THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Car Showroom and Premises; Rental evidence; Comparable properties; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Appeal allowed in part.

Re: Goldsmith & Allcorn (Uckfield) Ltd, Bellbrook Industrial Park, Uckfield TN22 1QL

APPEAL NUMBER: CHG100148665

BETWEEN: Eastbourne Motoring Centre Limited Appellant

and

Ms D Bunyan Respondent

(Valuation Officer)

PANEL: Mr K Sutch (Presiding Senior Member) and Dr J Johnson (Senior Member)

CLERK: Mrs S Morgan

REMOTE HEARING: Wednesday 23 March 2022

PARTIES PRESENT: Mr S Campbell of Altus Group – Appellant's representative

Mr S Forbes – Valuation Officer's representative

Summary of decision

1. The appeal was allowed in part. The assessment was determined at £97,000 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal and the property had been entered in the rating list at £106,000 RV with effect from 1 April 2017, with a description of Car Showroom and Premises. The challenge submission was made by the Altus Group on behalf of Eastbourne

Motoring Centre Limited and was received by the Valuation Officer on 9 December 2019. It had been made on the grounds that the appellant believed that the current unadjusted rate for the appeal property was excessive. The appellant's representative sought a revised RV of £76,000, at the hearing, with effect from 1 April 2017.

3. The respondent accepted that the original unadjusted rate of £180/m^2 was excessive and had reduced the main space rate to £150/m^2. With adjustments to the vehicle display spaces and the addition of the ex-sea container his revised assessment was £97,000 RV, at the hearing, with effect from 1 April 2017.
4. Mr Campbell 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), Mr Campbell confirmed that he was instructed under a conditional based fee arrangement. He 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 the client's case.
5. The panel accepted this expert witness evidence on the above basis as the parties agreed the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of Valuation Tribunal for England (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).
6. 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.

Issue

7. The appellant's representative contended that the rate adopted for the appeal property was excessive. He sought a reduction to an unadjusted rate to £100/m² whilst the Valuation Officer (VO) contended that £150/m², was reasonable.

Evidence and submissions

8. The bundle comprised all of the documents exchanged between the parties as part of the challenge process. This included: the challenge document and supporting evidence; the Valuation Officer's initial response; comparable properties; rental evidence, location plans; numerous photographs of the appeal property and the comparable properties, assessment and rental evidence, tenure information, the definition of rateable value and case law.
9. The appeal property is a purpose-built car showroom. In addition, there is a workshop area, internal storage at mezzanine level and first floor storage. The premises had a total significant area of 757.98m^2 (in terms of main space 522.43m^2). The assessment also

included an ex-sea container, vehicle display spaces and an element of plant and machinery. The dealership is Vauxhall.

10. The property was built in 1998 on the Bellbrook Industrial Park which comprises retail and other industrial properties. The Industrial Park is to the west of Uckfield, just off the A22.

11. There was a rent passing on the appeal property from 13 July 2017 at £78,000 per annum (pa), two years after the antecedent valuation date (AVD). It analysed to £127.78/m^2. However, it was accepted that this lease was between connected parties.

12. The appeal property is part of valuation scheme 379840, where the adopted rate of £150/m^2 was applied to all properties including the appeal premises. The value is applicable to all modern showrooms (probably post 1990 construction) built to manufacturers requirements in East Sussex in good locations within the following local authorities of Eastbourne District Council, Wealden District Council and Lewes District Council.

13. The other valuation scheme referred to in evidence was 379844, where the adopted rate was £100/m^2. The value was applicable to car showrooms in East Sussex (probably pre 1990 construction) not to current manufacturers requirement and likely to be in a poor location.

14. Reference was made by the appellant's representative to his own comparable property evidence and rental information from the general locality where £100/m^2 had been applied. He also made comparisons between the respondents four prices of rental evidence and the appeal property. He argued that the comparable properties were not helpful as they were situated between 25 and 85 miles away from the appeal property, and as such, offered little assistance in determining the correct level of value for the appeal property. Of the two properties that had been challenged, one was located approximately 22 miles away in Fleming Way, Crawley. This was a 1988 built property located near to Gatwick Airport and in arguably better trading position. The main space rate was reduced to £125/m^2 before the property was deleted from the Rating List following a fire. The assessment was brought back into the List at £150/m^2. In relation to Doves Horsham, this was a 1997 built showroom approximately 35 miles from the appeal property. The appellant's representative contended that two challenges did not establish a tone of £150/m^2. He sought an RV of £76,000, in conjunction with the local assessment and rental evidence provided, with effect from 1 April 2017.

