THE VALUATION TRIBUNAL FOR ENGLAND

Summary of Decision: non-domestic rates; 2017 rating list appeal; post office and premises; correct Zone A rate to be applied to the subject property's assessment; rents passing on comparable properties in the locality; allowances applied to reflect masking at various parts of the premises; it was determined that the current assessment was unreasonable; appeal allowed in part.

RE: Goldington Road Post Office, 432 Goldington Road, Bedford MK41 9NU

APPEAL NO: CHG100167363

BETWEEN: Goldington Road Post Office — Appellant
and
Mrs J Moore (Valuation Officer) — Respondent

BEFORE: Mrs L Bryning (Senior Member) and Mr P Phelps

CLERK: Mrs R James

REMOTE HEARING 2: Tuesday 5 April 2022

APPEARANCES: Mr K Batty of Ken Batty Chartered Surveyors (on behalf of the Appellant)
Ms S Howson (Respondent's representative)

Summary of decision

1. Appeal allowed in part; the subject property's assessment was reduced to £13,750, Rateable Value (RV) with effect from 1 April 2017, as the current assessment was considered unreasonable.

Introduction

2. This appeal has been brought in respect of the following: Goldington Road Post Office, 432 Goldington Road, Bedford MK41 9NU, which was entered in the 2017 Rating List as post office and premises at £15,500 RV, effective from 1 April 2017.

3. The appellant's Challenge to the Valuation Officer (VO) was made on 14 February 2020. The appeal to this Tribunal was made on 22 November 2021, following the VO's Decision Notice of 29 July 2021, in respect of the subject property (hereditament). This is a compiled

list appeal so the material day is 1 April 2017. The original assessment of £15,500 RV, with effect from 1 April 2017, had been reduced at the challenge stage to £14,500 RV.

4. The subject property was a 1950s brick-built post office that had been extended at the rear in approximately 1990 to increase retail space. The property was used as a post office/grocery shop. It was of brick and tile construction and there was a yard containing an outside store.

5. The subject property was located on Goldington Road, Bedford and was approximately two miles from the city centre off the A4280. The University was approximately 0.5 miles away and the M1 motorway 14 miles away. It had been valued on the zoned basis at a Zone A rate of £175/m^2.

6. Mr Batty was appearing on behalf of the appellant as both advocate and expert witness. Therefore, it was important to ascertain if there was a success related fee involved and, if so, whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7. Mr Batty explained that he was representing the appellant in this appeal on a conditional fee basis. However, he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported his client's case.

8. 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 Procedure regulations 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Issues

10. The issues in dispute were:

   i) the correct Zone A rate to be applied to the subject property's assessment; and
   ii) whether any allowances/reductions were warranted to reflect masking to various parts of the premises.

Evidence and submissions

11. The panel had been provided with a bundle of evidence, which comprised the challenge submission, VO Decision notice and the representative's appeal submission.

12. Having regard to the comparable assessments he had cited, Mr Batty sought a reduced Zone A rate of £100/m^2. He also sought reduced rates/allowances for various parts of the

premises that he considered were affected from masking. Accordingly, this resulted in his proposed assessment of £8,650 RV, with effect from 1 April 2017.

13. Having regard to the comparable assessments she had provided, Ms Howson contended that the Zone A rate of £175/m^2 was not excessive. She also contended that no allowance was warranted for masking apart from the allowances already provided to part of the Zone C and remainder areas. Therefore, she contended that the current assessment of £14,500 RV, with effect from 1 April 2017 was correct and sought dismissal of the appeal. However, after hearing from Mr Batty regarding the presence of a structural wall behind the staircase, Ms Howson accepted the area to the rear of the structural wall should be valued at the remainder rate rather than Zone C.

Decision and reasons

14. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015, the Antecedent Valuation Date (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.

15. The subject property had been held on a freehold basis since July 2012.

16. The panel noted that the parties had reached an agreement that a 5% end allowance should be included in the subject property's assessment to reflect the disability associated with the steps located to the front of the premises.

17. Firstly, the panel addressed the correct Zone A rate to be applied to the subject property's assessment. Ms Howson contended that the current Zone A rate of £175/m^2 was fair and reasonable, whereas Mr Batty sought a reduction to £100/m^2.

18. In support of his proposed Zone A rate of £100/m^2, Mr Batty had referred the panel to eight comparable properties that had been valued at the lower rate of £100/m^2. After having regard to the photographs of those properties, the panel agreed with Ms Howson that they were not true comparisons of the subject property. The subject property was located along a main road into Bedford town centre and close to a public park in what was considered to be one of the better areas of Bedford. The area was mainly residential and consisted mostly of 1950s semi-detached houses. The panel noted that comparable properties provided by Mr Batty were either situated in less desirable locations than the subject property or had less prominent positions.

19. The panel placed greater weight on the rental schedule provided by Ms Howson, which detailed three properties on Goldington Road, together with 24 Howard Avenue. Rents had been set on the three properties located on Goldington Road between 22 June 2012 and 1 December 2017, that analysed between £242.88/m^2 and £272.11/m^2 and those three properties had been valued at Zone A rates ranging between £175/m^2 and £270/m^2. 24 Howard Avenue had a rent set on 20 January 2014, which analysed to £157.86/m^2. That property had been valued at a Zone A rate of £150/m^2.

