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## Home Office v. Jackson (VO)

Lands Chamber

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**IN THE UPPER TRIBUNAL (LANDS CHAMBER)**



**Neutral Citation Number: [2018] UKUT 0171 (LC)**

**Case No: RA/30/2017**

**TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007**

*RATING – valuation – 2010 compiled list entry of large high-quality modern office building – building constructed in three blocks with bridge connections on certain floors – main space rate – comparables of similar quality but different location – whether adjustment required to comparables for location – method of adjustment – allowance claimed for quantum – allowance also claimed for fragmentation to reflect alleged disadvantages of the layout in three blocks – appeal allowed in part – rateable value determined at £22,700,000*

**IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE  
VALUATION TRIBUNAL FOR ENGLAND**

**BETWEEN:**

**HOME OFFICE**

**Appellant**

**and**

**MR DAVID JACKSON  
(VALUATION OFFICER)**

**Respondent**

**Re: 2 Marsham Street,  
London.  
SW1P 4DF**

**Before: His Honour Judge Huskinson and Mr A J Trott FRICS**

**Royal Courts of Justice, Strand, London. WC2A 2LL.  
1 and 2 May 2018**

*Daniel Kolinsky QC, instructed by Cushman & Wakefield, for the appellant  
Guy Williams, instructed by HMRC Solicitor's Office, for the respondent  
No cases are referred to in this decision.*

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## DECISION

### Introduction

1. This is an appeal against the decision of the Valuation Tribunal for England (VTE) dated 30 March 2017 whereby the VTE dismissed the appellant's appeal against the refusal of the respondent to reduce the rateable value shown in the local non-domestic rating list with effect from 1 April 2010 (the material day) in respect of the Home Office premises at 2 Marsham Street, London, SW1P 4DF (the appeal property). The appellant had sought this reduction in a proposal made on 29 January 2010, the grounds of the proposal being that the rateable value was incorrect and bad in law and should be reduced to £1 with effect from the material day.

2. The rateable value shown for the appeal property (described as office and premises) in the rating list with effect from the material day was £24,960,000. The appellant challenged the assessment upon three grounds, namely (i) that the main space rate (i.e. the rate of payment per square metre of the area properly assessed to be main space) which had been applied was excessive; (ii) that an inadequate allowance had been made for the quantum of the notional letting (the appeal property being a very large property extending to 52,064 m<sup>2</sup>); and (iii) that an end allowance should be made of 2.5% to reflect the fact that the appeal property provides the accommodation in three blocks connected by bridges and that this constitutes a disability such that an allowance (which throughout the proceedings has been referred to as a fragmentation allowance) should be given.

3. The VTE dismissed the appellant's appeal upon all three of these grounds and upheld the rateable value of £24,960,000.

4. The present appeal constitutes an appeal by re-hearing. The same three points are raised in the present appeal. There is also an additional point which the respondent seeks to raise in order further to support his contention that no reduction in rateable value should be made, namely the respondent refers to a feature of the appeal property (the elaborate security installations) which he submits increases the rental value of the appeal property on the statutory rating assumptions.

5. The difference between the parties is as follows. The appellant contends for a rateable value of £20,160,000. The respondent contends that the properly assessed rateable value is £26,080,000 (i.e. more than the value shown in the rating list) and argues that therefore the value appearing in the rating list is clearly not too high – and in fact could be said to be too low. There is not any attempt made by the respondent to increase the rateable value. The difference in analysis on behalf of the parties is helpfully shown in a table at paragraph 1.2.2 of the Joint Expert Statement which is set out hereunder:

<b>Matter</b>	<b>Appellant</b>	<b>Respondent</b>
Main space rate (prior to any adjustment)	£555 per m <sup>2</sup>	£630 per m <sup>2</sup>
Quantum allowance	25%	17.5%
Fragmentation allowance	2.5%	Nil
Security installation addition	Reflected in main space rate	£106,298
Valuation	£20,160,000	£26,080,000

6. The appeal property has frontages to Marsham Street, Great Peter Street, and Horseferry Road and with access from Monck Street. It is located to the south of Victoria Street. It is described in the Joint Expert Statement in paragraphs 2.2.1 to 2.2.9 in the following terms:

- “2.2.1 2 Marsham Street is an office constructed in 2005. The property comprises 3 buildings, Seacole, Fry and Peel, which are linked by footbridges on 1<sup>st</sup> to 4<sup>th</sup> floor levels.
- 2.2.2 Accommodation is arranged over lower ground floor to 6<sup>th</sup> floors in the Fry and Peel buildings and lower ground to 4<sup>th</sup> floors in Seacole.
- 2.2.3 The net internal area has been measured, in accordance with the RICS Code of Measuring Practice (6<sup>th</sup> Edition), and the experts agree the area is 52,064 square metres. There are 86 car parking spaces.
- 2.2.4 It is agreed that the property is a sealed building built in 2005 for the Home Office, providing Grade A quality offices with full air conditioning, raised floors, floor to ceiling windows to street elevations, lifts to all floors, and each of the three buildings [has] a central atrium providing additional natural light.
- 2.2.5 The design of 2 Marsham Street has won an RIBA International Award for Architecture in 2005, and a MIPIM Award for Business Centres in 2006.
- 2.2.6 The building design incorporates a number of energy efficient measures including sensor controlled responsive lighting and a computerised Building Energy Management System (or ‘BEMS’).
- 2.2.7 The main public reception in Marsham Street incorporates sophisticated security systems including airport style baggage and body scanners, CCTV security systems, and personnel security barriers.
- 2.2.8 There are two further staff entrances, one to each of the other two blocks, in Horseferry Road and Great Peter Street. Each of the three blocks therefore has its own street entrance.
- 2.2.9 The facilities include conference rooms, mobile racking, cycle racks and showers, internet café, coffee shop, print shop, sports hall, aerobics room, fully fitted gymnasium, meditation rooms, canteen with modern fully fitted kitchens etc.”

7. As regards the disagreement over the main space rate the position of the parties can be summarised as follows:

(a) The appeal property is a modern building of the highest quality (described in argument and evidence as a tier 1 property) and is of an equivalent quality to the development at Cardinal Place which is situated at 80-100 Victoria Street.

(b) Cardinal Place had been developed at the material day and let successfully. It has had an important role in improving the area of Victoria Street, especially around Victoria station. The main space rate appropriate to Cardinal Place is agreed to be £630 per m<sup>2</sup>.

(c) If the appeal property were located in the immediate vicinity of Cardinal Place the parties agree that the appropriate main space rate to be applied would be £630 per m<sup>2</sup>.

(d) However the appeal property lies a certain distance to the east and south of Cardinal Place and south of Victoria Street.

(e) There are various rental transactions (whether by way of lettings or rent review) in relation to other properties, including properties which are close to the appeal property, but for various reasons neither party considers that these rental transactions can usefully be analysed so as to give any direct help regarding the rateable value properly to be assessed for the appeal property. In many cases, when it is necessary to assess the rent at which the relevant hereditament might reasonably be expected to have let at the antecedent valuation date (AVD) upon the statutory rating assumptions, it is possible to get some direct assistance upon this question by analysing rental transactions in respect of other properties which are to a greater or lesser extent comparable and by making appropriate allowances for differences. Neither party considers that this can be done in the present case.

(f) There are various rating assessments in the rating list in relation to other properties which are close to the appeal property. However the appellant does not consider that these rateable values do anything more than provide a floor above which the proper main space rate for the appeal property will be found. The appellant does not consider that it is possible to make any useful analysis of the differences between these other properties and the appeal property and to make allowances for these differences and then to obtain some direct help regarding the rateable value of the appeal property. The respondent considers that these other properties which are close to the appeal property are so different in quality (being tier 2 rather than tier 1 properties) and are so different in location (being south of Horseferry Road) that they provide no direct assistance in assessing the rateable value of the appeal property.

(g) There being no direct assistance from an analysis of comparables, whether rental transactions or rating assessments, the appellant has endeavoured to investigate and quantify the difference in value between Cardinal Place and Marsham Street as a location for tier 1 office space. This difference in value is then applied so as to adjust the £630 per m<sup>2</sup> to reflect the fact that the appeal property is in Marsham Street. In summary, the appellant has done this by adducing evidence (i) as to the difference in the environment as between the two locations and (ii) as to the difference in letting values and the difference in rateable value assessments between tier 2 properties near the appeal property on the one hand and tier 2 properties on and near Victoria Street on the other hand. The appellant contends that this difference in the environment shows good reason as to why Marsham

Street is a less valuable area for a major modern office building than Cardinal Place. The appellant contends that the evidence of these comparisons regarding rental values and rateable value assessments bears out this point and shows that properly assessed rateable values for buildings of similar quality are substantially less in the area of Marsham Street than to the north on and around Victoria Street. The appellant quantifies this lesser value as falling between 12% and 27% and adopts 12% (which the appellant says is conservative) as the appropriate reduction to be applied to the £630 per m<sup>2</sup> which would be appropriate if the appeal property were in Cardinal Place. This gives a main space rate of £555 per m<sup>2</sup>.

(h) The respondent advances numerous criticisms of this attempted analysis by the appellant. The respondent says that he has looked for comparables but has not found them. The respondent says that south of Horseferry Road the area is less attractive for offices and that rental values and rating assessments fall so as to be significantly less than those at Cardinal Place. The respondent does not suggest that Horseferry Road provides some form of cliff edge south of which values fall dramatically. However the respondent contends that there is no merit in the analysis and arguments advanced by the appellant bearing in mind the quality of the allegedly comparable properties close to the appeal property and in particular bearing in mind that these properties, unlike the appeal property, are south of Horseferry Road. The respondent contends that the appropriate main space rate for the appeal property is £630 per m<sup>2</sup> – i.e. the same as it would be if the appeal property were at Cardinal Place. The respondent recognises that the value in the rating list for the appeal property has been assessed by the VTE on the basis of only £600 per m<sup>2</sup> and therefore the respondent argues that he effectively has something in hand in his submission that the VTE's decision should not be disturbed.

