THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal – location of appeal hereditament – end of cul-de-sac – isolated location – reduction sought for location – rental evidence of price per m² adopted – no evidence presented to suggest rental level would be affected by location of property - appeal dismissed

Re: Unit J Fairhills Industrial Estate, Woodrow Way, Manchester, M44 6ZQ

APPEAL NUMBER: CHG100134716

BETWEEN:	Lancastria LLP	Appellant
	and	
	The Valuation Officer	Respondent

PANEL;	Miss S Ballentine (Senior Member)
	Mr A Wheeler
CLERK:	Mr A Jolly
REMOTE HEARING:	Wednesday 24 November 2021
APPEARANCE:	Mr K Batty of Ken Batty Ltd representing Lancastria LLP (appellant)
	Mr C Ogbuago representing the Valuation Officer (respondent)

Summary of decision

1. Appeal Dismissed. Rateable Value £22,750 confirmed as correct.

Introduction

2. An appeal received on 4 June 2021 against the Valuation Officer's Challenge Case Decision Notice dated 8 February 2021. The appeal sought an allowance of 2.5% to be awarded due to the location of the appeal property on the industrial estate.

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. In accordance with that Practice Statement, the panel conducted the hearing of this appeal remotely via Microsoft Teams conference call using audio/video-link. For the avoidance of any doubt, the panel was satisfied that those present at the hearing were able to fully participate in the proceedings.

6. 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.

7. Mr Batty 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 Batty's declaration of truth included a statement that he was instructed under an conditional fee arrangement.

8. Mr Batty 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.

9. 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).

10. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

Issues

11. The issue before the panel concerned the price per m² having regards to whether an allowance should be given to reflect the appeal hereditament's location within the Industrial Estate.

12. In the appeal the appellant had requested that the assessment have regards to the lack of heating but both parties confirmed that the price per m² adopted did take account of the lack of heating and the only issue that remained concerned an allowance for the appeal hereditament's location.

13. The appeal hereditament was a detached 1970s warehouse of steel portal frame construction with lower sections of brick and metal cladding to the upper sections. It was located in Woodrow Way which was a cul-de-sac situated off the main road running through the large industrial estate.

Evidence and submissions

14. Mr Batty stated that the appeal hereditament was located on a large industrial estate and situated at the end of a cul-de-sac in an isolated position from the rest of the estate. He referred to the photographs of the appeal property and the road it was located on. He stated that the appellant was greatly concerned with the isolation of the unit and that an allowance of 2.5% should be granted to reflect the isolation of the unit. He requested the panel allow the appeal and determine RV £21,500 with effect from 1 April 2017.

15. Mr Ogbuago stated that it was his contention that no allowance was warranted. He referred to his rental and assessment evidence and stated that all hereditaments on the estate were valued at the same level based on the rental evidence. He did not believe the appeal hereditament was isolated as there were units surrounding the property. He also considered no evidence had been provided to show that an allowance of 2.5% should be applied to the price per m^2.

16. Mr Ogbuago confirmed in questions that he had not inspected the premises which Mr Batty considered illustrated that the Valuation Officer was unable to make a judgement on the isolated position of the property.

Decision and reasons

17. The panel had to consider whether a hypothetical tenant would offer a lower rental figure, and a hypothetical landlord would accept a reduction for the location of the property within the industrial estate.

18. The panel had been provided with rental and assessment details of properties on the same estate which supported the price per m^2 adopted. The panel then considered whether an allowance should be awarded to reflect the location.

19. The panel understood that the appeal hereditament was located on a cul-de-sac without passing traffic and direct neighbours, those neighbouring the property had entrances from other roads. The panel had not been provided with any supportive evidence that the rent passing on the appeal hereditament would be affected by the location and the rental evidence did not illustrate any reduction in rental levels. The only evidence presented was of photographs of the premises and the road.

20. The panel therefore had not been persuaded by Mr Batty that an allowance for the location of the appeal property was warranted. The panel confirmed that RV £22,750 was correct and dismissed the appeal.

Date: Tuesday 14 December 2021

Appeal number: CHG100134716