THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; car showroom, workshop and premises; comparable properties; quality; tone of the rating list, rental evidence; appeal dismissed.

Re: Huttons, Bridgwater Road, Bleadon, Weston-Super-Mare, BS24 0AW ("the subject property")

APPEAL NUMBER: CHG100155428

BETWEEN: Huttons Ltd Appellant

(represented by Altus Group)

and

Mr D Virk Respondent

(Valuation Officer)

PANEL: Mrs L Bryning (Senior Member)

Mrs N C Yang

CLERK: Mrs A Sloan

REMOTE HEARING: 17 August 2021

PARTIES PRESENT: Mr R Storr (Appellant's representative)

Mr T Keen (Valuation Officer's representative)

Summary of decision

1. The appeal was dismissed and the Rateable Value (RV) of £51,000 confirmed from 1 April 2017.

Introduction

2. 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.

3. 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. The hearing was conducted via Microsoft Teams and the panel was satisfied that both parties were fully able to participate in the hearing.

4. The appeal was brought in respect of the entry in the rating list shown as Huttons, Bridgwater Road, Bleadon, Weston-Super-Mare, BS24 0AW (the subject property), a car showroom located on the A370 road in Bleadon. The proposal was submitted by the Appellant's representative on 14 January 2020 to challenge the valuation in the compiled list. The challenge decision notice from the Valuation Officer (VO) was dated 18 December 2020 refusing to reduce the RV as requested. The appeal against this decision was lodged with the Tribunal on 15 April 2021.

5. The antecedent valuation date (AVD) for all 2017 list rating appeals is 1 April 2015. As this appeal concerned a challenge to the compiled list entry, the material day was 1 April 2017.

6. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that the panel fully considered all the evidence presented before coming to a 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 main issue before the panel was the correct unit price to be applied for the subject property. Arguments were also presented for potential allowances to reflect disadvantages at the property.

Evidence and submissions

8. Mr Storr declared that his company was instructed on a conditional fee basis. However, he also declared that he understood and accepted that his duty is to the Tribunal in giving his evidence and he would comply with this, regardless of whether or not the evidence supports his client's case.

9. 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 is allowable due to the Tribunal's rules on admissibility of evidence (reg 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). It therefore considered the "expert" evidence and assessed what weight it should give to it in the context of the matters in issue before it.

10. The evidence bundle provided comprised all the documents exchanged between the parties as part of the challenge process, following the Appellant's proposal to alter the entry in the 2017 rating list. In addition, the appeal submission contained an Expert Witness report compiled by one of Mr Storr's colleagues. The report re-presented the original evidence and no objection to its inclusion was raised by Mr Keen.

11. Mr Storr stated that the subject property is of 1930s construction and has undergone modifications over time. He considered it unique in construction, quality, shape and location. The occupier is also the freehold owner, so there is no rent passing on the subject property. Mr Storr referred the panel to a table of comparable properties in the locality and highlighted that other car showroom assessments in Hewish and Lympsham, which he felt were of similar or superior quality, had been valued at an unadjusted rate of between £60/m^2 and £80/m^2. The subject property was valued on £85/m^2, which he considered excessive when

compared to other similar properties. He referred the panel to a rent agreed in 2017 for Quality Used Cars of Hewish, which he stated analysed to £66.92/m^2, and contended that this supported a reduction for the subject property.

12. Although predominantly arguing for a reduction in tone, Mr Storr also stated that, should the panel find that £85/m^2 was correct for the subject property, he felt that end allowances should be considered to reflect the access from the main road and the layout. Mr Storr asked the panel to reduce the RV to £49,000.

13. Mr Keen was acting as advocate in this appeal, having not dealt with the challenge decision. He had not visited the subject property but confirmed that it had been inspected in 2014. He also confirmed that the subject property had been converted for use as a car showroom and that the facts of the property had been confirmed at Check stage prior to the proposal being made to reduce the RV.

14. In respect of the rent for Quality Used Cars, Mr Keen highlighted that this rent was agreed over two years after the AVD and therefore the VO had placed little weight on it. He stated that the VO had no record of this rent and, in any case, did not consider this property to be of comparable quality to the subject property. He also pointed out that three of the properties relied upon by the Appellant on the Bristol Road, Hewish were actually the same property. Tyntesfield Coach Works, Quality Used Cars of Hewish and Motor Scene were reconstitutions of the same site. They are located on the same road as the subject property but on the opposite side of Weston-Super-Mare. He did not consider them comparable to the subject property.

15. Mr Keen stated that the most useful comparison to the subject property was that of Holders, Station Road, Congresbury. This property, he contended, was similar in quality and had been valued at £100/m^2. He acknowledged it was more modern than the subject property and in a better location but argued that this was reflected in the higher £/m^2 applied to its valuation. Mr Keen asked the panel to confirm the existing entry in the list for Huttons at £51,000.

Decision and reasons

16. In deciding this appeal, the panel was bound by the governing legislation. 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".

