THE VALUATION TRIBUNAL FOR ENGLAND

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

Re: Simpsons Uckfield, Bellbrook Industrial Park, Uckfield, East Sussex, TN22 1PH

APPEAL NUMBER: CHG100162841

BETWEEN:	St Leonards Motors Ltd	Appellant
	and	
	Ms D Bunyan (Valuation Officer)	Respondent

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 £99,000 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 £107,000 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 St Leonards Motors Ltd and was received by the Valuation Officer on 4 February 2020. 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 £77,000, 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 a 15% allowance included in the main space rate, he sought a revised assessment was £99,000 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.

Issues

7. The appellant's representative contended that the rate adopted for the appeal property was excessive. He sought a reduction to an unadjusted rate of £120/m² (adjusted rate of £102/m^2 to include an allowance of 15% for position) whilst the Valuation Officer (VO) contended that the existing £150/m² (adjusted to £127.50/m^2 to include a 15% allowance), 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. There is a workshop area to the rear, internal storage at mezzanine and first floor levels and a preparation area. The premises had a total significant area of 898m^2. In addition, there are vehicle display spaces, open prime display spaces, customer/staff car parking and rough fenced land. The dealership is Toyota.

10. The property was built in 1991 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 1 January 2014 at £76,000 per annum (pa) which analysed to £117.4/m^2.

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. The appellant's representative believed that locality was the key factor in this case with consideration being given to the different physical attributes to the appeal property compared to the comparable properties. When considering the rental evidence within the scheme and its locality, the appellant's representative contended that the RV appeared excessive. He believed that the rent passing just over one year before the antecedent valuation date (AVD) was key evidence and remained the starting point in this case as per *Lotus and Delta*.

15. Reference was made by the appellant's representative to his own comparable property evidence and rental information from the general locality. In particular, he commented on Goldsmith & Allcorn (Uckfield) Ltd, Bellbrook Industrial Park, Uckfield. This car showroom was of a similar age to the appeal property. The rent here was £78,000 pa which, was agreed on 13 July 2017, two years after the AVD. It analysed to £127.78/m^2. Lesley House, London Road, Budletts Common, Uckfield was considered inferior due to its age, but it in an arguably better position being located on the London Road. It had an analysed rent of £64.48/m^2 whilst the Mayfield Road Garage, Cross in Hand, Heathfield had an analysed rent of £91.24/m^2.

16. The appellant's representative 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.

17. In addition, the appellant's representative provided evidence to show that the rental market increased by around 2.9% from 2014 to AVD for specialised industrials in this location. Adding this to the analysed rent gave a figure of £120.80/m^2 against the main space rate of £120/m^2 that he was seeking in his proposed valuation. He therefore sought a RV of £77,000, in conjunction with the local rental evidence provided, with effect from 1 April 2017.

18. 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…"

19. 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.

20. In relation to the 2014 rental evidence for the appeal property, the respondent stated that this was the first review, but the details were unconfirmed by the Form of Return. He had treated the lease as a connected party/unreliable rent. He added that rents on car showrooms were rare as most of them were freehold but where there was a rent, it was normally between connected parties.

21. 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 were clustered together and then a large distance between other similar showrooms. The appeal property had always sold new and used vehicles with the building meeting the criteria for selling new cars. The photographs of the appeal property showed

that the property looked fresh and well maintained. He added that the lack of challenges would suggest that £150/m^2 was not excessive.

22. In his revised assessment for the appeal property, the respondent had reduced the unadjusted rate for the showroom by around 15% to give an adjusted main space rate of £127.50/m^2. Within the assessment he had also updated the number of vehicle display spaces and valued them accordingly. The respondent sought a revised assessment of £99,000 RV with effect from 1 April 2017.

Decision and reasons

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

24. 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".

25. 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).

26. 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.

27. 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.

28. The appellant's representative had contended that the best evidence was the 2014 rent for the subject property and therefore he had adopted the analysed rental figure of £117.40/m^2 (rounded to an unadjusted figure of £120/m^2) in his proposed assessment for the appeal premises. The respondent, on the other hand, argued that the rent could be considered unreliable 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.

29. Having examined the evidence presented by both parties, the panel found that there was some uncertainty as to how reliable the rent on the appeal property was. 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 base rate of £150.00/m^2 for a showroom of the appeal property's age and quality was reasonable.

30. With regard to an allowance for location, the panel noted the appellant's representative had argued that the disadvantages of the site at Bellbrook Industrial Park justified a location allowance and that a similar allowance had been given previously for its position away from the main road. The panel understood that in the respondent's revised assessment, the main space rate of £150/m^2 had been adjusted by approximately 15% to £127.50/m^2 to reflect its inferior position.

31. The panel also found that the adjustments to the number of vehicle display spaces within the valuation were justified.

32. In conclusion, the panel accepted the respondent's revised valuation at £99,000 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.

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

Floor	Description	Area m^2	£ per m^2	Value
Ground	Showroom	358.37	127.50	45,692
Ground	Workshop/stores/mezzanine	347.70	57.38	19,951
Mezzanine	Internal storage	22.50	28.69	640
First	Internal storage	100.40	38.25	3,840
Ground	Preparation building	92.40	55.94	5,169
	Rough surfaced, fenced land	331.00	4.00	1,324
	Vehicle Display Spaces	15.00	450.00	6,750
	Vehicle Display Spaces	33.00	400.00	13,200
	Vehicle Spaces	29.00	100.00	2,900
				99,466
			Say	99,000

34. Consequently, the appeal was allowed in part, the RV was reduced to £99,000 with effect from 1 April 2017.

Order:

35. 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 £99,000 with effect from 1 April 2017.

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

37. 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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