VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2010 rating list; Hospital and Premises; accuracy of rateable value in list; contractors' basis; value to be applied to vacant second floor; stage 5 end allowances for shared site and access, poor access and disturbance from adjacent building works at the material day. Decision: Appeal allowed in part.

RE: Townlands Hospital, York Road, Henley-On-Thames, Oxon, RG9 2DR

APPEAL NUMBER: 31153082871/285N10

BETWEEN:	NHS Property Services Ltd	Appellant
and	Valuation Officer	Respondent

BEFORE: Dr J Johnson (Senior Member sitting alone)

CLERK: Mr D Jefferies

REMOTE HEARING ON: 26 April 2021

APPEARANCES: Mr D White of GL Hearn Limited for the appellant
Mr R Phelps for the Valuation Officer

Summary of decision

1. The appeal was allowed in part. The rateable value (RV) of Townlands Hospital, York Road, Henley-On-Thames, Oxon, RG9 2DR, was reduced to £221,000, with effect from 15 March 2016.

Introduction

2. In accordance with the Tribunal's business arrangements, I have been authorised to consider and determine this appeal alone.

3. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local

Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5)(arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

4. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.
5. The appeal arose following a proposal dated 9 July 2018 made by GL Hearn Limited on behalf of the appellant ratepayer, NHS Property Services Ltd, seeking a reduction in the 2010 rating list entry of RV £232,000 on the grounds that the Valuation Officer's Notice made on 7 March 2018 was inaccurate. Agreement between the Valuation Officer (VO) and the appellant in respect of this proposal had not been possible and the matter was therefore referred to the Valuation Tribunal for England as an appeal under Regulation 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 SI 2268. The material date and the effective date for this appeal are the 15 March 2016, when the subject property was brought into the 2010 rating list.

6. The subject property comprises a modern three storey community hospital with roof level plant rooms. Steel frame construction with brickwork, glazing and metal panel cladding walls under flat roofing. The site includes the Laureate Gardens residential development, Chilterns Court Care Home, two GP surgeries and associated car parking. It is an open site with a one-way loop road which is also used by residents of York Road and Clarence Road.

7. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before me by the parties should not be construed as an indication that that statement or item of evidence has been overlooked.

Issues

8. The issues between the parties concerned the following:

   (a) The value to be applied to the vacant second floor.

   (b) End allowances, if any, to be applied for shared site and access, poor access and disturbance from adjacent building works at the material day.

9. All relevant factual information was not disputed by the parties.

Evidence and submissions

10. Both of the parties' representatives appeared in a dual role of advocate and expert witness. Both Mr White and Mr Phelps were very experienced in rating. They had signed a declaration to confirm their primary duty in giving expert evidence was to the Tribunal and that they were not instructed under a conditional fee arrangement. Additionally, Mr White confirmed his firm was not on a success related fee in respect of these proceedings.

11. The parties provided a considerable amount of documentary evidence which included, among other things, their respective case submissions, photographs, plans, rating valuations, the statutory basis of valuation, extracts from guidance material, comparable evidence, settlements in the 2010 rating list and a copy of the proposal form.

12. At the hearing, Mr White, for the appellant, sought a revised valuation as he now believed that the RV for the subject property should be £196,000 RV. Mr Phelps, for the VO, was satisfied that based on the evidence available the correct RV is £234,000, which is higher than the current figure in the 2010 rating list, however, he defended the current RV of £232,000, and sought dismissal of the appeal. I allowed Mr White's revised valuation to be submitted, noting that Mr Phelps had no objection to this.

Decision and reasons

13. Firstly, I considered the value to be ascribed to the vacant second floor. I was informed by the parties that the hospital was completed in 2016. All parts of the property were occupied on completion with the exception of the second floor which has a bespoke fit out for use as a palliative care ward. The second floor provides for 12 single bedded en-suite rooms supported by offices, meeting rooms, staff changing and WCs, utility rooms, a day therapy room, a nurse base and stores. The palliative care services on the second floor were to be operated by Sue Ryder Care, however, after construction work had commenced Sue Ryder Care announced they were pulling out of the scheme and the second floor remained empty for a number of years. It was suggested by the VO that subsequent to Sue Ryder Care withdrawing from the scheme there were reports of interest from potential occupiers of the empty second floor, but, at a reported asking rent of £250,000 per annum, it had deterred any agreement from being reached.

14. Mr White submitted that as this is a specialised class of property, demand is finite and can only exist in one place at a time. He confirmed to me that Sue Ryder Care remain at their existing site in Henley-on-Thames. He contended that in the same way that construction of new, alterative facilities renders the previous accommodation superfluous on vacation, where those new facilities were never occupied due to the occupier remaining in their existing accommodation this demonstrates that no demand exists for the new facilities. He said that despite marketing the bespoke nature of the fit out for use as a palliative care ward this has resulted in the second floor continuing to stand vacant. In his original case submission, Mr White had originally contended that as there was no demand the unused second floor should be treated as of no value and should be excluded from the costings. In his revised valuation, however, he sought a 25% adjustment to the value to reflect the fact that the floor had never been occupied. He said that this equates to approximately a 5% stage 5 adjustment.

