VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: shop and premises; valuation of second floor storage and adjustment for masking in dispute; Local Government Finance Act 1988; appeal allowed in part.

APPEAL NUMBER:	CHG101070850
RE:	550 Chorley Old Road, Bolton, BL1 6AB (the “appeal property”)

BETWEEN:	Greenhalgh’s Craft Bakery Ltd	Appellant
	and	
	A Hitchings (Valuation Officer)	Respondent

SITTING:	*Remotely using Microsoft Teams*
ON:	3 May 2024
BEFORE:	Mr A Hussain, Presiding Senior Member Mr K Everett, Senior Member
CLERK:	Mrs L Horne IRRV(Hons) BA (Hons)
APPEARANCES:	Mr K Batty from Ken Batty Chartered Surveyors, representing the appellant Mrs L Jenkinson representing the Valuation Officer

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part. The panel determined a revised rateable value (RV) of £7,700 with effect from 1 April 2017, which reflected an adjustment for masking in Zones A and B and the addition of a rear store.

Introduction

2. This is a 2017 rating list appeal. 550 Chorley Old Road, Bolton, BL1 6AB (the appeal property) had been entered in the 2017 rating list as ‘shop and premises’ at £7,900 RV with effect from 1 April 2017.

3. The challenge proposal was submitted by Ken Batty Chartered Surveyors on behalf of Greenhalgh's Craft Bakery Ltd and was received by the Valuation Officer on 7 June 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £6,700 was proposed with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice on 26 October 2023 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by Ken Batty Chartered Surveyors on behalf of the appellant, and received by the Tribunal on 21 November 2023.

6. As Mr Batty appeared on behalf of the appellant as both advocate and expert witness, the clerk asked 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 stated that historically he had been instructed on a conditional fee arrangement, however, he declared that he had received payment for this hearing. He confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported the client's case.

8. The appeal property is an inner terraced building constructed circa 1910, located on Chorley Old Road. The present valuation of £7,900 RV is based upon a total area of 114.4m^2 at an adopted Zone A price of £175 per m^2.

9. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Preliminary issue

10. Following an inspection of the appeal property on 27 March 2024, it had been discovered that a rear store had not been included, and had not been declared at check or challenge stage. Both parties provided revised valuations to include the previously omitted area.

11. Mrs Jenkinson raised an objection to Mr Batty's revised valuation, as she considered that he had sought to increase the allowance sought in his challenge. In response, Mr Batty explained that when calculating the revised valuation, he noted that he had not reflected the area masked in Zone B.

12. Following Mr Batty's explanation, Mrs Jenkinson withdrew her objection.

Issues

13. The issues remaining in dispute concerned the value to be applied to second floor storage and adjustments for masking in Zones A and B.

14. The challenge submission also sought a reduction in the Zone A price from £175 to £150 per m^2, however, Mr Batty confirmed that this was no longer in dispute.

Evidence and submissions

15. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: appellant's challenge submission and Valuation Officer's challenge case decision notice.

16. In support of his revised valuation of £7,750 RV, Mr Batty provided photographs and plans of the appeal property.

17. On behalf of the Valuation Officer, Mrs Jenkinson provided a revised valuation of £8,140 RV to include the rear store. As she was unable to alter the RV, she asked the panel to confirm the present RV of £7,900 and dismiss the appeal.

Decision and reasons

18. In accordance with paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, the appeal property must be viewed vacant and to let and 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. The date of the hypothetical rent is 1 April 2015, the AVD for the 2017 rating list.

19. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

20. The panel referred to the evidence and arguments provided in support of the two issues in dispute.

Valuation of second floor storage

21. Mr Batty stated that the area of the second floor was extremely restricted, with poor access, and as a result it was rarely used. He compared the area to a mezzanine which would normally be at a rate of 50% and so he proposed the same approach for the second floor storage.

22. In response, Mrs Jenkinson stated that the second floor had been measured to net internal area in accordance with the code of measuring practice. Consequently, any areas with headroom of less than 1.5m had not been included.

23. On this issue, the panel found in favour of the Valuation Officer. It had been confirmed that the areas restricted in height were not included in the valuation, and therefore, the panel held that to further reduce the price was, in effect, double counting.

Adjustment for masking

24. Mr Batty submitted that there was clear masking to areas within Zones A and B due to the presence of structural walls. With reference to his layout plan, he highlighted where there

was a supporting wall made of brick with an RSJ across. The affected areas were calculated at 1.72m^2 in Zone A and 1.71m^2 in Zone B. When removed them from the valuation and added back in at 1/8, this resulted in a total deduction of £377.

25. The Valuation Officer contended that the area did not appear to be masked and was of the opinion that the walls were not structural. Reference was also made to the 2016 rent of £11,000 per annum which did not support an allowance.

26. On this issue, the panel held that Mr Batty had successfully demonstrated that the presence of structural walls caused masking to Zones A and B. This was evident both from the photographs and the layout plan. The panel considered that this was a disadvantage to the layout which could affect a hypothetical tenant's rental bid, and was satisfied that Mr Batty's adjustment was fair and reasonable.

27. In conclusion, the panel confirmed the present valuation of the second floor storage, but determined that an adjustment should be made for masking to Zones A and B. The revised RV of £7,700 also reflected the addition of the rear store.

Floor	Description	Area m^2	£ per m^2	Value (£)
Ground	Retail Zone A	34.30	175.00	6,003
Ground	Retail Zone B	11.90	87.50	1,041
Ground	Kitchen	11.10	17.50	194
Ground	Internal Storage	9.06	17.50	159
First	Toilets Staff	N/A	0	0
First	Internal Storage	17.20	8.75	151
First	Internal Storage	13.00	8.75	114
First	Internal Storage	7.40	8.75	65
Second	Internal Storage	12.80	7.00	90
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION				
	Air Conditioning System	46.20	7.00	323
			sub-total	8,140
			Less masking in Zones A and B	(377)
				7,763

Rounded down to £7,700 RV (in accordance with the rounding policy)

Order

28. 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 Valuation Officer to alter the entry in the rating list to £7,700 with effect from 1 April 2017.

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

30. A refund of the paid fee will now be arranged provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date issued to parties: 24 May 2024

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.