8. As regards the disagreement over a quantum allowance the position of the parties can be summarised as follows. It is accepted by the parties that when assessing rateable values it is appropriate in certain circumstances to make a reduction (called a quantum allowance) to reflect the fact that the hereditament in question is large – the rationale being that the hypothetical landlord and tenant will not agree to the same rate of payment per square metre of space for a large building as for a much smaller building. This is not a new concept. The Valuation Office Agency (VOA) has published a document called the Westminster Quantum Scale which shows the percentage reduction to be made to the figure which would otherwise be the appropriate main space rate and which shows that the appropriate reduction is dependent both upon the area of the hereditament and its date of construction. The full table is set out in paragraph 33 below. What is notable is that the three highest categories of area catered for in the table are 20,001 m<sup>2</sup> to 25,000 m<sup>2</sup>, 25,001 m<sup>2</sup> to 30,000 m<sup>2</sup>, and 30,001 m<sup>2</sup> and above. The quantum discounts indicated in the table in respect of a modern building (1980s or later) for these three categories are respectively 14.25%, 16.5% and 17.5%. It is accepted by the respondent that 17.5% should be applied to the main space rate. The appellant argues that this is inadequate having regard in particular to the very large size of the appeal property namely 52,064 m<sup>2</sup> which is therefore greatly in excess of the 30,001 m<sup>2</sup> at which the final category begins. The previous two categories cater for a span of 5,000 m<sup>2</sup> each. The appellant argues that there should be recognition of the fact that the appeal property is over 22,000 m<sup>2</sup> more than the entry point for this final category.

9. As regards the disagreement regarding the claimed fragmentation allowance the position of the parties can be summarised as follows. The main space area, namely 52,064 m<sup>2</sup>, does not

include the area of the footbridges on 1<sup>st</sup> to 4<sup>th</sup> floor levels which link the northern building (Seacole) to the central building (Peel) and which link the central building to the southern building (Fry). There are therefore two bridge constructions each of which contains a connecting corridor on the first, second, third and fourth floors – making eight connecting corridors in all. In the calculation of rateable value, which involves (subject to adjustments) the application of the main space rate to the main space, there is no value attributed to the space of the footbridges. The footbridges are wide and contain large potted plants and seating areas as well as the necessary corridor for passage between buildings. However the appellant’s fragmentation argument proceeds upon the basis that, although the hypothetical tenant would be enjoying such use as could be made of the area of the eight footbridge corridors effectively free of charge, the fact that the appeal property was laid out in three buildings involving these footbridges has a detrimental effect upon the convenience of use, and hence upon the value, of the appeal property for which an allowance of 2.5% should be made. The respondent argues that no such fragmentation allowance should be made.

10. As regards the fourth issue referred to above, namely the respondent’s argument that the rateable value of the appeal property should be increased having regard to the presence of extensive and high-quality security systems, the position of the parties in summary is as follows. The respondent contends that there is merit in his argument having regard to what was agreed in relation to the (now demolished) former New Scotland Yard building on Victoria Street. The appellant says that this is an entirely new point which was not referred to in the respondent’s statement of case and as regards which there is insufficient evidence to justify the claimed (or any) uplift. The appellant contends that the value of any such security equipment is reflected in the main space rate to be adopted for the appeal property.

11. It is recorded in the Joint Expert Statement that the present dispute is one of valuation only. It is nevertheless appropriate to record the statutory provision under which the rateable value for the appeal property needs to be assessed. This is to be found in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 (the 1988 Act) which provides:

“(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.”



12. It is common ground between the parties that the economic conditions are to be judged at the AVD namely 1 April 2008 for this 2010 rating list. It is also common ground that the relevant physical considerations in respect of the hereditament and the locality are those which existed on the material day.

13. At the hearing the appellant was represented by Mr Daniel Kolinsky QC who called as expert witnesses Mr Guy Bowring BSc (Hons), MRICS, a director and Head of Office Agency at Tuckerman Chartered Surveyors and Mr Mike Flecknoe BSc (Hons), MRICS, partner and Head of Rating at Cushman & Wakefield. The respondent was represented by Mr Guy Williams of counsel who called as an expert witness Mr Ed Prekopp FRICS of the London Non-Domestic Rating Unit of the VOA. Each witness had prepared a report and a supplemental report which the witness confirmed (subject in certain cases to minor mostly typographical amendments) and upon which the witness was then cross-examined.

14. On 3 May 2018, after the hearing had concluded, we conducted an accompanied site visit of the appeal property. We then made an unaccompanied visit to the exterior of the other properties which were referred to by the parties as being (allegedly) comparable within the area of Victoria and Westminster.

### **The evidence**

15. Bearing in mind the four separate topics with which the present appeal is concerned we propose to divide our summary of the evidence so as to deal in turn with the evidence given upon each of these four topics.

#### *Main space rate*

16. Mr Bowring is an experienced office agent with Tuckermans, a firm specialising in the Victoria and London SW1 areas. He said that the rental value of tier 1 offices at the AVD was significantly higher in Victoria Street and near Victoria Station than in Marsham Street. He attributed this to five main reasons:

- (i) *Amenity.* Victoria offered a good range of shops, restaurants, sandwich bars and leisure facilities. Marsham Street had a more limited offering.
- (ii) *Transport.* Marsham Street was significantly further away from underground and mainline stations, e.g. it was 7-8 minutes walk from St James's Park (the nearest underground station), 10 minutes walk from Westminster and 17-18 minutes walk from Victoria, the closest mainline station. Cardinal Place was only 4 minutes walk from Victoria Station (mainline and underground).
- (iii) *Local environment.* In the area around Marsham Street there were two hostels for homeless people and a Fire Station. A Peabody Housing Estate was nearby and there was also a street market in Strutton Ground. The ambience these uses created was not conducive to an attractive office environment. Mr Bowring produced a land

use survey of the local area which he said showed that Marsham Street was not a primary office location, being predominately non-B1 and residential uses.

- (iv) *Secondary location.* The Marsham Street area had a reputation as a secondary location. Although there was strong government representation the area did not attract a wide range of other office occupiers.
- (v) *Proximity to residential areas.* Victoria was close to prime residential and commercial districts such as Belgravia and Knightsbridge which were attractive to senior executives and influenced where companies tended to locate. Marsham Street on the other hand was not near major retailers and was close to more socially disadvantaged housing. It was a less attractive office location as a consequence.

17. Mr Bowring supported his conclusions by reference to rental transactions (mostly rent reviews) in the vicinity of both Marsham Street and Victoria. He said that rents in Cardinal Place as at 2007-2008 were around £645 per m<sup>2</sup>. Rents further east along Victoria Street declined sharply, e.g. the rents on 39-45 Victoria Street and 55 Victoria Street were reviewed in mid-2007 to £519 per m<sup>2</sup>, about 80% of Cardinal Place values.

18. Mr Bowring said that rents in the vicinity of Marsham Street were lower than those at the eastern end of Victoria Street, the comparables ranging from £387-£468 per m<sup>2</sup>. He did not believe any office south of Victoria Street had broken the £50 per ft<sup>2</sup> (£538 per m<sup>2</sup>) rental barrier. Unlike Mr Prekopp, who distinguished a number of Westminster and Victoria sub-location groups, Mr Bowring referred to a general tone of value south of Victoria Street that was lower than Victoria Street itself by some 20%-25% at the AVD.

19. Mr Bowring referred to reviews of the Victoria office market undertaken by Tuckermans in 2007 and 2008 which showed a high level of activity with strong demand for larger (20,000ft<sup>2</sup>/1,858m<sup>2</sup>) high quality space. Such space was in short supply and rents for it rose between 2007 and 2008, the market having been kick-started by the completion of Cardinal Place in 2005.

20. Mr Flecknoe analysed rental and assessment evidence from three properties in close proximity to the appeal property: Great Minster House, 76 Marsham Street; Horseferry House, Horseferry Road; and 1A Page Street. He did not find the rental evidence to be of assistance. The rating assessment for Great Minster House (£550 per m<sup>2</sup>) was still subject to appeal and was therefore of no help in the valuation of the appeal property. The assessment of Horseferry House was agreed at a main space rate of £460 per m<sup>2</sup> and that of 1A Page Street was agreed at £475 per m<sup>2</sup>. Mr Flecknoe said all three buildings were inferior to the appeal property and that their rating assessments were only helpful in setting a minimum main space rate of £475 per m<sup>2</sup>.

21. Apart from Cardinal Place there were four other assessments of comparable tier 1 offices in the Victoria Station area with a main space rate of £630 per m<sup>2</sup>. Given Mr Bowring's evidence that the £50 per ft<sup>2</sup> (£538 per m<sup>2</sup>) barrier had not been breached south of Victoria Street and that at the AVD there was a difference in rental value between Cardinal Place and Marsham Street of

20%-25%, Mr Flecknoe said the value differential between Cardinal Place and the appeal property (which was also a tier 1 building) could only be explained by their different locations.

22. Mr Flecknoe sought to quantify this difference by comparing the assessments of three tier 2 offices in the vicinity of the appeal property with the assessment of similar offices in Victoria Street. His first comparison was between Horseferry House and 25 Victoria Street. The assessments were agreed at £460 per m<sup>2</sup> and £600 per m<sup>2</sup> respectively although Mr Flecknoe acknowledged that 25 Victoria Street was a better quality building. Horseferry House was therefore assessed at 23% less than 25 Victoria Street.

23. The second comparison was between 1A Page Street (assessment agreed at £475 per m<sup>2</sup>); 39 Victoria Street (assessment agreed at £570 per m<sup>2</sup> following refurbishment) and Ashdown House, 123 Victoria Street (assessment agreed at £540 per m<sup>2</sup>). Mr Flecknoe said that 1A Page Street shared several characteristics with 123 Victoria Street but thought 39 Victoria Street was a better building. This explained why 1A Page Street was 17% less than 39 Victoria Street but only 12% less than 123 Victoria Street.

