THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; cafe; unit price per square metre disputed; proposed end allowances for masking and a double unit were disputed; appeal allowed in part.

RE: 5 Church Road, Lytham St Annes FY8 5LH

APPEAL NUMBER: CHG100171470

BETWEEN:	Vida Restaurant Ltd	Appellant
	and	
	Mr R Roberts (Valuation Officer)	Respondent

BEFORE: Mrs T Watson (Chairman and Senior Member)

CLERK: Mr D Mulgrew

HEARING: Remote hearing No.1 on 19 July 2021

APPEARANCES: Mr K Batty (Appellant's representative)
Mr G Willetts (Respondent's representative)

Summary of decision

1. Appeal allowed in part. I reduced the rateable value to £14,500 with effect from 1 April 2017.

Introduction

2. 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 relevant legislation[1]. The VTE may determine the form of any hearing.

3. Therefore, in pursuance of the relevant regulation[2] 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.

4. This appeal has been brought in respect of 5 Church Road, Lytham St Annes (the "appeal property"), which is currently entered in the 2017 rating list as "cafe and premises" at rateable value £14,750 effective from 1 April 2017.

5. The challenge process began when the appellant made a proposal to the respondent on the ground that the entry shown in the rating list on 1 April 2017, then rateable value £15,000, was wrong and that it should be reduced to rateable value £12,750.

6. The valuation officer's challenge accepted, in part, that rateable value £15,000 was wrong and that it should be reduced to rateable value £14,750 to reflect amended floor areas in the assessment.

7. In accordance with regulations[3], an appeal was made to the VTE on the ground that the valuation for the appeal property was not reasonable.

8. 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 me before coming to a decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issues

9. There were three issues in dispute as follows:

   (a) The price per square metre in the valuation. The valuation officer had used £250/m^2 (in terms of zone A), but the appellant wanted it reduced to £225/m^2.

   (b) The appellant sought a 5% double unit allowance which he had discussed with the respondent's original caseworker, but due to a clerical error had not included it in his valuation.

---

[1] 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).
[2] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).
[3] The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, regulation 13A.

(c) The appellant wanted a 10% masking end allowance for an area of the shop which has zone A space hidden from view.

10. Mr Batty stated that he was no longer pursuing an end allowance for the presence of a step to the customer toilets.

Evidence and submissions

11. Mr Batty, as appellant's representative, appeared in a dual role of advocate and expert witness. He stated that he had inspected the appeal property and was aware that in giving expert evidence his responsibility was to the VTE. Further, he stated that he was not instructed under a conditional fee arrangement or other success related fee.

12. Mr Willetts also appeared in the dual role of advocate and expert witness.

13. The dual role is allowable in VTE proceedings having regard to procedure regulations[4] and rules regarding admissibility of evidence[5]. However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue.

14. The appellant's representative had submitted documentation from both parties in respect of this appeal. It included correspondence exchanged between the parties, their valuations, plans, photographs, rating assessment details in respect of comparable properties and rental evidence.

15. During the hearing, Mr Batty revised his valuation. His sub-total of £13,354 remained the same but he amended the following:

(a) He reduced the 10% masking allowance from £474 to £238 as this better reflected the zone A area of the shop that was masked to the right of the entrance.

(b) He removed his proposed £100 allowance for the step to the customer toilets.

(c) He included a 5% double unit allowance of £668.

16. Rounding down, he now sought a revised rateable value of £12,250 with effect from 1 April 2017.

17. Mr Willetts asked that rateable value £14,750 be confirmed and that the appeal be dismissed.

18. Both parties were able to participate in the hearing, with no significant problems with technical equipment or software. Mr Willetts joined using the

[4] Regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.
[5] Regulation 17(2)(a) (Evidence and submissions) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

full video/audio link. Mr Batty joined the hearing by telephone. Each party was given the opportunity to question the other party. Mr Batty told me that some of the sound quality was not good during Mr Willetts' presentation because there had been a slight stammer on the line. When I asked if he wanted Mr Willetts to repeat any part of his presentation, Mr Batty told me that he had understood everything and the sound distortion had corrected itself as the hearing progressed.

