

found” the proposals, each dated 28 November, 2014 and each seeking a reduction in rateable value (RV) to £1 from 1 April, 2010. The unresolved matters were referred to the tribunal as appeals under reg. 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations 2009.

3. Upon the application of the parties, the hearing of the appeals was consolidated. Facts for each were not untypical although Mr. Hoskins refers the panel to the tenancy on Suite 16/17 while Mr. Withers addressed the facts pertinent to Suite 10.
4. In accordance with the provisions of the tribunal’s practice statement A7/1, both parties have submitted statements of case;
In his statements, Mr. Hoskins provided a single schedule setting out his case for reductions in RV; he seeks a reduction in the existing band of main space prices (from either £67m² or £67.50m² to a range between £40m² and £47.50m²).
In each of Mr. Withers’ statements of case, a case was set out to “request the tribunal to dismiss the appeal and confirm the RV £960 in the list with effect from 01-Apr-2010”. In response to questions from the panel, he accepts this reflected a mistake which was erroneously pasted into the other 24 statements and amounted to a word processing error.
5. Two preliminary issues arose;
Firstly, Mr. Withers explained he would not be relying upon rental evidence. Secondly, Mr. Hoskins complained that he was unaware the VO would be introducing an expert witness and he feared he may be disadvantaged by the introduction of evidence not previously discussed by the advocates. The panel held the hearing would proceed on the proviso that Mr. Hoskins would alert the panel to any areas of new argument.
6. The absence in this decision text of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.

Issues

7. The principal issue concerns the main space price to be adopted for the offices given the material day of 1 April, 2010 and the antecedent valuation date of 1 April, 2008.

Evidence and Submissions

8. Both parties have provided oral and written evidence in support of their statement of case.
9. Commerce House is a building of indeterminate age (perhaps 1950s built) located in the centre of Hull and it provides suites of serviced office accommodation. Much of the building remains vacant with just four tenants in occupation at the date of proposal (this may differ from facts passing at the material day). There is common ground that the demand for offices locally, whether serviced or not, is not high and the town centre does not proffer an abundance of purpose-built offices.
10. While there is a rent passing on Suite 16/17, Mr. Hoskins argues that comparison should be had with the assessments of nearby Queens House, the facts and characteristics being comparable to Commerce House. He contends there is no need to look further afield for comparable properties which themselves may be affected by different market pressures. Commerce House has a lift which is accessed by a number of steps. It has been unserviceable for some time and is unlikely to be repaired given the very low number of tenants in occupation.

11. In respect of the service charge cost breakdown, and terms of a typical tenancy at Commerce House, Mr. Hoskins provides an explanation of the documents within his bundle of evidence. The tenant pays a “clean rent” to the landlord who then pays for the electricity and gas consumed, cleaning, heating and repairs and also the general rates accruing. There are tenant-favourable annual break clauses where the tenant is required to give three months’ notice.
12. Suite 16/17’s rent derives from a January 2006 lease and, while helpful to a degree, Mr. Hoskins argues that that the tone of list (including appeal settlements) is more persuasive; he refers the panel to *Specialeyes Plc v Felgate (VO)* [1994] RA 338 and the creation and establishment of a tone of the list. The 2006 rent analyses at £48.78m² once the service charge of £92.22m² is deducted. Mr. Hopkins says the rental figure of £45m² he has adopted is very similar to the settled assessments at nearby Queens House, which he describes as providing contemporary office space with many similar features. Like Commerce House, Queens House has ground floor retail units and poorly presented office space. The two buildings are just 200 metres apart and given that there are popular retail occupiers at Queens House, such as Ladbrokes Bingo, Mr. Hoskins contends that property is the more desirable of the two.
13. In response to the questions from the respondent, he says the service charge estimates derive from 2010-11; he accepts that this is some two years post-AVD and the rent on Unit 16/17 is two years pre-AVD. He argues that the rents have been consistent and unchanging; he contends the service charges would not have differed much in the two intervening years. He is not able to provide vacancy levels for April 2008 or April 2010. Mr. Hoskins says he would be happy to follow the VO’s pronouncement and cast aside the rental information; but he would rely on Queens House to produce comparable property assessments.
14. In response to the panel’s questions, Mr. Hoskins contends the varying main space price is derived from quantum adjustments typical of size of unit let; such adjustments are typical of leases on differing sizes of offices.
15. For the VO, Mr. Withers contends the appellant is relying on a single rent to justify his proposed assessment and that rent is from a tenancy agreed in January 2006, a date too far from the 2008 AVD to provide reliable evidence. He is also critical that the appellant has produced an undated schedule of service charges. Additionally, he argues the schedule may not be accurately reflective in that many of the Suites would have different general rates accruing from those shown given their disparate RVs. He argues neither the rent nor the service charge schedule can be persuasive.
16. Mr. Withers introduced Mr. Bissett, the VO’s expert on office assessments in Hull; he has been instrumental in determining the level of office assessments locally since the 2000 rating list came into force. He says the settlement of appeals on Queens House leading to lower RVs arose because the owner’s representative approached the VO in 2011 and 2012 and provided evidence of rental transactions from 2008 that had not been available to the VO in 2008 and 2009 when the 2010 list was being compiled. Mr. Bissett says the low numbers of office buildings in the town centre means there is a greater reliance of rental evidence passing to produce a tone, rather than on comparability which is often found in larger towns and cities. The approach which has been adopted in previous rating lists has led to office buildings having different main space prices.
17. Asked to discuss other offices in Hull town centre, Mr. Bissett refers the panel to Shirethorn House and Friary Chambers. He says the latter, in particular, has been active

