VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeals; Local Government Finance Act 1988; section 64(2) and (11); advertising rights; rental evidence; comparable assessment evidence; digital sites; appeals allowed in part.

APPEAL NUMBERS:	CHG100764775, CHG100766503 and CHG100764346
RE:	DIGITAL AD RT BRIDGEWATER CIRCLE, APPROACH TO M60 NR TRAFFORD CENTRE, TRAFFORD BOULEVARD, URMSTON, MANCHESTER, M41 7JN (“appeal hereditament 1”)
	DIGITAL AD RT BRIDGEWATER CIRCLE, EXIT FROM M60 NR TRAFFORD CENTRE, TRAFFORD BOULEVARD, Manchester, M41 7JN (“appeal hereditament 2”)
	DIGITAL AD RTS BRIGHT CIRCLE OPP, THE TRAFFORD CENTRE, BARTON DOCK ROAD, TRAFFORD PARK, MANCHESTER, M41 7ZA (“appeal hereditament 3”)

BETWEEN:	Peel Advertising Ltd	Appellant
	and	
	Amanda Hitchings BA (Hons) MRICS (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	25 July 2024
BEFORE:	Mr A Hussain, Presiding Senior Member Mr PJ Ward, Senior Member
CLERK:	Mr D Mulgrew IRRV(Hons)
APPEARANCES:	Mr R Wackett (Appellant’s representative) Mr C Royle (Respondent’s representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are allowed in part. The panel decided that each display should be assessed at £35,000 per display.

Introduction

2. These appeals have been brought in respect of the following 2017 rating list entries:

- Appeal Hereditament 1 - CHG100764775 - DIGITAL AD RT BRIDGEWATER CIRCLE APPROACH TO M60 NR TRAFFORD CENTRE, TRAFFORD BOULEVARD, URMSTON, MANCHESTER, M41 7JN - advertising right and premises, rateable value £52,000 from 21 November 2017.

- Appeal Hereditament 2 - CHG100766503 - DIGITAL AD RT BRIDGEWATER CIRCLE EXIT FROM M60 NR TRAFFORD CENTRE, TRAFFORD BOULEVARD, URMSTON, MANCHESTER, M41 7JN - advertising right and premises, rateable value £52,000 from 21 November 2017.

- Appeal Hereditament 3 - CHG100764346 - DIGITAL AD RTS BRIGHT CIRCLE OPP, THE TRAFFORD CENTRE, BARTON DOCK ROAD, TRAFFORD PARK, MANCHESTER, M41 7ZA – advertising right and premises, rateable value £82,500 from 21 November 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeals to this Tribunal were made on the grounds that the valuations for the appeal hereditaments were not reasonable. They arose because the Valuation Officer decided not to alter the 2017 rating list following the appellant's proposals to alter each one of the first two entries shown above to rateable value £31,000 and the last entry to rateable value £62,500, all effective from 21 November 2017.

4. Both parties' representatives appeared in a dual role of advocate and expert witness. Both they and their employers were not instructed under a conditional fee arrangement or other success related fee.

5. The panel has accepted this 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).

6. 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.

7. The panel consolidated the hearing of the appeals. In each case, the appellant and its representative were the same, as was the respondent's caseworker. Additionally, the supporting evidence in the cases was very similar.

8. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.

Relevant law

9. The term "rateable value" was defined in Schedule 6 to the Local Government Finance Act 1988 (the "1988 Act"). The value was 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 required the rental levels to be taken on 1 April 2015, the antecedent valuation date (AVD).

10. Section 64(2) and (11) of the 1988 Act provided:

> (2) In addition, a right is a hereditament if it is a right to use any land for the purpose of exhibiting advertisements and—
>
> > (a) the right is let out or reserved to any person other than the occupier of the land, or
> > (b) where the land is not occupied for any other purpose, the right is let out or reserved to any person other than the owner of the land.
>
> (11) In subsection (2) above "land" includes a wall or other part of a building and a sign, hoarding, frame, post or other structure erected or to be erected on land.

11. Mr Wackett stated that the Valuation Officer is unable to add any additional value to reflect the digital mechanisms at the appeal hereditaments.

