

UPPER TRIBUNAL (LANDS CHAMBER)



UT Neutral citation number: [2017] UKUT 201 (LC)  
UTLC Case Number: RA/86/2016

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

*RATING – valuation – factory and premises – whether void over staircase to be included in measurement of gross internal area – value of main space – comparables – relativities for ancillary floor space – appeal allowed in part – rateable value assessed at £23,000*

IN THE MATTER OF AN APPEAL AGAINST A DECISION OF  
THE VALUATION TRIBUNAL FOR ENGLAND

BETWEEN:

STRATEGIC DESIGNS (a firm)

Appellant

and

MR PHILLIP THORNE  
(VALUATION OFFICER)

Respondent

Re: Unit 5,  
Adrienne Business Centre,  
Adrienne Avenue,  
Southall  
Middlesex  
UB1 2FJ

Before: A J Trott FRICS

Sitting at: Royal Courts of Justice, Strand, London WC2A 2LL  
on  
11 April 2017

Mr Justin Levene, of National Rating Services, for the Appellant  
The Respondent appeared in person

© CROWN COPYRIGHT 2017

The following case is referred to in this decision:

*ABC Production Services Limited v Andrew Hodson (VO)* [2015] UKUT 15 (LC)

## DECISION

### Introduction

1. This is an appeal by Strategic Designs (a firm) against a decision of the Valuation Tribunal for England determining the rateable value of a factory and premises at Unit 5, Adrienne Business Centre, Adrienne Avenue, Southall, Middlesex UB1 2FJ at £24,000 with effect from 22 November 2010.
2. There are three issues in the appeal:
  - (i) The measurement of the gross internal area (“GIA”) using the Royal Institution of Chartered Surveyors’ Code of Measuring Practice, 6<sup>th</sup> Edition, 2007<sup>1</sup> (“the Code”);
  - (ii) The value per square metre of the main space; and
  - (iii) The appropriate relativities for ancillary floor space.
3. The appellant was represented by Mr Justin Levene of National Rating Services. The Valuation Officer, Mr Phillip Thorne, appeared in person.
4. The hearing was heard under the Tribunal’s simplified procedure.
5. I made an accompanied inspection of the appeal property and an external visual inspection of comparable properties on 19 April 2017.

### Facts

6. The appeal property is located on the Adrienne Business Centre at the junction of Adrienne Avenue and Ruislip Road (B455) in Southall, Middlesex. The centre comprises 15 units in three blocks and was constructed in 2008. Unit 5 is an unheated industrial unit at the end of the block to the left of the site entrance and is of steel portal frame construction on a concrete base. There is block infill and profiled steel cladding to the walls and roof.
7. Internally there is a supported first floor built across the whole unit. The ground floor has a clear height of 3.58 metres to the supported first floor. There are two car parking spaces.
8. The appeal property is used by the appellant as a printing workshop.

---

<sup>1</sup> Now incorporated in full in the RICS Professional Statement “RICS Property Measurement” 1<sup>st</sup> Edition, May 2015.

### **Issue (i): gross internal area**

9. Both parties relied upon the Code and agreed that the appropriate basis of measurement of the appeal property was GIA. They agreed that the GIA of the ground floor was 136.47m<sup>2</sup>. Mr Levene said that the supported first floor area was 128.83m<sup>2</sup> while Mr Thorne said it was 134.92 m<sup>2</sup>; the difference of 6.09 m<sup>2</sup> being attributable to the fact that Mr Thorne included the void over the stairs.

10. Mr Thorne relied upon paragraph 2.12 of the core definition of GIA which included:

“Voids over stairwells and lift shafts on upper floors”.

He referred to Diagram C of the Code which illustrated the application of this definition. This showed the area over a staircase similar to that in the subject property as being included in the GIA.

11. Mr Thorne also referred to Note GIA 7 which stated:

“**Voids** – attention is drawn to the exclusion of voids over atria at upper levels ... and the inclusion of voids over stairs etc...Where an atrium-like space is formed to create an entrance feature and this also accommodates a staircase, this does not become a stairwell but remains an atrium measureable at base level only.”

He noted the use of the wider expression “voids over stairs” rather than “voids over stairwells” and argued that the RICS was specifically concerned to exclude the void upper floor areas of an atrium containing a staircase because otherwise they would be included under paragraph 2.12. Mr Thorne said that this showed the RICS intended the inclusion of voids in that paragraph to be applied widely.

12. Mr Levene said that a “stairwell” had a specific meaning and referred to a structurally enclosed staircase that did not include, as here, an open staircase between ground and first floors. The space above the stairs at first floor level was non-useable and was simply a void. It was not possible to market a building to include such a void. Nobody would pay for it and the market was only concerned about useable floor space.

