and £67.32 for the old part, that being 10% less than the 2005 figure of £75 psm despite the premises now being vastly superior to how they were in the previous assessments. In response, Mr Hunter said that that 10% difference reflected quantum, but then accepted that could not be the reason as the largest of the previous 19 assessments was 2,900 sq m and so there would be no quantum allowance there. One was not, therefore, comparing 'apples with apples'.

34. On the quantum allowance, Ms Edwards reiterated the fact that the evidence clearly shows that there is very little disparity between rent and tone levels between large and small hereditaments in York. Thus, there is no justification for Mr Hunter's arguments under this head. He is seeking a 10% discount for size across the whole building without any coherent

supporting evidence. It was accepted that the market, and the VO's approach to valuation, was different in Leeds and Sheffield to what it was in York, and yet he was using the approach adopted in those other cities in aid of his arguments. Those allowances were £1 per 1,000 sq m from an (unspecified) headline rate. Based on George Stephenson House which is 7,000 sq m and is agreed to be the best comparable (at least as a modern building), where the RV assessment is £145 psm, this would bring the rate for West Offices down to £141 psm as it is 4,000 sq m more. But, Mr Hunter is seeking a reduction of 10% on the new part to £130 psm. Further, whilst arguing for differing rates on the old and new parts of the building he is also seeking an equal 10% quantum reduction on both parts. This was submitted to be an odd approach as it was understood he was of the view that quantum allowances should only apply to buildings of over 5,000 sq m. That is more than the total area of the old part. Moreover, the modern part which consists of some 7,000 sq m is similar in size to George Stephenson House, so it can equally be argued that there should be no allowance at all.

Conclusions – Issue 1

35. Firstly, as a general point, I have had the very considerable advantage over the VTE of having inspected the appeal hereditament. This is one of the largest office buildings in York, and is unique in that it is, as the VTE described, a hybrid building comprising a comprehensive refurbishment (and part reconstruction) of important listed buildings along with the “stitching in” of a substantial new and architecturally impressive central core. It was agreed between the experts that there was nothing directly comparable, and the task of comparing RVs applied to other hereditaments and making appropriate adjustments has not been a straightforward exercise. That the VTE was content to rely solely upon the experts' descriptions and opinions along with a series of photographs without carrying out its own inspection and forming its own views is, to my mind, a little surprising. This is particularly so as the issues regarding the appropriate end allowances specifically relate to alleged difficulties of occupation thrown up by the hybrid nature of the building. It seemed to me that an inspection was required before I could reach a fair and fully considered decision.

36. The VTE said that because the two areas of the building were completely different they would *if marketed separately* attract different values and would thus attract different rates. That would be fine if the areas could be separated which, of course, they cannot. They are inextricably linked and blend in with each other forming a part of what, without very substantial alteration and re-modelling, could never realistically be more than a single operating unit. If they had inspected West Offices, that would have been abundantly clear, and they may well have reconsidered their views as to whether different rates should be applied. It was not only the VTE panel who had not inspected the hereditament. I note from its decision that Mrs Anderson, the respondent VO's representative, also admitted to not having viewed the interior.

37. Turning now to the issue of base value, and principally for the reasons given in the previous paragraph, I am persuaded by the respondent's arguments that a single rate should

apply to the whole building. It is, as has been agreed, unique in the City of York in being a blend of old and new and the standard of refurbishment to the older parts is equal to the standards, and in some respects, possibly better than those applicable to the new part. The new section is known to be prone to overheating at the upper levels, this having necessitated the installation of retrofit air handling and circulation equipment. I accept the argument that the fact the older sections comprise cellular offices should not be construed as amounting to a disability. Bearing in mind the nature of the occupier's intended use of the building when the development project was being planned - the coming together of a wide range of different departments each with their own requirements and in many cases a need for private meeting and "break out" rooms, I would have thought that the blend that has been achieved would be ideal. That must be the situation for the Council, and in my judgment, would be equally so for other occupiers requiring such large amounts of space.

