THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Car Showroom and Premises; Accuracy of RV in list; number of vehicle display spaces in dispute; appeal allowed as the evidence showed that the existing valuation is not reasonable.

Re: Stacey's Motors, The Drove, Castlefields Industrial Estate, Bridgwater, Somerset TA6 4BA

APPEAL NUMBER: CHG 100119188

BETWEEN: Godfrey Stacey t/as Stacey's Motors (Appellant)

and

Dal Virk (Respondent)

(Valuation Officer)

PANEL; Salma Yousef (Chairman) and Carole Anne Dodsley

CLERK: David Slater (Deputy Registrar)

REMOTE HEARING held on Tuesday 27 July 2021

APPEARANCE(S); Adam Handley from Altus Group (Appellant's representative)

Tony Keen (Valuation Officer's representative)

Summary of decision

1. The appeal was allowed as the existing entry is not reasonable and the entry is reduced to £138,000 Rateable Value with effect from 1 April 2017.

Introduction

2. This was a 2017 Rating List appeal. Prior to the challenge, the compiled list entry for the appeal property was £144,000 Rateable Value. This was a compiled list appeal so the material day was 1 April 2017. The appellant made a proposal (challenge) on 19 August 2019 seeking a reduced entry of £106,000 Rateable Value with effect from 1 April 2017. After considering the evidence submitted and exchanged during the challenge, the Valuation Officer decided that the proposal was partially well founded and reduced the entry to £142,000 Rateable Value. The Valuation Officer issued a decision notice on 4 December 2020 and the appellant appealed to the tribunal on 26 March 2021.

3. The appeal property comprised two detached car showrooms with workshops. It was constructed in 1991 of steel portal frame with part glazed and clad elevations. To the rear of the site was a detached workshop, Nissen Hut store and Portakabin store.

4. The appeal property was owner occupied.

5. Mr Handley appeared on behalf of the Appellant in a dual capacity as an Advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Handley advised the Tribunal that he was instructed under a conditional fee arrangement.

6. Mr Handley 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 (RICS) regardless of whether or not the evidence supported his client's case.

7. The paneI 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 Procedure regulations 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 in England).

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

9. Ordinarily, the tribunal would have considered and determined this appeal, following a public face to face hearing. However, in view of the Covid 19 pandemic and to avoid justice being further delayed, a remote hearing was held.

10. The President of the Valuation Tribunal for England (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 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) the VTE may determine the form of any hearing.

11. Therefore, in pursuance of Regulation (6)(3)(g) 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.

12. 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 it came to a decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Matters that were agreed.

13. The parties had reached agreement on the following;
    a. The valuation of all the buildings on site. There was a £2 difference in their respective aggregate totals which would have been lost in the rounding down exercise at the end of the valuation.
    b. The end allowances for access and layout.
    c. The basis of assessment for the rough surfaced area of land was agreed at £3 per m^2.
    d. Vehicle display spaces should be assessed at £325 per space.

Issues in dispute

14. The number of vehicle display spaces and the amount of rough surfaced land to be included in the assessment.

Evidence and submissions

15. On behalf of the appellant, Mr Handley contended that the assessment should be reduced to £125,000 Rateable Value. He inspected the appeal site on 13 April 2017, very close to the material day, and he had identified 36 vehicle display spaces and 42 customer and staff parking spaces. He argued that the latter should not be valued according to national valuation scheme guidelines.

16. Mr Handley contended that the area of rough surfaced fence land to be valued at £3 per m² was 5,013m².

17. On behalf of the Valuation Officer, Mr Keen contended that there were 115 car spaces that fell to be valued on site. 100 spaces were valued at £325 per space with the other 15 at £120 per space because they were located to the rear of the site where access was limited to the public.

18. Mr Keen contended that the area of rough surfaced land to be valued at £3 per m² was 3,578m².

19. It was accepted that once the panel had determined the correct number of vehicle display spaces to be valued, the area of the rough surfaced land may need to be adjusted accordingly, depending on the number of spaces identified.

Decision and reasons

20. During the hearing, Mr Handley expressed his frustration that nobody from the Valuation Officer had been prepared to undertake a joint inspection of the appeal site with him, in order to explore the possibility of reaching agreement on the remaining factual matters in dispute. He questioned Mr Keen's ability to appear as an expert witness, given the respondent's representative had not inspected the site.

