

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964
RATES (NORTHERN IRELAND) ORDER 1977

IN THE MATTER OF AN APPEAL

VR/12/2016

BETWEEN

McCALLS OF LISBURN LIMITED – APPELLANT

AND

THE COMMISSIONER OF VALUATION – RESPONDENT

Re: 7-15 Market Street, Lisburn

Lands Tribunal – Henry M Spence MRICS Dip Rating IRRV (Hons)

Background

1. McCalls of Lisburn Limited (“the appellant”) is the occupier of retail premises at 7-15 Market Street, Lisburn (“the reference property”) which was entered in to the 7th Valuation List (“the 7th list”) with a net annual value (“NAV”) of £28,300. The 7th list was published and became effective on the 1st April 2015, with an antecedent valuation date (“AVD”) of 1st April 2013.
2. On 18th May 2015 the appellant lodged an appeal challenging the NAV assessment of £28,300 and on 21st July 2015 (“the valuation date”) the District Valuer issued a certificate reducing the NAV to £27,500. It is well established in Northern Ireland case law that the date of the District Valuer’s Certificate is the relevant valuation date for appeal challenges.
3. On 14th August 2015 the appellant lodged a further appeal to the Commissioner of Valuation (“the respondent”) and on 31st August 2016 the respondent issued a certificate reducing the NAV to £26,500.

4. The appellant then made a reference to the Lands Tribunal on 22nd September 2016, stating that the £26,500 NAV assessment was “considered too high in all the circumstances”. The correctness or otherwise of the respondent’s £26,500 NAV assessment was therefore the issue to be decided by the Tribunal.

The Reference Property

5. The reference property comprises a ground and first floor shop with a 28 metre display frontage to Market Street and a variable depth ranging between 4.7 metres and 8.65 metres, resulting in a very long frontage relative to its depth.
6. It is effectively two adjacent shop units inter-connected by an opening created between them and due to the sloping nature of the street the two units have different floor levels. On the ground floor this has been accommodated by installing two ramps, while on the first floor the units are linked by three steps.

The Location

7. Market Street is situated between the Bow Street/Market Square and Linenhall Street/Smithfield Street junctions in Lisburn city centre. The even number side of Market Street returns to the pedestrianised section of Bow Street and includes seven commercial premises plus a mission hall.
8. The odd number side of Market Street extends from the southern side of Market Square and includes three commercial units plus a church on the corner with Market Square. It was accepted by both parties that, from a retail and rental point of view, the even number side was better than the odd number side.

Survey

9. The areas of the reference property were agreed at:

Ground Floor	Square Metres	
Zone A	116.24	
Zone B	32.69	
Fitting Room/Zone C	<u>1.18</u>	
		150.11
First Floor		
Retail, Store, Staff Room		<u>128.13</u>
	TOTAL	278.24

Procedural Matters

10. The appellant was represented by Ms Elizabeth Ferguson BL, instructed by Joseph Lockhart & Son, Solicitors. Mr Philip Henry BL, instructed by the Departmental Solicitor's Office, appeared on behalf of the respondent.
11. Mr Robert Watson, Chartered Surveyor, submitted written and oral expert evidence on behalf of the appellant. Ms Deborah Rice, Chartered Surveyor, provided written and oral expert evidence on behalf of the respondent. Mr Watson and Ms Rice are experienced rating surveyors.
12. The Tribunal is grateful to counsel and the experts for their detailed submissions.

The Relevant Statutory Framework

13. The relevant sections of the Rates (Northern Ireland) Order 1977 ("the Order") are listed below.
14. Article 51 provides for appeals to the Commissioner of Valuation against alteration of, or decision not to alter, the valuation list, or review by the Commissioner of certain alterations made by him in the list. Article 51(1) provides:

"Any person other than the Department who is aggrieved by an alteration which the District Valuer has caused to be made in a valuation list may, within twenty-eight days of

the service on him of the certificate of alteration appeal to the Commissioner against the alteration.”