38. As to the appropriate rate to apply, there is little between the parties in terms of the value for newer buildings and I agree that in York the disparity between new and old is not great in terms of value ranges. Frankly, I see no reason not to adopt the lower of the experts' two figures - £145 psm which equates to the assessment for George Stephenson House (agreed to be the best comparable) and was also the figure applied by the VTE. I accept that the fact the appeal hereditament has won prestigious awards is not relevant to the task in hand, although it supports a view that it should be towards but not necessarily at the top end of the range. I do accept that the energy performance rating at "B" is less than could be expected of the best new office buildings, and am thus disinclined to accept Ms Edwards slightly higher figure. The £145 psm will apply, as the base unit value, to the whole building. This figure will be increased by 2.5%, as agreed between the parties, to those parts of the building that have the benefit of raised floors.

39. I fully accept Ms Edwards' reasoning (set out in paragraph 33 above) why Mr Hunter's arguments for so many end allowances simply do not stack up. If all his allowances were applied, the resulting assessments would be way out of line with all the other hereditaments that the experts have relied upon and, indeed, as Ms Edwards said, the final figure for the older part would be about 10% less than that which was applied in the 2005 rating list. Whilst I accept that, under the rating hypothesis, it must be assumed that the premises are in reasonable condition and fit for occupation, there is of course a significant difference between what they might have been like prior to this refurbishment, even in such order, and the position now where they are of high quality and with all modern accoutrements including heating and lifts. There is of course the need to consider what issues should be included as end allowances and there is then the opportunity to "stand back and look" at what would be an appropriate figure to be applied, but as I have said, the level of allowances that Mr Hunter seeks produce an unacceptably low end result. I shall turn to the evidence on those allowances after first dealing here with the question of a quantum allowance.

40. Once again, I prefer Ms Edwards' evidence and argument. There is no evidence of a *specific* quantum allowance having been agreed or applied on any office buildings in York. Mr Hunter accepted that the rates in Leeds and Sheffield where there are many more large office buildings, and where the adopted practice is to apply allowances, are of no assistance in this

appeal. The appeal hereditament is the second largest in York, behind Mallard and Foss House where, again, no quantum discount has been applied. The 10% discount Mr Hunter seeks would bring the appeal hereditament down to the same level (£130 psm) but that seems to me to be no justification. For the same reasons as apply to Leeds and Sheffield, I am also not inclined to accept the argument that a specific allowance for quantum was made on a building in Selby. I am certainly not convinced by the alleged acceptance of a quantum discount in the matter of Queens House in Micklegate. I therefore reject the appellant's case on this point.

Issue 2: Lack of parking

41. The appellant seeks a 10% discount from the base price to reflect the fact that the second largest office building in York has a strikingly low level of parking (at 14 spaces). This has created considerable difficulties and has led to increased costs for the Council, as outlined by Mr Asher. Whilst Mr Hunter accepts that "there is no direct rental evidence that I am aware of [in York] to support this allowance" and it is accepted that parking spaces are normally rated separately, he said that there are precedents elsewhere (Selby, Bingley and Welwyn Garden City) where discounts ranging between 3% and 10% had been applied. Any hypothetical tenant for the appeal hereditament would find the lack of available on-site parking a significant deterrent, and the costs of using the nearby public car parks are significant. There is also the question of access for disabled workers, of whom there are more with cars working in West Offices than there are parking spaces available. There was also a good argument, he said, for applying a discount where the annual cost of parking nearby (£2,000) substantially exceeds the value per space applied by the VO (£750). The ratio of parking spaces to floor area at the appeal hereditament at 1 space per 799 sq m is markedly less than at comparable buildings: 1/50sq m for Mallard & Foss House, 1/128 sq m at George Stephenson House, 1/129 sq m General Accident (Aviva). Other than the Hiscox building (which is significantly smaller and is in any event subject to appeal where lack of parking is also said by Mr Hunter to be a live issue), there is no office building in York that has less than 1 space per 184 sq m.

42. It was accepted by Mr Hunter that no such allowances have yet been made in York, and the 10% allowance sought was somewhat arbitrary. With no evidential support, it was admitted that it was a difficult issue for the appellant, but it was pointed out that until now there have been no offices with such a striking lack of parking.

43. It was the respondent VO's case that the matter had been carefully considered by the VTE who said:

"... the panel has considered the location of the property and the fact that the office developments which had parking in York all had additional values per car parking space added to their assessments and those without parking did not have allowance. The panel was not persuaded by any evidence outside of York as it determined that different locations had different markets. Nor was the panel persuaded by the contention that 10% of staff in the development would require parking. Consequently, the panel determined that no allowance for lack of parking was warranted in this respect."

