THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Workshop and premises; accuracy of rateable value; found that weight of evidence did not support a reduction in the assessment of the subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed

RE: Kwik Fit, 6-8 Queslett Road, Birmingham B43 6PL

APPEAL NUMBER: CHG100728656

BETWEEN:	European Tyre Enterprises Ltd t/a Kwik Fit (Represented by Lambert Smith Hampton)	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

PANEL: Mr A Backway, Presiding Senior Member
Mrs A E Fielder, Senior Member

CLERK: Ms R Muller

HEARING: Remote Hearing 2: 26 July 2023

APPEARANCES: Mr D Bullimore from Lambert Smith Hampton, representative for the Appellant
Mr H Bhatti, representative for the Respondent.

Summary of decision

1. The appeal was dismissed. The panel determined the Rateable Value (RV) of Kwik Fit, 6-8 Queslett Road, Birmingham B43 6PL ("hereafter, known as the subject property") at £25,250 with effect from 1 April 2017.

Introduction

2. This was a 2017 Rating List appeal. The subject property had been entered in the 2017 Rating List as ‘Workshop and Premises’ at an RV of £28,000 with effect from 1 April 2017. As this was a compiled list appeal the material day was 1 April 2017.

3. The challenge proposal was submitted by Lambert Smith Hampton on behalf of European Tyre Enterprises Ltd t/a Kwik Fit and was received by the Valuation Officer (VO) on 13 September 2021. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong and proposed a revised RV of £19,500 with effect from 1 April 2017.

4. The VO issued a challenge case decision notice on 29 July 2022. The VO’s decision was that the appellant’s challenge was not well-founded but proposed a revised RV of £25,250 with effect from 1 April 2017.

5. The subject property was located in Great Barr, situated off the A4041 in Great Barr Birmingham. The property measured 399.43 m² and had a two storey storage building to the front with the vehicle repair workshop to the rear.

6. It was noted during the hearing that Mrs Fielder, the Senior Member had lost connection. The panel adjourned the hearing in order for Mrs Fielder to re-join. Once she had re-joined, the hearing reconvened without any further loss of connection from any of the parties.

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

Issue

8. The issue between the parties concerned the RV of the subject property, specifically, the rate per m² that should apply. Mr Bullimore, for the appellant, sought a reduction to £19,500 RV based on an unadjusted rate of £60 per m². Mr Bhatti, for the VO, defended the revised assessment of £25,250 RV, which was based on the revised unadjusted rate of £72.50 per m².

9. All relevant factual information regarding the subject and comparable properties, including their areas, was not disputed by the parties.

Evidence and submissions

10. Mr Bullimore 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 Bullimore declared at the hearing that he was instructed under a conditional fee arrangement. 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 the client’s case. Mr Bhatti also appeared in a dual role capacity for the VO.

11. 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 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

12. Mr Bullimore contended that the current assessment on the subject property at £72.50 per m² was excessive based on the unusual layout, as the workshop was to the rear of the property instead of at the front. He stated that due to the odd layout and the lack of heating in the workshop and storage area, a tenant, coming fresh to the scene would want an allowance due to the issues stated above.

13. The subject property was held on a 30 year lease from February 1999 with rent reviews every five years. The property had originally been owned by Kwik Fit but the freehold had been sold in 1999 and a lease taken at a rent of £20,000 per annum (pa). The rent review clause had a minimum uplift for the first three rent reviews. The current lease was £31,158.70 pa which had commenced on 24 February 2014.

14. Mr Bullimore had provided a list of comparable properties in the locality which showed that the vehicle repair workshops had been valued between £22 per m² and £65 per m², whereas the comparable properties located further afield had been valued between £60 per m² and £100 per m². Taking into account the evidence provided, in particular vehicle workshops within the local area, he proposed a reasonable tone for the subject property would be £60 per m², with an allowance for lack of heating, which resulted in a revised RV of £19,500 with effect from 1 April 2017.

15. Mr Bhatti stated that originally, the subject property had been assessed at £28,000 RV, calculated on a base price of £80 per m². Taking into account the comparable properties evidence provided, the VO agreed that the base rate had been too high and reduced it to £72.50 per m². However, the VO did not agree with Mr Bullimore's proposed value of £60 per m².

16. Mr Bhatti argued that as the base rate was reduced to £72.50 per m², it revised the assessment of the subject property to £25,250. He considered that the revised rate of £72.50 per m² applied to the subject property was reasonable.

Decision and reasons

17. The appeal hereditament 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 1 April 2017 (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.

18. 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 appeal hereditament, 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.’

19. 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 lease had commenced in 1999 with rent reviews every five years. The current rent of £31,158.70 had commenced 24 February 2014, which was circa 13 months prior to the AVD of 1 April 2015. However, it was noted that the lease had a clause that for the first three rent reviews, there was a minimum uplift. Therefore, the panel did not consider the current rental figure to show a truly open market rent and it placed less weight on these details.

20. The panel considered the comparable properties provided by Mr Bullimore that were situated in the local area. 547-557 Moseley Road, Birmingham, B12 9BU, 728-730 Aldridge Road, Birmingham, B44 8NL and 1558 Pershore Road, Birmingham, B30 2NN. The panel noted that the value for 547-557 Moseley Road had originally been set at £90 per m² but had been reduced to £72.50 per m². The panel noted that this property was a modern tyre centre with parking to the side and front.

21. The value for 728-730 Aldridge Road had originally been set at £82.50 per m² but had been reduced to £67.50 per m². This property was an older tyre centre with good prominence, low height and poor design.

22. The value of 1558 Pershore Road was currently set at £60 per m². The panel noted that this property was set back from the road with restricted views. The panel also noted that this property was a conversion of an older building.

23. The panel noted within the assessment of the subject property that an allowance of 2.5% for lack of heating, 2.5% for access and 5% for layout had already been provided. Therefore, the panel held that no further allowance should be awarded with regards to the workshop being situated at the rear of the subject property.

24. From the basket of rental evidence provided by the parties, the panel was satisfied that the current assessment of the subject property at £72.50 per m² was reasonable and the evidence provided by Mr Bullimore had not persuaded the panel that it was excessive.

25. Therefore, the panel confirmed the current entry in the list for the subject property at £25,250 RV and dismissed the appeal.

Date: 7 August 2023

Appeal number: CHG100728656

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.