THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; 2017 Rating List; car supermarket; Accuracy of compiled list entry; comparable rental and assessment evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; price per square metre disputed; value of vehicle display spaces; allowance for poor access; appeal dismissed.

RE: The Trade Centre UK, Silverstone Drive, Coventry, CV6 6PA

APPEAL NUMBER: CHG100351602

BETWEEN:	Trade Centre Group Ltd (Represented by Cooke and Arkwright - Rating)	Appellant
and		
	Dal S Virk (Valuation Officer)	Respondent

PANEL:	Mrs L Bryning (Senior Member) Mr K Richardson
CLERK:	Mr J Massey
HEARING:	Remote Hearing No. 1 on 16 December 2022 and Remote Hearing No. 5 on 28 March 2023.
APPEARANCES:	Mr A West of Cook and Arkwright - Rating (Appellant's representative) Ms V Lynch (Respondent's representative)

Summary of decision

1. Appeal dismissed. The panel confirmed the Rateable Value (RV) of The Trade Centre UK, Silverstone Drive, Coventry, CV6 6PA ("the subject property") at £1,050,000 with effect from 4 May 2018.

Introduction

2. This appeal has been brought in respect of the subject property, which was entered in the 2017 rating list as "car supermarket and premises" at rateable value (RV) £1,050,000, effective from 4 May 2018. As this was a compiled list appeal the material day was also 4 May 2018.

3. The challenge process began on 23 July 2020 when the appellant had made a proposal to the Valuation Officer (VO) that the entry shown in the rating list for the appeal property on 4 May 2018, was wrong and that it should be reduced to RV £465,000.

4. Having considered the challenge the VO issued a decision on 18 January 2022 stating that the VO was of the opinion that the current RV of £1,050,000 attributed to the appeal property from 4 May 2018 was not unreasonable.

5. In accordance with the regulations[1], an appeal was made on 17 May 2022 to the Valuation Tribunal for England (VTE) on the grounds that the valuation for the appeal property was not reasonable.

6. The subject property is a converted retail warehouse originally constructed in 2001 and comprises a total of 9,924.96 m^2 (ITMS 9,145.59 m^2). Most of this consists of showroom (6,791.78 m^2) and office quality space (2,077.03 m^2) and there is a workshop area of just over 1,000 m^2 and two portable office buildings. The accommodation is over the ground and first floors of the building. Outside the building, there are 575 vehicle sale display spaces.

7. The appellant traded as a car supermarket and occupied the premises on a lease which commenced on 16 February 2018 for a term of 23 years, 9 months and 11 days. The headline rent was £375,000 per annum (pa) for the first 12 months then further to a deed of variation, increased to £1,000,000 pa from 16 February 2019.

8. This hearing was held remotely via Microsoft Teams on 16 December 2022. Both parties presented their cases and Ms Lynch had asked Mr West questions regarding his case. During the appellant's questioning of Ms Lynch, it became apparent that due to prior commitments there would not be sufficient time for Mr West to complete his questioning and for both parties to sum up their cases. The panel determined that it was in the interests of justice to adjourn the hearing of the appeal and to reconvene the hearing at the next available date, before the same panel, in order to conclude proceedings. The appeal was eventually relisted to a remote hearing on 28 March 2023.

9. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issues

10. The dispute concerned the rateable value of the appeal property. The appellant sought a reduction in the base rate applied to the subject property of £100 per m^2 to £50 per m^2, a reduction in the price applied to car display spaces from £240 to £100 per space and a 7.5% allowance for poor access to the site of the subject property. The respondent was defending the current entry in the rating list of £1,050,000 RV.

11. All relevant factual information regarding the subject property, including its area, and the relativities used in their respective valuations were not disputed by the parties.