in the same clientele market as Commerce House. Mr. Bissett acknowledged that Friary Chambers is currently vacant and he is not aware of the reason for that. However, he contends there are differences in the lease arrangements between Commercial House and Queens House in that the latter may offer leases of offices which may not provide “serviced accommodation” in the way Commerce House does. Asked for an opinion, Mr. Bissett casts doubt on the appropriateness of Queens House as a source of comparable property evidence.

18. Responding to questions from the panel on his description of Queens House as both unique and inappropriate as a source for a tone, Mr. Bissett says the building has acquired a poor reputation, given the nature of some of its ground floor retail occupants. Some of the offices of the uppermost floors are disadvantaged by having only roof light windows. The building’s entrance is concealed and its management has undergone difficulties in recent years seeking new tenants. He is aware that in 2011-12, its occupancy levels were below those of Commerce House. Disregarding rental evidence, Mr. Bissett provides his personal hierarchy of offices in Hull’s town centre; Friary Chambers, Shirethorn House, Commerce House and Queens House.

Decision and Reasons

19. Having considered all of the evidence, the panel allowed the appeals.
20. The statutory definition of RV is provided by Sched. 6 to the Local Government Finance Act 1988, as amended. The valuation date of 1 April, 2008 is provided by Article 1 of the Rating Lists (Valuation Date) (England) Order 2008. The material day for these appeals is the 2010 list compilation date (1 April, 2010) and provision for this is found in the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992.
21. The appeals have one principal issue; to determine the main space price to be adopted. Although rental evidence has been introduced, specifically that of Suite 16/17 by Mr. Hoskins and Suites 12 and 25/26 by Mr. Withers in his statement of case, neither advocate places substantive reliance on the figures provided; the panel holds rents from 2006 and 2010 are too far removed from the 2008 AVD to be persuasive, notwithstanding that the terms of the lets are not on all fours with RV’s statutory definition.
22. The panel agrees with the parties’ approach that reliance on comparable property evidence provides more reassurance. Neither party introduced case law addressing how to weigh such evidence but it is long established that for comparability to be helpful, the properties being compared must be similar in their age, type, character, size and locality. The more distinguishing features found between the properties being compared, the weaker and less reliable the evidence becomes.
23. Mr. Hoskins places considerable emphasis on assessments at Queens House. The VO disagrees with his choice and prefers Friary Chambers and Shirethorn House.
24. The panel finds Queens House to be the closest located comparable property to Commerce House by some considerable margin; the two buildings are both located on Paragon Street. Shirethorn House is located to the northwest of the town centre beyond Prospect Centre whereas Friary Chambers is located to the southeast on Whitefriargate, located beyond Hull’s Maritime Museum. The three comparable buildings have fairly typical external elevations, each having ground floor retail units. Friary Chambers, with a pedestrian road to the front and a slightly more distinctive fascia appears to be the most desirable of the three and would likely be preferable to hypothetical tenant fresh to the scene bidding for office space.