24. The final comparison was between St Stephen's House, 17 Rochester Row (assessment agreed at £399 per m<sup>2</sup>); The Exchange, 61-71 Victoria Street (assessment agreed at £550 per m<sup>2</sup>) and 55 Victoria Street (assessment agreed at £525.25 per m<sup>2</sup>). The three buildings had similar specifications but 17 Rochester Row and 55 Victoria Street were built in the 1980s whereas The Exchange was built in the 1990s. That explained why 17 Rochester Row was assessed at 27% less than The Exchange but only 24% less than 55 Victoria Street.

25. Mr Flecknoe also referred to 5 Howick Place, a comparable which Mr Prekopp said showed there was no reduction in value to the south of Victoria Street. Mr Flecknoe noted that this building was very close to Victoria Street being located immediately behind 105 Victoria Street. It was built in 2013, the same year as 62 Buckingham Gate which was only some two minutes walk away. Mr Flecknoe considered the two buildings to be of comparable quality but whereas 62 Buckingham Gate was assessed at an agreed main space rate of £630 per m<sup>2</sup>, 5 Howick Place had an agreed main space rate of £600 per m<sup>2</sup>. Mr Flecknoe thought this disparity could only be explained by the difference in location and that had the building at 5 Howick Place been located in Victoria Street it would have been valued at £630 per m<sup>2</sup>. So a 5% locational discount had been allowed for a property that was only one building's depth away from Victoria Street.

26. From this analysis of agreed assessments Mr Flecknoe concluded that values in Marsham Street were 12%-27% less than those in Victoria Street. He took the lower end of this range, i.e. 12%, as being the appropriate discount to apply to the agreed main space rate of £630 per m<sup>2</sup> at Cardinal Place. This gave a main space rate for the appeal property of £555 per m<sup>2</sup>, which was 20% higher than the agreed assessment of Horseferry House and 17% higher than that of 1A Page Street. Mr Flecknoe considered these differences to be reasonable and properly reflective of the superior quality of the appeal property.

27. Mr Prekopp disputed that the rental and assessment evidence showed that values in Victoria were higher than those in Westminster. In his opinion there was no difference in value between the two. He challenged Mr Bowring's five reasons for distinguishing the areas:

- (i) *Amenity.* The area around Marsham Street was much more pleasant than the congested, noisy and polluted environment around Victoria Station and Victoria Street. It was quieter, more attractive, surrounded by tree lined roads, less congested and less polluted. There were good retail facilities nearby together with cafes, sandwich bars, pubs and restaurants. Given the size of the appeal property the hypothetical tenant was likely to provide their own facilities on site, as indeed the appellant had done. The amenities around Victoria Station had improved considerably since the material day.
- (ii) *Transport.* There were good bus services along Marsham Street and Horseferry Road and St James's Park underground was only 6 minutes walk away.
- (iii) *Local Environment.* Problems with homelessness, rough sleeping and beggars were as common near Victoria Station and Victoria Street as they were near Marsham Street and there was a large hostel in Carlisle Place, close to Victoria Station. Strutton Ground street market and the fire station were a long way from the appeal property and did not disturb its occupants. They were much closer to the comparables in Victoria Street. Mr Bowring's land use survey was inaccurate and gave a misleading impression of the Marsham Street area.
- (iv) *Secondary location.* Mr Prekopp accepted that the area south of Horseferry Road was not a favoured office location but disagreed that this description applied to the area further north around Marsham Street. He denied Mr Bowring's suggestion that government departments had historically favoured more secondary locations and gave several examples of departments which were located in recognised main office areas including Victoria Street which Mr Bowring said was a prime office address. The proximity of the appeal property to parliament and Whitehall was an important factor in supporting values in this area and was one which had been overlooked by Mr Bowring.
- (v) *Proximity to residential areas.* Belgravia was as far away from the appeal property as it was from 14 Tothill Street where the agreed assessment was £600 per m<sup>2</sup>. Knightsbridge was too far away from Victoria and Westminster to be value significant. The appeal property was closer to the residential properties in Birdcage Walk overlooking St James's Park than Cardinal Place was to Knightsbridge.

28. Mr Prekopp did not accept the appellant's view that the appropriate comparison was between offices in "prime" Victoria i.e. near Victoria Station and Cardinal Place, and those around Marsham Street. In his opinion the proper distinction was between Victoria, which lay to the west of the junction of Victoria Street with Buckingham Gate and Artillery Row, and Westminster, which lay to the east of the said junction and within 8 minutes walk of the Houses of Parliament, in what he called the Division Bell Area. In broad terms the Westminster area, which included the appeal property, lay to the south of Victoria Street, east of Artillery Row and north of Horseferry Road. Properties such as Great Minster House, Horseferry House and 1A Page Street,

upon which the appellant relied, fell just outside this area to the south in a location which Mr Prekopp called south Westminster.

29. Mr Prekopp's definition of the relevant comparative locations was supported by the VOA's definition of sub-location groups. These were geographical areas regarded by the VOA as constituting separate sub-markets. The appeal property was in the same Westminster sub-location group as 25, 39, 55 and 61-71 Victoria Street.

30. In comparing the relative values of Victoria and Westminster Mr Prekopp did not find the rental evidence to be helpful and he criticised Mr Bowring for referring to unit rates without differentiating between the age and quality of the buildings being compared and for making no adjustments for the presence or otherwise of air conditioning, raised floors etc. Mr Bowring had not adjusted the rents to reflect quantum allowances and therefore did not compare the comparables on a consistent basis. Mr Prekopp sought to establish whether there was a difference in value between the two areas by comparing the rating assessments of properties of similar age, style and quality. He made two such comparisons:

- (i) *105 Victoria Street (Victoria) and 39 Victoria Street (Westminster)*. The former was a late 1970s office refurbished in 2006. The latter was built in the late 1980s and refurbished in 2013. Both had low headroom and single height receptions. The standard of refurbishment was similar. The main space rate of 105 Victoria Street was agreed at £498.75 per m<sup>2</sup> and that of 39 Victoria Street was agreed at £570 per m<sup>2</sup>.
- (ii) *173 Victoria Street (Victoria) and 55 Victoria Street (Westminster)*. The former was built in 1990, the latter in 1987. Both were similar in age and style with low headroom and single height receptions. The main space rate of 173 Victoria Street was agreed at £450 per m<sup>2</sup> and that of 55 Victoria Street was agreed at £525.25 per m<sup>2</sup>.

Mr Prekopp said that in both cases the value of the property located in Westminster was higher (by about 15%) than its equivalent in Victoria. In his rebuttal report Mr Prekopp extended this analysis to include another comparison:

- (iii) *123 Victoria Street (Victoria) and 14 Tothill Street (Westminster)*. The former was a late 1970s building refurbished in 2012 with adequate (2.6m) headroom and a single height reception. The latter was a 1930s building refurbished in 2007 with low headroom and a single height reception. The main space rate of 123 Victoria Street was agreed at £540 per m<sup>2</sup> and that of 14 Tothill Street was agreed at £600 per m<sup>2</sup>.

These examples confirmed Mr Prekopp's view that values in Westminster were higher than in Victoria. He disputed Mr Bowring's evidence that values south of Victoria Street were lower than values on or north of Victoria Street. By way of example Mr Prekopp referred to the assessment of 5 Howick Place. It was built in 2013 with full air conditioning, raised floors and floor to ceiling glazing in parts. It had a poor outlook and was awkwardly shaped at the rear, and was a mid-terrace property fronting onto a narrow road. It had a poor street presence and only a single height reception. There was residential use on the upper floors. The main space rate was agreed at £600 per m<sup>2</sup>. This was only 5% less than the agreed main space rate at Cardinal Place, which Mr Prekopp considered to be a better building by at least this amount. He said this showed values south of Victoria Street were not lower than those on or north of Victoria Street.

31. Mr Prekopp disagreed with Mr Flecknoe’s opinion that 62 Buckingham Gate and 5 Howick Place were buildings of comparable quality and that the difference in their main space rates (£630 per m<sup>2</sup> and £600 per m<sup>2</sup> respectively) was due to their location. He thought 62 Buckingham Gate was a trophy building with a fully glazed and architecturally chamfered front elevation with a large reception which was quadruple height in parts. It made a “stupendous” and “spectacular” impression. A premium would be paid for that type of quality and Mr Prekopp felt that the difference in the main space rate between the two buildings was due entirely to the difference in quality between them and not their location.

32. Mr Prekopp said what mattered was the distinction between Victoria to the west and Westminster to the east and he concluded that values in Westminster were higher than those in Victoria and that the appeal property should be valued not less than £630 per m<sup>2</sup>. On that basis the current assessment was not excessive and could not be less than the values of 5 Howick Place or 14 Tothill Street (both £600 per m<sup>2</sup>).

*Quantum allowance*

33. Mr Flecknoe pointed out that the principle of adjustment for size or quantity has been long established and is based on the general assumption that as the size of a property increases the value per square metre decreases. This general principle was accepted by the Valuation Office Agency which had published a scale for quantum allowances for the City of Westminster. The respondent had applied a quantum allowance of 17.5% in the current assessment. This quantum allowance was in line with the VOA’s Westminster quantum scale which provided as follows:

<b>Westminster Quantum Scale (% discount)</b>				
<b>Size (m<sup>2</sup>)</b>		<b>Pre 1970s</b>	<b>1970s</b>	<b>1980s or later</b>
5000	6250	4	2.5	1
6251	7500	5.5	3.75	2
7501	8750	7	5	3
8751	10000	8.5	6.25	4
10001	12500	10	7.75	5.25
12501	15000	13	10.75	7.75
15001	17500	15.5	13	10.25
17501	20000	17	14.75	12.5
20001	25000	18	16.25	14.25
25001	30000	19.25	18	16.5
30001	>	20	18.75	17.5

34. Mr Flecknoe pointed out that this Westminster quantum scale had as its highest category 30,001 m<sup>2</sup> and above. The appeal property at 52,064 m<sup>2</sup> was one of the largest office buildings in Westminster and almost 74% larger than the entry level for this highest category.