Preliminary Issue

12. The respondent had raised a preliminary issue prior to the first hearing, regarding the volume of comparable properties introduced by the appellant's representative in his challenge. Mr West

[1] The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, regulation 13A.

had included a summary of all 39 car supermarket assessments in England and Wales, of which twelve were in the same valuation scheme as the subject property (car supermarkets in the central region 431646). He had included summary valuations, images and plans of all those in scheme 431646 and images and plans of all those which were not in the same scheme but were over 5,000 m^2 in size.

13. Ms Lynch considered that a large proportion of the comparable assessments submitted within the challenge were not compliant, as insufficient commentary had been made by the appellant with regard to the local levels of value in their differing localities and therefore, they could not be effectively discussed by the respondent.

14. She referred to Reg. 6(4) of the Rating Regulations, which states that a proposal must include:

    f) evidence to support the grounds of the proposal, and
    g) a statement as to how the evidence supports the grounds of the proposal and if missing, it must be made incomplete (Reg 8).

15. During discussions she had requested the appellant provide a more focused selection of comparable properties along with commentary and analysis in order to undertake meaningful discussions. As this had not been forthcoming, she had referred to ten of the properties in the subject scheme in the initial response to the challenge and commented on their relevance to the subject property.

16. Mr West considered that the panel was entitled to consider all of the comparable properties which he had submitted within his challenge and apply the weight it thinks fit to each of them. If the panel saw fit to disregard some of his comparables, he contended that it should not disregard those discussed by the respondent. He pointed out to the panel that within his challenge, he had referred to a further nine car supermarkets which were not in the subject scheme and asserted that the respondent had the opportunity to investigate and challenge these properties during the challenge process.

17. Having considered the submissions of both parties, the panel considered that the parties should be limited to referring to the respondent's comparable properties which had been discussed by the parties during the challenge process or at least highlighted by the appellant as of particular relevance during that process. For avoidance of doubt these properties are listed below.

- Lex Autolease, Old Church Road, Coventry, CV6 7BY
- Arnold Clark Automobiles, Spitfire Close, Stafford, ST16 1GX
- Motorpoint Birmingham 2, Lichfield Road, Birmingham, B6 5SU
- Motorpoint, Churchbridge, Oldbury, West Midlands, B69 2AS
- Car Group Plc, Ravens Way, Northampton, NN3 9UD
- Car Supermarket 1, Watling Street, Cannock, Staffs, WS11 1SL
- Carcraft, Capitol Park West, Capitol Boulevard, Morley, Leeds, LS27 0TS
- Car Shops Ltd, Traxpark, Decoy Bank South, Doncaster Carr, Doncaster, South Yorkshire, DN4 5PD
- Motor Depot Birmingham, Mackadown Lane, Birmingham, B33 0JJ
- Unit A, Sheffield Airport Business Park, Europa Link, Sheffield, SN9 1XU
- The Trade Centre UK, Darlaston Road, Wednesbury, West Midlands, WS10 7SP.

- Carcraft of Rochdale, Nixon Street, Rochdale, Lancs, OL11 3JD
- Ron Skinner Limited, The Car Showroom, Tafarnaubach Industrial Estate, Ebbw Vale, Blaenau Gwent
- Car Giant, Hythe Road, London, NW10 6RJ
- The Collossus Site, Western Avenue, Greys, Essex, RM20 3FMA

Evidence and submissions

18. The appeal to this Tribunal included correspondence between both parties and the evidence which they had exchanged during the challenge process. It included plans, photographs, rental evidence, comparable assessments, valuations, and case law.

19. Both parties' representatives appeared in a dual role of advocate and expert witness.

20. Mr West, when appearing as expert witness, stated that he was on a contingency fee basis. However, he also 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 his client's case.

21. 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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 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).

22. It was therefore appropriate for the panel 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 it.

Decision and reasons

23. The subject property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 4 May 2018 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let' and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

24. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO)and Leicester City Council* [1976] RA 141, as referred to by the respondent. This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

    (1) 'Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1976 the more weight should be attached to it.