15. Article 52 refers to the procedure on appeal to the Commissioner. Article 52(1) and (4) provide:

“52.-(1) Without prejudice to Article 53, where an appeal is made to the Commissioner under Article 51, the Commissioner shall investigate the subject matter of the appeal, and shall review the alteration that has been made or, as the case may require, shall review the decision not to cause the alteration applied for to be made.

....

(4) After completing his review, the Commissioner shall make such decision with respect to the manner in which the hereditament in question is to be treated in a valuation list as appears to him to be proper; and where that treatment requires an alteration the Commissioner –

- (a) shall alter that list accordingly; and
- (b) may make such alteration in any valuation list in relation to any comparable hereditament which is in the same state and circumstances as the first-mentioned hereditament as appears to him to be necessary in order to render the valuations of that hereditament and the first-mentioned hereditament proportionate and uniform.”

16. Article 54 refers to appeals from the decision of the Commissioner:

“54.-(1) Any person, other than the Department, who is aggrieved by –

- (a) the decision of the Commissioner under Article 49A or an appeal under Article 51; or
- (b) an alteration made by the Commissioner in a valuation list in consequence of such a decision,

may appeal to the appropriate Tribunal.

(2) On appeal under this Article the Tribunal may –

- (a) make any decision that the Commissioner might have made; and
- (b) if any alteration in a valuation list is necessary to give effect to the decision, direct that the list be altered accordingly.

(3) On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.”

17. Schedule 12 refers to the general rules in respect of the basis of valuation:

“1. Subject to the provisions of this schedule, for the purposes of this Order the net annual value of a hereditament shall be the rent for which, one year with another, the hereditament might, in its actual state, be reasonably expected to let from year to year, the probable average annual cost of repairs, insurance and other expenses (if any) necessary to maintain the hereditament in its actual state, and all rates, taxes or public charges (if any), being paid by the tenant.

2.-(1) Subject to sub-paragraph (2), in estimating the net annual value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the net annual values in that list of comparable hereditaments which are in the same state and circumstances as the hereditament whose net annual value is being revised.”

Authorities

18. The Tribunal was referred to the following authorities:

- Dawkins v Ash [1969]
- Neville Byford v Commissioner of Valuation (VR/38/1977)
- McKeown Vintners Ltd v Commissioner of Valuation (VR/9/1985)
- A-Wear v Commissioner of Valuation (VR/3/2001)

- Debenhams v Commissioner of Valuation (VR/32/2011)
- Commissioner of Valuation v Debenhams [2014] NICA 49

Position of the Parties

19. Ms Rice's expert opinion was that the reference property should be valued in tone with other similar properties in the 7th list, as stipulated in Schedule 12(2)(1) of the Order. The Zone A levels for Market Street were £220/m², applied to the reference property and the two properties adjoining and £250/m² applied to the even numbers on Market Street. On that basis she assessed the NAV of the reference property at:

FLOOR	USE	AREA M²	RATE £/m²	VALUE £
GF	Shop ZA	116.24	220	25,573
GF	Shop ZB	32.69	110	3,596
GF	Shop ZC	1.18	55	65
1F	Shop	128.23	22	<u>2,821</u>
TOTAL				32,055
Less 17.5% end allowance for frontage to depth ratio and the difference in floor levels				- <u>5,610</u>
TOTAL				26,445
NAV				26,500

20. Mr Watson considered that, based on the rental evidence available, as per Schedule 12(1) of the Order, the Zone A price should be £183/m². He also considered that the following end allowances ought to be applied:

- (i) 20% to the ground floor to reflect the excessive frontage to depth plus change in floor levels.
- (ii) 10% to the first floor to reflect compromised shape and change in floor levels,.
- (iii) 5% to the ground and first floor levels assessments to reflect on-street servicing.