Further, it was submitted (and accepted by Mr Hunter) that the rental analysis is net of car parking and the assessment of offices in York contained in the statement of agreed facts adds value for parking. Thus, an allowance for this issue would, in effect, be double counting.

44. Ms Edwards provided a table that showed not one of the York comparables to have any allowance for lack of parking, including the new Hiscox building that had no parking at all. That was an important fact and was indicative of Hiscox's view that to have parking on the premises was not important. The occupiers of both the General Accident building and George Stephenson House had converted some of their parking spaces to other uses including bicycle stores and changing/shower facilities or plant rooms. The planning policies in place since 2005 have driven such changes and occupiers have been encouraged to keep private vehicles out of town and city centres, and to persuade staff to use sustainable means of transport wherever possible. The appeal hereditament was specifically designed to be a paradigm for those policies and objectives.

45. It was pointed out that the alleged precedents referred to by Mr Hunter were in different types of location in that, for example, Selby was a small market town with a population of only 14,000 against York's 200,000 and did not have the sustainable transport infrastructure that was available in York. In any event, the 10% discount applied in that case was to allow for a short term (6 month) temporary loss of existing spaces whilst a car park was constructed.

46. Ms Edwards said that, in the comparable assessments, parking (at £750 per space across the board in York for uncovered spaces) was treated separately, and thus the analysed rent which the appellant is seeking to discount is net of car parking. As such, when analysing the evidence on tone values of the appeal hereditament against all the comparables, the resultant figures all exclude car parking which is treated separately at a standard, and in all other cases, an accepted rate.

Conclusion – Issue 2

47. I am not persuaded by the appellant's arguments and accept those of the respondent VO. It is clear that the appeal hereditament has a smaller parking provision than any of the other large office buildings, other than Hiscox which is subject to appeal. As Ms Edwards pointed out, it was Hiscox's choice when designing and commissioning its building to make no parking provision, and to my mind that, together with the fact that some of the other offices have reduced their parking provision, provides a strong argument that low levels of parking are not such a disadvantage as to require an allowance to reduce the main space rate derived from comparable assessments where parking is valued separately. A further important reason for not doing so, in my judgment, is the fact that, as with Hiscox, the Council chose not to make any further provision than the 14 spaces it has provided, and in the light of the planning policies and general move away from encouraging private vehicles in city centres, I think it would be inappropriate to accede to the appellant's request.

Issue 3: Listing allowance

48. It is proposed by the appellant that there should be a further 12% discount from the base value psm for the Victorian part of the hereditament only, due to the increased insurance, maintenance and repair costs associated with a building that is listed Grade II*. Again, this is not a matter that was raised before the VTE.

49. In his report Mr Hunter explained the difficulties in terms of maintenance and repair in obtaining listed building consent, the need to consult with various statutory bodies such as Historic England, the additional costs of works of repair and reinstatement due to the need to, as far as possible, preserve the original, and the increased insurance premiums that will apply. Whilst he had been unable to find an insurance broker who would quote different rates for listed and unlisted buildings, and there was no evidence of the additional insurance costs on West Offices because the Council has a global policy covering all its buildings, the fact that buildings insurance premiums are generally higher for listed buildings was unarguable. Although Ms Edwards suggested that the maintenance costs were not currently high due to the refurbishment having only just been completed, the rating hypothesis assumes that the tenant has full responsibility for repairs going forward for the duration of the term and it is an incontrovertible fact that old buildings cost more to repair than new ones. There was also already an example of the sort of problems that can occur whereby there is evidence of lintel failure over one of the original large sash window openings on the ground floor and it has had to be temporarily propped pending an effective repair.

50. What was particularly in issue was the fact that, as Ms Edwards pointed out, over one third of the offices in York are listed either Grade II or Grade II* and parts of the Guildhall are listed Grade 1, yet no *specific* allowances for grading have been made or agreed on any of them. Mr Hunter countered this statement by referring to the Council's former principal office buildings, 1–9 St Leonards Place, York which are listed Grade II*. His firm had dealt with the appeals on that hereditament for the 2000 and 2005 rating lists and at paragraph 93 of his report he said:

“...it was agreed for the 2000 rating list that significant allowances should be given to reflect the layout and listed status of the building or repairing liabilities, but the specific breakdown of these allowances was never agreed. The allowances have been carried forward in each subsequent rating list and it was our opinion that a 2010 rateable value based upon £110 psm less 32.5% giving an adjusted price of £74.25 psm including allowance was fair and reasonable. My analysis of the allowance is 20% for layout and 12.5% for listed building status. However, this may not have been the analysis applied in the negotiations by either side for the settlement of the 2000 rateable value when the level of allowance was agreed.”

