THE VALUATION TRIBUNAL FOR ENGLAND

2010 rating list appeal; Local Government Finance act 1988; post office; shop and premises; method of valuation; tone of the rating list; appeal allowed in part.

RE: 9-10 South Parade, Rochdale, Lancashire, OL16 1LR ("the subject property")

APPEAL NUMBER: 422529277429/537N10

BETWEEN:	UAU Ltd (Represented by BSS Surveyors)	Appellant
	and	
	Amanda Hitchings (Valuation Officer)	Respondent

PANEL: Mr A N Backway (Senior Member)
Dr P A R Thomson

CLERK: Mrs A Sloan

HEARING: Remote hearing No.1 on 26 May 2022

APPEARANCES: Mr J Barker-Smith (of BSS Surveyors for the Appellant)
Mr T Thompson (Respondent's representative)

Summary of decision

1. Appeal allowed in part. The panel altered the rateable value (RV) to £21,250 with effect from 4 November 2016.

Introduction

2. The subject property was entered in the 2010 rating list with effect from 4 November 2016 as a shop and premises with the RV shown as £25,000. The Valuation Officer (VO) received a proposal on 26 June 2017 on the grounds that the appellant '*Disputes the RV changed in the Rating List by the VO'.* As the parties were unable to resolve the dispute, the matter was transferred to the Tribunal for the appeal to be heard.

3. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all 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.

Issue

4. The issue before the panel was to determine the correct RV for the subject property.

Evidence and submissions

5. Mr Barker-Smith stated that he was appearing as both advocate and expert witness in these proceedings and he was appointed on a contingency fee basis. In giving expert evidence, he 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 his client's case.

6. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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). It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters at issue before it.

7. Mr Barker-Smith explained that the subject property was previously operated as a nightclub and valued as licenced premises. When the appellant took over the property, the upper floor was let separately to a food bank and the ground floor operated as a post office. It was his opinion that the property should be valued on an overall basis, rather than zoned, as it was not an open plan retail space. With reference to photographs, Mr Barker-Smith demonstrated that the ground floor had a low ceiling height and an awkward layout with pillars. He contended that valuation on an overall basis would better reflect the disadvantages. Reference was made to a number of other properties for comparison with the subject property. Mr Barker-Smith asked the panel to order a reduction to RV £11,500 from 4 November 2016.

8. For the Respondent, Mr Thompson had been dealing with this appeal from the beginning and had prepared the written submission for the first listing in December 2018. He explained that the passing rent on the subject property was £20,000 in 2016. As this was around eight years after the antecedent valuation date (AVD) of 1 April 2008, he stated that the market had fallen, and he considered the rent at the AVD would be closer to £25,000. Mr Thompson was of the opinion that it was correct to value the subject property as a shop. He stated that it is located in a mixed use parade and has a glazed retail front, so should be considered a shop. He pointed out that there are four retail units on the parade, including the subject property, and all had been valued using zoning and all were based on a Zone A price of £270/m^2. Mr Thompson contended that, if the appellant's valuation were adopted, the subject property would have the lowest RV of the four retail units, despite being the largest.

9. Mr Thompson commented on the properties contained in the submissions for comparison and confirmed that he felt zoning was the correct method of valuation in this case. However,

he accepted that some adjustment was warranted to reflect the layout of the subject property and provided a revised valuation at £22,500 RV, which he asked the panel to confirm from 4 November 2016. This revised valuation applied a 5% adjustment to areas for masking and a 5% end allowance for layout.

Decision and reasons

10. The issue in dispute concerned the level of value to be adopted for the subject property. The term ‘rateable value’ is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

“The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating) shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions –

a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

c) the third assumption is that the tenant undertakes to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above”.

11. In accordance with *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, the panel considered that the starting point of a valuation should be the rent passing on the subject property. However, the property was marketed as the ground and first floor, which was subsequently separately let, and the rent was agreed many years after the AVD. The panel therefore considered this to be of limited use and turned to other evidence of the rents on other similar units and the tone of the rating list for this type of property.