15. The respondent referred to the Valuation Office Agency guidance when valuing car showrooms from the following three descriptions. He believed that the appeal premises fell into Type 2. His comparable properties also fell into the same Type 2 category.

"Type 1 is Prime – these are modern purpose-built showrooms built since 2000 mainly for high end dealers such as Jaguar/Land Rover, BMW and Audi etc.….."

"Type 2 is Modern Main Dealer – these are purpose-built showrooms built from the mid 1980's onwards. These will be less highly specified than Type1 and occupiers are more likely to be mainstream marques, e.g., Ford, VW, Vauxhall, Skoda, Seat, Toyota, Nissan etc. They may be single storey height or double storey glass walled showrooms. They will be in a wide variety of locations, some will occupy the same type of sites as Type 1, but others will be on main A road locations, historically associated with car sales".

"Type 3 is older purpose built/conversions – these will be built prior to 1980…"

16. The respondent Valuation Officer gave details of four pieces of rental evidence, all from 2015, where a matrix value of £150/m^2 had been applied to three of the car showrooms. The analysed rent for these three properties ranged between £126.21/m^2 and £183.98/m^2. The fourth piece of rental evidence had a matrix value of £170/m^2 with an analysed rent of £238.88/m^2. In addition, the respondent produced a schedule which contained an extensive number of Type 2 properties where the matrix value applied to each one was £150/m^2. As further support for the current main space rate, he also referred to settlement evidence for two car showrooms in Sussex where the main space rates of £150/m^2 and £180/m^2 had been agreed.

17. The respondent believed that the distance between the comparable properties and the appeal property was not unreasonable as it gave a wide variety of locations where £150/m^2 had been applied to car showrooms of a similar type. He added that generally, car showrooms are clustered together and then a large distance between other similar showrooms. The photographs of the appeal property showed that the property was well maintained and as such it did not fit into valuation scheme 379844 as the premises were not of poor quality or in a poor location. He added that the lack of challenges would suggest that £150/m^2 was not excessive.

18. In his revised valuation based on an unadjusted main space rate of £150/m^2 for the appeal property, the respondent had updated the number of vehicle display spaces, as they were different to those included in the current valuation, and he had also included the ex-sea container in the assessment. He sought a revised assessment of £97,000 RV with effect from 1 April 2017.

Decision and reasons

19. The main issue in dispute concerned the level of value to be adopted for the appeal property.

20. The term 'rateable value' is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating) shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions –
>
> a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
>
> b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above".

21. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

22. 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.

23. Both parties had referred to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

24. The appellant's representative had sought a main space price of £100/m^2 in his proposed valuation of £76,000 RV based on his local comparable property evidence and rental evidence. The respondent, on the other hand, argued that the subject rent was unreliable as it was between connected parties but based on the wider basket of rents, comparable property evidence and the growth in the rental market, £150.00/m^2 was not excessive.

25. Having examined the evidence presented by both parties, the panel found that the subject rent was two years after the AVD and between connected parties, therefore little weight was attached to this rent. However, bearing in mind the valuation scheme, the rental evidence from 2015 and the wealth of comparable property evidence and having considered the advantages and disadvantages of both sets of arguments, the panel was persuaded that the unadjusted main space rate of £150.00/m^2 for a showroom of the appeal property's age and quality was reasonable. There was a 5% uplift to the main space rate (£157.50/m^2) for the air conditioning.

26. The panel also found that the adjustments within the valuation to the vehicle display spaces and the addition of the ex-sea container were justified.

27. In conclusion, the panel accepted the respondent's revised valuation at £97,000 RV. The appeal was therefore allowed in part to the extent that the Valuation Officer had conceded. However, the burden of proof falls on the appellant and the panel was not satisfied by the appellant's representative's evidence or arguments that the valuation should be reduced further than that.

28. In view of the foregoing, the revised valuation is set out below.

Floor	Description	Area m^2	£ per m^2	Value
Ground	Car Showroom	284.12	157.50	44,749
Ground	Workshop/stores/facilities	396.94	67.50	26,793
First	Stores	65.77	22.50	1,480
Mezzanine	Internal storage	84.54	33.75	2,853
Mezzanine	Internal storage	27.53	33.75	929
Ground	Ex Sea Container	11.15	37.50	418
	Vehicle Display Spaces	18.00	450.00	8,100
	Vehicle Display Spaces	22.00	400.00	8,800
	Vehicle Spaces	20.00	100.00	2,000
	Plant and Machinery			970
				97,092
			Say	97,000

29. Consequently, the appeal was allowed in part, the RV was reduced to £97,000 with effect from 1 April 2017.

Order

30. 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 £97,000 with effect from 1 April 2017.

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

32. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended)) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: Friday 22 April 2022

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