(3) Where rents of similar properties are available, they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the subject property, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

25. The panel was aware that, following the propositions set out above, the rent on the subject property should be a starting point. It noted that the rent agreed on the subject property had been agreed between connected parties, almost three years after the AVD. It therefore considered that little weight could be attributed to this evidence and so turned to the comparable properties the parties had provided.

26. The panel noted that the subject property had been entered in the 2017 rating list as 'retail warehouse and premises' at an RV of £1,090,000 (£100 per m^2) from 1 April 2017 at which point it was occupied by Leekes Furniture. This assessment was challenged by the previous occupant and subsequently reduced to RV £1,050,000 (£95 per m^2) on a VO challenge decision which was not subsequently appealed.

27. In considering the cost of the conversion the panel referred to the press report which described that subject property as a '£13m Trade Centre UK outlet'. There was no indication in the report to demonstrate that the whole of this sum had been spent on transformation from a furniture store. Mr West had stated that the 2018 rent was agreed for a 'car supermarket' and the majority of the conversion works were carried out by the landlord, although he had not specified the cost of these. He listed what he described as superficial works which had been carried out by the tenant at a cost of around £280,000.

28. The panel did consider it was clear that a substantial sum of money had been spent in conversion from a retail warehouse, whether by the landlord or by the tenant. The rent passing on the subject property was not considered to be reflective of the open market as the tenant owned a substantial share of the landlord company. The panel preferred to consider the rents passing on retail warehouses in the locality.

29. The Range, Austin Drive was 2.2 miles from the subject property, 4,627.6 m^2 in size and its rent agreed on 25 December 2014 had been analysed at £121.23 per m^2. It was assessed at £120

per m^2. B & Q Warehouse, Bradon Road was larger (13,267.4m^2) and older than the subject property and was assessed at £125 per m^2 compared with an analysis of its rent agreed in December 2016 at £120.55 per m^2.

30. The panel was of the opinion that these rents supported an assessment of £95 per m^2 for the subject property when it was a retail warehouse. It did not consider it reasonable for a landlord to spend a substantial amount converting the subject property to a car warehouse in order to receive a lower rent. The current unit rate of £100 per m^2 for the subject property did not therefore appear excessive.

31. After careful consideration of all the comparable evidence of car supermarkets, the panel was mindful that none of it was perfect in terms of comparability. The panel noted that car supermarkets are relatively rare, with only 37 nationally, of which 13 were in the same scheme as the subject property. Of those in the same scheme as the appeal property, the panel noted that the most common unit value was £100 per m^2 for assessments ranging from 1,568m^2 to 9,925m^2 in size.

32. The only assessment in the scheme which was larger than the subject property, The Trade Centre UK, Darlaston Road, Wednesbury, was 10,373m^2. Mr West had referred to this as the most comparable to the subject property. It was 28 miles away and slightly larger and had been assessed at £60 per m^2. Whilst the panel noted that this was in the same scheme as the subject property, it did not consider that the level of value in that location would necessarily reflect the values persisting in the subject location. It considered different rental values in Wednesbury would drive a different bid at the AVD and was not satisfied that the unit rate applied to this property would indicate that subject rate is excessive.

33. The only other car supermarket in the immediate locality was Lex Autolease, Old Church Road, Coventry which was smaller than the subject property at 4,606m^2. Its May 2016 rent had been analysed at £305.90 per m^2, and it had been assessed at a unit price of £175 per m^2 and £300 per display space. As there was a lack of rental evidence for car supermarkets, particularly in the subject locality, the panel considered that this rent was useful and indicated that the current unit rate applied to the subject property was not excessive.

34. Mr West had argued that in order to get a balanced view of the valuation of car supermarkets, it was necessary to look beyond the subject scheme. He considered that it was a national market and had referred to all the car supermarkets nationally in England and Wales. He considered many of these properties were better suited for use as a car supermarket based on the quality of the building and their location. He considered that the larger converted units above 6,000m^2 in size were based on lower unit values, both for the buildings and the display spaces.

