THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; car supermarket; price per square metre disputed; vehicle display spaces; plant and machinery; appeal allowed in part.

RE: Carcraft, Capitol Park West, Leeds LS27 0TS

APPEAL NUMBER: CHG100094560

BETWEEN:	Available Car Ltd	Appellant
	and	
	Ms J Moore (Valuation Officer)	Respondent

PANEL:	Mr A N Backway (Chairman) Mrs M J Cole
CLERK:	Mr D Mulgrew
HEARING:	Remote hearing No.4 on 16 April 2021
APPEARANCES:	Mr J Abbott (Altus Group) (Appellant's representative) Mr C Preston (Respondent's representative)

Summary of decision

1. Appeal allowed in part. The rateable value was reduced to £650,000 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of Carcraft, Capitol Park West, Leeds (the "appeal property"), which was currently entered in the 2017 rating list as "car supermarket and premises" at rateable value £695,000, effective from 1 April 2017.

3. The challenge process began when the appellant had made a proposal to the Valuation Officer on the grounds that the then entry shown in the rating list on 1 April 2017, namely rateable value £740,000, was wrong and that it should be reduced to rateable value £495,000.

4. The Valuation Officer had agreed that the upwards quality adjustments in respect of the workshop and valet space should be removed. Consequently, the rating list entry was amended to rateable value £695,000 with effect from 1 April 2017.

5. In accordance with regulations[1], an appeal was made to the Valuation Tribunal for England (VTE) on the grounds that the revised valuation for the appeal property was not reasonable. The appellant's proposed rating list alteration was amended to rateable value £545,000 effective from 1 April 2017.

6. The President of the VTE is required to make sure arrangements are in place and make such statements and directions so as to ensure that business before the Tribunal is conducted in accordance with the relevant legislation[2]. The VTE may determine the form of any hearing.

7. Therefore, in pursuance of the relevant regulation[3] the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

8. 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 before 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

9. The dispute concerned the rateable value of the appeal property. There were three differences remaining between the parties:

   (a) The property had been assessed by the Valuation Officer at an unadjusted or base rate of £60/m^2, but the appellant sought a reduction to £50.00/m^2.

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[1] The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, regulation 13A.

[2] Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5)(arrangement for appeals) and regulation (6)(3)(g) (appeal management powers).

[3] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).

(b) The parties agreed that there were 1,724 spaces and that vehicle display spaces should be assessed at £100 per space. However, the appellant wanted the number of vehicle display spaces adjusted because it needed considerably more customer parking than the Valuation Officer had allowed. The appellant stated that there were 804 vehicle display spaces, but that 920 spaces were for customers and servicing. In Mr Abbott's opinion, they should be assessed at a relativity of 0.8 of the hereditament's main base rate of £50/m^2, resulting in them being valued at £40 per space.

(c) The appellant disputed the Valuation Officer's addition of £7,252 in the assessment for plant and machinery. This had not been included in the original rating list assessment but had appeared in the Valuation Officer's revised assessment.

Evidence and submissions

10. The appeal to this Tribunal included correspondence between both parties and the evidence which they had exchanged. It included plans, photographs, rental evidence, comparable assessments, valuations, and case law.

11. Both parties' representatives appeared in a dual role of advocate and expert witness.

12. Mr Abbott, when appearing as expert witness, stated that he was on a contingency fee basis. However, he also 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.

13. The panel accepted this expert witness evidence on the above basis as the appeal was 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 was 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).

14. 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 in issue before it.

Decision and reasons

15. The appeal property occupied an office park location with modern buildings on it. It was constructed in 2003 as a purpose-built car supermarket. In describing the appeal property, Mr Preston said that car supermarkets like to be near major junctions with good visibility. Mr Abbott stated that although the appeal property had some prominence from the M62 motorway, it was only visible past the exit junctions on both sides, and was not easily accessed off the Tingley Interchange as there were six exits off the roundabout.

16. The appeal property had been assessed in a valuation scheme that included car supermarkets in the North East region from Northumberland to South Yorkshire. Mr Abbott stated that £50/m^2 was the most common value used within the scheme.

17. In considering the price per square metre to be applied to the appeal property, the panel first considered the rental evidence which was referred to by the parties. Mr Abbott stated that the appellant was the freehold owner of the appeal property. However, Mr Preston stated that there was a rent of £1.5 million when it was previously let to Carcraft in 2003, but he accepted that as it was well before the antecedent valuation date (AVD) of 1 April 2015, it carried little weight. Nonetheless, Mr Preston argued that the historic and predicted values should be considered as part of the valuation process. He went on to say that the initial rent devalued to £93.50/m^2 and £135 per space (on 724 spaces at the hereditament at that point in time).