51. Regarding the Guildhall, Mr Hunter said that this building had been used as a comparable to demonstrate the level of allowance for listing, to show the differential applied to older and newer parts of the hereditament and “to show that allowances are applied to the

whole building where warranted.” His firm dealt with the appeals on that building for the 2000, 2005 and 2010 rating lists. The allowances which range from 19% for the newer parts of the building, to up to 51.4% for the historic older parts were not, he admitted, specifically broken down or agreed other than that they should include access, layout and ‘other factors’. His own view was that they included layout, age and listed status. The magnitude of the discounts was, he said, clear evidence that the allowances had been made to reflect the high repairing and other costs related to the listed status.

52. Mr Hunter acknowledged that there was no specific reference to allowances for listed status in the rating breakdowns of either of these hereditaments and accepted they were his own views, but insisted that just because it was not noted in the agreement, it did not mean the property was not affected by such disabilities. He reiterated that the appellant was not seeking the listing allowance on the whole building, just the original listed part. In that regard, Ms Edwards advised the Tribunal that Mr Hunter had told her that the listed status now applies to the whole building, but Historic England had yet to update the listing details on their website. If that was the case, then it was strange, she said, that he had not tried to argue that the discount for these alleged disabilities should apply to the whole hereditament.

53. Ms Edwards said she did not agree that the allowances on the Guildhall reflected its listed status. It was a very different building to the appeal hereditament with parts of it dating back to the 15th Century and the newest part is 150 years old. It had not been constructed as an office building, and so in many respects it differed from the appeal hereditament. The allowances had been given for quality, the external access, the medieval part and the fact that a section was a former flat and that it was subject to flooding (the riverside lower level that was the old cells). None of them were to reflect the listing. The high percentage allowance on the medieval areas, which were not in any event offices as they included the former Guildhall, dining rooms and an exhibition room, would have been to reflect the substantial cost of upkeep of such an ancient structure.

54. Having read all the available office records for 1-9 St Leonards Place, Ms Edwards confirmed that there is no reference to any allowances being given for its listed status. As it was formerly nine former Georgian terrace houses converted to offices, a 25% discount was, correctly in her view, applied for layout as it was described by the referencer as a “rabbit warren.” Also, described by Mr Asher as “highly inefficient office accommodation”, and with it having not been DDA compliant, a further 10% allowance was made. The total of 35% was adjusted subsequently to 32.5%.

55. Ms Edwards produced details of the rents agreed and assessments on two 1800s office buildings in York, to support her opinion that there was little difference between listed and unlisted buildings. 37 Tanner Row at 1,377 sq m NIA is a listed Grade II Georgian office building in the Conservation Area upon which she analysed the rent at £148 psm and which has an agreed basic unit assessment of £110 psm. It is in a better location and has a more attractive appearance than Mill House, North Street, which is not listed but is in the Conservation Area and is Victorian. It is 1,528 sq m NIA and the rent was analysed at £152

psm with an agreed assessment also of £110 psm. She also produced evidence of Saxby House, Piccadilly, York which is a four-storey modern office building let, effectively, on full repairing and insuring terms. It is in the Conservation Area but not listed. It is similar in size being 1,848 sq m NIA and the rent was analysed at £135 psm. The basic assessment for rating was £125 psm. This she said, demonstrated that there was no evidence rental values differ materially between listed and unlisted buildings.

56. It was acknowledged that the rental analysis on 37 Tanner Row was based upon a surrender and re-grant of lease to allow re-gearing and that the new lease incorporated an unconditional tenant only break clause, and a 1 month rent free period and that such factors were part and parcel of any rental analysis. Indeed, Mr Hunter insisted that trying to use rental evidence as a guide to the effects of listing status should be attributed no weight. Each of the leases under which these buildings were occupied contained factors that would affect rental value, and it was not possible therefore to form any useful or precise conclusion as to what specific effect listed status would have upon the tenant's bid.

