THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List – unadjusted price per m² agreed – should adjusted price per m² be reduced with end allowance to reflect wall of single glazed windows on one side of property – rent passing – end allowance also sought for access issue due to narrow space between buildings where loading bay was situated – appeal dismissed

Re: Unit P2B Ribble Business Park, Challenge Way, Blackburn, BB1 5QB

APPEAL NUMBER: CHG100170173

BETWEEN:	Steve Allen	Appellant
	and	
	The Valuation Officer	Respondent

PANEL:	Mr G Coombes (Senior Member)
	Mrs C Parkes
CLERK:	Mr A Jolly
REMOTE HEARING:	Monday 7 February 2022
APPEARANCES:	Mr K Batty of Ken Batty Ltd representing Steven Allen (appellant)
	Ms R Griffiths representing the Valuation Officer (respondent)

Summary of decision

1. Appeal dismissed. Rateable Value (RV) £14,750 confirmed with effect from 1 April 2017.

Introduction

2. The appeal before the panel was lodged on 20 September 2021 in response to the Valuation Officer’s Notice of Decision dated 5 July 2021.

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.

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 not instructed under any conditional fee arrangement. 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.

Issues

8. The issues before the panel concerned the price per m² to be adopted having regards to whether an allowance of 2.5% for the wall which comprised three quarters single glazing should be awarded and whether or not an end allowance should be applied for access to the unit.

9. The appeal hereditament was a 1920 unit thought to be a former spinning shed. The property had been defunct for many years but recently the site was developed and new units, along with the old unit, were put into use. The panel understood that very little alterations have been made to the appeal property over the years although the walls themselves were insulated. There was no heating at the premises and an allowance of 2.5% had been applied to the price per m² in line with other units in the locality. One wall of the unit comprised three quarters glazing which was only single glazing and the access to the unit was via a road between the units.

Evidence and submissions

10. Mr Batty stated that he was seeking the price per m² of £19.22 per m² instead of the £19.71 per m² adopted by the Valuation Officer. He stated that the difference was due to the Valuation Officer not applying the 2.5% reduction for non-insulated walls. He explained that whilst the walls themselves were insulated one wall of the building consisted of three quarter single glazing which caused issues with heat loss and heat gain dependant on season. He considered that as the wall consisted mainly of single glazing the allowance for non-insulated walls should be applied. He was at a loss as to why the Valuation Officer was insisting that the allowance should not be applied which he was finding a common issue. As the wall was mainly single glazed how could it be argued that the premises was fully insulated.

11. Mr Batty then referred to the photographs contained in both parties' evidence which not only showed the glazed wall but also the access to the unit. He stated that the access road to the loading bay was between the appeal hereditament and another unit. Mr Batty considered that due to the narrow nature of the access road it was difficult to access and therefore an end allowance of 5% should be applied to reflect this disadvantage. He stated that whilst other units had loading bays within the narrow road they also had loading bays at the end of the units which were used instead and these gave better access. He considered that no

other unit had sought an allowance for access due to the second loading bay which the appeal hereditament did not benefit from.

12. In support of reductions Mr Batty provided details of allowances given from around the wider locality. These were not comparable properties or necessary local they were submitted to illustrate reasons why end allowances were awarded.

13. Mr Batty sought that the appeal be allowed and the RV £13,750 was determined.

14. Mr Batty, during questioning, did not accept that the fact that his client had taken another unit on the estate at a high rent showed he was content and stated that his client was expanding and had agreed the higher rent under duress to ensure continuation of the company.

15. Ms Griffiths confirmed that she had inspected the property and whilst she had not prepared the Challenge Notice Decision she was fully conversant with the appeal and property.

16. She explained that the base rate for units on this development was £20.22 per m² but the price per m² adopted was £19.71 per m² having applied a 2.5% allowance due to the lack of heating. She did not consider a further end allowance of 2.5% was warranted for the wall with glazing.

17. Ms Griffiths informed the panel that a lease was undertaken in July 2015 at £27,500 per annum which analysed to £31.06 per m² and the current occupiers lease commenced in 2018 at £31,680 per annum and analysed to £42.72 per m² and therefore a adopted rate of £19.71 clearly reflected the disadvantages of the property. She considered that the three quarters of glazing on one wall had not affected the tenants rental bid when considering the rent passing and the price per m² applied and therefore no further reduction was warranted. She advised that the adopted price of a larger unit on the same estate was £17.50 per m².

18. Ms Griffiths stated that she had inspected in January 2022 and upon her inspection she did not consider the access warranted an end allowance as the access was similar for other properties on the development and that no allowance had been given to other premises.

19. Ms Griffiths referred to the comparable properties cited by Mr Batty where allowances had been given. She stated that allowances were given for issues which, in her opinion, were more severe than the access issue at the appeal hereditament or they were some distance from the appeal property.

20. In questions Ms Griffiths stated that an allowance hadn’t been given for the glazing as this would have been reflected in the rent passing and that rates come from a basket of rental evidence from the same development. In answer to a question from the Senior Member Ms Griffiths confirmed, as stated in the Challenge Decision Notice, the issue concerned the distinction between an uninsulated wall and an insulated wall with windows.

21. Both parties confirmed following a question from the panel that no allowance had been given in the previous list apart from for lack of heating when the property was entered into that list in 2015.

Decision and reasons

22. The panel noted that agreement had been reached between the parties as to the size, the unadjusted price per m² and the allowance of the lack of heating. The issues before the panel concerned whether a further 2.5% should be deducted from the unadjusted price to reflect the single glazing on one wall and whether an end allowance should apply for access to the unit.

23. The panel was informed that the building did have wall insulation but that one wall consisted of 75% single glazing which the appellant's representative considered should warrant the 2.5% normally deducted by the Valuation Officer for uninsulated walls. Whilst the panel understood that the windows, which covered were three quarters of the height of the walls, were single glazed and therefore created issues with maintaining heat within the building. However, the end allowance would normally be given if the walls, and not the windows, were not insulated. The appellant had provided no evidence of similar buildings where the walls had been insulated but had a large expanse of windows along one wall where an allowance had been given.

24. Whilst each list is considered on its own merits the panel considered the fact that an allowance had not been given in the 2010 Rating List for the wall comprising three quarters windows to also assist in reaching its decision.

25. The panel then considered the issue of whether an allowance should be awarded to have regards to the access to the unit which was between units. Mr Batty was seeking a 5% end allowance to reflect what he considered to be a narrow access road to the loading area whilst the respondent considered that no allowance was warranted as the access was not a disadvantage and also no allowances had been awarded on the other building within similar access. The panel had been informed by Mr Batty that the other units on the estate did not have the same issue as to access as they also had loading areas at the end of the units. The panel had not been persuaded that the access road was particularly narrow to the extent that it would be a disadvantage and therefore the panel did not accept that an end allowance should be applied for the access.

26. The panel having considered all the evidence have not been persuaded by the appellant's representative that RV £14,750 was incorrect and accordingly the appeal was dismissed.

Date: Friday 4 March 2022

Appeal number: CHG100170173