18. The panel considered the 2003 rent in respect of the appeal property but placed no reliance on it as it was too far from the AVD to be of any use. The panel noted that the settled appeals in respect of the 2005 and 2010 rating list entries had been agreed well below the rent, at rateable value £765,000 in both lists.

19. Mr Abbott's preferred comparable property was Motorpoint Birtley, Durham Road Trading Estate, Birtley, Chester-le-Street, Co Durham. There was a rent on it from 19 August 2015 which devalued to £53.90/m^2 on the main showroom space. Mr Preston argued that post AVD rents were not as good as those agreed just before the AVD. The panel was surprised by this approach given that Mr Preston had referred to a rent from 2003 in respect of the appeal property. The panel held that the rent in respect of Motorpoint Birtley was very useful to the valuation exercise because of the general dearth of car supermarket rental evidence and because it was less than five months from the AVD.

20. Additionally, Motorpoint Birtley was like the appeal property insofar it was a purpose-built car supermarket. It was also as Mr Abbott had stated, relatively near to a large urban conurbation, with 36,000m^2 of surplus land. This comparable property had been assessed by the Valuation Officer at an unadjusted rate of £50/m^2.

21. However, the panel found that the appeal property was a superior property when compared to Motorpoint Birtley. That property was located one mile from junction 34 of the A1(M) which meant that its location was not as prominent as the appeal property which had visibility from the M62 motorway. This indicated to the panel that the appeal property's assessment should be higher than £50/m^2.

22. Mr Abbott had had regard to several other assessments in the same valuation scheme:

(a) Unit A Sheffield Airport Business Park, Europa Link, Sheffield. This comparable has a main space rate of £32.50/m^2.

(b) Car Shops Ltd, Traxpark, Decoy Bank South, Doncaster Carr, Doncaster. This property had a larger showroom element, but he believed the overall building footprint was still comparable. The main space rate was £50/m^2.

23. However, the panel acknowledged Mr Preston's comments that those were not purpose-built car supermarkets, as they were converted industrial premises. Sheffield Airport was also two miles from the nearest motorway junction and Car Shops Ltd was on a smaller site with less vehicle display spaces. For those reasons, the panel gave that comparable evidence less weight.

24. Similarly, the panel gave less weight to the rental and assessment evidence for Helix Gateway 36, Dearne Valley Parkway, Hoyland, Barnsley, as it was built from an industrial unit in 2016 and had less land. However, the panel still noted that the rent devalued to £49.51/m^2 and that it had been assessed at an unadjusted rate of £52.50/m^2.

25. Mr Preston's preferred comparable was the Trade Centre, Darlaston Road, Wednesbury, West Midlands. The panel understood that he had selected this property because it was Carcraft's "sister site". The panel gave no weight to the rent on this property as it dated from 2005 and was a sale and leaseback rent. The panel noted that the unadjusted rate was £60/m^2 and, like the appeal property, spaces were assessed at £100 each. The assessment had not been challenged in the 2017 rating list. An appeal had been made in respect of the 2010 rating list entry and this had been agreed at £60/m^2. The panel considered that this comparable property was useful to the valuation exercise. It was not as persuasive as Motorpoint Birtley because the Trade Centre was in a different valuation scheme, was located furthest away - 122 miles distant, additionally, it was in a different valuation region to the appeal property.

26. After careful consideration of all the comparable evidence, the panel was mindful that none of it was perfect in terms of comparability. The panel decided to start with the Motorpoint Birtley evidence and, after reflecting on the advantages at the appeal property as discussed, and taking into account Trade Centre, Wednesbury, it adjusted the base price of the appeal property upwards to £55/m^2.

27. The panel then considered the assessment of the vehicle display spaces. Mr Abbott agreed the Valuation Officer's overall estimate that there were 1,724 spaces on site. However, he explained that since the appellant had occupied the appeal property, the spaces have been reconfigured into display, staff and service/workshop spaces. As there was a large number of spaces on site, Mr Abbott believed that the current and most likley future use, vacant and to let, should be reflected in the values. He had assessed 920 spaces used for customers and servicing at £40 per space

28. Mr Preston argued that in the previous two rating lists, a single value per space had applied to the whole of the site. The previous occupier, Carcraft, went into administration and Mr Abbott questioned the effectiveness of their use of the site.