25. Given that Commerce House and Queens House are near neighbours, the panel is instinctively drawn to comparing their respective features first. Although neither advocate could identify the exact year of construction of either, the physical similarities strongly suggest the buildings are of a similar age, quite possibly housing a similar array of small office units. The greater physical distance between the subject property and both Shirethorn House and Friary Chambers reduces the prospect of them being in the same market for the potential tenants.
26. The panel finds Mr. Bissett's evidence as an expert witness insightful, but only to a degree. He provides a number of theories as to why Queens House should not be the obvious and natural source of comparable property evidence for Commerce House. He alludes to difficulties experienced by the building's management and low levels of occupancy; the panel finds low level occupancy to also affect the appeal property and Friary Chambers, according to the evidence presented.
27. Notwithstanding Mr. Bissett's commentary, the panel find a distinct lack of supporting evidence for the opinions he provides. His recollection of variable main space prices for the disparate office assessments in earlier lists being based on rental evidence and not tone cannot be supported in the subject cases of Commerce House simply because there is no helpful rental evidence upon which to rely. The panel holds that there is no obvious justification for not following the compiled list settlements reached on assessments at Queens House as the strongest source of evidence in these appeals. Of the three blocks of offices introduced as comparable, Queens House is the natural comparable property to consider.
28. As concerns the adjustments Mr. Hoskins made to the gross rent to remove the service elements, the panel holds the respondent has not produced an alternative schedule and the panel is bound to adopt the only set of figures provided. It is notable that the resulting "clean rent" is very close to the main space prices agreed by the VO with representatives of Montague Evans on assessments at Queens House.
29. Accordingly, the panel upholds Mr. Hoskins' appeals and adopts the adjusted main space prices as set out by Mr. Hoskins in the schedule at appendix 6 of his bundle.
30. Neither advocate raised the factual matter of areas in their respective evidence in chief. The panel finds layout plans at appendix 2 of Mr. Hoskins' bundle and two columns within his appendix 6 schedule RV schedule pertaining to areas. The two columns are headed Area and VOA Area M² inferring to the panel that he disagrees with the VO's previously adopted areas. However, the RVs he proposes adopts the VO's areas and, in the absence of any advanced arguments disputing the VO's areas, the panel follows likewise and also adopts the existing areas from column headed VOA Area M².
31. The appeals are determined, as follows:

<u>Floor</u>	<u>Description</u>	<u>Area m²</u>	<u>Price £m²</u>	<u>RV £</u>	<u>Say RV £</u>
First	Manager's Office	10.53	47.50	500	500
First	Suite 10	14.36	47.50	682	680
First	Suite 11	8.47	47.50	402	400
First	Suite 12	11.26	47.50	535	530
First	Suite 13	16.85	47.50	800	800
First	Suite 14	12.46	47.50	592	590
First	Suite 15	19.39	47.50	921	920
First	Suite 16-17	42.61	45.00	1,917	1,900
First	Suite 19	34.34	45.00	1,545	1,540
Second	Suite 20-21	30.63	45.00	1,378	1,370
Second	Suite 22	26.93	46.75	1,259	1,250
Second	Suite 23-34	30.32	45.00	1,364	1,360
Second	Suite 25-26	44.20	45.00	1,989	1,980
Second	Suite 27	25.49	46.03	1,173	1,170
Second	Suite 28-28A	32.97	45.00	1,484	1,480
Second	Suite 29	25.24	46.03	1,162	1,160
Third	Suite 30	12.35	47.50	587	580
Third	Suite 31	21.64	47.50	1,028	1,020
Third	Suite 33-34	47.24	45.00	2,126	2,120
Third	Suite 35	16.90	47.50	803	800
Third	Suite 36	11.62	47.50	552	550
Third	Suite 37	16.70	47.50	793	790
Third	Suite 38	35.94	45.00	1,617	1,610
Third	Suite 39	13.35	47.50	634	630
Fourth	Suite 40-44	165.65	40.00	6,626	6,620

Order

32. Under the provisions of paragraphs (4) and (9) of reg. 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the tribunal orders the valuation officer to alter the respective entries in the 2010 list with effect from 1 April, 2010 to reflect the RVs shown in the column headed Say RV £.

33. The alterations must be made within two weeks of the date of the Order.

Appeal numbers:

200424779473/539N10, 200424779630/539N10, 200424779684/539N10, 200424779492/539N10, 200424779479/539N10, 200424779673/539N10, 200424779667/539N10, 200424779643/539N10, 200424779555/539N10, 200424779528/539N10, 200424779434/539N10, 200424779513/539N10, 200424779676/539N10, 200424779875/539N10, 200424779408/539N10, 200424779649/539N10, 200424779417/539N10, 200424779467/539N10, 200424779656/539N10, 200424779495/539N10, 200424779402/539N10, 200424779423/539N10, 200424779483/539N10, 200424779503/539N10 and 200424779518/539N10

Date: 11 November, 2015

PH/LB