THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal – car supermarket – price per m² to be adopted for building - should relativities apply across the board – should comparable hereditaments be restricted to those in same scheme or from further afield – rental and tonal evidence – settlements – weighting of evidence – Poplar Assessment Committee v *Roberts* [1922] - *appeal allowed to extent of Valuation Officer's revised valuation*

Re: Helix Gateway, 36 Dearne Valley Parkway, Barnsley, S70 5SZ

APPEAL NUMBER: CHG10014781

BETWEEN:	Motor Depot Ltd	Appellant
	and	
	The Valuation Officer	Respondent

PANEL: Ms L Dubow (Senior Member)

Mrs F Duggan

CLERK: Mr A Jolly

REMOTE HEARING: Wednesday 16 March 2022

APPEARANCES: Mrs C Taylor of the Altus Group representing the occupier Motor Depot Ltd (appellant)

Mr C Preston representing the Valuation Officer (respondent)

Summary of decision

1. Appeal allowed in part to the extent of the Valuation Officer's revised valuation. Rateable Value (RV) £355,000 with effect 12 June 2018 was determined.

Introduction

2. This appeal has been brought in respect of the following: The appeal was lodged by the appellant's representative on 24 September 2021 against the Valuation Officer's Challenge Decision Notice dated 19 May 2021. The panel understood that the relevant documents were only sent to the appellant's representative on 24 September 2021 hence the delay between the decision notice and appeal being lodged.

3. The appeal hereditament was built in 2016 as an industrial building along with two other hereditaments. The appeal hereditament was occupied by Motor Depot Ltd from 2018 as a car supermarket. It was located on the A6195 and was 800 metres from junction 36 of the

M1 motorway. It was entered in the 2017 Rating List at £365,000 with effect from 12 June 2018. The appellant's representative, in their initial challenge, sought a reduction to RV £312,500.

4. The lease commenced from 20 February 2018 for a term of 15 years with a three month rent free period. The rent, which was a stepped rent, commenced at £376,385 per annum, increasing to £383,913 in 2023 and again to £391,591 in 2028. It was contended that there was a landlord's contribution of £100,000.

5. 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.

6. 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. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

7. In accordance with that Practice Statement, the panel conducted the hearing of this appeal remotely via Microsoft Teams conference call using audio/video-link.

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 evidence, should not be construed as it having been overlooked.

9. Mrs Taylor appeared on behalf of the appellant as both Advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mrs Taylor's declaration of truth included a statement that her company was instructed under a conditional fee arrangement.

10. Mrs Taylor declared that she understood and accepted that her duty was to the Tribunal in giving her evidence and she would comply with this as well as the requirements of her professional body regardless of whether or not the evidence supported the client's case.

11. 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 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).

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

Preliminary Issue

13. Prior to the hearing the Valuation Officer submitted additional information following an agreement of a Car Supermarket in the Doncaster locality. In his submission he sought a

revised valuation of £355,000 with effect 12 June 2018 having reduced the vehicle display space from £300 per space to £175 per space. The appellant's representative raised no objection to the new information being admitted.

14. In response to the Valuation Officer's additional submission the appellant's representative also provided an additional submission including a revised valuation of £322,500 based on £175 per vehicle parking space but also reducing the other attributes of the assessment in line with the price per m² adopted on the agreement for the Car Supermarket in Doncaster. The Valuation Officer raised no objection to its inclusion.

15. As the parties were in agreement with the additional submissions being admitted the panel allowed for the submissions to form part of the parties evidence.

Issues

16. The issue before the panel concerned the price per m² to be adopted on various parts of the appeal hereditament. The price of the vehicle display spaces had been agreed between that parties at £175 per space.

Evidence and submissions

17. Mrs Taylor stated that the appeal hereditament was not a purpose built car supermarket building as it had been constructed as an industrial unit. It did not have a mass of glazing on the building and did not have a large number of outside vehicle display spaces.

18. She stated that car supermarkets were getting more popular but there was no practice note for the 2010 Rating List and one had not been completed for the 2017 Rating List. She stated that when valuing car showrooms everything was based upon a percentage of the showroom space whereas there appeared to be no consistency between the vehicle display space and the remaining parts of the hereditament for car supermarkets.

19. Mrs Taylor stated that whilst the rent was three years after the AVD she could not ignore the rent and had had regard to the rent passing when considering the valuation of the appeal hereditament. She also confirmed that she accepted the Valuation Officer's analysis of the rent.

20. In support of her contention for a reduction in RV she referred to the recent agreement for Car Shops Ltd at Decoy Bank South, Traxpark, Doncaster. This originally had been entered into the 2017 Rating List with vehicle display units at £300 and therefore she considered was a good comparable property for the appeal hereditament as it was also within a non-purpose built property. She stated that in the recent agreement the price per vehicle display space had been reduced to £175 per space. As the Valuation Officer had reduced the price per space for the appeal hereditament to £175 per space she had adopted the same relativities from the Doncaster property to arrive at her revised valuation of £322,500. She had also removed an allowance from her valuation that she had originally sought for being a non-purpose built building.

21. Mrs Taylor referred to the rental and tonal evidence. She considered that only those within the same scheme as the appeal hereditament were comparable. She therefore referred to the assessments within the same scheme as the appeal hereditament providing the analysed rent and the adopted rate per m². She considered the evidence supported her valuation.

22. Mrs Taylor also referred to the rental evidence on the two other industrial buildings located close to the appeal hereditament and considered that they showed how the rental market was reacting in the locality over the period of time.