Resulting in a NAV assessment:

GF	Zone A	116.24m ² @ £183	£21,272	
	Zone B	32.69m ² @ £91.50	£2,991	
	Zone C	1.18m ² @ £45.75	<u>£54</u>	
			£24,317	
		Less 20% front to depth and change in floor levels	<u>-£4,863</u>	
				£19,454
FF	Sales/Store/kitchen	128.23m ² @ £18.30	£2,347	
		Less 10% configuration and change in floor levels	<u>-£235</u>	
				<u>£2,112</u>
				£21,566
		Less 5% for on-street servicing		<u>-£1,078</u>
				£20,487
				Say £20,500

Discussion

The 7th List

21. The task of the respondent in compiling a new valuation list was outlined in paragraph 39 of A-Wear:

“39. At a general revaluation, Paragraph 2 of schedule 12 does not apply. The Commissioner is required, in respect of each hereditament, to estimate the rent for which, one year with another, the hereditament might be reasonably expected to let from year to year on the terms of the hypothetical tenancy contemplated by paragraph 1 of schedule 12. The method used by the Commissioner at a general revaluation is to analyse evidence of actual rents at the valuation date (1st April 1995 for the Fourth List) and arrive at the rent for the hypothetical tenancy. That general level will be used as the basis for calculating the NAV for each class of hereditament in a particular locality.”

In the case of Market Street this was not an easy task as evidence provided by the respondent showed that the rents in that street, on which the 7th list was based, ranged from £118/m² to £315/m².

The Issues

22. Having considered the submitted evidence it was clear to the Tribunal that the main issues between the parties were:

- (i) Was the reference before the Tribunal a revision of the Valuation List, as submitted by the respondent, or was it a direct challenge to the General Revaluation assessment, as submitted by the appellant?
- (ii) If it was a revision had a “tone of the list” been established?
- (iii) What weight was to be attached to the rental evidence?
- (iv) What was the correct end allowance to be applied?

Revision of the Valuation List?

23. Mr Henry BL considered that the subject reference was a revision of the valuation and as such Schedule 12 paragraph 2(1) of the Order came into play:

“regard shall be had to the net annual values in the valuation list of comparable hereditaments which are in the same state and circumstances as the hereditament whose net annual value is being revised.”

He submitted, therefore, that the evidence of comparable assessments in the valuation list was paramount.

24. Ms Ferguson considered that paragraph 2(1) of the Order did not apply in this reference as paragraph 2(1) was only relevant for subsequent revisions of a list after a “tone of the list”

had been established. She submitted that this was not a revision case but a challenge to the General Revaluation, as the appellant had challenged the NAV at the outset, when the 7th list was issued.

25. The Tribunal derives assistance from McKeown Vintners:

“The very completion of the list, at general revaluation, by itself creates comparables, and paragraph 2(1) can begin to play its role. That role is this. There can, as the Tribunal has already stated, be no challenge to the principles applied at a general revaluation. Any challenge before the Lands Tribunal must be by way of an application for revision [Tribunal emphasis] of an entry already in the list.”

And

“There is no right of appeal against an assessment made at general revaluation under the 1977 Order. If a ratepayer disagrees with such an assessment his only remedy, under that Order, is to challenge it by way of revision procedure [Tribunal emphasis].”

It was clear, therefore, that the subject challenge before the Tribunal was an “application for revision” and in order to maintain a tone of the list regard must be had to comparable hereditaments in the valuation list, as stipulated in paragraph 2(1) of the Order.

26. That was not to say, however, that comparable hereditaments and tone of the list could not be challenged. These further extracts from McKeown Vintners are relevant:

“... 2(1) directs that regard shall be had to assessments of comparable hereditaments, and thus maintains a tone of the list. This, however, is merely a starting point and does not mean that comparable net annual values are to be followed slavishly. They are a guideline in carrying out the primary exercise of making a skilled estimate of a hypothetical figure, being of course the rent for which, one year with another, the

hereditament might reasonably be expected to let from year to year. Nor does it prevent proper regard being paid to other factors, if those factors are relevant.”

And

“It is therefore clear that the primary guideline to which the Tribunal must have regard, on a revision case, is the net annual values of comparable hereditaments which are in the same state and circumstances as the appeal hereditament. As the Tribunal has indicated this does not mean a slavish application of such net annual values, nor does it preclude the use of other checks or guidelines. Moreover the comparables relied upon must be in the same state and circumstances as the appeal hereditament.”