17. In accordance with *Lotus and Delta Ltd v Culverwell (VO) and Leicester City Council* 1976 [RA 141], the panel found that the starting point must be any rent passing on the subject property at the AVD. In this case, there was no rent as it was occupied by the freeholder. The only other rent presented was that for Quality Used Cars of Hewish, agreed in 2017. The panel placed little weight on this rent as it was too far removed from the AVD and the lease was outside the Landlord and Tenant Act 1954. It also noted from the Appellant's submissions that the unit price proposed for the subject property had varied from £67/m^2 to £75/m^2 and, at the hearing, Mr Storr sought £80/m^2. The panel concluded that one rent on a different property, with no others to compare, should not be taken in isolation. Due to the lack of rental evidence for this type of property, the panel found that it should have regard to the tone of the valuation list and comparable properties.

18. The Appellant's representative had provided a summary of other car showrooms from the same BS24 postcode area as the subject property, valued between £60/m^2 and £80/m^2. These properties were located between 2 and 7.5 miles from the subject property. Mr Keen contended that these properties were not comparable to the subject as the VO considered them to be Type 3 quality and the subject Type 2. He explained that Type 2 showrooms are constructed from the mid-1980s onwards and will be less highly specified than Type 1, occupiers are likely to be mainstream dealers. He acknowledged that the subject property is older than typical for this type but stated that its' refurbishment and fit out made it more akin to a Type 2 showroom than the lesser Type 3.

19. The panel noted that the subject property is operated as a Fiat main dealer and, from the photographs provided, appeared modern in appearance with quality showroom space and display parking outside. It had been valued on £80/m^2 in the 2010 list and £85/m^2 in the 2017 list.

20. The history of the site for Quality Used Cars of Hewish was noted and the panel acknowledged that this property provided the only rent presented. However, the VO's submission stated that this site has historically always been considered lower quality and its valuations reflected that. In the 2010 list it was valued on £70/m^2, compared to the subject at £80/m^2, and therefore it was valued on a lower base rate in the 2017 list. From the photographs provided, the panel considered that this site did appear to be of a lower quality than the subject property and therefore not comparable.

21. The VO's submission stated that there was a rent passing on Brent Cars, another property relied upon by the Appellant's representative, but analysing the rent had been problematic due to it including living accommodation. This property had been valued at £75/m^2 and traded as 'Car Base' which appeared to be a form of 'car supermarket' specialising in secondhand vehicles. Whilst the panel acknowledged that this may be a well-known brand in the area, it was not comparable to a main dealer offering both new and used cars. The panel concluded, from the photographs and submissions, that this property was of a lower standard than the subject property and therefore not comparable.

22. The lowest rate presented was that for Hutching Marketing Services at £60/m^2. Mr Keen explained that this property has always been considered a Type 3 showroom and was valued at £60/m^2 in the 2010 list as well as the 2017 list. The panel noted from the evidence that this property, although on the same main road as the subject property, sits back from

the roadside making it less prominent to passers by and it considered this site to be of a lower quality than the subject property.

23. The panel found that the comparable properties presented by the Appellant's representative were not of a similar standard to the subject property. None were main dealer sites, and the evidence did not suggest they were of similar quality.

24. Mr Keen presented evidence on Holders, Station Road, Congresbury, Bristol. This property sits in a similar remote location to the subject property and is occupied as a main dealer for Seat. He acknowledged that this is a newer showroom and could be considered better quality or a better location, but this is reflected in its higher rate of £100/m^2. Other main dealer examples were presented for comparison by the VO, but the panel placed most weight on Holders as it was geographically the closest to the subject property and, in the panel's opinion a fair comparison of a similar main dealer site.

25. After considering the evidence from both parties, the panel was satisfied that the car showrooms relied upon by the Appellant were not of comparable quality and therefore their lower tone was not surprising. The example of Holders was a newer property, potentially of higher quality, but the panel found that this was a closer match for the subject property than the examples presented by the Appellant. The higher rate used to value Holders reflected any advantages over the subject property and the panel concluded that £85/m^2 was not unreasonable for Huttons.

26. Mr Storr had stated that, should the panel find that £85/m^2 was correct for the subject property, end allowances could be considered to reflect its disadvantages. The panel noted that the final proposed valuation contained in the Expert Witness Report prepared by his colleague did not contain any allowances. Earlier exchanges during the challenge stage had sought a 5% allowance for the subject being a divided or split unit and examples of other sites where allowances had been given were provided. Mr Storr did not refer in detail to these in his presentation, but the panel considered the written submissions and response provided by the VO in the challenge decision.

27. After considering the photographs of the Appellant's suggested comparable split sites, provided by the VO in the challenge decision, the panel did not consider the subject property suffered the same issues. It had not been explained how the subject property related to these examples and, from the photographs and plans of the subject property, the panel could not identify any specific disadvantage that would warrant an end allowance. On the evidence provided, the panel did not find any allowance was warranted for access issues. As no end allowance had been included in the proposed valuation submitted with the appeal, the panel placed little weight on this argument.

28. In appeals of this nature, the burden lies with the Appellant's representative to persuade the panel that his appeal should succeed. In this case, the panel was not persuaded that £85/m^2 was excessive for the subject property, when compared with similar main dealer sites. The examples relied upon by the Appellant were of a lower quality in the panel's opinion and therefore it found that the existing valuation of £51,000 was correct and the appeal was dismissed.

Date: 7 September 2021

Appeal number: CHG100155428