15. Mr Phelps, on the other hand, explained to me that this area was intended to be occupied by Sue Ryder Care, however it was never occupied by them and remained vacant. He said the new owners of the site, the current ratepayer NHS Property Services, had been talking to prospective occupiers about alternative uses of the second floor. He said it is clear that one of the main objectives of NHS Property Services is the financial viability of the project and there is evidence available at a later stage to demonstrate they had been marketing the property as available to let. He said the VO has established that there has been some criticism in the press that despite it being known that Sue Ryder Care had pulled out of the scheme at a fairly

early stage, nothing in the meantime had been done to seek a new occupier in readiness for when the building was complete. In his submission, Mr Phelps provided me with various extract from the local press at that time.

16. In this case I listened carefully to what both parties have had to say on the issue of the vacant second floor and to the concept of 'superfluity'. Based on the evidence available I do not accept the appellant's representative's allowance for superfluity (which I understand in the contractor's basis of valuation is a stage 1 consideration). However, at stage 5 – end adjustments, superfluity may need to be reflected where it can be identified. Mr White had provided me with a comparable at Bletchley Community hospital where a new ward, constructed in 2002, had never been occupied. He believed that the vacant ward was not included in the valuation for both the 2000 and 2005 rating lists. Mr Phelps also provided me with a comparable, Finchley Memorial hospital which was built in 2012. In that case the VO successfully argued that there was no case for superfluity, either as a modern substitute at stage 1 or as a stage 2 allowance for the vacant parts. However, in that case a 5% stage 5 end allowance had been agreed to reflect the vacant parts with nearly half of the hospital being vacant until 2017.

17. On the issue on the vacant second floor, I noted that both parties had produced a comparable NHS hospital with parts empty. However, I am of the opinion that there is a distinct lack of evidence and information on the comparable submitted by the appellant's representative by which to make a comparison in contrast to the VO's comparable at Finchley Memorial hospital, which I consider to be more comparable by the nature of its age of construction. In the subject appeal the VO has applied the full normal value to the area of the second floor and has applied a 2.5% stage 5 end allowance to reflect the vacant parts. The appellant's representative has produced no evidence at the AVD of 1 April 2008, or later, to demonstrate that any superfluity exists on the subject property. In this respect I found similarity with Finchley Memorial hospital. In that case the VO had agreed a 5% stage 5 end allowance, however as much as 50% of the hospital was empty. In comparison, only 27% of Townlands hospital was vacant. I therefore determined that a 2.5% stage 5 end allowance for vacant parts, as contended for by the VO, was the appropriate allowance for the vacant second floor at Townlands hospital.

18. Secondly, I considered the stage 5 end allowances sought by the appellant's representative for shared site and access, poor access and disturbance from adjacent building works at the material day. In his revised valuation Mr White had sought the following end allowances:

    - Poor access and egress via one way system through narrow residential streets (5% end allowance)
    - Shared site and access with Chilterns Court Care Centre, The Bell Surgery and Hart Surgery (5% end allowance)
    - Disturbance from adjacent redevelopment of surplus site (5% end allowance)

19. End allowance – poor access/egress: Mr White explained to me that the only access to the hospital is via York Road, which is a narrow residential street with residents parking on both sides. Egress is via Clarence Road which again has the same issue. He said that because of the one-way system residents of both streets must traverse the hospital site to access their properties. He said the access and egress are also unsuitable for larger vehicles. He sought a 5% allowance to reflect this. Mr White helpfully provided me with photographs and plans in order to illustrate the points he was trying to make.

20. Mr Phelps said the residents of Clarence Road now also have the additional option of using the new access from Mount View that helps reduce the traffic flow in York Road and the hospital road. Mount View also provides for separate access for the assisted living units and the key worker units, as well as providing for the access and exit for hospital screening lorries and other large service vehicles, again reducing the dependence on both York Road and Clarence Road. Mr Phelps contended that the VO does not accept an end allowance should be given for this reason because following the sites redevelopment the access/exit arrangements are better than they were, and the previous assessment had no such allowance.

21. During questioning it was established that at the material date of 15 March 2016, there was no second access onto the site from Mount View. The use of the Mount View access was exclusive, by agreement, to construction traffic associated with the Laureate Gardens development. Mr Phelps accepted this point. Mr White had also provided me with details of allowances on other hospital properties where allowances of between 2% to 12.5% had been given where similar circumstances exist. In reaching my decision I am mindful that cases of this nature are different and can only be considered on their own merits.