21. The respondent's case was not helped by the fact its representative had not inspected the site, however, it was understood that Mr Keen had only recently taken over the case.

22. In the panel's experience, it was unusual for a such basic factual matters to come before it for determination. Normally if both parties are appearing before the tribunal as expert witnesses, in order to assist the tribunal, the first thing they should endeavour to do is to agree basic facts. The panel was of the opinion that something as fundamental as the number of vehicle car spaces and the area of rough surfaced land on site could easily have been agreed, following a joint inspection. However, where basic factual matters are not agreed, it is accepted that the tribunal has to make appropriate findings of fact based on the evidence put before it.

23. Mr Handley argued that his client was a competent trader and the valuation should reflect the actual use to which the site was put. Mr Keen argued that areas given over to customer parking could be used for vehicle sales and any valuation exercise should reflect the optimum use of the site.

24. Mr Handley also referred to the valuation scheme by which the appeal property was valued. He argued that under the scheme customer and staff parking was not separately valued. In response, Mr Keen said that was not what the VOA's guidance indicated. It said land used for display, customer and service parking should be valued on a price per space.

25. During questioning, it was established that 70 vehicle car spaces were included in 2010 Rating List entry. It was believed that the physical layout of the site had not changed for several years and Mr Keen was not in a position to explain why only 70 spaces were assessed previously.

26. Whilst it was accepted that, following a revaluation, the Valuation Officer was entitled to revalue a hereditament afresh, the tribunal's expectation was that the respondent, if challenged, should be in a position to explain why the survey detail has changed since previous list assessments. This is especially the case where physical factors remained unaltered. In the previous list assessment, it was accepted that there were 70 vehicle car spaces. That did not necessarily mean that there were but had the Valuation Officer adopted a higher figure for the 2010 list entry, there was no reason not to believe that the appellant would have challenged it.

27. Mr Keen outlined the Valuation Officer's valuation approach which was to look at the total feasible vehicle sales space which was around 4,300m² and divide it by 25m², for a car space, which would allow for some circulation. Using this approach, he contended that the Valuation Officer could easily have included 170 car spaces in the assessment. Mr Keen said the fact that had only assessed 100 at £325 per space suggested that the Valuation Officer's approach was more than reasonable and allowed for plenty of circulation space and essential access.

28. Having listened to the parties' respective arguments, the panel was mindful that it had only one expert witness appearing before it who had physically inspected the site. Mr Keen, although he professed to be an experienced valuer and qualified to give expert evidence had no direct knowledge of the site. In contrast, Mr Handley had first hand knowledge of the site, so the panel attached more weight to his expert evidence.

29. The Valuation Officer's contention that there were 100 vehicle display spaces and 15 less valuable spaces behind the workshop was rejected, as Mr Keen had never visited the site and therefore was not qualified to give expert opinion on what was there.

30. Mr Handley had identified only 36 vehicle car spaces and 42 customer car spaces. Given the location of the customer car spaces, as shown on the Promap within his expert witness report, the panel determined that the 42 customer spaces could easily be used for vehicle sales by another occupier, if the property was valued vacant and to let. Those spaces therefore should be valued to reflect their optimum use. The panel therefore made a finding of fact that there were 78 car spaces on site which fell to be valued at £325 per space.

31. As none of the 42 customer car spaces that the panel had determined should be valued as vehicle display spaces were situated on the rough surfaced land, the panel adopted Mr Handley's survey area. Again, this was on the basis that he had personally inspected the site.

The panel's valuation of the appeal property was as follows;

Agreed valuation of buildings	**£108,590**	
Agreed value of portakabin	£503	

78 vehicle display spaces @ £325 each	£25,350	
Rough surfaced land 5,013m² @ £3 per m²	£15,039	
Sub Total	£149,482	
Less 7½% end allowance for access and layout	£11,211	
Total	£138,271	**RV say £138,000**

32. In view of the foregoing, as the appellant's grounds for appeal were made out, the appeal was allowed and the entry reduced to £138,000 Rateable Value with effect from 1 April 2017.

Order

33. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £138,000 within 2 weeks of the date of this Order. The ratepayer is also entitled to a refund in full of the fee paid in accordance with regulation 13E (1)(a) of the Non-Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009.

Date: 23 August 2021

Appeal number: CHG 100119188