THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; car showroom; fall in rental values between the 2010 and 2017 rating list (except within the M25); appeal allowed.

RE: Semples of Berwick, Tweedside Trading Estate, Tweedmouth, Berwick-upon-Tweed TD15 2XF

APPEAL NUMBER: CHG100261498

BETWEEN:	Semples of Berwick	Appellant
	and	
	Mr R Roberts (Valuation Officer)	Respondent

BEFORE:	Mr A Clark (Vice President)
CLERK:	Mr D Mulgrew
HEARING:	Remote hearing No.5 on 25 January 2022
APPEARANCES:	Ms J Corney (Appellant's representative) Mr O Ridley (Respondent's representative)

Summary of decision

1. Appeal allowed. The rating list entry is reduced to £16,000 rateable value (RV) with effect 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 relevant legislation[1]. The VTE may determine the form of any hearing.

3. Therefore, in pursuance of the relevant regulations[2] 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.

4. I conducted the hearing of this appeal remotely via a Microsoft Teams conference call using an audio/video-link. There were no technological disruptions to the hearing and I was satisfied both parties were able to fully participate.

5. This appeal has been brought in respect of the following: Semples of Berwick, Tweedside Trading Estate, Tweedmouth, Berwick-upon-Tweed TD15 2XF (the "appeal property"). It was initially entered in the 2017 rating list as "car showroom and premises", £34,250 RV effective from 1 April 2017 and was subsequently reduced to £24,000 RV from the same date.

6. A proposal challenging the rating list entry was made which sought a reduction to £15,500 RV from 1 April 2017. In response to the proposal, the Valuation Officer (VO) issued a decision notice dated 8 July 2021 to indicate that although the proposal was not well founded, he would reduce the rating list entry to £23,750 RV from 1 April 2017.

7. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable.

8. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that I considered all of 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

9. The VO has adopted an unadjusted base rate of £50/m^2 but the Appellant's representative sought a reduction to £33.75/m^2 (based on £45/m^2 agreed in the 2010 rating list less 25% to reflect the Barber Wadlow report).

[1] 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).
[2] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulations 2 and 6(3)(g).

Evidence and submissions

10. Ms Corney sought a reduction to £16,000 RV from 1 April 2017, but Mr Ridley wanted the appeal to be dismissed.
11. Both of the parties' representatives appeared in a dual role of advocate and expert witness. They were not instructed under a conditional fee arrangement or other success related fee.

12. I have accepted all of the expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 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).

13. It was therefore appropriate when hearing the evidence to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue before me.

14. The parties' submissions included the challenge proposal, VO decision notice and various supporting documentation.

15. As a preliminary matter, I considered whether to admit the Rating Manual section 6 part 3: valuation of all property classes, the Barber Wadlow report and commentary on that report. The evidence had been provided on 10 December 2021 by Ms Corney in advance of the original scheduled hearing date of 12 January 2022 (which had been adjourned). Mr Ridley initially objected to the evidence.

16. Under regulation 17A(1) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Tribunal may only admit evidence that was not included in the notice of appeal or any document accompanying the notice of appeal ('new evidence') if:

    (a) that evidence –

        (i) is provided by a party to the appeal;

        (ii) relates to the ground on which the proposal was made; and,

        (iii) was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations; or,

    (b) all the parties to the appeal agree in writing to the party providing the new evidence.

17. After taking advice from my clerk, I initially decided to exclude the evidence because (a) (iii) was not satisfied. However, after a further plea from Ms Corney, Mr Ridley withdrew his objection and, to his credit, he agreed that the evidence could be admitted. I therefore allowed all of the evidence exchanged by the parties to be included in the proceedings.

Decision and reasons

18. The appeal property is a 1978 built showroom. It had been a car showroom since before 1990.

19. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value is required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as of 1 April 2015, the antecedent valuation date (AVD).

20. There was a lack of rental evidence in respect of car showrooms in Berwick and the surrounding area. The majority of car showrooms were occupied by freeholders. The rents that were available were usually not open market as they were linked to other matters such as retail price index, connected parties or financial agreements based on the cost of construction. This obviously provided challenges for rating valuers who were reliant on rental values.