Decision and reasons

19. I decided to begin by determining the unit price per metre in terms of zone A.

20. Mr Willetts believed £250/m^2 was reasonable. I noted from his evidence that there was a rent on the appeal property from 1 April 2014, which devalued to £249.79/m^2. This rent had been agreed on a lease renewal on full repairing and insuring terms. This was only one year before the antecedent valuation date of 1 April 2015, so I agree with Mr Willetts that it is good evidence.

21. Five other rents were provided by Mr Willetts ranging from £227.87/m^2 to £423.41/m^2. In Mr Willetts' opinion, the appeal property's rent was the best evidence having regard to the hierarchy of evidence in *Lotus and Delta Ltd v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA141. He had given greatest weight to it. I also noted that the 2015 rent on 3 Church Road devalued to £398.23/m^2. Having regard to the totality of the rental evidence I was satisfied that £250/m^2 was not excessive.

22. Mr Batty had provided six comparable properties that had been assessed in the 2017 rating list between £125/m^2 to £225/m^2. He believed the appeal property should be assessed in line with 3A Diccinson Terrace at £225/m^2. In giving evidence, he informed me that four of the six comparable properties were in locations which were not as good. I was not given much more information on the comparable properties to explain their comparability with the appeal property. Overall, having regard to the rental evidence relied on by Mr Willetts, I was not persuaded that any reduction in unit price could be justified by Mr Batty's rating assessment evidence on comparable properties.

23. I then considered Mr Batty's proposed 5% double unit allowance. Mr Batty stated that the appeal property had been built around 1910 and had originally been two properties merged into one. To the left of the entrance there was a full display window. To the right there were two smaller windows.

24. Mr Batty provided a range of comparable properties to show that double unit allowances were given by valuation officers. He had provided this because he had encountered some valuation officers who were of the view that they were not allowed. The examples were from the north of England and were shown as ranging from 5% to 9.75%. When asked, Mr Batty said that those allowances which were greater than 5% included allowances for other disabilities, hence the reason he sought a 5% allowance in respect of the appeal property. In my judgement, there was insufficient evidence on the

comparable properties to show when a double unit allowance might be appropriate.

25. Mr Willetts argued that the appeal property was not a double unit, or at least it was not perceived as a double unit by the respondent.

26. I have considered photographs from Mr Batty but was not convinced that there was any difficulty arising from the layout of the appeal property. There was only one entrance on Church Road and the layout appeared to be open plan. The comparable properties did not help me because I was unable to compare them with the appeal property. Therefore, I have decided not to allow a double unit allowance.

27. Finally, I had regard to the 10% masking allowance sought by Mr Batty. He stated that the left-hand side of the appeal property had no issue with masking, as it was a typical shop front, but that the two smaller windows on the right side of the entrance had masked areas from the pavement. In the absence of clear visual view, he believed a masking allowance for the right-hand side of the property was warranted.

28. Mr Willetts said that 7-11 Church Road, next door to the appeal property, received a 5% masking allowance for part of that property that was affected by masking. No plan was provided to me to show the extent of the masking in that property. However, it was helpful to know that a 5% allowance had been given on the neighbouring property.

29. I have carefully considered this allowance and have reached the conclusion that a 5% masking allowance should also be applied to the appeal property's valuation, but only to the affected area. I was not persuaded to allow 10% as no examples were provided to me of allowances of that extent.

30. As Mr Batty's 10% masking allowance equated to £238 I calculate a 5% allowance at £119.

31. My decision results in the following revised valuation:

Floor	Description	Area (m^2)	£ per m^2	Value (£)
Ground	Retail zone A	50.10	250.00	12,525
Ground	Retail zone B	18.50	125.00	2,313
Ground	Staff toilets	N/A	£0.00	0
			Sub-total	14,838
			Masking allowance	119
			Total	14,719

32. Rounding down in line with the framework used by the Valuation Office Agency, I have decided that the rateable value must be reduced to £14,500 effective from 1 April 2017.

Order

33. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the respondent to reduce the entry in the rating list to rateable value £14,500 with effect from 1 April 2017.

34. Under regulation 38(9), the respondent must comply with this order within two weeks of the date of its making.

Refund of appeal fee

35. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date: 13 August 2021

Appeal number: CHG100171470