And

“As the Tribunal is considering general principles the next matter that must be looked at is the question of estimating, at revision stage, the net annual value of a hereditament where no comparables in the same state and circumstances can be found, or where the evidence as to alleged comparables is incapable of rational analysis or application, or is simply not acceptable. This situation indeed arises in the present case where the Tribunal has rejected the analysis of the Commissioners comparables as being misconceived, and has further concluded that on the evidence before it those comparables could not be said to be in the same state and circumstances as the appeal hereditament. How then is a proper estimate of net annual value to be made? The general answer can be expressed briefly. Any accepted valuation guideline can be applied IF there is some form of nexus between the resultant figure and the rent which a hypothetical tenant would pay on the assumptions set out in Schedule 12, paragraph 1.”

27. The Tribunal also refers to the following extracts from its decision in A-Wear:

“28. The obligation to ‘have regard’ is a strong obligation but the Tribunal also accepts Mr Beattie’s suggestion that ‘shall have regard’ should not be interpreted to mean ‘shall follow slavishly’, proper regard must be paid to other factors, if those factors are relevant and the use of other checks is not precluded (See McKeown Vintners Ltd v Commissioner of Valuation, VR/9/1985). The attention of the Tribunal was

drawn to a number of cases in which it had expressed the view that expert's evidence based on careful research could support or displace schemes adopted by the Commissioner (see e.g. Kennedy Entertainments Limited v Commissioner of Valuation, VR/27/2000 (the 'Fantasy Island') and Northern Bank VR/117/1999) at a General Revaluation. Mr Rose also drew attention to other cases where he had later achieved reductions although the ratepayer did not challenge the original assessment or it was agreed/accepted by another chartered surveyor. Although Mr Hanna pointed out that those were examples of where an adjustment was made to reflect a particular reason for departure from the general level not a challenge to the general level, the Tribunal accepts that where a group of entries is fixed at the same level, the requirement to have regard to comparables (i.e. each with each other) should not necessarily be fatal to a challenge: although there is a positive presumption of correctness, that only applies to an appeal to this Tribunal and that presumption may be displaced.

29. Mr Beattie suggested that a simplistic 'first through the door' approach in fixing the NAV is unfair on any view. He went on to suggest that the VLA is, in effect, saying the Tone of the List rule combined with the presumption of correctness means that it can value a shopping centre (or even a whole class of property) incorrectly but, as soon as those assessments are entered in the List, they are then 'in tone' with each other and can not be altered.
30. However, in the view of the Tribunal there is an opportunity for challenge. The statutory presumption of correctness of comparables does not apply when an application is made to the District Valuer, or on an appeal to the Commissioner: it is triggered only on an appeal to this Tribunal. If the Commissioner had concluded that, on balance, properly adjusted evidence, including fresh evidence from new lettings, was to be preferred as more reliable than the entries in the List then the Tribunal suggests he might have considered altering the List. He could then exercise his discretionary power under Article 52(4) to extend his decision to alter the List in respect of the appeals to 'comparable hereditament'."

28. It was therefore established from previous decisions of this Tribunal that:

- (i) on revision, tone of the list, i.e. schedule 12 paragraph 2(1) of the Order, was paramount.
- (ii) comparable NAVs, however, were merely a guideline in estimating the hypothetical rent.
- (iii) regard must be had to other relevant factors.
- (iv) the comparables must be in the “same state and circumstances” as the appeal hereditament.
- (v) any accepted valuation guideline could be applied provided that there was “some form of nexus” between the resultant figure and the rent a hypothetical tenant would pay.
- (vi) Although there was a presumption of correctness of entries in the list, that only applied on appeal to this Tribunal and that presumption may be displaced.

Tone of the List

29. Ms Rice’s expert opinion was that a tone of the list had been established within Lisburn City Centre and the NAV of the reference property sat well within that tone. In support of her opinion she submitted the following comparable evidence:

- (i) *Even Number Side of Market Street*

The NAVs on the even number side of Market Street had been assessed at a Zone A level of £250/m². There was no dispute between the experts as to this level of assessment. Ms Rice’s opinion was that the figure of £250/m² supported a Zone A level of £220/m² on the odd number side.