21. There were only two open market rents in Teesside and Tyne and Wear. The rent in respect of Sherwood (Darlington) Ltd, Douglas Close, Stockton-on-Tees from October 2018, which was well after the AVD, devalued to £120/m^2. The 2017 rating list entry adopted £150/m^2 and the 2010 list had used £137.50/m^2.

22. The rent in respect of Tyneside Audio, Silverlink Business Park, Wallsend from November 2014 devalued to £132.25/m^2. The 2017 rating list entry adopted £165/m^2 and the 2010 list was based on £135/m^2.

23. I was not able to ascertain any value from the rental evidence presented as the locations were very remote from the appeal property. The appeal property was in Northumberland situated close to the border of England and Scotland; there were no cities or major towns close by. I also noted the parties had not placed reliance on the rental evidence.

24. Ms Corney gave an extensive overview of the issues and challenges facing the car market. She said it had suffered significant disruption between 2008 and 2015, and that demand for secondary locations like Berwick-upon-Tweed had been eroded and no longer attracted a premium.

25. At the AVD of 1 April 2015 the industry had been impacted by car supermarkets, on-line sales and the contraction of the car showroom network which had consolidated primarily into the main conurbations. Ms Corney said

that at the AVD of 1 April 2015, prime locations were nearly returning to their 1 April 2008 levels but secondary locations were still down by 25%. Ms Corney illustrated this by referring to tables of land and rental values from the Barber Wadlow report and extracts from the VOA Rating Manual.

26. The Barber Wadlow 2015 report showed that rental values for showrooms had fallen between the AVDs of 1 April 2008 and 1 April 2015 everywhere except inside the M25.

27. The VOA Rating Manual section 6 part 3: valuation of all property classes, provided the following:

> "1.7 Both reports refer to improving market conditions. Barber Wadlow reported rental growth on prime rents inside the M25 suggesting that rents have nearly recovered to their 2007 highpoint. However, it went on to say that outside the M25 prime rents are static and remain below the 2007 levels.
>
> 1.8 The Motortrader report states that the market is performing better than one year ago (report dated November 2013). It quotes Rapleys as saying that prime values, on facilities representing key brands such as Mercedes, Audi and BMW, being comparable to that achieved at the height of the market. Conversely, secondary brands are unable to compete at the prime values of 2008. GVA Grimley are quoted as saying that secondary properties are still approximately 25% below the market peak. A further report in March 2015 quoted Colliers as saying that "Values of prime sites in major conurbations are now consistent with the pre-downturn although secondary locations, smaller provincial sites have still some way to go"."

28. Ms Corney stated that prior to 1 April 2008, car dealerships made most of their profit from part exchanges/used cars rather than on new cars. Car dealerships had most of the share of the used car market on that date.

29. The recession hit late 2008 and car sales began to fall. The manufacturers changed their approach by gearing commission towards achieving 80% of sales targets. Dealers could not achieve these targets by selling to traditional domestic customers so they started buying cars themselves (a method known as pre-registration, where cars had to be held for a minimum of 90 days). This increased costs and led to a problem for dealers of finding the capital to buy cars in this way and then they had the further problem of selling them. Ms Corney said that a solution had been to sell cars to car supermarkets, which led to a "phenomenal" growth of car supermarkets. For example, the main car supermarket, Motorpoint, showed an increase in annual revenue from £298m in 2007 to £563m in 2015.

30. As a result of the emergence of car supermarkets and greater confidence in the internet, car dealerships lost a significant share of the new and used car market. For every new car sold in 2008, the dealers sold 1.69 used cars. By 2015, this had dropped to 0.92.

31. Against this background, the VO had increased the main space price of the appeal property from £45/m^2 in the 2010 rating list to £50/m^2 in the 2017 list. When asked, Mr Ridley accepted there was less demand but there remained some level of demand, albeit not from main car dealerships. In his view, the price adopted of £50/m^2 reflected that the appeal property was not in a premium location. He said that £50/m^2 was in line with another secondary car dealership in the locality, namely Mitsubishi, Tweedmouth Service Station. However, both Maxwell Motors and Tustain Motors Ltd on Ramparts Business Park were assessed at £65/m^2. Mr Ridley informed me that these were better quality and capable of attracting main dealerships. The differential was £15/m^2. I understood from Mr Ridley that the same £15/m^2 differential had applied in the 2010 rating list (£45/m^2 compared to £60/m^2) and that the appeal property's 2010 assessment had been agreed. While noting this, I also understood that there were no agreed assessments in the 2017 rating list.