12. The material day on which to consider the appeal hereditaments was 21 November 2017.

Discussion

13. Both parties were represented by experienced advocates who each appeared in a dual role of expert witness. Between them, they demonstrated considerable general knowledge of the rating of advertising rights. Both had been involved in national discussions involving the

rating of advertising rights. Mr Royle was not the original caseworker and was a late replacement for the Valuation Officer. He had not inspected the appeal hereditaments. Mr Wackett was based in Manchester and was able to demonstrate his knowledge of the local area.

14. Each of the parties' valuations comprised of a value for the advertising right plus a value for any rateable plant and machinery. At the hearing, Mr Wackett confirmed that he accepted the plant and machinery figures used by the Valuation Officer and this required an adjustment to the two valuations where he had sought reductions to rateable value £31,000. He now sought rateable value £32,000 for appeal hereditaments 1 and 2.

15. Appeal hereditaments 1 and 2 were described as single hoarding sites. They were landscape digital advertising rights with a display of 5m by 7.5m. The size of each display was effectively similar in size to a 96 sheet display traditionally referred to in non-digital advertising. Each display was assessed by the Valuation Officer at £50,000. The appellant sought a reduction in the display price to £30,000.

16. Appeal hereditament 3 was described as a double hoarding site. It had two portrait orientation digital displays, also 5m by 7.5m. The Valuation Officer had adopted a lower base rate of £40,000. The appellant again sought a reduction to £30,000 per display.

17. The Valuation Officer's challenge decision notice stated that they were in location A and throughout that decision it referred to other location letters of the alphabet in respect of comparable properties. At the hearing, Mr Royle was unable to explain what the letters meant or define any of the locations.

18. A good starting point in any rating appeal was always to consider the available rental evidence in respect of the appeal hereditaments. Appeal hereditaments 1 and 2 were each let at a base rent of £30,000 from 1 September 2017. Appeal hereditament 3 was let at a base rent of £60,000 from the same date. In respect of each letting, the tenant had to pay an additional rent which reflected 15% of profit. Mr Wackett stated that the net profit fluctuated and, in some years, there was no revenue to share.

19. Mr Royle did not consider it appropriate to place too much reliance on the rental evidence in respect of the appeal hereditaments. He expressed concerns whether they were open market rents given the consistency of the amount but also accepted that there was no evidence to support his comment. However. he considered that little weight should be given to the rental evidence because it was not known precisely how much rent was paid under the 15% profit arrangement. The panel shared this concern. However, the panel found that Mr Wackett had a fair point when he argued that the Valuation Officer could have sought further information concerning the rents payable. It was understood from Mr Wackett the proposals had been lodged with the Valuation Officer in January 2022 and that he had had difficulty getting anyone at the Valuation Office Agency to discuss the case with him before decisions had been made on the merits of his proposals.

20. In view of the above, the panel did not want to disregard the rental evidence in respect of the appeal hereditaments but noted that the evidence was far from perfect given the unknown amounts for the profit element and the remoteness of the rents from the AVD.

21. In terms of other available rental evidence, the panel noted that there was a rent in respect of Perfect Fit Media M41 7BQ. This was also a digital advertising right which was similar in size to a 48 sheet advertisement. The base rent from 15 April 2016 was £15,000, but the panel again found difficulty with placing too much reliance on the evidence because there was a top up of 12% of profit, again the amounts were not known.

22. The panel then turned its attention to the comparable assessments which had been provided by the parties. The panel was pleased that Mr Wackett had concentrated at the hearing exclusively on the digital advertising rights and had not sought to rely on advertising rights which were not digital (included in his proposal), as the non-digital rights lacked comparability with the appeal hereditaments.

23. The panel noted that Mr Wackett's strongest evidence was in respect of J C Decaux (Bridgewater Way) M16 9HT which was an agreed rateable value based on £25,000 per 96 sheet face. It was situated on a very busy link road between Trafford and Manchester City Centre. This indicated that that the rateable values for the appeal hereditaments were too high. However, his other digital advertising right comparable, Perfect Fit Media M41 7BQ, did not support a reduction. While the panel noted that that assessment had been reduced by the Valuation Officer (following a proposal that had been initially been rejected), it was now assessed at £25,000 per 48 sheet face (which supported £50,000 per 96 sheet face based on both parties' approach to doubling the value of a 48 sheet face).