Mr Watson did not agree. He referred the Tribunal to the previous General Revaluation at which the even number side had been assessed at £275/m² Zone A and the odd number side at £200/m² Zone A, a “gap” of £75/m². Mr Watson submitted that there was no evidence before the Tribunal to confirm that this “gap” should now be narrowed to £30/m², and also why the “better” even number side should see a decrease in NAVs and the “poorer”, odd number side an increase.

The Tribunal agrees with Mr Watson. At hearing, when questioned by the Tribunal, Ms Rice failed to clearly demonstrate, with market evidence, how the figure of £250/m² Zone A on the even side of Market Street supported an assessment of £220/m² on the other side. In the absence of any supporting evidence, the Tribunal can attach little weight to this comparable evidence.

(ii) Smithfield/Market Square

It was accepted by both experts that Smithfield/Market Square and Market Street were secondary retail locations within Lisburn City Centre. Ms Rice had advised the Tribunal that Nos 5 to 19 Market Street had been assessed at £220/m² Zone A and Nos 8 to 18 at £250/m². In relation to Market Square the Zone A levels were: Nos 19 to 51 £220/m², Nos 2 to 8 £250/m², Nos 12 to 24 £300/m² and Nos 26 to 44 £350/m². Smithfield levels were: Nos 1 to 29 £200/m² and Nos 6 to 18 £220/m². She considered these locations to be similar to Market Street and in her opinion this comparable evidence supported the NAV assessments in Market Street.

Mr Watson did not accept that the properties in Smithfield and Market Square were in the “same state and circumstances” as those in Market Street, as required under Schedule 12 paragraph 2(1). The Tribunal agrees with Mr Watson. It was accepted by both parties that all three streets were secondary locations within the Lisburn City Centre but Ms Rice failed to provide any market rental evidence to confirm her

conclusion that the NAV levels in Smithfield and Market Square supported the NAV levels in Market Street. They were different locations, subject possibly to different market forces and there was no market evidence before the Tribunal to confirm that they were directly comparable. In McKeown Vintners, at page 33, the President of the Tribunal, Judge Peter Gibson QC, stated:

“The Tribunal therefore emphasises that if comparable net annual values are to be used they must be closely and carefully analysed. Such matters as their position, size, quality of buildings, state of repair and the kind of trade and hinterland are of singular importance.”

There was no evidence before the Tribunal to confirm that Market Street had the same “kind of trade and hinterland” as Smithfield and Market Street.

(iii) Nos 5 and 17-19 Market Street

Nos 5 and 17-19 Market Street are located on either side of the reference property and Ms Rice considered these to be the best comparables. Both had been assessed at £220/m² Zone A, similar to the reference property. At the date of the hearing both were under appeal but Mr Watson did not suggest that they should be excluded for that reason.

(a) No 5 Market Street

Mr Watson described this property as a “kiosk”, having a ground floor area of 19.04m² and first floor of 12.92m². As it was approximately one ninth the size of the reference property Mr Watson did not consider it to be in “the same state and circumstances” as the reference property. The Tribunal agrees with Mr Watson, a 32m² kiosk is not in “the same state and circumstances” as a 278m² shop. When looking at comparables “size” was one of the factors which Judge Peter Gibson QC considered “singularly important”. The Tribunal therefore disregards this comparable.

(b) Nos 17-19 Market Street

It was generally accepted that this property was a valid comparable for the reference property, although Mr Watson's opinion was that it was superior, as it had a more prominent location and also a return frontage.

30. The question remains, however, on the basis of this single comparable, had a reliable tone of the list been established on which to assess the NAV of the reference property? The Tribunal concludes that it had not. The reference property comprised some 50% of the street frontage, so, in effect, 50% of the odd number side of the street had been under challenge from the date of publication of the 7th list. In the circumstances of this reference, the Tribunal is satisfied that, on the basis of one comparable and with 50% of the street frontage under challenge from the outset, a reliable tone of the list had not been established for the odd number side of Market Street.

The Rental Evidence

31. When questioned by the Tribunal Ms Rice accepted that the tone of the list could be displaced if there was strong rental evidence to suggest that it was incorrect. This was supported by the Tribunal's previous decisions in McKeown Vintners and A-Wear. She helpfully referred the Tribunal to Graham Gardens in Lisburn in which the Zone A level had been reduced from £130/m² to £120, based on rental evidence.