22. I had regard to the photographs and plans provided by Mr White. I noted that the only access to the hospital is via York Road, which is a fairly narrow residential street with residents parking on either side. Egress is via Clarence Road which again has the same issue. I accepted Mr White's contention that this may at times cause access/exit issues in getting to and from the hospital and that because of the one-way system residents of both streets must traverse the hospital site to access their properties. I therefore accepted Mr White's argument that an allowance was warranted to reflect this fact. However, I was not satisfied that Mr White has proved that an allowance as high as 5% was justified in this instance. On the basis of such evidence as it was, I concluded that a 2.5% allowance for poor access/egress was warranted in this case.

23. End allowance – shared site and access: Mr White said that both the site and the sole access/egress to the hospital is shared with Chiltern Court Care Home, Hart Surgery and The Bell Surgery. In line with his comparable evidence, he proposed an end adjustment of 5% to reflect this disadvantage, which includes issues of security and increased traffic. In particular, Mr White referred me to the aerial photograph of Badsley Moor hospital. He said that this property also has a one-way system directly off Badsley Moor Lane which goes around the site and is similar to the subject property. In addition to the hospital at Badsley Moor the site includes The Park Rehabilitation Centre and The Millennium Day Centre and the 2010 rating list assessment includes a 5% stage 5 adjustment to reflect shared access. With regard to the shared site, Mr White referred me to Retford hospital where the site there is shared with Bassetlaw Hospice and Retford Primary Care Centre which comprises of three GP surgeries and also a pharmacy. A 10% stage 5 adjustment had been applied to the 2010 rating list assessment to reflect the mixed and shared site.

24. Mr Phelps explained to me that the site the hospital is on has been specifically designed and built to deliver a fully and completely integrated genuine Health and Social Care Healthcare campus. He said the overarching aim at the outset of the design process was to create a completed site that is readily understood by all who use it. The hospital building has purposely been positioned at the forefront of the site to reflect it dominates the site and promotes the most footfall and therefore needs to be where it is in a clear, prominent and the busiest part of the site reflecting the

hospital needs to be visual and publicly accessible. Mr Phelps said that based on the circumstances of this case with the subject property being the dominant building, occupier and user of a shared health and social care site, the VO believes the benefits outweigh any disadvantages and in any event the appellant's representative has not produced any evidence or information of the problems he claims exist.

25. Again, I listened carefully to what both parties have had to say on the issue of the shared site and access. I accepted the appellant's representative's view that there has been a change in the use of the whole site which now includes the Chiltern Court Care Home, together with the two existing GP surgeries, and I accepted Mr White's points regarding the associated issues of security and increased traffic around the site. Although the VO did not agree that an allowance was warranted in this case, I nevertheless found that a 2.5% stage 5 adjustment to the assessment was warranted for this reason.

26. End allowance – disturbance from building works: Mr White said the redevelopment of the surplus old Townlands hospital site was ongoing at the material day. In line with his comparable evidence and in consideration of the proximity of the redevelopment works to the new hospital, he sought a 5% stage 5 allowance to reflect this. Mr Phelps said that in the VO's experience of valuing NHS hospitals that undergo periods of extensive disruption from on-site works or from adjoining sites the NHS will have progress reports available to monitor and manage the situation, but none have been provided by the appellant. He said the appellant's representative has produced no plans, discernible photographs, works programmes or other information as at the material day on the subject property by which to substantiate his claim. Mr Phelps said that the VO has, however, conceded that it is possible that there could have been temporary disturbances for the building works at the material day and has applied a 2.5% stage 5 adjustment in his valuation.

27. In cases of this nature each and every case will depend on its own merits. What has to be considered is what are the relevant matters to be taken into account for valuation purposes and which are specified in Schedule 6 paragraph 2(7) on the material day, i.e., 15 March 2016. I noted that both parties had agreed a 5% stage 5 allowance in respect of the new QEII hospital for disturbance from adjacent building works. However, that related to a significantly larger site and the circumstances were described to me by Mr Phelps as being much worse and at Townlands hospital. I therefore accepted the VO's contention and determined that a 2.5% stage 5 end allowance for redevelopment works on the surplus and old hospital site, on-going at the material day, and as contended for by the VO, was the appropriate allowance for Townlands hospital.

28. In conclusion, adopting the VO's valuation and applying the stage 5 end allowances as above, in accordance with my findings, this yields a RV of £221,715, rounded down to £221,000, which I direct with effect from 15 March 2016. The appeal is allowed that that extent.

Order

29. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the VTE orders the Valuation Officer to alter the List within two weeks of the date of this order to show Townlands Hospital, York Road, Henley-On-Thames, Oxon, RG9 2DR, at a Rateable Value of £221,000 with effect from 15 March 2016.

Date: 19 May 2021

Appeal number: 31153082871/285N10