24. The Valuation Officer's comparable evidence included two other digital advertising rights, namely Super Portrait Digi 009 and Super Portrait Digi 008, both located at the Trafford Centre at M17 8PL. In terms of location, the panel found them more relevant than J C Decaux M16 9HT. However, they had been assessed at a base rate of £40,000. While this was the same as appeal hereditament 3, it was a lower rate than had been used for appeal hereditaments 2 and 3.

25. The Valuation Officer also relied on three other comparable rights, namely Portrait Digi 10, 11 and 12, also at the Trafford Centre M17 8BN, which had never been challenged. They had a base rate of £50,000. Mr Royle argued that this meant that the tone was established in the locality because the 2017 list was closed.

26. Having examined all of the comparable assessment evidence and the other documentation provided, it was not clear to the panel how the Valuation Officer had decided on the various values that had been adopted on the numerous advertising rights. It was also not clear why appeal hereditaments 1 and 2 were assessed at a higher display rate than hereditament 3, especially having regard to the consistency of the actual rental evidence. Mr Royle did his best to answer, suggesting that those at the Trafford Centre itself may have a different focus because those seeing the advertisements were shoppers already at the Centre. However,

the panel found his answer to be one that was more of speculation as he was not certain why the values had been pitched differently.

27. Mr Wackett's challenge submission had also referred to a table which he stated was from a national agreement which categorised digital advertising rights outside Greater London into average, good or excellent and included a range of values for each category. During questions, the panel found that there was no national agreement but the table had been extracted from a document reflecting national discussions. Further, Mr Royle had stated that major city centres or destinations were considered to be excellent locations in this document. However, in Mr Wackett's experience, the best place for an advertising right was at a traffic light junction with an open aspect to a wide junction, probably with the benefit of footfall too.

Disposal

28. After balancing all the competing arguments, the panel was of the view that the rateable values placed on the appeal hereditaments were too high based on the available rental evidence and the agreed assessment of J C Decaux M16 9HT. The panel noted that most of the values relied on at the hearing were assessed at either £40,000 or £50,000, but was not satisfied with the explanation for the difference between the two values.

29. The panel therefore decided to adopt a base unit value of £35,000, which resulted in the following valuations:

For appeal hereditaments 1 and 2:

One advertising display @ £35,000	£35,000
Plant and machinery	£2,211
Total	£37,211
Rateable value	**£37,000**

For appeal hereditament 3:

Two advertising displays @ £35,000	£70,000
Plant and machinery	£2,651
Total	£72,651
Rateable value	**£72,500**

30. The appeals were therefore allowed in part.

Order

31. 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 entries in the 2017 rating list as follows:

- Appeal Hereditament 1 - CHG100764775 - DIGITAL AD RT BRIDGEWATER CIRCLE APPROACH TO M60 NR TRAFFORD CENTRE, TRAFFORD BOULEVARD, URMSTON, MANCHESTER, M41 7JN - advertising right and premises, rateable value £37,000 from 21 November 2017.

- Appeal Hereditament 2 - CHG100766503 - DIGITAL AD RT BRIDGEWATER CIRCLE EXIT FROM M60 NR TRAFFORD CENTRE, TRAFFORD BOULEVARD, URMSTON, MANCHESTER, M41 7JN - advertising right and premises, rateable value £37,000 from 21 November 2017.

- Appeal Hereditament 3 - CHG100764346 - DIGITAL AD RTS BRIGHT CIRCLE OPP, THE TRAFFORD CENTRE, BARTON DOCK ROAD, TRAFFORD PARK, MANCHESTER, M41 7ZA – advertising right and premises, rateable value £72,500 from 21 November 2017.

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

Refund of appeal fees

33. As the ground of the appeals has been made out, the appeal fees are to be refunded in full. This will take approximately six weeks to process.

Date issued to parties: 2 August 2024

Right of further 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.