35. Mr Flecknoe was not aware of any rental evidence for any office properties in excess of 50,000 m<sup>2</sup> in Westminster. Accordingly he considered what evidence there was from rating assessments. He said that there were only two other office properties apart from the appeal property over 50,000 m<sup>2</sup> in Westminster, namely the Ministry of Defence in Whitehall and Broadcasting House in Portland Place. Both of these showed that a quantum allowance greater than indicated in the Westminster scale had been given.

36. As regards the Ministry of Defence building, which at 58,199 m<sup>2</sup> is larger than the appeal property, information was not publicly available bearing in mind the security implications of revealing details concerning the building. However his understanding from information received from Mr David Jones of GVA, who acted for the Ministry of Defence concerning this building during the 2005 and 2010 rating lists, was that an end allowance of 25% was applied which, in the understanding of Mr Jones, purely related to the size of the building. Mr Flecknoe produced a letter from Mr Jones confirming the foregoing. Even if the Ministry of Defence building was treated as being a pre-1970s building (despite the refurbishment between 2000 and 2004) the Westminster scale would only have indicated a 20% quantum allowance. The fact that 25% was allowed as the end allowance (which Mr Flecknoe attributed solely to quantum) showed that a departure from the Westminster scale for a very large building could be appropriate.

37. As regards Broadcasting House this was slightly smaller than the appeal property and was more modern having been largely built in 2012. Mr Flecknoe said that on final completion in July 2012 the area had increased to 50,156 m<sup>2</sup>. The VOA applied a quantum allowance of 25% despite the Westminster scale suggesting a maximum allowance of 17.5% for a building built after 1980. Mr Flecknoe recognised that there had been various appeals against the rating assessments but those had been resolved. Mr Flecknoe noted Mr Prekopp's explanation that a 25% quantum allowance had been given in error because of an incorrect application of the City of London quantum scale rather than the City of Westminster quantum scale, but Mr Flecknoe did not accept that this was what had happened bearing in mind the City of London quantum scale allowed for individual negotiations for offices over 50,000 m<sup>2</sup> – and Mr Flecknoe drew attention to certain office buildings in the City of London where quantum allowances of over 30% had been agreed for buildings of over 50,000 m<sup>2</sup>.

38. Mr Prekopp accepted that the concept of a quantum allowance was well-established – hence the publication of quantum scales. However the 17.5% allowance which had been given in the present case was an allowance which was in accordance with the Westminster scale. The top band was for areas of 30,001 m<sup>2</sup> and above. The scale reached a plateau at 30,000 m<sup>2</sup>.

39. As regards the Ministry of Defence building in Whitehall, this was a listed building built about 1950 and refurbished in 2004. Bearing in mind the date of its construction the appropriate quantum allowance to make in accordance with the Westminster scale would be 20% (not 17.5%). Information available from the Valuation Officer in the Crown team dealing with this building indicated that an end allowance (reflecting all disabilities but mainly quantum) was made of 25%. Therefore 20% would be allowed in accordance with the scale and the 25% which was in fact allowed included all disabilities. This did not support the appellant's argument that an additional 7.5% quantum allowance (i.e. above the scale allowance of 17.5%) should be made for the appeal property.

40. As regards Broadcasting House Mr Prekopp described the circumstances in which there were appeals outstanding before the VTE made by the BBC and that it had been Mr Prekopp's intention, as part of the material to be deployed in the course of those appeals, to contend that there had been a mistake in applying a 25% quantum allowance and that this should be corrected. He explained however that shortly before the appeals were due to be heard the appellant in those cases withdrew all its appeals and (as this occurred in May 2017) it was by then too late for the Valuation Officer to seek to increase the assessed rateable value for the 2010 list because that list had closed a month earlier. It might have been feasible previously to have served a Valuation Officer notice but Mr Prekopp considered it could have been thought manipulative and bad form to take such a step in circumstances where the matter was already under appeal before the VTE. Bearing in mind the foregoing Mr Prekopp considered that Broadcasting House could not be treated as a reliable precedent for a 25% quantum allowance.

41. Mr Prekopp referred to Thames House at 12 Millbank where the floor area was approximately 48,600 m<sup>2</sup> and where a 20% end allowance was made. He pointed out however that he could only give limited comment because this property had a sensitive occupation and was dealt with by the Crown Valuation Team within the VOA. (As regards this property we note that Mr Flecknoe at paragraph 6.3.4 of his first report makes reference to it but, having regard to the limited available information, did not place reliance upon it. We agree that a reference to Thames House does not help in the analysis.)

42. Mr Prekopp drew attention to four properties in Westminster with areas more than 30,000 m<sup>2</sup> (albeit less than 50,000 m<sup>2</sup>), namely HM Treasury (45,705 m<sup>2</sup>), New Scotland Yard (35,208 m<sup>2</sup>), 102 Petty France (32,810 m<sup>2</sup>), and 1-19 Victoria Street (30,127 m<sup>2</sup>). He pointed out that all of these properties, although more than 30,000 m<sup>2</sup>, had a quantum allowance in accordance with the Westminster scale – in none of these cases was a higher allowance given.

43. Mr Prekopp accepted that in the City of London higher quantum allowances were made, but he said it was recognised in the rating community that this was a different market with a different basis for quantum allowances as compared to Westminster.

44. Mr Prekopp accepted that, bearing in mind the size and location of the appeal property, the Government was a potential bidder so far as concerns the hypothetical letting which had to be considered upon the rating assumptions. Every occupier would try to get the best value but the landlord would also seek to get the best rent it could from the negotiations. Mr Prekopp did not think that the well-informed hypothetical tenant would have obtained assistance (i.e. in the argument that 25% quantum allowance should be given) from a study of the rating list – all that could be derived from that list was the rate per square metre.

#### *Fragmentation allowance*

45. Mr Flecknoe gave evidence about fragmentation for the appellant. He explained that fragmentation describes the situation where a hereditament was split over several buildings and where access between areas of the hereditament was restricted or difficult with the result that the building had operational disadvantages and inefficiencies. This was value significant because the



hypothetical tenant would pay less for a property with these disadvantages compared to other properties which did not have the same problems.

46. As regards the appeal property this was arranged over three separate buildings called (from south to north) Fry, Peel and Seacole. Fry and Peel were built over basement, ground and six upper floors whereas Seacole was built only over the basement, ground and four upper floors. Mr Flecknoe explained how the council, as local planning authority, had set out development principles and had included within the outline planning permission a requirement that there should be provided, as part of the development, pedestrian routes for use by the public in accordance with those development principles. In consequence it was envisaged that there would be three separate office buildings, rather than a single block, with pedestrian access between Fry and Peel and also between Peel and Seacole. The appeal property was constructed accordingly, with a single floor plate at lower ground floor level and with connections (via the footbridges) between the three blocks at first, second, third and fourth floor levels. However at ground floor level, in order to get to the ground floor of the neighbouring block, it was necessary to go up or down a floor and across either a footbridge or basement corridor and then down or up a floor. At fifth and sixth floor levels in Fry and Peel (there being no such floor levels in Seacole) it was necessary in order to get to the fifth or sixth floor level in the other building to go down and across the fourth floor bridge and then up again.

47. Mr Flecknoe recognised that natural light was improved because three rectangular buildings would have a greater amount of external walls and glazing than a single building. He pointed out that there were however disadvantages with greater construction and maintenance costs together with poor insulation leading to higher operational costs. A single block design could have provided good natural light using additional atria. He observed that with poor circulation and with isolated floors within individual blocks safety was worse and flexibility was more limited than if the property comprised a single block.

48. Mr Flecknoe recognised that properties affected by fragmentation were relatively rare and that therefore there was a limited pool of other transactions from which to draw evidence. He was not aware of any relevant rental evidence, but he did refer to certain rating assessment evidence where disadvantages arising from fragmentation had been recognised. He referred to three properties in paragraph 7.5 of his first report, namely Peter Benenson House, Ergon House and 80-100 Victoria Street (i.e. Cardinal Place itself). He recognised that the first and second of these properties involved there being a footbridge at one level only joining buildings with multiple floors and that in such a case a substantially higher fragmentation allowance (in those two cases 10%) would be appropriate rather than the amount that he claimed was appropriate in the present case, namely 2.5%. As regards Cardinal Place he explained that the office space was split between two separate buildings, namely 80 Victoria Street and 100 Victoria Street with a footbridge linking the two buildings over a public walkway. He gave a history of the rating assessments. He explained that in 2018 the Valuation Office Agency split the assessment so as to create separate assessments for the first floor at 100 Victoria Street and, separately, for 80 Victoria Street. As a result of this a fragmentation allowance (which had been 5%) was no longer applicable.

49. Mr Flecknoe made reference to certain evidence referred to by the respondent and pointed out that these involved three buildings in the City of London which he said the respondent had

continuously claimed during this case was significantly different as a location to Westminster. He submitted that no assistance could be obtained from such properties.

50. It was agreed between the parties that the area of the bridge links was not included within the main space of the appeal property. As a result no rent would be attributed to these areas. Mr Flecknoe pointed out that this was a normal approach to corridor space. However he accepted that the bridge links were sufficiently wide to provide not only corridor space but also space for a seating area and plants. In summary he contended that there were advantages and disadvantages from having the main space contained in three buildings connected (at four floor levels only) by bridges. The advantages were outweighed by the disadvantages and hence his evidence that a 2.5% allowance for fragmentation should be made.

