VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating appeal; Car showroom and premises; Proposal seeking a lower £ p/m^2 and an allowance for quantum; Appeal allowed in part.

APPEAL NUMBER: CHG100766852

RE: 2 Trust Court, Histon, Cambridgeshire CB24 9PW

BETWEEN: Aston Shaw Limited Appellant

and

The Valuation Officer Respondent

SITTING: 14 March 2025 (remotely using Microsoft Teams)

BEFORE: Mrs R Sharma (Presiding Senior Member)
Mr A Hussain (Senior Member)

CLERK: Mr A Johnson

APPEARANCES: Mr M Brownstone of Marston Associates (representing the Appellant)
Ms N Awoyokun (representing the Respondent)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The panel reduced the rateable value (RV) of the subject property to £36,750 with effect from 1 April 2017.

Introduction and background

3. This decision and statement of reasons is not a verbatim record of the proceedings.

4. The subject property was built in 1991 and had been described as a brick built 'Office and premises' with a slate roof, large window and a small glazed entrance. It is situated off

Chivers Way in a small cul-de-sac of offices known as Trust Court. It had a total area of 215.2m^2 which was spread over three floors. This was not in dispute.

5. The 2017 RV of the subject property was based up an adopted rate of £220 p/m^2 which, after adjustment, was £40,500 (effective from 1 April 2017). A Challenge was submitted to the Valuation Officer on the grounds the RV was unreasonable and should be reduced to £29,250, to include an allowance of 5% for quantum. The Valuation Officer determined that the Challenge was not well-founded and the RV of £40,500 was not altered. An appeal was subsequently submitted to this Tribunal.

6. The representatives appeared in the dual roles of advocates and expert witnesses and Mr Brownstone declared that neither he nor Maston Associated were representing the Appellant on a conditional or other success related arrangement. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), the panel accepted the expert witness evidence on this basis as the appeal was not considered to be 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 concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

7. Both representatives acknowledged that when presenting evidence as expert witnesses that their duty was to the Tribunal, regardless of whether or not it supported their respective cases.

Preliminary matter

8. The day before the remote hearing, on 13 March 2025, Mr Brownstone submitted his Declaration and Statement of Truth. When doing so, he attached four documents which he asked to be accepted into evidence. Three of the documents were advertisements relating to 4, 5 and 7 Trust Court and the fourth document contained lease details in respect of them. When asked, Ms Awoyokun did not raise any objection to this request or claim any prejudice on behalf of the Valuation Officer.

9. The panel observed that Regulation 17A(1)(b) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 allows for the admittance of new evidence in circumstances where the parties agree to it. Given that the parties were in agreement, the panel accepted the late evidence.

Discussion

10. This was an appeal against an entry in the 2017 rating list and so the rental levels are taken as those passing at the antecedent valuation date (AVD) of 1 April 2015. This is in accordance with the Rating Lists (Valuation Date) (England) Order 2014. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992. The material day in respect of the subject property is 1 April 2017.

11. Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 provides that the RV 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 based upon three assumptions. These assumptions are well known to the parties and so the panel did not consider it necessary to set them out in this decision notice.

12. Mr Brownstone was, seeking a revised RV based upon a rate of £155 p/m^2 and a 5% allowance for quantum. The panel firstly considered the £ p/m^2 to be applied to the subject property.

13. The starting point for consideration is the actual rent passing. The panel had been provided with three rents; the first was effective from 1 July 2017, followed by renewals effective from 24 June 2018 and 24 June 2020. The closest rent to the AVD was for the annual sum of £45,000. It was understood that tenant improvements to the value of £20,000 had been made in the form of cabling and partitions. In view of the rents remoteness from the AVD and the tenant improvements, the panel found that it could not give the passing rent any significant weight. The panel proceeded to consider the comparable properties that had been presented by the parties.

14. Mr Brownstone submitted evidence relating to other properties in the same development to support his assertion that a rate of £155 p/m^2 for the subject property was reasonable. These were 4, 5, 7 (ground floor) and 7 (first floor) Trust Court. Mr Brownstone had analysed the rents as follows:

    4 Trust Court (first floor)
    - A new letting effective from April 2014 at £7,800 p.a. on an ‘all-inclusive’ basis
    - It had a total area of 39.2m^2
    - The net rent of £4,300 analysed to circa £110 p/m^2

    5 Trust Court
    - A new letting effective from December 2014 for five years at £18,500 p.a.
    - It had a total area of 127.3m^2
    - The rent had been analysed to circa £155 p/m^2.

    7 Trust Court (ground floor)
    - The rent was effective from April 2014 at £13,975 p.a. on an ‘all-inclusive’ basis
    - It had a total area of 51.93m^2.
    - The net rent of £9,975 had been analysed to circa £110 p/m^2

    7 Trust Court (first floor)
    - The rent was effective from April 2014 at £14,350 p.a. on an ‘all inclusive’ basis
    - It had a total area of 53.33m^2
    - The net rent had been analysed to circa £194 p/m^2

15. Adjustments had been made to arrive at the net rents in respect of numbers 4, 7 (ground floor) and 7 (first floor) relating to deductions made for service charges (£1,500 for number 4 and £2,000 for both number 7’s), building insurance (£500 for each) and the cost of utilities (£1,500 for each). Ms Awoyokun accepted the adjustments Mr Brownstone had made and his analysis of the rents. However, it was argued that it was more appropriate to analyse the rents in terms of their main space (ITMS). However, this argument was only

presented during the remote hearing and had not been included within the Valuation Officer's Challenge Decision. Therefore the panel decided to give it little weight.

16. Ms Awoyokun referred the panel to evidence relating to 1 and 3 Trust Court:

    1 Trust Court
    - A new letting effective from 1 November 2016 at £47,000 p.a.
    - The rent analysed to £285.62 p/m^2

    3 Trust Court
    - The rent analysed to £208.89 p/m^2

17. Ms Awoyokun also presented evidence from the wider area which included De Novo Pt Gnd Flr Compass House, Enterprise House, Pioneer House and Pioneer Court. However, whilst these not physically located within Trust Court and so the panel placed less weight upon the evidence relating to them.

18. Ultimately, the panel found the best evidence was drawn from the Trust Court properties as they were part of the same development. After analysis, the panel concluded that an RV of £40,500 for the subject property was unreasonable. However, the panel did not agree with Mr Brownstone's valuation. The panel determined that a base rate of £200 p/m^2 was reasonable which, after adjustment, produces a RV of £36,750 (when rounded down) with effect from 1 April 2017.

19. Turning to the matter of quantum, the panel considered Mr Brownstone's assertion that, when comparing the size of the subject property with 4 and 7 Trust Court, an allowance of 5% was justified. However, the panel found that no compelling evidence had been provided to support this contention. The panel therefore determined that an allowance for quantum should not be made.

Disposal

20. In view of the foregoing, the RV of the subject property is amended to £36,750 (when rounded down) with effect from 1 April 2017:

	m/^{2}	**£ p/m^2**	**Value**
Ground floor office	72	185.26	13,339
First floor office	79.1	185.26	14,654
Second floor office	64.1	138.95	8,906
	215.2		**36,900**
		RV SAY:	**36,750**

21. This appeal is allowed in part.

22. In accordance with regulations 38(4) and 38(9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the Valuation Tribunal for England orders the Valuation Officer to alter the rating list within two weeks of the date of

this order to show the entry for the subject property at £36,750 with effect from 1 April 2017.

Refund of appeal fee

23. The appellant is entitled to a refund of the appeal fee in accordance with regulation 13E of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. This will be refunded as soon as possible.

Date issued to parties: 31 March 2025

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.