### *Discussion*

13. I agree with Mr Levene that the terminology used in the Code is confusing. The Shorter Oxford English Dictionary defines a stairwell as “the shaft containing a flight of stairs”. So whereas a stairwell must contain a staircase, not all staircases are contained in a stairwell. Paragraph 2.12 also refers to voids over lift shafts on upper floors so the intention of the paragraph appears to be to include the area formed by a shaft but not necessarily the area over a

staircase at upper floor level(s) that is not so enclosed. However Diagram 3 of the Code, which illustrates the definition of GIA, shows a staircase between internal and external walls which is said to be a stairwell even though it is not structurally enclosed (there is no separation - e.g. by a door - between the staircase and the ground floor accommodation).

14. The VOA has not applied the Code consistently; three of Mr Thorne's comparables exclude the "void over the enclosed stairwell at the front" from the measured GIA, including two on the subject estate. On the other hand nine of the other comparables have included the voids over the "enclosed stairwells" in the measured GIA.

15. Mr Levene says that the market would not include the void area over the staircase but this criticism is anticipated in the section of the Code headed "The Core Definitions and Marketing Issues" which states:

"GIA can be used for marketing some forms of property, for example industrial. Those using GIA for marketing purposes are advised to take particular care. The Code identifies some of the dangers (for example, GIA 2.12) that could mislead a consumer of space marketed on a GIA basis, should these not be clearly stated."

16. On balance I think Mr Thorne was correct to include the void over the staircase within the measurement of the GIA. I think this follows from the definition in paragraph 2.12 as illustrated by Diagram C of the Code and the reference to "stairs" in Note GIA 7 which is not a specific reference to stairwells but is more broadly worded. But the wording of the Code is ambiguous and it would be of assistance to practitioners if the RICS clarified the meaning of "stairwell" in paragraph GIA 2.12 and explained whether, as has been determined here, that paragraph applies to a staircase which is not contained in a structural shaft. I therefore dismiss this ground of appeal and adopt Mr Thorne's GIA of 134.92m<sup>2</sup> for the supported first floor, making a total area of 271.39 m<sup>2</sup>.

#### **Issue (ii): value of the main space**

17. Mr Levene said that the base rate for the valuation of Unit 5 should be £52.50 per m<sup>2</sup>. He obtained this rate from an analysis of units at Cranleigh Gardens Industrial Estate, the closest industrial estate to the Adrienne Business Centre. The units at Cranleigh Gardens were of similar size and quality but were older and brick built although they had recently been renovated. Mr Levene said that the Cranleigh Gardens units had better access, parking and natural light (windows) and were on a secure gated industrial estate.

18. Mr Thorne said that the base rate should be £110 per m<sup>2</sup> less an allowance of 2.5% for the lack of heating to give a figure of £107.25 per m<sup>2</sup>. He relied upon (i) the devaluation of the rent on Unit 7, Adrienne Business Centre; (ii) evidence of settled assessments on the Adrienne Business Centre; and (iii) the evidence of settled assessments on comparable units of similar age and construction in the vicinity.

19. Mr Levene agreed that there should be a moderate uplift for newer properties but not by over 100% which Mr Thorne was suggesting. The amenities of Cranleigh Gardens Estate were better than those of Adrienne Business Centre. The rental evidence of Unit 7 was unreliable because the tenants moved out very quickly and Mr Levene considered it to be over-rented.

### *Discussion*

20. The only direct rental evidence was the letting of Unit 7 at the Adrienne Business Centre from 1 October 2009 for 5 years on an internal repairing lease at £20,000 pa. This was rented as a shell unit and the tenant subsequently added a supported first floor and heating which was not reflected in the rent. Adjusting onto FRI terms Mr Thorne analysed the rent at £132.26 per m<sup>2</sup>.

21. The other evidence on the subject estate comprised four appeals which were agreed or withdrawn and where the ratepayer was professionally represented and three determinations by the VTE. These supported a base rate of £110 per m<sup>2</sup> (£107.25 per m<sup>2</sup> unheated) for smaller units and £105 per m<sup>2</sup> (£102.38 per m<sup>2</sup> unheated) for larger units.

22. Mr Thorne did not rely upon evidence from the Cranleigh Gardens Industrial Estate which he considered formed a different market, i.e. for 1950s/1960s brick-built units offering good basic space but lacking modern amenities. He said that rents for that type of space were similar (and lower) throughout the borough.