51. Mr Prekopp, on behalf of the respondent, said that fragmentation allowances are sometimes properly applicable in respect of older buildings and buildings which have gained their large size through a merger of two or more existing buildings, such that there are present additional disabilities over and above those usually associated with size alone – including awkward shapes, different or non-aligned floor levels and access issues. Fragmentation allowances were applied to reflect disabilities due to difficulties arising from poor layout, not because of size.

52. The appeal property was a well-designed building which adopted a very good method of dividing the available space. It was designed by leading architects and had received numerous architectural awards. Being split into three linked blocks the appeal property had many advantages including better natural light by reason of having more external glazing and providing external views. If the available floor space had been built within a single block it would probably have been necessary to incorporate additional atria into the design resulting in reduced outside views and perhaps a larger building with increased internal travelling distances.

53. There were separate sanitary facilities and a separate bank of six lifts in each of the three blocks. The three blocks also had separate service installations facilitating repair. The arrangement improved fire safety and security because of the ability to isolate each of the blocks. The three blocks were each entirely self-contained each with its own street entrance which provided additional flexibility.

54. The bridges themselves were actually wide corridors, sufficiently wide to include comfortable seating, which could be used as break-out areas for informal meetings. The bridge links were also only just over 10m in length.

55. No fragmentation allowance was given for offices on multiple levels where access between the levels was gained by way of a staircase or lifts. It would be inconsistent therefore to give an allowance where the parts were on the same level connected by a bridge.

56. As regards the three properties referred to by Mr Flecknoe where he claimed a fragmentation allowance had been made Mr Prekopp made the following observations. At 80-100 Victoria Street (Cardinal Place) the bridge link did not connect the two parts of the hereditament

but instead connected common parts – accordingly the two parts did not constitute a single hereditament and should never have been assessed as such. As this assessment was incorrect Mr Prekopp placed little weight upon it. As regards Peter Benenson House, this was not directly comparable as it was in a different location and a different market. Also the bridge link was retro-fitted to connect two separate buildings across a public highway and it had no glazing and was on one level only. As regards Ergon House the allowance had not been agreed in either the 2005 or 2010 lists and as the circumstances and reasons for the allowance were not known Mr Prekopp placed little weight upon this evidence.

57. Mr Prekopp then drew attention to two properties where no allowance for fragmentation due to a bridge link or a pinch-point was made, namely Peterborough Court in Fleet Street and Milton and Shire House in Silk Street.

### *Security equipment*

58. Mr Prekopp drew attention to the security systems in the entrance reception of the appeal property including baggage and body scanners which he said constituted equipment which was rateable under class 2(f) of the Valuation for Rating (Plant and Machinery) (England) Regulations 2000. He also drew attention to security gates and barriers and sentry boxes. Mr Prekopp did not perform any separate and detailed valuation in respect of the equipment at the appeal property, but he observed that an uplift of 1% was applied in respect of similarly extensive security equipment at the former New Scotland Yard premises on Victoria Street (now demolished) and said that this was agreed with professional rating consultants. This uplift turned out, on the figures, in that case to equate to £106,298. Rather than apply a 1% uplift to the present (more valuable) appeal property the respondent suggested applying the same figure of £106,298 which is, on the respondent's figures, an uplift in value of about 0.4%.

59. Mr Flecknoe pointed out that this was an entirely new addition to the valuation which was made by Mr Prekopp in his report for the purposes of the present appeal and had not been foreshadowed in the respondent's statement of case. Mr Flecknoe argued that the approach adopted by Mr Prekopp was unconventional because it merely took a figure for security from some other building (now demolished) rather than actually analyse and value the machinery in fact located at the appeal property. He also pointed out that there was no explicit value attributed to plant and machinery within the New Scotland Yard assessment valuation. Mr Flecknoe considered that the plant and machinery was reflected in the main space rates applied at New Scotland Yard and also at the Ministry of Justice building at 102 Petty France. He considered that the main space rate to be adopted for the appeal property reflected the security plant and machinery just as it reflected other rateable plant and machinery such as raised floors, suspended ceiling and air conditioning.

### **The parties' submissions**

60. In the same manner as we have divided the evidence given on behalf of the parties so as to deal separately with each of the four issues raised in the present case we propose also to divide their submissions under similar headings.

### *Main space rate*

61. For the appellant Mr Kolinsky said the agreed starting point was the main space rate of £630 per m<sup>2</sup> for Cardinal Place and nearby tier 1 offices. The question was whether the appeal property, a similar tier 1 building in Marsham Street, should be valued at a lower rate.

62. It was accepted that there was no single piece of definitive evidence, but Mr Kolinsky submitted it was instructive to compare the characteristics of the two locations and that Mr Bowring's analysis of the relevant factors was to be preferred to that of Mr Prekopp. This showed that Marsham Street was comparatively deficient in several important respects. Nor was there any reason to suppose that government occupiers would overpay for the appeal property just because it was located within the Division Bell Area.

63. Mr Prekopp had used sub-location groups that were not recognised in the market and had over-emphasised the importance of what he described as the boundary between "the heart of Westminster" sub-location group (WA) and the less valuable south Westminster sub-location group (WC). Although Mr Prekopp denied there was a "cliff edge" distinction in value between the two areas he had not given sufficient weight to the evidence of the properties close to, but south of, the appeal property. Not every part of a sub-location group was of equal value and it was necessary to make adjustments based on the totality of the evidence. That was what the appellant's experts had done.

64. Mr Bowring had been criticised for considering the spread of rents without making detailed adjustments for quality, age etc. But that was the way the market worked and Mr Bowring had looked at the rents which had actually been achieved. That exercise showed rental values in the Marsham Street area were 20%-25% below those in and around Cardinal Place. Mr Flecknoe compared the rating assessments of like for like tier 2 properties in the Victoria Street and Marsham Street areas in order to interrogate the proposition that there was a difference in value between them. He had done so cautiously and fairly and had adopted a reasonable discount of 12%.

65. Mr Kolinsky submitted that the equivalent exercise undertaken by Mr Prekopp was misconceived. He had compared the assessments of offices in Victoria Street that were located west and east of the recognised Buckingham Gate/Artillery Row divide between Victoria and Westminster. But that comparison was not to the point; what mattered was the difference in value between Cardinal Place (north) and Marsham Street (south) and only the appellant had properly engaged in the relevant comparison between the two. The only north to south comparison undertaken by Mr Prekopp was between 62 Buckingham Gate and 5 Howick Place. The difference in value of 5% which that comparison revealed was wrongly disregarded by Mr Prekopp as a credible source for determining the proper value relationship between the two areas. Mr Prekopp had not engaged appropriately with the relevant valuation exercise and instead had focussed upon the VOA's own categorisation of sub-location groups. That led him to conclude erroneously that the assessment of 14 Tothill Street, located well to the north of Victoria Street but within the Division Bell Area, was a useful comparator. But this was not a suitable proxy for a proper comparison between the two areas of concern and it illustrated Mr Prekopp's over reliance

on the appeal property's proximity to Parliament. That view placed an unwarranted importance upon the predominance of government occupiers in and around Marsham Street and ignored the amenity and locational advantages of Cardinal Place and its appeal to a wider office market.

66. For the respondent, Mr Williams accepted that the starting point was the assessment of £630 per m<sup>2</sup> for Cardinal Place and the other tier 1 buildings close by. He said the rental and assessment evidence showed no good reason to depart from that figure for a similar tier 1 building in Marsham Street.

67. Mr Williams submitted that Mr Bowring lacked experience of both large office buildings (above 20,000ft<sup>2</sup>/1,858m<sup>2</sup>) and government lettings. Mr Bowring had analysed comparables by inappropriately grouping them into three areas which did not reflect the tone of value in the vicinity of the appeal property. His analysis was circular because he assumed that which he was trying to prove, i.e. that values to the south of Victoria Street were lower than those on Victoria Street. He had also failed to isolate the locational differential from other factors affecting value such as the quality and age of the building and the date of the transaction. Mr Bowring had not shown that the transactional evidence supported any quantified general distinction in value between the vicinity of Cardinal Place and Marsham Street, let alone in respect of tier 1 buildings.

68. Mr Flecknoe's analysis was based on the agreed starting point that all tier 1 properties in Victoria were assessed at £630 per m<sup>2</sup>. But he then proceeded to consider properties of universally inferior quality and of varying quality as between themselves. This was an unreliable and unsound basis upon which to justify a discount from the closest and best comparable (Cardinal Place). Mr Flecknoe equated values east of Artillery Row with those near Cardinal Place and in so doing put himself into direct conflict with Mr Bowring's opinion that the value of properties in the eastern part of Victoria Street i.e. to the east of its junction with Artillery Row and Buckingham Gate, were 20% less than those at Cardinal Place. Furthermore, Mr Bowring's analysis showed only a 0-5% drop in value between eastern Victoria Street and the appeal property while Mr Flecknoe's analysis showed a wide range of between 12%-27%. Mr Williams submitted that neither of the appellant's experts' analyses was reliable.

69. Mr Flecknoe did not compare prime Victoria Street with Marsham Street. His comparisons were between isolated buildings none of which was near either of the locations of interest. His matched properties were not comparable in terms of quality of location, either to each other or to Cardinal Place and the appeal property. The properties that Mr Flecknoe chose as proxies for the appeal property were of inferior quality and were all located south of Horseferry Road in an area of lower value.

70. Mr Williams submitted that the appellant's experts had ignored the benefits of Westminster as a location and had failed to appreciate that values increased from west to east along Victoria Street as Mr Prekopp's evidence had shown. Mr Prekopp's analysis gave answers that were consistent with the pattern of agreed rating assessments. For instance, if Mr Bowring was correct then the value of 25 Victoria Street, east of Artillery Row (main space rate agreed at £600 per m<sup>2</sup>) would be worth much more than £630 per m<sup>2</sup> if moved to Cardinal Place in what he said was the more valuable part of Victoria Street, even though No.25 was a substantially inferior building.

