VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; shop and premises; end allowances sought for masking; fragmentation and double unit; appeal allowed in part.

APPEAL NUMBER: CHG101102887

RE: 11-13 Whitegate Drive, Blackpool, FY3 9AE
(the "appeal property")

BETWEEN:	Mr Stephen Webster	Appellant
	and	
	Mrs A Hitchings (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: Friday 11 October 2024

BEFORE: Mr B Proudfoot, Presiding Senior Member
Mr WJ Read, Senior Member

CLERK: Mrs Rachel James IRRV (Hons)

APPEARANCES: Mr K Batty of Ken Batty Chartered Surveyors (on behalf of the appellant as both advocate and expert witness)
Ms J Yeoman (on behalf of the respondent as both advocate and expert witness)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The Tribunal panel held that the existing assessment of £21,750 Rateable Value (RV) was unreasonable and determined a reduced assessment of £21,500 RV, with effect from 1 April 2017.

Introduction

3. This appeal had been brought in respect of the following: 11-13 Whitegate Drive, Blackpool, FY3 9AE, which was entered in the 2017 Rating List as a shop and premises at £21,750 RV, with effect from 1 April 2017.

4. The appellant's challenge to the Valuation Officer (VO) was made on 2 August 2023. The appeal to this Tribunal was made on 28 May 2024, following the VO's decision notice of 1 February 2024, in respect of the appeal property (hereditament). This is a compiled list appeal so the material date is 1 April 2017.

5. 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).

6. 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 supports his client's case.

7. The panel have 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.

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

Preliminary issues

9. Mr Batty confirmed that the 2.5% addition to reflect the return frontage and the existing zone A rate of £200/m^2 applied to the appeal property were no longer in dispute. Following his acceptance of the existing zone A rate, Mr Batty provided a revised valuation of £18,000 RV, with effect from 1 April 2017. The only objection from the VO to this evidence was the assessment marked 'VOA valuation as revised'; the VO stated that this was not correct. The panel noted the VO's concerns and disregarded the evidence in question and had regard to the VO's original valuation as contained within the decision notice.

10. On 7 October 2024, Mr Batty provided a location plan and three photographs of the appeal property.

11. The panel agreed that Mr Batty's revised valuation, photographs and location plan should be allowed in evidence. As such, the panel proceeded to hear the appeal having regard to all the evidence presented; with the exception of Mr Batty's interpretation of the VO's valuation.

Background

12. The appeal property was a shop and premises that was occupied by an estate agents. It was an early 20th century corner terraced property. It was located within a mixed commercial and residential area.

13. At the hearing the following issues in dispute remained:

    i) whether a 5% end allowance was warranted to reflect the fact that the appeal property was a double unit;
    ii) whether or not the masking allowance should be applied to the zone C area; and
    iii) whether or not a 5% end allowance was warranted to reflect fragmentation.

Relevant Law

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.

Discussion

15. The panel had not been presented with any rental evidence in this appeal to assist with the decision making.

16. The panel noted that there were currently allowances and additions applied to the appeal property's assessment. However, rather than apply those as end allowances and additions, the VO had applied them to the individual line entries. Whilst the zone A rate was £200/m^2, the VO had adjusted the rate to £194.76/m^2 by applying a 5% allowance to reflect the appeal property's hard frontage and a 2.5% addition to reflect the return frontage.

17. The panel turned to each issue in turn. Firstly, addressing whether or not an end allowance was warranted to reflect the fact that the appeal property was a double unit. Mr Batty explained that in his experience, double units always attracted a 5% end allowance, and this was the level of allowance he sought for the appeal property. In support of this allowance, Mr Batty made reference to various double units in Southport, Accrington, Preston and Bolton where a 5% end allowance had been granted. The VO did not feel that an allowance was warranted in the appeal property's case and she explained that none of the units located on Whitegate that were double unit had been granted an allowance to reflect this factor.