17-19 Market Street

32. She also advised the Tribunal that, at the compilation of the 7th list, the only rental evidence available for the odd number side of Market Street was for Nos 17-19. This was a 10 year lease from 1st November 2005 at £24,500 per annum and there was no increase at review on 1st November 2010. Ms Rice devalued this rent at £273/m² Zone A. Ms Ferguson BL advised Ms Rice that this rent was fixed in 2005 and it had an "upward only" rent review clause and

that is why the rent was not reduced in 2010. On that basis Ms Rice accepted that this rental evidence was unreliable. Ms Rice was now aware that the rent for 17-19 Market Street had subsequently been agreed on 1st January 2016 at £16,200. Her devaluation of this rent was £181/m² Zone A.

33. Although some two years and nine months after the AVD, the Tribunal considers this to be an indicator of general rental levels in or around the AVD. The rent was negotiated between two experienced chartered surveyors and it was generally accepted that rental levels had not changed significantly between the AVD and 1st January 2016, as confirmed by the rental evidence for 7-15 Market Street.

7-15 Market Street

34. Mr Watson gave evidence about the lease on the reference property. The lease was effective from 1st July 2010 and the rent was on a “stepped” basis with the appellant paying £27,000 per annum from 1st July 2010 to 30th June 2013 reducing to £19,000 per annum from 1st July 2013 to 30th June 2015. Mr Watson advised the Tribunal that this rent has been negotiated between two experienced surveyors over a protracted period.
35. Ms Rice and Mr Watson analysed this “stepped” rent using difference methods. Ms Rice’s analysis arrived at a figure of £182/m² and Mr Watson’s £183/m². Ms Rice considered the rent to be unreliable as it was very “unusual” to have a decreasing stepped rent, and she attached little weight to it. The Tribunal does not agree. The rent was negotiated between two experienced surveyors and the period 2010 to 2013 was an “unusual” period, as the property market was still recovering from the economic downturn of 2008/09. The Tribunal finds the actual rent on the reference property to be very significant in assessing its NAV. The Tribunal prefers Ms Rice’s analysis of the rent:

Stepped rents for 5 year term – 3 years at £27,000 pa =	£81,000
2 years at £19,000 pa =	<u>£38,000</u>
Total Rental Income	£119,000
Average Yearly Rent	£23,800 pa
Average yearly rent reflects disadvantage of property. 17.5% added to before rent can be used for analysis to compare with other shops	£27,965 pa
Less 5% to reflect landlord repairs (external)	-£1,398 pa
FRI analysed rent	£26,567 pa
Zone A (£/m ²)	£182/m ²

36. It is worth noting that the lease was renewed in July 2015 at the same level, £19,000 per annum. There was therefore little movement in rental levels on the odd number side of Market Street in the two years post AVD.
37. Devaluation of the rents on Nos 7-15 and Nos 17-19 Market Street gave almost identical figures of £181/m² Zone A and £182/m² Zone A. It is accepted that the rent on 17-19 Market Street was a January 2016 rent but the evidence from 7-15 Market Street confirmed no increase in rental levels from July 2013 to July 2015 and it was highly unlikely that there was anything other than a nil or minimal increase from July 2015 to January 2016.

Conclusions

38. Ms Rice had not submitted any market rental evidence to establish the relativity between the odd number side of Market Street and:
- (i) the even number side of Market Street.

- (ii) Smithfield and Market Square.

The Tribunal therefore, regrettably, can attach little weight to this comparable evidence.