That did not make sense. Mr Prekopp's analysis on the other hand suggested that values in Victoria Street increased from west to east such that if No.25 was moved to the west of Victoria Street it would be worth less than £600 per m<sup>2</sup>; the difference between it and Cardinal Place (£630 per m<sup>2</sup>) then properly reflecting the difference in the quality of the respective buildings.

71. Mr Williams said a similar logic applied to the analysis of 5 Howick Place. It was not, as Mr Flecknoe had said, worth less than £630 per m<sup>2</sup> because it was located south of Victoria Street; it was worth less because it was of inferior quality to both Cardinal Place and 62 Buckingham Gate. 5 Howick Place would not be worth £630 per m<sup>2</sup> if it was on Victoria Street.

72. Mr Prekopp recognised that values in central Westminster were high due to the advantages and amenities which it offered. Those values declined to the south of Horseferry Road so properties in that location did not make good comparators as Mr Flecknoe recognised when he said that rental transactions from properties located there were not useful and by not directly using rating assessments there to arrive at the rateable value of the appeal property.

73. Mr Williams submitted that the area around Marsham Street was an established office location supported by core demand from government and associated users. 14 Tothill Street was as far from Victoria Station as was the appeal property and had considerably fewer amenities than Cardinal Place but at £600 per m<sup>2</sup> and adjusting for differences in the quality of the buildings it had a main space rate that matched it. There was no reason to devalue between Tothill Street or 5 Howick Place and the appeal property; the evidence showed that the appeal property should be valued at the same main space rate as Cardinal Place, namely £630 per m<sup>2</sup>.

#### *Quantum allowance*

74. Mr Kolinsky pointed out that as a matter of fact the appeal property was occupied by the Government, namely the Home Office. When considering the hypothetical negotiations for the purposes of Schedule 6 paragraph 2 to the 1988 Act, the most likely hypothetical tenant in those negotiations would be the Government bearing in mind the size of the appeal property and its location near to the Houses of Parliament.

75. There would be substantial advantages to the hypothetical landlord in letting the entirety of this very large property on a single tenancy to a tenant whose covenant was entirely secure, namely the Government. This suggests that for a building so very much larger than the beginning of the top band of the Westminster scale a negotiated quantum allowance would be agreed, rather than the parties merely agreeing to apply the 17.5% from the Westminster scale. This is particularly so bearing in mind (i) there are only two other office buildings in Westminster of over 50,000 m<sup>2</sup> and for each of those a quantum allowance greater than the Westminster scale was adopted and (ii) in the City of London a quantum allowance for so large a building of 25% or more could be expected.

76. Mr Williams submitted that there was no evidence based reason in relation to the appeal property and its high quality accommodation to think that an allowance of 17.5% was inadequate.

He drew attention to the four settled appeals referred to by Mr Prekopp (see paragraph 42 above) where in each case the Westminster quantum scale had been applied. HM Treasury was not much smaller in size than the appeal property and no coherent explanation had been provided by Mr Flecknoe as to why the Treasury (over 45,000 m<sup>2</sup>) should have a quantum allowance of 17.5% and the appeal property (just over 50,000 m<sup>2</sup>) should have a quantum allowance of 25%.

77. As regards the two buildings particularly referred to by Mr Flecknoe, namely Broadcasting House and the Ministry of Defence, Mr Williams made the following observations. As regards the former there was evidence that there had been an error in allowing a 25% quantum allowance. As regards the latter there was doubt as to the proper analysis bearing in mind 20% in any event was applicable as an allowance pursuant to the Westminster scale and bearing in mind it was unclear, as regards the remaining 5% of the end allowance, how much if any of this was also attributable to quantum rather than some other disability. Little could be gained from the different office market in the City of London.

#### *Fragmentation allowance*

78. On behalf of the appellant Mr Kolinsky invited the Tribunal to adopt Mr Flecknoe's conclusions which suggested that a modest allowance of 2.5% should be made. He submitted that this was well justified upon the evidence. There were disabilities in the layout of the building especially at ground, fifth and sixth floor levels. It was self-evidently disadvantageous to have to go down and then across a bridge and then up again when seeking to move from fifth or sixth floor level in one building to the same floor in the next building. There were also connectivity problems at ground floor level. It was true that the area of the bridge links was not included within the main space area, but this was also true of corridors in any normal assessment of main space.

79. On behalf of the respondent Mr Williams submitted that an allowance against the basic main space rate would only be appropriate where the arrangement of floor space presented a significant disadvantage to the occupier in using the available office space. There was no evidence of that in the present case. The present layout enabled a large amount of floor space to be provided in a very efficient way and with good levels of light, services and amenity – a single block would not present such advantages. Each building was self-contained. No rental value was being attributed to the bridge links despite the fact that they had some amenity value.

#### *Security equipment*

80. For the appellant Mr Kolinsky objected to this point being raised for the first time in Mr Prekopp's main report without it having been foreshadowed in the statement of case. He argued that the manner in which this issue had been raised was unsatisfactory and the source of potential unfairness to the appellant because Mr Flecknoe had requested details of the plant and machinery which Mr Prekopp had valued but this had not been supplied. Also it was not apparent on the evidence available to the Tribunal that the existence of such security plant had not been dealt with, in relation to other buildings, by being included in the main space rate. He also argued that there was an inconsistency between Mr Prekopp's previous attitude towards an earlier error regarding

floor areas (which Mr Prekopp had argued was de minimis) and a claimed uplift of merely 0.4% on a basis which potentially raised complex issues.

81. For the respondent Mr Williams argued that the security installations at the appeal property increased its value and must be reflected in the assessed rateable value. The information provided in relation to New Scotland Yard show that the claimed addition of £106,298 was justified.

## **Discussion and conclusions**

82. Once again we divide this part of the decision so as to deal separately with the four issues raised in the present case.

### *Main space rate*

83. The parties agree that Cardinal Place and the appeal property are directly comparable tier 1 office buildings of the same quality. The only issue in dispute about the main space rate is whether a downward adjustment to the agreed rate of £630 per m<sup>2</sup> for Cardinal Place is justified in view of the different location of the appeal property.

84. In the absence of any comparable tier 1 buildings in the vicinity of the appeal property it is necessary to use an indirect method to compare the value of the two locations. Mr Flecknoe compares tier 2 buildings near the appeal property with tier 2 buildings in Victoria Street (mainly to the east of its junction with Buckingham Gate and Artillery Row). He then applies the resultant ratio to the main space rate of Cardinal Place to give the main space rate of the appeal property. Mr Prekopp adopts the VOA's definition of sub-location groups and therefore considers the relevant comparison to be between Victoria (Cardinal Place) and Westminster (the appeal property) as so defined. He compares values east and west of the junction of Victoria Street with Buckingham Gate and Artillery Row and places less emphasis on any north-south difference in value.

85. Whichever comparative method is used the matters affecting the physical state of the locality of the appeal property and the use and occupation of other premises situated in that locality must be considered as they were at the material day and not as they are today (paragraph 2(7) of Schedule 6 to the 1988 Act). Several of the comparables relied on by the experts had not been built or re-built/refurbished at the material day, i.e. 1A Page Street, 39 Victoria Street, 123 Victoria Street, 5 Howick Place and 62 Buckingham Gate. Mr Bowring said that "poor amenity offering has long been a criticism of Victoria, and Cardinal Place single handedly started the process of changing this view." That process was continuing at the material day and although the amenity and ambience of Victoria were improving the change in its character continues to the present day, e.g. the current redevelopment of New Scotland Yard. Mr Prekopp produced photographs of Victoria Street as it was at the AVD (which he said had not changed by the material day) and which showed long, uniform, monolithic office frontages along much of its length. We consider that at the material day Victoria Street was in transition and while the Cardinal Place development acted as a catalyst for change the transformation of the area was not



as advanced as it is today. The land uses in and around Marsham Street have also changed since the material day, as the experts described at the hearing.

86. For a north-south comparison to be a valid proxy for the relationship in value between Cardinal Place and the appeal property it seems to us that three criteria must be satisfied and we consider these in turn:

*(i) The properties being compared are of similar specification and quality.*

87. There are no perfect comparators between buildings in the vicinity of the appeal property and those in Victoria Street. Each property is described in detail in the evidence and there are several differences of opinion between the experts about their respective features and quality. During the hearing the parties referred to the categories set out in Tuckerman's reviews of the Victoria office market in 2007 and 2008. The 2007 review states:

“There will continue to be a clearly visible three tier market: [1] brand new/top quality refurbishment; [2] older style space but quality refurbishment; [3] second hand space which is unrefurbished and will be slower to let and will show little rental growth.”

For the purposes of the following discussion we have adopted these general categories. We have classified as tier 3 buildings those offices which were at least 20 years old at the material day and which had not been refurbished.

88. Mr Flecknoe compares the agreed main space rate assessments of three office buildings in what he considers to be the vicinity of the appeal property (Horseferry House, 1A Page Street and 17 Rochester Row) to those of five buildings in Victoria Street, four of which (Nos.25, 39, 55 and 61-71) are east of Artillery Row and the other (No.123) to the west of it.

89. 17 Rochester Row is compared to 55 and 61-71 Victoria Street. The properties are all older buildings (1987, 1985 and 1990 respectively) and were unrefurbished at the material day.

90. 1A Page Street is compared to 39 and 123 Victoria Street. All three properties were rebuilt/refurbished<sup>1</sup> in 2012/2013. 1A Page Street was built as a hospital in the 1960s and converted to offices in 1999 and 39 and 123 Victoria Street were built in 1987 and 1978 respectively.

91. Horseferry House is compared to 25 Victoria Street. The former was built in the 1930s and was rebuilt/refurbished<sup>1</sup> in 2007. The latter was built in 1996 and refurbished in 2007.