20. After having regard to the three rents passing on properties on Goldington Road, it suggested to the panel that the current Zone A rate applied to the subject property was reasonable and not excessive. The panel further noted that the Zone A rate of £175/m^2 was at the lower end of the Zone A values placed on properties along Goldington Road.

21. The panel then went on to consider the various issues raised by Mr Batty regarding masking within the subject property.

22. Mr Batty referred the panel to the layout plan of the premises. In particular, he referred to the staircase in the centre of the premises that led to the residential premises on the first floor. He stated that there was a structural wall to the rear to staircase. As such, the area behind the structural wall was currently incorrectly valued at the Zone C rate. Mr Batty contended that the area in question should be valued at the remainder rate. In the current valuation, the Valuation Officer had applied an allowance of 10% to the Zone C rate to reflect masking issues to this area. However, Mr Batty contended that it was incorrect to zone through a structural wall.

23. On hearing Mr Batty's statement in relation to the staircase and the structural wall, Ms Howson agreed that the area to the rear should be valued at the remainder value. Whilst Ms Howson had inspected the premises, she had not specifically checked whether the wall in question had been a structural wall.

24. Having regard to both parties' submissions, the panel accepted that the wall in question was a structural wall. The panel was aware that when valuing premises by the zoning method, one zoned through a non-structural partition wall but not a structural wall. As such, the panel determined that the area in question to the rear of the structural wall measuring 10.89 m^2, was fully masked and should be valued at the remainder rate, which was ⅛ of the Zone A rate (£21.88/m^2).

25. Mr Batty then referred the panel to the external photographs of the appeal property, together with the layout plan. He pointed out that the frontage of the subject property to the left-hand side was covered by a 3.5 m solid brick wall. There was no display window to this part of the premises and visibility of what should be the most prominent part of the premises within the Zone A area had been compromised. Mr Batty stated that the area behind the brick wall was masked and should not be valued at the Zone A rate; he had proposed that 4 m^2 of the current Zone A area should be valued at the remainder rate.

26. Ms Howson disputed that there was a 3.5 m solid brick wall to the front of the premises, she believed that the wall in question belonged to other premises. When questioned on the matter, Ms Howson stated that if the wall was as described by Mr Batty, then an allowance/reduction was appropriate as the most valuable part of the premises were to the front and visibility would be compromised. However, she disputed this to be the case.

27. After the hearing had finished, Mr Batty emailed the clerk larger versions of two of the photographs already provided, plus a larger version of the floor layout plan he had already provided. The clerk forwarded the email to Ms Howson and requested any comments before sending the correspondence to the panel for consideration. In her emailed response dated 8 April 2022, Ms Howson contended that the enlarged documents confirmed her opinion that there was not a structural wall to the front of the premises but a pillar. Ms Howson provided a survey sheet to demonstrate that the area of the pillar had not been included the measurement. Mr Batty responded to Ms Howson's email with further enlarged photographs and a layout plan in support of his case that there was a solid brick wall to the left-hand side of the premises. The email chain from both parties was subsequently forwarded to the panel for consideration.

28. After having regard to the internal and external photographs of the subject property, together with the floor layout plan, the panel agreed with Mr Batty on this issue. The panel could see that the appeal property had a solid brick wall to the left-hand side of the premises. The panel found that the subject property did suffer from a degree of masking due to the

presence of the solid wall. Mr Batty had stated that the solid wall measured 3.5 m and he had proposed that an area of 4 m^2 should be removed from the Zone A measurement and be valued at the remainder rate to reflect any masking issues from the presence of the wall. The panel found no reason to deviate from the area of 4 m^2 as suggested by Mr Batty.

29. Having regard to the above conclusions, the panel allowed the appeal in part as it found the current assessment unreasonable. It determined that the existing Zone A rate of £175/m^2 was fair and reasonable and in line with the Zone A rates applied to other properties along Goldington Road. The panel also determined that there was a structural wall behind the staircase and the area to the left-hand side behind that structural wall should be valued at the remainder rate. Furthermore, the panel determined that there was a 3.5 m solid wall to the front of the premises that masked visibility within the Zone A area. As such an area of 4 m^2 had been removed from the Zone A area and valued at the remainder rate. This resulted in a reduced assessment of £13,750 RV, with effect from 1 April 2017. A breakdown of the assessment has been shown below:

Floor	**Description**	**Area m^2**	**£/m^2**	**Value (£)**
Ground	Retail Zone A	46.73	175.00	8,178
Ground	Remainder	4.00	21.88	88
Ground	Retail Zone B	50.75	87.50	4,441
Ground	Retail Zone C	18.10	43.75	792
Ground	Remaining Retail Zone masked	10.89	21.88	238
Ground	Remaining Retail Zone	11.56	21.88	253
Ground	Remaining retail masked	7.96	19.69	157
Ground	Office	4.70	8.75	41
	Hard Surfaced Land	60.00	5.00	300
			Sub total	14,488
Less 5% steps to the font of the property				724
Total				13,764
Say £13,750 Rateable Value, with effect from 1 April 2017				

Order

30. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £13,750 RV, with effect from 1 April 2017, within two weeks of the date of this Order.

Refund of fees

31. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 14 April 2022
Appeal Number: CHG100167363