35. The panel noted that the properties to which Mr West was referring ranged in size from 6,535m^2 to 72,974m^2 and had been valued on unit rates of between £27.50 per m^2 and £120 per m^2.

36. The panel considered that these properties did show that there was an element of quantum, however it was aware that the extent of this effect would vary between locations depending on the demand for larger units in those locations.

37. It considered that the location of the subject property nationally was paramount, being located centrally and close to the M6 motorway, and this would have a positive effect on rental values for larger units.

38. Mr West had referred to the VTE decision regarding Carcraft, Capital Park West, Morley, LS27 0TS (CHG100094560), the unit rate of which had been reduced to £55 per m^2 and the parking spaces confirmed at £100 per m^2. He stated that the panel in its decision regarding this property had considered the rent agreed on Motorpoint Birtley, Durham Road Trading Estate, Birtley, Chester-le-Street, Co Durham in the basket of evidence in determining the value to apply to Car Craft, Morley even though it was 90 miles away and in a different scheme. He therefore considered that the rental and assessment evidence of car supermarkets across the country was relevant in determining the correct valuation for the subject property.

39. The panel in the Morley decision noted the similarities between Motorpoint, Birtley and Carcraft, Morley and that no other rents were available in the locality of Carcraft Morley which had been agreed close to the AVD. The panel in the subject appeal considered that the rent on Lex Autolease, although significantly smaller than the subject property, was most relevant. It provided a strong indication of the rents passing on car supermarkets close to the AVD in Coventry, and adjusting for size, did not consider the rates of £100 per m^2 and £240 per car space for the subject property to be excessive. The panel also found that the rates applied to The Range, Austin Drive and B & Q Warehouse, Bradon Road – both in Coventry and close to the subject property, were useful in demonstrating rents passing on retail warehouses, from which the subject property had been converted at significant cost and supported the current assessment for the subject property. It therefore did not consider that any weight should be placed on assessments of other car supermarkets which were not within the same valuation scheme as the subject property.

40. The panel noted that the VO had previously assessed 400 of the parking spaces at £300 per space and the remaining 175 at £100 per space. Following the VTE decision on Carcraft, Capital Park West, Morley, LS27 0TS (CHG100094560), it had amended the valuation to an overall rate of £240 per space for all 575 spaces. There had been no net change in the RV as a result of this change when rounding was taken into consideration. The panel noted that within the subject scheme, car display spaces were assessed at between £195 and £300 per space, and therefore did not consider that the adjusted rate of £240 per space applied to the subject property was unreasonable.

41. Mr West had referred to the access from the adjacent A444 dual carriageway. The business park on which it is located can only be accessed via a slip road from the southbound carriageway and this slip road was separated by a concrete strip from the main carriageway for 100 metres. He contended that it was easy to miss the entrance to the slip road and doing so would require an additional journey of 2.4 miles. Vehicles travelling from the south would need to continue north to the M6 motorway and return south to the entrance.

42. Mr West attributed the failure of the two previous retail businesses at the subject property to the access difficulties and asserted that a 7.5% allowance was required to compensate for this disadvantage.

43. The panel noted that no such allowance had been sought on the previous assessment in the 2017 list for the subject property or for assessments in previous lists. No allowance for access had been sought by any of the other occupants of properties on the same estate. The panel considered that if the junction was missed, the resulting additional journey would only be around 5 minutes in normal traffic, and this would not persuade a customer to decide not to visit the subject property. Although Mr West contended that the visibility of the subject property from the A444 was poor, the panel noted that it was prominently situated at the entrance to the estate and was clearly visible from the road. It was therefore not persuaded that the access difficulties described by Mr West warranted an allowance.

44. The panel therefore found that the appellant had not demonstrated that the current assessment of the appeal property at RV £1,050,000 with effect from 4 May 2018 was excessive and the appeal was therefore dismissed.

Date: 28 April 2023

Appeal number: CHG100351602

Right of Appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.