92. Mr Prekopp does not compare the value of properties in the vicinity of the appeal site with those in Victoria Street. Instead he compares the value of buildings east and west of the dividing line between Victoria and Westminster, i.e. the Buckingham Gate/Artillery Row junction. He

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<sup>1</sup> Mr Flecknoe described the works as a rebuild, Mr Prekopp as a refurbishment.

compares 55 Victoria Street (built in 1985, unrefurbished, east of the junction) to 173 Victoria Street (built in 1980, unrefurbished, west of the junction); 39 Victoria Street (built in 1987, refurbished in 2013, east of the junction) to 105 Victoria Street (built in 1978, refurbished in 2006, west of the junction); and 14 Tothill Street (built circa 1930, refurbished in 2007, east of the junction and north of Victoria Street) to 123 Victoria Street (built in 1978, refurbished in 2012, west of the junction).

93. Mr Flecknoe and Mr Prekopp both compare 5 Howick Place (built in 2013) to 62 Buckingham Gate (built in 2013), albeit they draw different conclusions from the comparison.

94. We are satisfied that the experts have compared buildings which are broadly similar in specification and quality and that the first criterion is generally satisfied. The exceptions to this are the last two east-west comparisons made by Mr Prekopp which we consider at paragraphs 99-100 below.

*(ii) The value of properties along Victoria Street is constant*

95. The purpose of Mr Flecknoe's comparison between buildings in Victoria Street and similar buildings near the appeal property is to establish the ratio of value between them and to apply that ratio to the main space rate of Cardinal Place and thereby obtain the main space rate of the appeal property. Unless values in Victoria Street are constant along its length that exercise will not be valid. For instance if values at the eastern end of Victoria Street are 20% less than those at the western end, as Mr Bowring states, the ratio of value derived by comparing tier 2 buildings near the appeal property with tier 2 buildings in the east of Victoria Street will understate the true difference between the appeal property and Cardinal Place, which is in the western part of Victoria Street.

96. Mr Prekopp says that values do not diminish as one goes east along Victoria Street; indeed he says there is evidence that the opposite is true and that values increase as one moves into Westminster. If that is correct then the value ratio obtained from a comparison with buildings in the east of Victoria Street will overstate the difference in value between Cardinal Place and the appeal property.

97. We are not satisfied that the evidence clearly establishes any difference in value along Victoria Street. Mr Bowring's views are based upon his knowledge of the market but he does not provide a sufficiently rigorous analysis of rents to persuade us that values decline sharply to the east as he suggests.

98. The furthest east of the tier 1 comparables is at 62 Buckingham Gate on the boundary between Victoria and Westminster and that, like Cardinal Place to the west, is assessed at an agreed main space rate of £630 per m<sup>2</sup>. Mr Prekopp compares the agreed assessment at 55 Victoria Street (£525.25 per m<sup>2</sup>) to 173 Victoria Street (£450 per m<sup>2</sup>) as proof that values rise to the east. But there are doubts about whether the agreed assessment at 55 Victoria Street is a true reflection of its value (see paragraph 104 below) and a better comparison in our view is between

173 Victoria Street and 39 Victoria Street before it was refurbished (£441 per m<sup>2</sup>). Mr Bowring described No.39 before refurbishment and No.55 as being “essentially identical”.

99. Mr Prekopp compares 39 Victoria Street after refurbishment (£570 per m<sup>2</sup>) to 105 Victoria Street after refurbishment (£498.75 per m<sup>2</sup>) but both Mr Flecknoe and Mr Bowring dispute the validity of the comparison and argue that the appropriate comparison is between No.39 before refurbishment (£441 per m<sup>2</sup>) and No.105 after refurbishment (£498.75 per m<sup>2</sup>) thereby reversing the trend of value from east to west. Mr Bowring says that the refurbishment of 39 Victoria Street was very substantial and involved stripping the building back to its frame. He says that it was to all intents and purposes a new building and Mr Flecknoe also describes the work as a rebuild rather than a refurbishment. We prefer the evidence of the appellant’s experts on this point and we are not satisfied that Mr Prekopp’s comparison of Nos.39 and 105 establishes that values are higher in the eastern part of Victoria Street.

100. Mr Prekopp also compares 123 Victoria Street (£540 per m<sup>2</sup>) with 14 Tothill Street (£600 per m<sup>2</sup>) to support his view that values rise from west to east in Victoria Street. But 14 Tothill Street is located to the north of Victoria Street in what Mr Prekopp identifies as a different sub-location group to the other Victoria Street comparables and one with a Victoria (V) rather than a Westminster (W) prefix. We do not find this to be a useful comparison in this context.

101. In our opinion there is no material difference in value between those parts of Victoria Street in which the comparables are located. The second criterion for a valid comparison is therefore satisfied.

*(iii) The properties which are being compared to those in Victoria Street are in the same location as the appeal property.*

102. Mr Flecknoe identifies three buildings as being in the vicinity of the appeal property, i.e. Horseferry House, 1A Page Street and 17 Rochester Row. The first two, while they are close to Marsham Street, are located to the south of Horseferry Road which Mr Prekopp says is the boundary between the Westminster and south Westminster sub-location groups. 17 Rochester Row is located to the west of the appeal property midway between it and Cardinal Place. It is closer to Victoria Street than the appeal property. It too is in the south Westminster sub-location group. We accept Mr Prekopp’s opinion that office values decline to the south of Horseferry Road. Like him we do not consider the fall in value to be precipitous and we do not think that 1A Page Street and Horseferry House are sufficiently far south of the appeal property to render them of no comparative value. 17 Rochester Row is further away from the appeal property than the other two comparables but nevertheless we still consider it to have comparative value.

103. We therefore consider that the third criterion for a valid comparison is satisfied, although we think that a further adjustment is required to reflect the location of Mr Flecknoe’s comparables south of Horseferry Road.

104. Turning to the results of Mr Flecknoe's comparison between 17 Rochester Row and 55 and 61-71 Victoria Street we note that he takes the value of No.55 to be the agreed assessment of £525.25 per m<sup>2</sup>. Mr Flecknoe was personally involved with the assessment of 55 Victoria Street and his evidence was, in relation to Mr Prekopp's comparison between Nos. 55 and 173 Victoria Street, that the agreed settlement of £525.25 per m<sup>2</sup> did not represent his opinion of value. He said that as a result of transition relief, various rate reliefs already granted and the limited rates liability period of the ratepayer, who was vacating the property, any reduction in the assessment on appeal would not have led to significant savings. It appears to have been a commercial decision not to pursue the appeal to the VTE. Mr Flecknoe thought the main space rate of No.55 should more properly be taken at the same rate as that agreed on 39 Victoria Street before it was refurbished/rebuilt in 2013, i.e. £441 per m<sup>2</sup>. But in comparing 17 Rochester Row with 55 Victoria Street Mr Flecknoe uses the agreed assessment of £525.25 per m<sup>2</sup> for No.55. If he were to adopt what he says is the correct value of £441 per m<sup>2</sup> for No.55 then 17 Rochester Row would be worth 10% less than No.55 and not 24% as he states. Surprisingly, Mr Flecknoe did not compare 17 Rochester Row with 39 Victoria Street as it was at the AVD, i.e. before it was substantially refurbished in 2013. That too was assessed by agreement at £441 per m<sup>2</sup>. We do not think that the agreed assessment of 55 Victoria Street is reliable evidence and we prefer to use the agreed assessment of 39 Victoria Street before its refurbishment.

105. 61-71 Victoria Street has an agreed main space rate of £550 per m<sup>2</sup>. It was built in 1990 but has not been refurbished. From the joint schedule of comparables it appears that it has a small double height reception and, unlike Nos.39 and 55, does not have a low ceiling height. An appeal against the assessment is shown as having been withdrawn but little is said about this property in any of the experts' reports although we note it had a rent review to a stepped rent in 2007 which Mr Flecknoe analyses at £530.93 per m<sup>2</sup> and Mr Prekopp at £550.71 per m<sup>2</sup>.

106. We also think it is useful to compare 17 Rochester Row (built in 1987, assessed at £399 per m<sup>2</sup>) to 173 Victoria Street (built in 1990, assessed at £450 per m<sup>2</sup>). Neither property was refurbished and both had low ceilings. No.173 is located at the western end of Victoria Street close to Victoria Station and the tier 1 comparables. This shows that 17 Rochester Row is assessed at 11% lower than 173 Victoria Street.

107. Mr Flecknoe supports his view that values decline south of Victoria Street by comparing 5 Howick Place (£600 per m<sup>2</sup>) to 62 Buckingham Gate (£630 per m<sup>2</sup>). On this point we think Mr Prekopp's view is more realistic; i.e. that the difference in value is due to a material difference in the quality of the two buildings and not their location. 5 Howick Place is very close to Victoria Street and we do not think this evidence is sufficiently robust to establish a plausible relationship between values on and to the south of Victoria Street.

108. We think Mr Flecknoe's approach of comparing buildings near the appeal property with those of similar quality in Victoria Street is sound in principle as a means to establish whether there is a value differential between the two locations. But we think his analysis requires adjustment as explained above. In our opinion Mr Prekopp relies too much upon sub-location groups which have been identified by the VOA but which Mr Bowring says are not recognised in the market. At the material day Victoria Street was in a state of transition with a transformation under way in the quality of office accommodation and concomitant amenities. There was no

corresponding change in prospect near the appeal property which was, and remained at the material day, the only tier 1 office building in that locality.