23. In questions Mrs Taylor confirmed that she accepted the Valuation Officer's analysed rent for the appeal hereditament and that she was now not seeking an end allowance for the fact the property was not purpose built. She also confirmed that she had entered a number of different valuations over the period of time but this was due to the evidence constantly changing but confirmed that she was now seeking £322,500 RV. She also confirmed that whilst absent from work her colleague had dealt with the appeal and had kept her informed but that did not mean she accepted all of her colleagues opinions especially regarding the movement of the rental market.

24. Still through questions Mrs Taylor also accepted that the Doncaster Car Supermarket was a number of years older than the appeal hereditament but did not consider that it would have a great effect on the rental level. Mrs Taylor also confirmed she understood the weighting off evidence. She did not consider premises in places such as Birmingham and Swindon to be comparable not due to distance but due to being different types of locality and that the reason why she considered the Doncaster property to be the most comparable was due to both being industrial in nature, not having mass glazing, limited number of outdoor vehicle display spaces and was not too far apart in age and size. In his questions Mr Preston used case law including *Poplar Assessment Committee* v *Roberts* [1922] and quoted from that decision 'value of occupation to the occupier' in regards to the fact that whilst it had been built as a distribution warehouse it was occupied as a car supermarket.

25. Mr Preston informed the panel that the appeal hereditament had been constructed as a distribution warehouse but was converted to a car supermarket. The property was glazed to one corner and in his opinion in a good location with good visibility in the locality which he considered was one of the main drivers for the location.

26. Mr Preston stated that car showrooms and car supermarkets were different types of hereditaments and therefore were not valued in the same manner.

27. Mr Preston considered that due to the nature of the property car supermarkets were few and far apart. He stated that assessments from within the scheme had been settled based on assessments from outside the scheme and therefore consideration of rental evidence from further afield should be taken into account. In support of his contention that his revised valuation of £355,000 was reasonable he provided a schedule of rental and assessment evidence from around the country.

28. Mr Preston did not consider the Doncaster Car Supermarket to be truly comparable as it was larger and an older premise and therefore different values would apply.

29. Mr Preston, as a following on from his questions and in particular his reference to House of Lords decision of *Poplar Assessment Committee* v *Roberts* [1922], stated that a hypothetical landlord would accept a lower level of value for an industrial unit and therefore reference to the two units on the same site was not of assistance in valuing the appeal hereditament.

30. Mr Preston stated that the test was whether the rating assessment was reasonable and that it was for the appellant's representative to persuade the panel that the RV was not

reasonable. He requested the panel to determine the RV at £355,000 with effect from 12 June 2018.

Decision and reasons

31. The panel was referred to *Poplar Assessment Committee* v *Roberts* [1922] and in particular the statement ‘value of occupation to the occupier’. Whilst the appeal hereditament had been originally constructed as a distribution warehouse its current use, after some alterations, was as a car supermarket. The panel therefore considered that comparison to other car supermarkets provided the best evidence and gave minimal weight to the rental evidence of other industrial warehouses in the immediate locality as cited by Mrs Taylor.

32. The panel had been informed that when valuing car showrooms there was a relativity between the price of the showroom and the value of other parts of the premises. In her submission Mrs Taylor tried to persuade that there should be a relativity between the vehicle display spaces and the other parts. She applied the £175 per space adopted in the Doncaster agreement as well as the relativities in that agreement to the appeal hereditament . The panel had not been persuaded that car showrooms and car supermarkets were different types of premises and therefore should be valued in the same way

33. The panel noted that Mrs Taylor had restricted her comparable hereditaments to those within the same scheme as the appeal hereditament as she considered those outside the scheme were not comparable in terms of locality. The panel agreed with the Valuation Officer that due to the nature of the premises consideration of similar properties in a wider area was necessary. It was noted that agreements had been reached using assessments across the country and not just from within the same scheme. The panel therefore considered the whole basket of rental and assessment evidence, as presented by the Valuation Officer, in considering this appeal.

34. The panel considered the differences in the size and age of the Doncaster Car Supermarket where an agreement had been reached. This was a larger and older premise to the appeal hereditament. Whilst it was part of the basket of evidence to which the panel had to weigh it considered that values applied to other parts of premises, other than the vehicle display spaces, would be lower than the appeal hereditament and therefore less weight should be attached to this property as a comparable hereditament.

35. The panel had been presented with a number of similar premises across the country and the analysed rents were between £49 per m^2 and £99 per m^2 and the adopted rate per m^2 was between £32.50 per m^2 and £105 per m^2. The panel noted that the appeal hereditament had been entered into the 2017 Rating List at an adopted rate per m^2 of £52.50. In considering all the rental and assessment evidence the panel considered that £52.50 was reasonable for a property with a prominent location close to road links.

36. The panel noted that the land had been valued at £3.25 per m^2 whereas the appellant’s representative had valued the land at £2.38 per m^2 which was the value adopted for the agreement for the Doncaster car supermarket. The panel had not been provided with any supporting evidence other than the value applied to the Doncaster property that the value of the land should be lowered from £3.25 per m^2. The panel therefore considered that the land value should remain at £3.25 per m^2.

37. The panel having considered all the evidence and having weighed that evidence had not been persuaded by the appellant’s representative that the Valuation Officer’s revised

valuation, which amended the price per vehicle display spaces from £300 to £175 per space, was not reasonable. The panel therefore allow the appeal to the extent of the Valuation Officer's revised valuation and confirm £355,000 RV with effect 12 June 2018.

Order

38. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £355,000 with effect from 12 June 2018 within two weeks of the date of this order. The ratepayer is also entitled to a refund in fall of the fee paid in accordance with regulation 13E (1)(a) of the Non Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009 providing there is no review of the Tribunal's decision. The refund will take six weeks to process.

Date: Wednesday 6 April 2022

Appeal number: CHG100147810