29. In Mr Preston's opinion, there was a potential to hold more vehicles for display to increase sales. He argued the land in car supermarket and car auction premises was more valuable to this type of occupier; he contrasted this against a typical industrial occupier who might only want 40% site coverage before one started to adjust for any land.

30. The panel was more persuaded by the Valuation Officer's argument. The current assessment of £100 per space was consistent with previous list assessments for the appeal property and it was also consistent with how other car supermarkets have been rated. The panel considered that vacant and to let, a hypothetical tenant might want a different split between the allocation of spaces.

31. Finally, the panel had regard to Mr Abbott's arguments concerning the addition in the assessment for plant and machinery. He stated that the Valuation Officer had included an amount of £7,252 for plant and machinery in his revised valuation, which was not included in the original assessment.

32. The amount was for security fencing, cameras and flood lighting. While Mr Abbott accepted that such items were rateable under Rating (Plant and Machinery) (England) Regulations 2000, he stated that the Valuation Officer had included the amount without an inspection, and that it was reasonable to assume comparable sites had similar plant and machinery. However, when he had checked the assessments of comparable properties, two had no such additions and three had smaller additions between £1,200 and £1,381. He had not been able to access a breakdown of the plant and machinery shown in the comparable assessments, but he suspected it was for security cameras only, and he therefore objected to the inclusion of security fencing and floodlighting. He argued it was inconsistent with other sites.

33. Mr Preston stated that he could perhaps accept that fencing might be included in the base rate, but he argued that a surveillance camera system and flood lighting had to be rated. Referring to *Ladies' Hosiery and Underwear v Assessment Committee for West Middlesex Assessment Area* [1932] CA 2 KB 679, he argued that correctness must not be sacrificed for uniformity.

34. Mr Preston stated that no one from the Valuation Office Agency had inspected the appeal property but he had seen it from Google Street View. He had counted 66 twin floodlights, 39 single lights and it was noted there were surveillance cameras. He provided a calculation. He said that there may be more items at the appeal property and a future inspection would be made to capture the full extent of all the plant and machinery.

35. The panel appreciated Mr Abbott's concern as clearly there should be some consistency with the rating of comparable sites. Ultimately though, the plant

and machinery is physically there, and it is rateable. Mr Abbott has not shown what was wrong with the Valuation Officer's calculation of plant and machinery. Therefore, the panel accepted the addition of £7,252 in the valuation.

36. The panel's decision resulted in the following revised valuation:

Floor	**Description**	**Area m²/unit**	**Relativity**	**£ per m²/unit**	**Value (£)**
Ground	Showroom	5,947.15	1.0250	56.38	335271
Ground	Office	609.05	1.0763	59.20	36055
Ground	Kitchen	42.43	0.6150	33.83	1435
Ground	Internal storage	64.6	0.4613	25.37	1639
Ground	Public toilets	47.48	1.0250	56.38	2677
Ground	Works office	185.57	0.5125	28.19	5231
Ground	Workshop	2,157.86	0.4613	25.37	54752
Ground	Workshop	313.92	0.4613	25.37	7965
Ground	Plant room	65.76	0.4613	25.37	1669
First	Office	112.7	0.6150	33.83	3812
First	Office	171.95	0.6458	35.52	6108
First	Mess/staff room	70.55	0.3588	19.74	1392
First	Canteen	58.44	0.6150	33.83	1977
First	Staff toilets	48.94	0.3075	16.91	828
First	Works office	78.18	0.3588	19.74	1543
First	Plant room	58.67	0.3075	16.91	992
First	Office	302.86	0.6150	33.83	10244
Total		**10,336.11**			**473,590**

Additional details			
Description	**Area m²/unit**	**Price per m²/unit**	**Value**
Portable building	5.96	£35.00	£209
Portable building	11.66	£35.00	£408
Vehicle display spaces	1724	£100.00	£172,400
Total			**£173,017**

Plant and machinery	
Description	**Value**
Plant and machinery	£7,252
Total	**£7,252**
Total value	**£653,859**
Say rateable value	**£650,000**

37. The appeal was therefore allowed in part.

Order

38. 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 reduce the entry in the rating list to rateable value £650,000 with effect from 1 April 2017.

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

Refund of appeal fee

40. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date: 10 May 2021

Appeal number: CHG100094560