THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; workshop and premises; end allowances; layout; access; mixed ages of buildings; appeal dismissed.

APPEAL NUMBER: CHG100258292

BETWEEN:	BG Sheet Metal Co Ltd	Appellant
and	Alexandra Morley (Valuation Officer)	Respondent

RE: 89 and 95 Vittoria Street, Birmingham B1 3NU ("the subject property")

PANEL: Ms B Knight (Senior Member)
Miss R Punia

CLERK: Mrs A Sloan

SITTING ON: 30 May 2023 (remote hearing no.1)

APPEARANCES: Ms L Rabbette (of Rabbette Chartered Surveyors for the appellant company)
Mr D Martt (Valuation Officer's representative)

Summary of decision

1. Appeal dismissed. The panel confirmed the rateable value (RV) at £15,250 with effect from 1 April 2017.

Introduction

2. The appellant had made a challenge against the accuracy of the assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 28 April 2020. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded and refused to alter the existing assessment. A decision notice to that effect was served on the appellant on 19 October 2021 and this decision was appealed to the tribunal on 18 February 2022, on the grounds that the current valuation for the hereditament was not reasonable.

3. The subject property is a workshop situated in the Jewellery Quarter of Birmingham, which has been adapted over the years and now consists of mixed age units. The oldest part of the property was constructed between 1919 and 1939, with later additions in the 1980s and 1990s. To assist the tribunal, the parties had agreed the floor areas and the unadjusted rate, so the only dispute concerned end allowances.

4. Ms Rabbette appeared before the panel in a dual capacity as both advocate and expert witness for the appellant company. She confirmed that her expert witness testimony was on a retained basis, but her advocacy was subject to a conditional fee. She declared that first her duty was to the Tribunal and that she would comply with this duty together with the requirements of her professional body, regardless of whether the evidence supported the appellant's case.

5. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), 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 in England). The panel, therefore, considered the "expert" evidence and attached such weight to it as it saw fit.

6. Mr Martt declared that he was appearing as advocate and expert witness for the VO, presenting a case prepared by a colleague. However, under questioning from Ms Rabbette, he confirmed that he had not inspected the subject property internally.

7. This document is not intended as a verbatim report of the proceedings, nor is it proposed to reproduce in full all the parties' evidence.

Issue

8. The issue in dispute before the panel was the end allowances to be applied to the valuation, reflecting various disadvantages.

Evidence and submissions

9. The panel was provided with an evidence bundle prior to the hearing, which included the documentation exchanged between the parties leading to the Challenge decision under appeal. The bundle included the parties' submissions in support of their respective cases, photographs and a plan of the subject property and details of other assessments that the parties considered comparable.

Decision and reasons

10. The material date on which to consider the hereditament was 1 April 2017, as this appeal was a challenge to the compiled list entry. The value must be considered as at the antecedent valuation date (AVD) of 1 April 2015.

11. The existing valuation at £15,250 RV included a 5% end allowance to reflect the poor layout and 5% for poor access at the subject property. Mr Martt contended that this valuation was fair and reasonable, reflecting the property's disadvantages. Ms Rabbette sought an allowance of 7.5% for layout, 7.5% for poor access plus 5% to reflect the mixed ages of construction at the property. She therefore proposed a revised RV of £13,750 from 1 April 2017.

12. Ms Rabbette contended that the subject property was formed from a number of irregular shaped buildings and had a significant number of internal walls dividing the accommodation. She referred to there being only personnel doors in some areas, which could not be accessed using a forklift truck. Reference was also made to an excessive number of "*interrupting supporting metal columns*," adding to the poor layout. She contended that the mixed age and construction of the property was undesirable for a tenant, who was responsible for repairs and maintenance.