109. The ratios of value between properties near the appeal property and those of broadly similar type in Victoria Street are shown in the following table:

**RATIO OF VALUES  
VICINITY OF APPEAL PROPERTY: VICTORIA STREET**

	17 Rochester Row: £399 per m <sup>2</sup>	1A Page Street: £475 per m <sup>2</sup>	Horseferry House: £460 per m <sup>2</sup>
25 Victoria Street: £600 per m <sup>2</sup>			0.77
39 Victoria Street:			
(i) Unrefurbished: £441 per m <sup>2</sup>	0.90		
(ii) Refurbished: £570 per m <sup>2</sup>		0.83	
55 Victoria Street: £441 per m <sup>2</sup> :£525.25 per m <sup>2</sup>	0.90 <sup>2</sup> 0.76 <sup>2</sup>		
61-71 Victoria Street: £550 per m <sup>2</sup>	0.73		
123 Victoria Street: £540 per m <sup>2</sup>		0.88	
173 Victoria Street: £450 per m <sup>2</sup>	0.89		

110. We are satisfied that there is a decline in office value as one moves south from Victoria Street. There is no evidence that the ratio of value between tier 1 properties in the two locations is different to that between tier 2 or tier 3 properties and we consider the latter to be a reasonable proxy for the former. In our opinion, and considering all the evidence, the main space rate of the appeal property is 90% of the main space rate of the tier 1 properties in and close to Victoria Street i.e. £567 per m<sup>2</sup>. This figure is at the upper end of the range of ratios derived from the above analysis but we think this is appropriate given the slightly inferior location of the comparables south of Horseferry Road to that of the appeal property. The adopted main space rate is 19% higher than the rate at 1A Page Street, 23% higher than that at Horseferry House (both tier 2 buildings) and 42% higher than that of 17 Rochester Row (tier 3). We consider such amounts to be a proper reflection of the difference between the quality of those buildings and their location to that of the appeal property.

*Quantum allowance*

111. Both parties agree, through the evidence of their respective experts, that in principle a quantum allowance should be applied so as to reflect the fact that it is well established that as the size of the property increases (anyhow above a certain level) the value per square metre decreases. This is recognised in the fact that the Westminster quantum scale has been published by the VOA.

<sup>2</sup> We do not consider these figures to be reliable evidence (see paragraph 104 above).

112. Bearing in mind there is a dispute as to the amount of the quantum allowance which should be applied, it is in our view necessary to go back to the statutory provisions which lay down how the rateable value assessment is to be made. It is the statutory provisions which are of central importance rather than what may have been done in some other (perhaps disputed or difficult to analyse) cases.

113. Schedule 6 paragraph 2 to the 1988 Act directs an enquiry to be made as to the rent at which it is estimated the appeal property might reasonably be expected to let from year to year on the statutory assumptions.

114. The outcome of these hypothetical negotiations between a landlord and a tenant are not directly assisted by information regarding what may have happened concerning Broadcasting House or the Ministry of Defence building. As regards the former, a quantum allowance of 25% was only made after final completion of Broadcasting House in July 2012. Accordingly this information would not have been available to the hypothetical landlord and tenant when they were negotiating the rent on the statutory terms for the appeal property. As regards the latter, it is in our view doubtful what information would have been available to the hypothetical landlord and tenant bearing in mind the confidentiality surrounding the details of the Ministry of Defence building, the lack of public information and the lack of clarity as to the proper analysis of such information as has become available. We do however consider that such information as we have regarding these two properties gives us some limited assistance because it provides some evidence (although only available to us now after the AVD) that experts in this field would not necessarily have immediately agreed the application of 17.5% (as per the Westminster quantum scale) for so large a building as the appeal property.

115. We conclude that the most likely hypothetical tenant to be successful in the negotiations contemplated by Schedule 6 paragraph 2 would be the Government, bearing in mind the size and location of the appeal property. Whether the hypothetical tenant is the Government or not, the successful hypothetical tenant (in order to be able to take such a very large property) would in our view necessarily be a tenant with an exceptionally sound covenant such as the covenant provided by the Government. We see substance in Mr Kolinsky's argument that the hypothetical landlord would see much advantage in letting the entirety of the appeal property in a single letting to a tenant with so strong a covenant.

116. The hypothetical tenant could also find additional support in its bargaining with the hypothetical landlord from the fact that in the City of London for so large a building there would be an expectation of an individually negotiated quantum allowance and an expectation that the ultimately negotiated figure would be more than 25%. We accept that there may be persuasive reasons (which have not been explored in any detail in evidence or argument before us) as to why there should be a substantial difference regarding quantum allowance between the City of London and Westminster. However the existence of this substantial difference would assist the hypothetical tenant in arguing that, for a property so very much larger than the 30,000 m<sup>2</sup> entry-level for the final category on the Westminster scale, there should be a separately negotiated quantum allowance. We also conclude that to allow for a separately negotiated quantum allowance for such a property would be consistent with the basic justification for the existence of a quantum scale, namely that (anyhow above a certain level) parties will not agree to the same rate

of payment per square metre of space for a large building as compared with a much smaller building.

117. We recognise that the hypothetical landlord will also have arguments of weight in the hypothetical negotiations, in particular its ability to say that it was providing the right quality building of the right size in the right location. The hypothetical landlord would also draw support from the fact that the Treasury building (not so very much smaller than the appeal property) only attracted a 17.5% quantum allowance.

118. Our overall conclusion is that, during these hypothetical negotiations as contemplated by the statutory rating assumption, a quantum allowance of greater than the 17.5% shown on the Westminster scale would be agreed. We do not however accept that the allowance ultimately negotiated would be so great as 25%, especially in the light of only 17.5% being applicable at the Treasury. We conclude that the appropriate quantum allowance applicable to the appeal property is 20%.

#### *Fragmentation allowance*

119. During the course of our site inspection we were struck by the generous width of the bridge links which are sufficient not only for adequate corridor space but also for the positioning of large plants and attractive seating areas in the bridge link. No rental value is attributed to this benefit. Also we accept that the appeal property is well designed by award-winning architects. The adoption of three blocks with bridge connections gives rise to the benefit of greater natural light into the building and views out from the building.

120. Despite there being an assertion within the evidence of Mr Flecknoe that the existence of the three blocks will increase maintenance costs and lead to higher operational costs, no sufficient evidence was placed before us to justify or quantify these assertions. Also despite there being an assertion within Mr Flecknoe's evidence that the layout adopted may mean that safety is worse and flexibility is more limited than if the available space were comprised in a single block, no sufficient evidence was placed before us to justify these assertions.

121. We do not find that the three examples (i.e. where a fragmentation allowance was made) relied upon by Mr Flecknoe assist us in our analysis. This is substantially for the reasons given by Mr Prekopp. We also noted on our external site inspection at Cardinal Place that the bridge link appeared less generous in width as compared with the bridge links at the appeal property. We do not find that the examples in the City of London given to us by Mr Prekopp assist us in our analysis.

122. In summary we conclude that there are substantial beneficial features of the present layout, including light into the building, views out of the building and the availability of attractive amenity space in the bridge links (to which no additional rental value is attached). These features are sufficient at least to balance (if not to outweigh) any disadvantage that may be caused from time to time by a lengthened journey between one part of the appeal property and the other. Also

we conclude that appropriate planning of the layouts of the various departments within the appeal property would minimise the frequency with which such lengthened journeys would occur.

123. We reject the appellant's argument that a fragmentation allowance should be made.

#### *Security equipment*

124. Upon this point we accept the arguments of Mr Kolinsky. This is a late point which has not been properly supported by evidence regarding the details and costs of the security equipment in fact present at the appeal property. The respondent's argument depends upon referring to what he says was agreed in relation to a building which can no longer be inspected because it has now been demolished (New Scotland Yard). We see no reason to believe that appropriate security is not already allowed for in the main space rate which is ultimately to be applied to the appeal property.

125. Separately from the foregoing there is the following point. It is of importance to the respondent's argument that the appeal property is a tier 1 property which would attract a tenant wanting the highest quality modern office accommodation. Reference was made throughout the evidence to the quality of the reception areas of various other buildings. Our site visit revealed that certain of the other properties referred to by the parties did indeed have highly impressive reception areas. At the appeal property however the necessity for going through the extensive security installations (to which Mr Prekopp seeks to attribute additional value) means that the initial reception area is not of a highly impressive appearance. It is necessary to penetrate through the less impressive outer reception area before reaching some generous open reception area. We consider this to be a matter weighing against the attractiveness of the appeal property and being sufficient to balance any additional value from the benefits of the high security installations.

#### **Determination**

126. We determine the issues in this appeals as follows:

- (i) Main space rate: £567 per m<sup>2</sup>
- (ii) Quantum allowance: 20%
- (iii) Fragmentation allowance: Nil
- (iv) Security equipment adjustment: Nil (included in the main space rate)

127. The rateable value of the appeal property in the 2010 non-domestic rating list with effect from 1 April 2010 is £22,700,000 (see Appendix 1).



128. This decision is final in all matters other than the costs of the appeal. The parties may now make submissions on such costs and a letter giving directions for the filing and exchange of submissions accompanies this decision.

Dated: 19 July 2018

A handwritten signature in black ink, appearing to read 'Nicholas Huskinson', with a long horizontal flourish extending to the right.

His Honour Judge Nicholas Huskinson

A J Trott FRICS  
Member Upper Tribunal (Lands Chamber)

## APPENDIX 1

### UPPER TRIBUNAL (LANDS CHAMBER) VALUATION 2 MARSHAM STREET, LONDON SW1P 4DF

Main space rate: £567 per m<sup>2</sup>

Floor	Description	Area (m <sup>2</sup> )	Rate £/m <sup>2</sup>	Value (£)
Lower ground	Storage/Hall/Dining Areas	5,057.4	283.50	1,433,773
Ground	Atrium used as Café/Mess Area	354.6	567	201,058
Ground	Reception/Waiting Area	556.6	567	315,592
Ground	Office	6,278.7	567	3,560,023
First	Office	7,889.4	567	4,473,290
Second	Office	8,008.0	567	4,540,536
Third	Office	8,002.8	567	4,537,588
Fourth	Office	8,004.7	567	4,538,665
Fifth	Office	4,611.7	567	2,614,834
Sixth	Office	<u>3,300.1</u>	567	<u>1,871,157</u>
		52,064		28,086,516
	Quantity allowance		-20%	(5,617,303)
	Car parking			236,500
				22,705,713
	Rateable value:			<b>22,700,000</b>