57. It was Ms Edwards' position that in terms of the "hassle factor" of a building being listed, the effects in reality were little different to those applying to any building within a Conservation Area. Any impact of increased costs therefore is across the board throughout the York Central Historic Core Conservation area in which the appeal hereditament is located, and is reflected in rents. To apply an additional allowance would be double counting and therefore no additional allowance should be made.

58. It was submitted that rental evidence reflects the inherent advantages and disadvantages of the relevant hereditaments, so that any perceived disadvantage arising from listing would be reflected therein. It was also relevant to note that the evidence relating to West Offices prior to the redevelopment when it was 19 separate hereditaments, some of which were listed and some of which were not (the 1960s sections which made up 42% of the total) had the same assessments: £75 psm. There was no distinction there, and there should be no distinction now.

59. In any event, when considering the likely costs of ongoing maintenance and repair of the appeal hereditament, the standard of repair must be assumed under the statutory definition of rating valuation "...to be in a state of reasonable repair, but excluding from that assumption any repairs which a reasonable landlord would consider uneconomic". The hypothetical tenant would not, it was argued, reduce his rental bid on the grounds of potentially high repair costs as he would be taking a building, finished to an exceptionally high standard, upon which only normal (within the York Conservation Area) costs could be anticipated.

Conclusion – Issue 3

60. Mr Hunter not unreasonably argues that in the real world the prospective tenant will, of course, consider the likely costs of occupation when making his rental bid, and may well moderate what he is prepared to pay if such costs are potentially, due to the age and nature of the hereditament, much higher than those which would apply elsewhere. However, he has

produced no evidence to support those arguments in respect of the appeal hereditament either as to the actual or budgeted costs of repair to West Offices and he also admits that he has been unable to find evidence of increased insurance costs. Mr Asher mentioned that costs have not been high to date due to the full refurbishment having only recently been completed at substantial cost, but was of the view that they would increase and would be higher than in a complete new build. However, the evidence was that the Council had previously occupied several listed buildings, and there was nothing to suggest that the fact that a part of the new City Council offices was listed had any impact upon the decision to undertake the project.

61. Mr Hunter accepted that there is no conclusive evidence of any specific allowances having been made within the rating list for the city of York to reflect listed status. He did refer to *S G Hughes (VO) v York Museums & Galleries Trust* 2017 UKUT 0200 (LC) (in which he was acting for the respondent) and suggested that the question of listed status was also referred to there. That appeal had been before a differently constituted Tribunal in February 2017, and at the date of the hearing of this appeal, the decision had yet to be issued. That decision was subsequently published on 23 May 2017. The circumstances of that appeal were entirely different and related to historic buildings used as museums and other visitor attractions rather than offices. None of the main valuations were on a comparative basis and the question of allowances to reflect listed status was not specifically in issue; there is nothing in it therefore that assists me in determining this appeal.

62. As to Ms Edwards' evidence, I accept that subjective rental analysis needs to be treated with some caution. However, from the evidence of the tone established by assessments (recorded elsewhere in this decision), there is nothing, in York at least, that indicates different rates apply to listed buildings as against those of similar age and size that are not. Mr Hunter's analysis suggesting that the discounts applied to 1-9 St Leonard's Place and the Guildhall include allowances for listed status is, as Ms Edward's pointed out, purely his own interpretation and indeed he accepted that that was the case. I accept what Ms Edwards says about the Conservation Area and the submission regarding there being no distinction in previous rating lists between the listed and unlisted parts of the original 19 hereditaments forming West Offices.

63. I also accept that the building is at the start of its refurbishment cycle, and have not been persuaded by the argument that costs will necessarily rise disproportionately from other buildings of a similar nature where the tone of the list has been clearly established and where, as I have said, that is no evidence to support Mr Hunter's suggested rather large discount – even though it is confined to the older parts of the building. I therefore find that no such discount should be applied under this head.