12. A number of properties had been referred to by the parties for comparison with the subject property. 12 South Parade is adjacent to the subject property and was valued on the same £270/m^2 Zone A price. Both parties agreed this was a much smaller unit, having a ground floor area of 68.4m^2 compared to the subject property having 190.32m^2.

13. Examples of other post office assessments were provided. Post Office Counters Ltd, Hind Hill Street, Heywood was valued on an overall basis at £80/m^2. Mr Barker-Smith stated that the ground floor of this assessment was 166.8m^2, slightly smaller than the subject property. However, the panel noted that this was a very different shape to 9-10 South Parade. The subject property is narrow but very deep. The Heywood property is not of the same narrow shape, being located on a corner plot, plus the valuation included the first floor in addition to workshop and plant areas. Although clearly operated as a post office, the panel did not find this example comparable in character to the subject property in a parade of units.

14. Another post office assessment was 53 Manchester New Road, Middleton. This was also valued on an overall basis at £80/m^2 with a ground floor area of 158.90m^2. However, the

panel noted this assessment also included a first floor, warehouse, loading bay, plant and machinery. It found that this property was a larger depot set up, more akin to a sorting office, than the street facing parade location of the subject property.

15. Another assessment provided was that of 11-31 School Lane, Rochdale. This property was valued as a showroom on an overall basis at £50/m^2. Mr Barker-Smith stated this property, located to the rear of the subject property, had better display areas, parking and higher ceilings, with a similar sized ground floor. The panel understood that this property was previously a car showroom but now operates as a climbing centre. The panel found that this example was not comparable to the subject property, either in mode and category of use or in the character of the building.

16. Another unit close to the subject property was 7 South Parade, valued at £60/m^2 on an overall basis. However, the panel noted that this was valued as an office, rather than a retail shop, so did not find it useful in arriving at the correct value for the subject property. Lastly, Mr Barker-Smith referred to 5 Butts Avenue, Rochdale, which was valued at £90/m^2 as a restaurant. Again, the panel placed little weight on this example as it was not the same mode or category of occupation as the subject property.

17. Mr Thompson stated that, in his opinion, the two post office assessments were different in character to the subject property, having warehouse and sorting facilities. He considered that the subject property, with a glazed frontage, was not akin to an office or a restaurant and was correctly valued as a shop. He provided details of the other retail (zoned) units in South Parade along with settlement evidence from nearby Drake Street, which he said was less prominent and this was reflected in the lower Zone A prices between £200/m^2 to £250/m^2.

18. After considering all the evidence presented, the panel concluded that the subject property was correctly valued as a retail shop using the zoning valuation method. It found that the Zone A price adopted in the VO's valuation at £270/m^2 was also correct and in line with other retail units in the same parade. However, the panel acknowledged the disadvantages at the subject property, with low ceiling height and multiple pillars masking areas and making the layout awkward. It therefore concluded that the adjustments for masking should be increased to between 7.5% and 10% for Zone B onwards with an end allowance of 10% for layout as follows –

Ref.	Floor	Description	Area m^2/unit	£ per m^2/unit	Value (£)
1.1	Ground	Zone A	38.72	270.00	10,454
1.2	Ground	Zone A	6.38	256.50	1,636
1.3	Ground	Zone B	44.75	135.00	6,041
1.4	Ground	Zone B	5.79	124.88	723
1.5	Ground	Zone C	33.70	67.50	2,275
1.6	Ground	Zone C	16.00	60.75	972
1.7	Ground	Zone D	24.37	33.75	822
1.8	Ground	Zone D	13.68	30.38	416
1.9	Ground	Zone E	4.99	33.75	168
1.10	Ground	Zone E	1.94	30.38	59
Additional features of the property included in the valuation					
	Plant and machinery				221
			Sub-total		23,787
Adjustments made to the subtotal					
		Layout		-10%	

		-2,379
Total		21,408
	Say	21,250

19. The appeal was therefore allowed in part.

Order

20. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to amend the entry for 9-10 South Parade, Rochdale, Lancashire, OL16 1LR in the 2010 Rating List to £21,250 effective from 4 November 2016. The Valuation Officer must comply with this Order within two weeks of its making.

Date: 16 June 2022
Appeal number: 422529277429/537N10

Appeal Rights

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.