THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal – rate per m² and areas agreed – seeking 15% end allowance for disadvantages - loading bay close to road – property close to school and pedestrian crossing - limiting parking in area for loading and unloading of goods – appeal dismissed

Re: 69 Rockingham Road, Uxbridge, Middlesex, UB8 2UA

APPEAL NUMBER: CHG100109483

BETWEEN:	Lost Boys London Ltd	Appellant
	and	
	Valuation Officer	Respondent
PANEL;	Miss L Sharkey (Senior Member)	
	Dr P Thomson	
CLERK:	Mr A Jolly	
REMOTE HEARING:	Monday 23 August 2021	
APPEARANCE:	Mr A Moore of Altus Group representing the occupier Lost Boys London Ltd (appellant)	
	Mr J Balogun representing the Valuation Officer (respondent)	

Summary of decision

1. Appeal dismissed. Rateable Value (RV) £26,750 confirmed as correct.

Introduction

2. This appeal has been brought in respect of the following: The appeal before the panel was lodged on the 16 April 2021 against the Valuation Officer’s Challenge Decision Notice of the 18 December 2020.

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. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

6. Mr Moore appeared on behalf of the appellant as both Advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Moore’s declaration of truth included a statement that he was instructed under a conditional fee arrangement.

7. Mr Moore declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client’s case.

8. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was allowable due to the Tribunal’s rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

9. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

Preliminary Issue

10. Mr Moore stated that when the Valuation Officer had issued his initial response to the challenge he gave a period of one month, until 4 January 2021, for the appellant or his representative to provide any further information or evidence but on the 18 December 2020 he issued his Challenge Decision Notice. This was before the appellant had an opportunity to provide any further evidence and therefore Mr Moore considered the appellant was disadvantaged by the premature issuing of the Challenge Decision Notice as the appellant either had to accept the decision or appeal the decision without the opportunity to discuss the case fully and also incurring a fee to lodge his appeal.

11. Mr Balogun stated that if he had waited until 4 January 2021 the challenge would have been two years old and therefore the Valuation Officer would be barred from proceedings. He stated that due to the festive period he made the decision to issue the Challenge Decision Notice on 18 December 2020 but he stated that he would not object to the inclusion of any evidence from the appellant or the appellant’s representative that had not been submitted at the challenge stage.

12. The panel noted the situation and was aware that the appellant had, when lodging the appeal, provided evidence which had not been provided at challenge stage and therefore considered that it was in the interest of justice to proceed with the hearing based on the evidence submitted at appeal stage.

Issues

13. The issue before the panel concerned whether a 15% end allowance should be applied to the appeal hereditament due to the limited space in front of the property's loading bay, its location close to a school and pedestrian crossing and limited parking in the locality.

Evidence and submissions

14. Mr Moore considered the current RV applied to the appeal hereditament was excessive as it did not reflect the disadvantages of the poor loading and access for the property. He considered an end allowance of 15% should be awarded to take account of the fact that HGV lorries were unable to load or unload due to the roller shutter door opening onto the pavement. He stated that loading and unloading was further disadvantaged by the close proximity of a school with a bus stop and pedestrian crossing almost directly outside the appeal hereditament.

15. In support of his contention that an end allowance should be applied due to the location and poor access he provided details of agreements that had been reached where allowances had been awarded for poor access to loading bays.

16. Mr Moore stated that the rent for the appeal hereditament was between connected parties and therefore of little, if any, weight.

17. In questioning, Mr Moore accepted that the appeal hereditament may have light industrial use but that the disadvantages of the poor loading area applied to any vehicle. He stated that the forecourt in front of the property only allowed for a car's length and that the photographs he provided, whilst not taken from directly in front of the property, showed the wider locality and the issues concerning not being able to park on the road outside the premises. He also stated that a different representative had dealt with the 2010 Rating Appeal and that from settlements of other appeals he considered that an allowance should also apply in this instance.

18. Mr Balogun stated that the RV of £26,750 was the same as applied in the 2010 Rating List and that no allowance had been previously granted for the loading bay.

19. Mr Balogun stated that the property was a light industrial unit and that the loading bay was located at the front of the building with a forecourt which could accommodate three vans and therefore he did not consider an allowance was required.

20. Mr Balogun stated that the appellant's comparable properties were different to the appeal dwelling with their loading bays opening directly on the pavement whereas in this case there was a forecourt.

Decision and reasons

21. The only issue before the panel concerned whether or not an end allowance should be awarded due to the access and position of the loading bay of the appeal hereditament. The appellant's representative considered that a 15% allowance should be awarded whereas the Valuation Officer considered that no allowance should be awarded.

22. The panel considered it unfortunate that it did not have a clear photograph of the loading bay and the front forecourt of the appeal hereditament to illustrate the points raised by the appellant's representative or that of the Valuation Officer. However, from the photographs provided (taken from google street maps) the panel could see a forecourt in front of the loading bay and that there was sufficient space in front of the loading bay to fit a large car with space to the rear. The panel therefore accepted the Valuation Officer's contention that a small to medium van could park to the front of the loading bay.

23. Whilst the panel accepted that for larger vehicles such as HGV's loading and unloading may be more difficult it noted that the property was a small light industrial unit and as such the panel considered the forecourt to be sufficient for the majority of vehicles that may be used for loading and unloading of goods. It considered the disadvantages of the appellant's representative's comparable hereditament giving rise to allowances were greater than that of the appeal hereditament.

24. The panel noted that the assessment had been agreed in previous Rating Lists without any allowance for the loading bay and location. The property or loading area had not been altered between Rating Lists.

25. The panel had not been persuaded by the appellant's representative the location of the loading bay warranted an end allowance to be applied. The panel confirmed the RV of £26,750 in the compiled rating list as being correct.

Date: Wednesday 15 September 2021

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