Issue 4: Layout/split floor levels

64. The VTE concluded that a 10% allowance should be made for layout, differences in floor levels and for the fact that the building was hybrid. That conclusion was based upon the evidence, and was made without the benefit of a site visit. I have expressed my views in that

regard in paragraphs 35 and 36 above. Mr Hunter said he agreed with the VTE, and referred to the substantial adjustments that had been made to the base assessments psm on 1-9 St Leonard's Place and the Guildhall (those being discounts that he had argued included a listing allowance), together with other comparables where reductions for layout and levels had been made. It was agreed that the design of the new building accommodates changing floor levels using double-sided lifts and gently sloping ramps or bridges connecting the old and new parts of the building on certain levels. There was one part of the building where DDA access was difficult and inconvenient, and there are some differing or stepped floor levels within the older part. Whilst the lifts and ramps reduce the level of disruption created, they do not remove it completely.

65. Ms Edwards said that she could not understand why Mr Hunter was seeking a 10% discount for layout and split floor levels, or why the VTE had done the same over the whole building when any disabilities under these heads were limited to small areas and, for example, on the third floor there were no such issues at all. It was agreed that allowances should only be made to the parts of the building where layout (or other factors) actually proved disadvantageous, but did not think that any such disabilities exist in the appeal hereditament.

Conclusion – Issue 4

66. On the face of it the VTE's allowance does seem somewhat generous given the limited nature of the disabilities relating to layout and changes in levels, and I fail to see why the hybrid nature of the building should be seen as a disadvantage.

67. As to the experts' reference to the agreed comparables, Norwich Union, Yorkshire House at 8,297 sq m NIA consists of two blocks of property, both of differing ages and construction style, so there are some similarities there. That hereditament had a basic rate of £120 psm from which there was an agreed discount of 2.5% but I note that it is currently under appeal. The first and second floors of Queens House, Micklegate, York extending to 1,477 sq m NIA has a basic price psm of £130 and discounts of 2.5% for variations in floor level and 5% for layout. The De Grey Rooms/House St Leonards Place, York has a 2.5% allowance for layout. The specific reasons for the more substantial discounts applied to 1-9 St Leonard's Place and The Guildhall are not agreed, but certainly relate to the inconvenient layout for office purposes, changes in levels and, additional maintenance and repair costs (Guildhall).

68. I really have no alternative but to "take a view" on this remaining issue. When inspecting the appeal hereditament, I couldn't fail to be impressed by the building, and am not at all surprised that it has achieved several prestigious awards. The mixture of old and new blend almost seamlessly together and whilst there clearly are some issues where layout, changes in levels, problems with heating and ventilation and the like, are more onerous than would be the case in a new purpose built block, they are not, in my judgment, major disadvantages. However, when taken all together it is my view that some allowance should be made. As to such an allowance only relating to the specifically affected areas, it seems to me that it should indeed be applied to the whole building. Staff and other users move around the whole building, and all occupiers are disadvantaged to some extent, although obviously some

more than others. There was also no evidence or agreement as the actual extent, in terms of floor area, of the specifically affected parts such as inconvenient staircases, lift accesses, stepped and sloping floors). It is altogether simpler, I think, to reflect these undoubted slight disadvantages on an overall basis (as has been the case with other assessments) and therefore I determine that the allowance under this head should be 7.5%.

Summary and disposal

69. In my view Ms Edwards' point about the ultimate net figures when all the allowances sought by the appellant ratepayer had been taken into account, was well made. The net figure of £104 psm for the new part is significantly below the agreed range of rental values for new office buildings (£120 - £130 psm), and £67.32 for the old part at 10% less than the assessment in the 2005 list demonstrates beyond peradventure the error of Mr Hunter's arguments. The total allowances sought, if accepted, would be a 39% discount from the 'base' £145 psm for the new part, and a 63% discount from the initial £110 psm for the old part. It is notable that on the agreed schedule of comparables there are almost none in York where the agreed base price has been subject to any allowances. If Mr Hunter had "stood back and looked" when he prepared his ultimate valuation, surely he would have realised how inappropriate his end result was.

70. I determine that the appeal hereditament be valued at a single base unit rate of £145.00 psm on the agreed NIA, and that there shall be no allowance for quantum, lack of car parking spaces or the fact that it is listed Grade II*, but there shall be an overall allowance applied under issue 4 of 7.5%. The 2.5% addition to the base rate for those parts of the building having raised floors will apply, bringing the rate for those areas to £148.63.

71. The appeal and cross-appeals are each therefore allowed in part only.

72. Since the experts' valuations do not follow identical formats, the parties are now invited to agree revised valuations incorporating the above determinations, such valuations to be filed with the Tribunal within 14 days of the date hereunder. Following this the valuations will be incorporated and the decision will become final.