23. Mr Thorne thought that the tone of the list had been established on the Adrienne Business Centre and in my opinion the evidence supports this. The base value of £107.25 per m<sup>2</sup> (unheated) is in line with the only direct rental evidence and the evidence of settled assessments on the estate and other modern estates in the locality. But it differs significantly from the value of the units on the Cranleigh Gardens Industrial Estate. Mr Levene cited the three units on this estate which were closest in size to the appeal property: Unit 1a (281.11m<sup>2</sup>), Unit 3 (350.12 m<sup>2</sup>) and Unit 7 (209.15 m<sup>2</sup>). Units 1a and 3 had a base value of £52.50 per m<sup>2</sup> while Unit 7 had a base value of £66.94 per m<sup>2</sup>.

24. Mr Thorne rejected the use of Cranleigh Gardens Industrial Estate as a comparable and noted that the VOA's valuation scheme for that estate indicated that the appeal property would be valued at £68.25 per m<sup>2</sup> assuming a "significant area" of 136.47 m<sup>2</sup>, i.e. the area of the footprint of the building excluding the supported first floor accommodation. He did not accept that the two estates were comparable or that a prospective tenant who was interested in the Adrienne Business Centre would contemplate going to Cranleigh Gardens Industrial Estate instead given the difference in value between them. Mr Thorne said that this just did not happen in practice. He emphasised that "similar [price] differentials are found all over north west London". But Mr Thorne produced no evidence of any other units, similar to those at Cranleigh Gardens Industrial Estate, to support his assertion that such accommodation never attracted such high levels of rent as more modern, purpose-built accommodation. Mr Levene agreed "that there should be a moderate upgrade for newer properties, however not over 100%", but he made no adjustment to the Cranleigh Gardens base value to reflect this.

25. Mr Levene's argument is based upon his opinion of what constitutes good value; he said there was no reason why a tenant would pay almost twice as much for a unit on the Adrienne Business Centre as for one on the Cranleigh Gardens Industrial Estate given the several advantages of the latter's site and accommodation. However the evidence suggests that modern buildings such as the appeal property command higher rents and Mr Levene gave no examples of any modern building being let for the level of rent applicable to the older buildings at Cranleigh Gardens. The evidence supports Mr Thorne's view that the two estates form separate markets and that they are not comparable even though they are used for the same purpose. Whether or not the one offers better value than the other is not to the point; there is an established rental difference between them.

26. The quantum allowance of 4.5% which Mr Thorne makes in respect of some of the units on the Adrienne Business Centre apparently applies where the "significant area" exceeds 175 m<sup>2</sup>. The discount is effectively given where the ground floor footprint of the building is relatively large. The appeal property has a small footprint of 136.47 m<sup>2</sup> and therefore does not qualify for such a discount because the supported first floor is excluded. Mr Thorne said that the application of this criterion underpinned the valuation scheme for the estate and was supported by the settled assessments of the seven comparable units. He gave the examples of Unit 6 which had a total GIA of 499.65 m<sup>2</sup> and a significant GIA of 263.17 m<sup>2</sup> where the discount applied, and Unit 13 which had a total GIA of 297.96 m<sup>2</sup> and a significant GIA of 138.57 m<sup>2</sup> where there was no discount. In both cases the supported first floor area was excluded from the significant GIA. A similar method based on a sliding scale of significant GIAs was adopted by the Valuation Officer in *ABC Production Services Limited v Andrew Hodson (VO)* [2015] UKUT 0015 (LC). I accepted above that a tone of the list applies at the Adrienne Business Centre and I note the use of the significant GIA in determining the appropriate discount for quantum. In the light of those facts I make no allowance for quantum on the value of the appeal property.

27. I therefore determine the value of the main space of the appeal property to be £107.25 per m<sup>2</sup>.

### **Issue (iii): relativities**

28. The parties agreed the relativity of the workshop below the supported first floor at 0.70 of the main space rate. They also agreed that the rental value of the two car parking spaces was £200 p.a. each.

29. There remains a dispute about the ground floor reception/entrance and kitchen and the supported first floor workshop and office. Mr Thorne adopted a relativity of 1.20 for the disputed ground floor accommodation and 0.80 for the whole of the first floor while Mr Levene adopted 0.975 for the ground floor; 0.475 for the first floor workshop and 1.175 for the first floor office.

30. Mr Thorne described the relativity of 1.20 for the disputed ground floor accommodation as being the "default position" by which I understand him to mean that this is the figure given in the VOA scale for industrial property measured to GIA. He said the higher quality of the floor

space, which had plastered and lined walls, justified the additional value. Likewise the kitchen was fitted out and tiled. These two areas were of better quality than bare industrial floor space. Turning to the supported first floor accommodation Mr Thorne said this was fitted out to an office standard which would usually be taken at a relativity of 1.1. He acknowledged that the first floor was used as a workshop but said it was of better quality than usual. It had lined walls and suspended ceilings. Mr Thorne considered that the relativity of 0.80 adopted by the VTE was a reasonable decision based on the facts.