39. Neither had she provided any evidence to confirm why the previous “gap” of £75/m² Zone A between the two sides of Market Street had now narrowed to £30/m² Zone A and why the NAVs on the “better”, even number side should decrease and the NAVs on the “poorer”, odd number side should increase.
40. A tone of the list had not been established for the odd number side of Market Street and the Tribunal finds the rental evidence to be the most reliable. Similar to the circumstances outlined in A-Wear, at paragraph 30, the Tribunal considers that the Commissioner could have concluded that, on balance, the additional rental evidence from Nos 5-17 and 17-19 Market Street, as provided by Mr Watson, was more reliable than the entries in the list for the odd number side of Market Street. On that basis he might have considered altering the NAV of the reference property. He could then use his discretionary power under Article 52(4) to alter the list in respect of the appeal on the “comparable” hereditament at 17-19 Market Street.
41. Ms Rice’s analysis of the rent on the reference property gave a Zone A figure of £182/m² and this was supported by her devaluation of the 2016 rent on 17-19 Market Street at £181/m² Zone A. Making any decision the Commissioner might have made [Article 54(2)(a)] and rounding, the Tribunal directs that the NAVs of Nos 7-15 and Nos 17-19 Market Street should be assessed on the basis of £185/m² Zone A.
42. With regard to 5 Market Street, as previously stated, the Tribunal does not consider this property to be “in the same state and circumstances” as Nos 7-15 and Nos 17-19. It is currently under appeal and if the parties are unable to agree the correct NAV to be applied, the Tribunal will hear submissions on that issue.

End Allowance

43. Ms Rice had applied a 17.5% end allowance to the reference property to reflect the frontage to depth ratio, internal configuration and layout. She asked the Tribunal to note that Mr Watson had agreed a 17.5% end allowance for the previous Valuation List, although, at hearing, he did not have a clear recollection that this was the case.
44. Mr Watson sought an end allowance based on:
- (i) 20% on the ground floor for frontage to depth ratio and changing floor levels.
 - (ii) 10% on the first floor for configuration and change in floor levels.
 - (iii) 5% for on street servicing.
45. The Tribunal immediately disregards “(iii)”, the 5% for on street servicing, as this had already been reflected in the analysed rents for 7-15 and 17-19 Market Street.
46. Mr Watson provided a table of end allowances for retail properties in different locations throughout Northern Ireland. These ranged from 7.5% to 20% for varying frontage to depth ratios and configurations. In particular he referred to 6-10 Chichester Street, Belfast in which he represented the ratepayer. This property had been granted a 20% end allowance on the ground floor for frontage to depth, configuration, layout and an overall allowance of 10% for repair, on street servicing, screening by buses. Mr Watson considered the disadvantages of the reference property to be at least on a par with this property.
47. Ms Rice considered 6-10 Chichester Street to be more disadvantaged due to internal walls and pillars breaking up the relevant space. The Tribunal is aware of the internal layout of 6-10 Chichester Street and agrees with Ms Rice. The Tribunal finds the end allowance of 17.5%, granted on the reference property, to be sufficient.

The Tribunals NAV Assessments

48. 7-15 Market Street

Zone A	116.24m ² @ £185/m ²	£21,504
Zone B	32.69m ² @ £92.50/m ²	£3,024
Zone C	1.18m ² @ £46.25/m ²	£55
1 st Floor	128.23m ² @ £18.50/m ²	<u>£2,372</u>
		£26,955
	Less 17.5% end allowance	<u>-£4,717</u>
		£22,238
	Say	£22,250 NAV

17-19 Market Street

Zone A	69.62m ² @ £185/m ²	£12,879
Zone B	27.78m ² @ £92.50/m ²	£2,569
1 st Floor Office	37.64m ² @ £18.50/m ²	<u>£696</u>
		£16,144
	Say	£16,100 NAV

Summary

49. The Tribunal allows the appeal and directs that the NAV of 7-15 Market Street in the 7th Valuation List be altered to £22,250. The Tribunal also directs that the NAV of 17-19 Market Street be altered to £16,100, as per Article 54(2)(b) of the Order. The Tribunal will hear submissions on the NAV for 5 Market Street if required.

ORDERS ACCORDINGLY

11th January 2018

**Henry M Spence MRICS Dip.Rating IRRV (Hons)
LANDS TRIBUNAL FOR NORTHERN IRELAND**

Appearances:

Appellant – Ms Elizabeth Ferguson BL, instructed by Joseph Lockhart, Solicitors.

Respondent – Mr Philip Henry BL, instructed by the Departmental Solicitor's Office.