Dated: 8 June 2017

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ADDENDUM

73. The parties have now provided the agreed valuations incorporating the Tribunal's findings and determination, copies of which are appended to this decision. They are £1,550,000 RV with effect from 25 March 2013 (Appendix A) and £1,530,000 RV with effect from 12 April 2013 (Appendix B).

74. This decision is now final in all respects other than the costs of the appeal. The parties are now invited to make submissions on such costs and a letter giving directions for the exchange of submissions accompanies this decision.

Dated : 6 July 2017

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P R Francis FRICS

ADDENDUM ON COSTS

75. Submissions on costs have been received from the parties. The respondent VO said that as the determination on each of the four issues, particularly the first, clearly favoured the respondent, the order should be that the appellant pay the VO's costs of the appeal on the standard basis. Whilst the Tribunal said (at paragraph 71) that "the appeal and cross-appeal were each allowed in part only" it was suggested the reality was that the VO had been successful on all points – including point four where despite granting an allowance to reflect layout and split floor levels (where the VO had said there should be none), the figure sought by the appellant was reduced from 10% to 7.5%.


76. The appellant said that as neither party had been wholly successful in the appeal, each should be responsible for its own costs and thus no order should be made. In respect of Issue 1 the appellant said that the Tribunal preferred its submission as to price per sq m (£145 psm against the VO's £147.50) but acknowledged that the VO had succeeded both in arguing for a single rate for the old and new parts of the building, and that there should be no quantum allowance. It was also acknowledged that the VO had succeeded on Issue 2 – no allowance for lack of car parking, and Issue 3 – whether there should be an allowance to reflect the Grade II* listed status - but pointed out that the Tribunal had agreed with Mr Hunter that in the real world, a prospective tenant might moderate his rental bid to reflect higher maintenance costs due to the nature of the hereditament. What was not pointed out however was what the Tribunal said next – that Mr Hunter had produced no evidence to support his argument that costs were or would be higher on this hereditament. On Issue 4 it had been accepted that there should be an allowance for layout and split floor levels, but the Tribunal had applied a reduced amount.

77. Thus, the appellant had, it was argued, achieved some success and the rateable value applied lay below the amount sought by the VO, and above what was argued for by the appellant. Thus, no order for costs would be a fair result.

78. On Issue 1, it can hardly be argued that the appellant succeeded because the Tribunal decided to adopt £145 psm. That was, as was clearly explained in paragraph 38, only the starting point, and there was evidence to support that figure. It was also the figure adopted by the VTE and I saw no reason not to use it. However, the appellant then went on to argue for a whole raft of end allowances which, as I pointed out, would have brought the final price per square metre to a ludicrously low and totally unsupportable figure. On the allowance for layout and floor levels it is true that appellant's arguments were preferred, although the 10% allowance sought was considered too high. That was the only issue upon which an argument that the appellant had succeeded is in my view sustainable.

79. In my judgment, the fairest conclusion would be to make a nominal allowance for that element of success. I therefore determine that the appellant shall pay 85% of the respondent VO's costs of the appeal, such costs to be determined subject to a detailed assessment by the Registrar if not agreed.

DATED 3 August 2017

A handwritten signature in black ink, appearing to read 'P R Francis', written in a cursive style.

P R Francis FRICS



Valuation Office
Agency

Summary Valuation produced by the
Valuation Office Agency

This is not your bill which will
be issued separately by your
local authority

(See enclosed explanatory leaflet)