31. Mr Levene took the relativity of the entrance/reception and the ground floor kitchen at 0.975, apparently being the main space rate (1.00) reduced by 2.5% for the lack of heating. The appellant's statement of case says that its valuation is "in line with Cranleigh Gardens Industrial Estate". Mr Levene gave details of three comparable assessments on that estate, only one of which, Unit 1a, has a kitchen. That is at first floor level and is valued at a relativity of 1.2.

32. Mr Levene's relativity of 0.475 for the first floor workshop is not supported by any of his comparables. Unit 1a at Cranleigh Gardens has a first floor production area with a relativity of 0.65 as does the first floor internal storage area at Unit 7. The only comparable in evidence that has a relativity as low as 0.475 is the first floor storage at Unit 13 at the Adrienne Business Centre. This storage is described as "open to industrial space" and has been reduced by 5% because of a varied floor level.

#### *Discussion*

33. Mr Thorne referred to a relativity of 1.20 for the ground floor reception/entrance and kitchen as being the default position. Units 9 and 10 (a single assessment) at Adrienne Business Centre (reception/entrance and kitchen), Unit 7E Beaver Industrial Park (reception/entrance); Unit 3 Bridge Business Centre (kitchen); Units 7 & 8 (separate assessments) Ockham Drive (reception/entrance) all have a relativity of 1.20. On the other hand the reception at Unit 13 at Adrienne Business Centre has a relativity of 1.00 while Unit 1 on that estate has a relativity of 1.10 for the ground floor kitchen and the entrance/reception (which is included as part of the fitted ground floor business area). Unit 6 has a first floor kitchen valued at 1.10.

34. The appeal property's reception/entrance leads to the ground floor workshop space and includes a WC and the base of the stairs. The entrance is only 1.39m wide next to the WC. The quality of the fit out is not superior to the first floor which Mr Thorne values at a relativity of 0.8. So Mr Thorne's valuation is based on the entrance (with limited potential for a small reception) as being worth one and a half times the fitted space on the first floor which he says is a similar standard to office space. In my opinion the relativity of the entrance is too high by comparison and should be reduced to 1.10. I adopt the same relativity for the kitchen.

35. Mr Levene said there was no other example of supported first floor accommodation being valued at a higher relativity than ground floor accommodation. In my opinion Mr Thorne's arguments on this point are well made. There is a distinct difference in the quality of the two floors with the first floor being fitted out to an office standard. I think Mr Thorne's acceptance of the VTE's relativity of 0.80 for this accommodation was justified and I do not consider Mr



Levene's figure of 0.475 is supported by any of the comparables. I do not consider it appropriate to distinguish the small partitioned area on the first floor as a separate office and I value the whole of the first floor at a relativity of 0.80.

36. I therefore allow this ground of appeal in part.

### **Determination**

37. I determine the three issues in this appeal as follows:

- (i) The total GIA of the appeal property is 271.39m<sup>2</sup>
- (ii) The value of the main space is £107.25 per m<sup>2</sup>
- (iii) The relativity of the ground floor kitchen is 1.10; the entrance/reception is 1.10 and the first floor workshop is 0.80.

38. I therefore determine the rateable value of the appeal property at £23,000 with effect from 22 November 2010 in accordance with the attached Appendix.

39. The appeal was heard under the Tribunal's simplified procedure which is not a procedure under which costs are normally awarded unless either party has behaved unreasonably or the circumstances are in some other respect exceptional. Neither party suggested that there had been unreasonable behaviour or identified any exceptional circumstances and I therefore make no order as to costs.

Dated: 13 June 2017

A J Trott FRICS  
Member, Upper Tribunal (Lands Chamber)

**APPENDIX**

**UPPER TRIBUNAL (LANDS CHAMBER) VALUATION**

Main space rate: £107.25 per m<sup>2</sup>

<b>Floor</b>	<b>Description</b>	<b>Area (m<sup>2</sup>)</b>	<b>Relativity</b>	<b>£/m<sup>2</sup></b>	<b>Value (£)</b>
Ground	Reception/entrance	18.83	1.10	117.97	2,221
Ground	Kitchen	4.62	1.10	117.97	545
Ground	Workshop (below supported first floor)	113.02	0.70	75.07	8,484
Supported first floor	Workshop	134.92	0.80	85.80	11,576
	Surfaced open car parking spaces	2		200.00	<u>400</u>
					23,226
	Rateable value				23,000