32. I found that the VO had not justified an increase in the main space price between the 2010 and 2017 rating lists. The increase was contrary to the expert reporting evidence provided to me. This showed a decline in the car showrooms in Berwick and elsewhere between the AVDs of 1 April 2008 and 1 April 2015.

33. The Appellant had lost the Peugeot franchise because that manufacturer did not believe Berwick was a financially viable location and the property was not of the quality required. The Appellant switched to second hand car sales and repairs, but customers were finding better deals from car supermarkets and online. In 2007, the Appellant sold 307 cars. In 2015, only 8 cars were sold.

34. I also found Ms Corney's research into the occupancy of car showrooms since 1 April 2008 to be of influence. In Berwick, the VW dealer was now a printer, the Ford dealer was now Pets at Home, Renault was now Go Outdoors, and both the Volvo and Vauxhall sites had been redeveloped as flats.

35. There was a similar story in Hexham with the closure of six dealerships with those properties either remaining vacant or being occupied by non-car dealerships.

36. In view of her research, Ms Corney believed that there should be no premium for car showroom use in a secondary location over and above normal showroom use.

37. Ms Corney had benchmarked her valuations against other showrooms on the same trading estate. John Deere was adjacent to the appeal property and had been assessed at £20/m^2. Graham Kitchen and Bathroom had been assessed at £18.83/m^2.

38. Mr Ridley argued that both of those showrooms were not in the same mode or category of occupation as the appeal property. In the case of John Deere, he stated that the main driver for a tractor dealership was the outside yard area

not the showroom area; hence the price adopted of £20/m^2. In his view, the appeal property could not be valued in the same way.

39. However, I found that Ms Corney's valuation for the appeal property had continued to acknowledge a higher value for a car showroom compared to other showrooms in that locality as her main space price for the appeal property was £33.75/m^2.

40. After considering the arguments from both parties, I was more persuaded by the valuation presented by Ms Corney. She had demonstrated considerable expert knowledge of this type of property and had shown an awareness of the challenges facing car dealerships. Her revised main space price was still well in excess of the adjacent John Deere showroom. Having regard to the photographs, it is my view that if both properties were vacant and to let they would attract similar levels of value. Ms Corney had countered Mr Ridley's argument that a car dealership had a higher value than a non-car dealership showroom, as a higher main space price had been reflected in her valuation for the appeal property.

41. The plant and machinery element of the valuation (£110) had been omitted from Ms Corney's valuation. However, it had been agreed on the "check" and I have therefore included it. The difference is lost in the rounding at the end of the valuation, along with a minor arithmetical error in the external storage line.

42. My revised valuation is: (see next page)

Floor	Description	Area m² / units	Price per m²	Value
Ground	Workshop	319.20	£15.18	£4,845
Ground	Internal storage	67.20	£14.80	£995
Ground	Mess/staff room	26.80	£16.45	£441
Ground	Office	17.50	£16.45	£288
Ground	Showroom	184.90	£32.91	£6,085
Ground	Public toilets	9.00	£32.91	£296
Ground	Office	17.20	£32.91	£566
Mezzanine	Internal storage	50.00	£7.59	£380
First	Internal storage	31.00	£7.59	£235
Ground	Workshop	56.10	£7.40	£415
Ground	External storage	6.10	£6.75	£41
Ground	Vehicle display spaces	17.00	£27.00	£459
Ground	Unsurfaced, fenced land	1,614.00	£1.13	£1,824
	Sub-total			**£16,870**
	Plant and machinery			**£110**
	Sub-total			**£16,980**
	Less for access		**5.00%**	**£849**
	Total			**£16,131**
	Rateable Value			**£16,000**

Order

43. 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 VO to reduce the entry in the rating list to £16,000 RV with effect from 1 April 2017.

44. Under Regulation 38(9), the VO must comply with this order within two weeks of the date of its making.

Refund of appeal fee

45. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date: 15 February 2022

Appeal number: CHG100261498