WEST OFFICES, STATION RISE, YORK,
YO1 6GA

Property description: Offices And Premises

Special category and code: Offices (Inc Computer Centres)/203

Basis of measurement: Net Internal Area

COMPONENT PARTS OF THE PROPERTY

Ref	Floor	Description	Area m ² /unit	£ per m ² /unit	Value (£)
1.1	Basement	Stores (Victorian)	23.62	50.75	1,199
1.2	Basement	Stores (Victorian)	199.97	50.75	10,148
1.3	Basement	Server Room (Victorian)	84.46	50.75	4,286
1.4	Ground	Office (2013)	2139.33	148.63	317,969
1.5	Ground	Office (2013) (Cab)	128.90	148.63	19,158
1.6	Ground	Locker Room (2013)	102.67	123.24	12,653
1.7	Ground	Entrance (2013)	41.40	145.00	6,003
1.8	Ground	Office (Victorian)	959.69	148.63	142,639
1.9	First	Office (2013)	1565.61	148.63	232,697
1.10	First	Office (2013)	270.91	148.63	40,265
1.11	First	Office (Victorian)	858.65	148.63	127,621
1.12	First	Stores (Victorian)	37.28	101.50	3,784
1.13	Mezzanine	Office (Victorian)	147.91	148.63	21,984
1.14	Second	Office (2013)	1565.61	148.63	232,697
1.15	Second	Office (2013)	270.97	148.63	40,274
1.16	Second	Office (Victorian)	852.70	148.63	126,737
1.17	Second	Stores (Victorian)	28.96	101.50	2,939
1.18	Third	Office (2013)	1565.61	148.63	232,697
1.19	Third	Office (2013)	261.31	148.63	38,839
1.20	Third	Office (Victorian)	214.00	148.63	31,807

ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION

	Canopy	572.03	10.00	5,720
	Plant and Machinery			13,771
	Surfaced Open Spaces	14	750	10,500
valuation sub-total				1,676,387

ADJUSTMENTS MADE TO THE SUB TOTAL

	Layout	-7.50%		
				-125,729

The total of all the elements above is £1,550,658, which we have rounded down to a rateable value of £1,550,000. This is effective from 25 March 2013.

If you have any queries regarding business rates, rateable values, and the 2017 Revaluation, you can find out more information on our website www.gov.uk/voa/revaluation. You may also see your property details, compare with others', and estimate the amount of business rates you will pay. You can search online by post code, address or BA reference number.

For official use only

List Year: 2010	Billing Authority: City Of York
BA Ref: 2741YCC2003553	VO Ref: 26934597244

Edward B

Kerry Edwards MPICS

Colin Hunter

C. HUNTER MPICS REV (HONS)



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Ref	Floor	Description	Area m ² /unit	£ per m ² /unit	Value (£)
1.1	Basement	Stores (Victorian)	23.62	50.75	1,199
1.2	Basement	Stores (Victorian)	199.97	50.75	10,148
1.3	Basement	Server Room (Victorian)	84.46	50.75	4,286
1.4	Ground	Office (2013)	2139.33	148.63	317,969
1.5	Ground	Office (2013) (Cab)	N/A	0.00	0
1.6	Ground	Locker Room (2013)	102.67	123.24	12,653
1.7	Ground	Entrance (2013)	41.40	145.00	6,003
1.8	Ground	Office (Victorian)	959.69	148.63	142,639
1.9	First	Office (2013)	1565.61	148.63	232,697
1.10	First	Office (2013)	270.91	148.63	40,265
1.11	First	Office (Victorian)	858.65	148.63	127,621
1.12	First	Stores (Victorian)	37.28	101.50	3,784
1.13	Mezzanine	Office (Victorian)	147.91	148.63	21,984
1.14	Second	Office (2013)	1565.61	148.63	232,697
1.15	Second	Office (2013)	270.97	148.63	40,274
1.16	Second	Office (Victorian)	852.70	148.63	126,737
1.17	Second	Stores (Victorian)	28.96	101.50	2,939
1.18	Third	Office (2013)	1565.61	148.63	232,697
1.19	Third	Office (2013)	261.31	148.63	38,839
1.20	Third	Office (Victorian)	214.00	148.63	31,807

ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION

	Canopy	572.03	10.00	5,720
	Plant and Machinery			13,771
	Surfaced Open Spaces	14	750	10,500
	valuation sub-total			1,657,229

ADJUSTMENTS MADE TO THE SUB TOTAL

	Layout	-7.50%		
				-124,292

The total of all the elements above is £1,532,937, which we have rounded down to a rateable value of £1,530,000. This is effective from 12 April 2013.

If you have any queries regarding business rates, rateable values, and the 2017 Revaluation, you can find out more information on our website www.gov.uk/voa/revaluation. You may also see your property details, compare with others', and estimate the amount of business rates you will pay. You can search online by post code, address or BA reference number.

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List Year: 2010	Billing Authority: City Of York
BA Ref: 2741YCC2003553	VO Ref: 26934597244

Edward

Lucy Edwards (MRS)

Ch. Hunter

C. HUNTER MRS (WIFE)