13. With reference to photographs, Ms Rabette highlighted that the subject property's loading area faced directly onto the street via two roller shutter doors. She contended that this limited the size of vehicle able to service the property, due to the width of the access and the need to reverse into the property. She considered the lack of a yard, and the congested location warranted an increased allowance. The panel was also asked to consider the single yellow lines in the road outside the subject property. Ms Rabbette stated that these restrictions did not prohibit parking in the area overnight, leading to vehicles impeding access to the property.

14. Mr Martt placed weight on the fact that Ms Rabbette's firm had agreed the valuation for the subject property in the 2010 rating list and the same end allowances had been carried forward into the 2017 list. There was much discussion in the hearing on this subject, with Ms Rabbette contending that her colleague had agreed the final RV without sight of a detailed valuation from the VO. Under questioning she conceded that the email exchanges between the parties, mentioned by Mr Martt, were on record but she maintained that her colleague was not aware of the allowances making up the 2010 valuation. The panel was aware that each valuation list should be viewed afresh and placed no weight on the email exchanges regarding the 2010 valuation as neither party had included them in evidence. However, it understood from Ms Rabbette that there had been no physical changes to the subject property since the 2017 list was compiled.

15. Both parties presented the panel with details of other assessments which they felt were comparable. With reference to those examples, the panel considered the position at the subject property.

16. Although Ms Rabbette had asked the panel to consider the internal layout of the subject property, with reference to personnel only doors in dividing walls and restriction from supporting columns, no clear evidence of this was provided. The evidence bundle contained some photographs with a description of the area and construction of the building illustrated, but the panel did not find these clearly demonstrated the layout problems referenced by Ms Rabbette. It was disappointing that the only plan of the building provided was a hand drawn sketch from Ms Rabbette's inspection in March 2022. The panel found this plan to be unclear and would have preferred a more professional plan which would more

clearly demonstrate the layout. The plan was not drawn to scale and did not provide accurate measurements, which would have been available from plans attached to office copy entries when the site was originally purchased and any plans showing later development of the site**.** The panel concluded that the 5% allowance for layout in the existing valuation was fair.

17. The panel accepted that the subject property was made up of a mixture of different aged units, but it did not find that this was necessarily unusual and a neighbouring property with similar make up at 59-83 Vittoria Street had no allowance to reflect this aspect. Ms Rabbette accepted that property had not been appealed in either the 2010 or 2017 rating list but contended that simply meant it was an unchallenged valuation. The panel found that, with both 2010 and 2017 lists now closed, there had been ample opportunity for the ratepayer to challenge the valuation for 59-83 Vittoria Street if it was considered to not reflect the disadvantages of a mixed age building. Ms Rabbette provided three examples of assessments where an allowance was given for mixed age buildings, but the panel noted that two of these were in Walsall and the other was in a different postcode area of Birmingham. It therefore found they were in a different locality. The panel concluded there was insufficient evidence that the mixed age subject property was such a disadvantage that the hypothetical tenant, fresh to the scene, would reduce their rental bid.

18. Ms Rabbette had provided one photograph showing the subject property externally, to demonstrate the access issues she mentioned. While the panel noted that one of the roller shutter doors had a narrow access, the other seemed accessible. There was no detail provided on the parking restrictions relating to the single yellow line in the road and no photographs showing the width of the road or any restrictions on vehicle turning space. The VO's evidence showed the property from a different angle, but this did not really demonstrate the issues Ms Rabbette mentioned, other than to show the wide pavement outside and a forklift truck moving goods over the public footpath. The panel concluded that the 5% access allowance already contained in the valuation reflected the access issues adequately.

19. The burden of proof in appeals of this nature lies with the appellant to persuade the panel that the appeal should be allowed. After considering all the evidence presented, the panel found that the existing valuation was reasonable. There had been no physical change to the subject property since the valuation was agreed in the 2010 list and the evidence presented did not demonstrate to the panel's satisfaction that the additional allowances sought by the appellant were justified.

20. The panel therefore confirmed the existing entry in the list at £15,250 from 1 April 2017 and dismissed the appeal.

Date: 27 June 2023 **Appeal number:** CHG100258292

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.