18. In arriving at its decision, the panel had regard to the schedule of comparable properties provided by the VO. This detailed the appeal property together with twelve other properties located on Whitegate in Blackpool. The panel noted that of the twelve comparable units located on the same road as the appeal property, five were double units, none of which had been granted an end allowance. Mr Batty stated that it was usual practice to apply an allowance to reflect a shop being a double unit. However, the panel was of the opinion that a blanket approach should not be adopted with end allowances and each case should be considered on its own merits. In the appeal property's case, the panel concluded that insufficient evidence had been presented to demonstrate that an end allowance was

warranted. The panel attached little weight to the comparable units mentioned by Mr Batty that had been granted an end allowance to reflect being a double unit; no specific details had been provided in relation to those properties and they were located some distance from the appeal property.

19. The panel then addressed the second issue in dispute, namely whether or not the masking allowance should be applied to the zone C area. Mr Batty had considered that the masking allowance should be applied to the affected areas in zones A, B and C. He proposed valuing the affected areas at the zone D rate as had been done by a previous Valuation Tribunal in relation to appeal number CHG101070850, Greenhalghs Craft Bakery Ltd, 550 Chorley Old Road, Bolton, BL1 6AB. He pointed out that there was a solid wall within the appeal premises and all the area behind that wall was masked; no goods could be displayed in that area due to the masking issue. The VO accepted that there was some masking to the right-hand side of the premises within zones A and B but disputed that the area within zone C was affected, stating that the area in question was visible from two sides. The VO had applied a 5% masking allowance to 5.03 m^2 of the zone A area and 16.56 m^2 of the zone B area. Whilst the VO had factored the masking allowance into the assessment, the reduction was insufficient to make a difference to the overall valuation and had been lost in rounding.

20. In arriving at a decision on this issue, the panel drew its attention to the floor layout plan and the photographs as provided by Mr Batty. The panel noted that there was a structural wall within the zone A area and another structural wall down the centre of the premises. After having regard to the floor layout plan, the panel was satisfied that the masking issue would go into the zone C area. The panel was of the opinion that should the appellant wish to display goods within that part of the zone C area the view would be masked due to the presence of the structural wall. Whilst the panel accepted that the affected part of the zone C area should have the masking allowance attributed to it, it was not convinced by Mr Batty's argument that the affected areas should be valued at the zone D rate. However, the panel also concluded that the 5% applied by the VO was insufficient. The panel determined that a masking allowance of 10% more fairly reflected the disadvantage caused to the appeal property from masking. The panel applied the 10% allowance to the respective zone A, B and C line entries. In the lack of any floor layout plan having been provided by the VO, the panel also applied Mr Batty's measurements for the affected areas within zones A, B and C which were 5.39 m^2, 17.69 m^2 and 9.89 m^2, respectively.

21. Finally, the panel addressed whether or not an allowance was warranted to reflect fragmentation at the appeal property. Mr Batty sought a 5% end allowance to reflect fragmentation. He explained that the appeal property had originally been two properties, and it was not as easy to occupy as one purpose built shop unit. In arriving at a decision on this issue, the panel accepted Mr Batty's point that the premises were not as easy to operate from as one purpose-built shop. However, it was not convinced that a fragmentation allowance was warranted. The panel concluded that any disadvantage associated with the appeal property being an amalgamation of two former units had been adequately reflected in the increased masking allowance.

Disposal

22. In view of the above findings and conclusions, the Tribunal panel is satisfied that the existing assessment is unreasonable. The panel determined that a reduced assessment of £21,500 RV more fairly reflected the appeal property and all its perceived advantages and disadvantages. A breakdown of the assessment is shown overleaf:

Floor	Description	Area m^2	£/m^2	Value (£)
Ground	Retail zone A	5.39	175.28	945
Ground	Retail zone A	59.73	194.76	11,633
Ground	Retail zone B	17.69	87.64	1,550
Ground	Retail zone B	49.13	97.38	4,784
Ground	Retail zone C	9.89	43.82	433
Ground	Retail zone C	30.43	48.69	1,482
Ground	Staff Toilets	N/A	0.00	0
Ground	Office	16.20	25.00	405
Ground	Former Strong Room	13.47	20.00	269
Basement	Former Strong Room	6.50	10.00	65
Basement	Internal storage	5.10	10.00	51
Sub total				£21,617
Say £21,500 Rateable Value, with effect from 1 April 2017				

Order

23. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £21,500 RV, with effect from 1 April 2017, within two weeks of the date of this Order.

Date issued to parties: 7 November 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.