VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Garage and premises; Car showroom or car supermarket; price per square metre; appeal dismissed.

APPEAL NUMBER:	CHG100773188
RE:	Arnold Clark Birtley Ltd, Portobello Road, Birtley, Chester-Le-Street DH3 2SN. (the "subject property")

BETWEEN:	Iona Brodie	Appellant
	and	
	Jo Moore (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	26/04/2024
BEFORE:	Ms C Edwards, Presiding Senior Member Mr DC Gardner, Senior Member
CLERK:	Mrs J Routledge IRRV(Tech)
APPEARANCES:	Mr R Wackett of Montagu Evans for the appellant Mr P Loxley of the Valuation Office Agency for the respondent

---

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel concluded that the subject property was a car showroom and the rateable value of £100 per m^2 unadjusted rate was reasonable having taken into account the range of values for car showrooms in the locality.

Introduction

3. This is a 2017 rating list appeal. The subject property had been entered in the 2017 rating list as a ‘Car Showroom and Premises’ at a rateable value (RV) of £452,500 with effect from 1 April 2017. This was subsequently revised by the VO to £387,500 following the challenge.

4. The challenge was submitted by Montagu Evans on behalf of the appellant and was received by the Valuation Officer (VO) on 8 February 2022. It sought a reduction in RV to £280,000 with effect from 1 April 2017 as it was argued the tone of the subject property was incorrect.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received on 29 November 2023.

6. The subject property comprised a modern showroom, with workshops, ancillary buildings, and car display land. There is also a large fenced and gated vehicle storage compound with internal access and its own external access. The total area of the assessment was 20,874.92m^2.

7. Mr Wackett 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), he declared that he was not instructed under any conditional fee arrangement. Mr Wackett 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.

8. Mr Loxley appeared on behalf of the respondent as both advocate and expert witness.

9. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

10. The subject 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 be let from year to year on a number of assumptions. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

11. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the

antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

Relevant Law

12. Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

    2(1) The rateable value 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 on these three assumptions –

    (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

    (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

    (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

13. The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 prescribes the requirements to establish the material day. In this case:

    A valuation date of: 1st April 2015
    A material day of: 1st April 2017

14. The material matters should be taken at the material day, in accordance with Paras 6, 6(a) and 7 of the LGFA 1988:

    (6) Where the rateable value is determined with a view to making an alteration to a list which
    has been compiled (whether or not it is still in force) the matters mentioned in sub-paragraph (7) below shall be taken to be as they are assumed to be on the material day.

(6(a)) For the purposes of sub-paragraph (6) above the material day shall be such day as is determined in accordance with rules prescribed by regulations made by the Secretary of State.

(7) The matters are —

(a) matters affecting the physical state or physical enjoyment of the hereditament,
(b) the mode or category of occupation of the hereditament,
(c) the quantity of minerals or other substances in or extracted from the hereditament,
(d) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,
(e) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there, and
(f) the use or occupation of other premises situated in the locality of the hereditament.

Discussion

15. The evidence submitted for consideration of this appeal consisted of the VO's challenge decision and challenge update, the agent's rebuttal to the VO's initial response, photographs and location maps of the appeal property, photographs and location maps of properties submitted as comparable to the appeal property, and the agent's written appeal statement. Mr Loxley also provided further photographs and details of a number of settlements for car showrooms within an eleven mile radius of the subject property from Gateshead, Newcastle, North Tyneside, Sunderland, and Durham. These were provided late but Mr Wackett informed he did not object to the inclusion of this information.

16. Mr Wackett stated that there was no rental information as the subject property was held freehold. He disputed the RV on the subject property as he considered that it was in reality a car supermarket rather than a car showroom. He referred to the Valuation Office Agency (VOA) practice note on car supermarkets arguing that this confirmed that the subject property should be treated as a car supermarket. The site was nearly seven acres with a large number of car spaces which supported the argument it was a supermarket rather than a showroom. He referred to two comparable properties nearby which were in the list as car supermarkets, both Motorpoint, with much lower RVs. He argued there were a number of similarities:

- all three sites are located close to busy main roads,

- all are very large sites with a similar number of car spaces (combining storage and sales).
- All three are of a similar build quality and fit out (partial suspended ceiling, some glazing, a painted screed floor, air conditioning).

He provided internal and external pictures and location plans for the comparable sites to display the common features.

17. The Tribunal Panel had regard to the Practice Note, which, as suggested, was considered to be guidance for the VO and not binding. However it noted the following:

    1.1 This section applies to premises constructed or adapted for use as car supermarkets. A car supermarket is generally a large multi-brand dealer specialising in good second hand cars that are usually less than three or four years old. One of the most distinguishing features about a car supermarket is the volume of cars stocked on site. Typically the interior of a car supermarket tends to be quite basic by showroom standards and is often little more than an industrial shed with painted floors and minimal partitioning.

    1.2This rating manual section does not apply to car lots, showrooms, garages or workshops or petrol filling stations with some ancillary space. Multi dealership car showrooms selling new cars should be differentiated from car supermarkets and these should be valued in accordance with car showrooms.

18. One of the comparable properties cited was Motorpoint Birtley, a car supermarket which was only two miles from the subject property. This property had received an end allowance when the subject property opened. This was said to prove that these two properties were in the same mode and category of use and therefore the subject property should be categorised as a car supermarket and an RV of £50 per m^2 should be applied in line with this similar property.

19. Mr Loxley stated that Motorpoint Birtley was experiencing financial difficulties at the time when the subject property opened and it was considered appropriate to give an end allowance to counter the effect of a new showroom opening within two miles.

20. The Tribunal Panel gave little weight to the argument that the end allowance granted at the opening of the subject property confirmed the subject property as a car supermarket. The Tribunal Panel considered an end allowance recognises specific disadvantages suffered by a property. The opening of a large out of town shopping centre may have an effect on local businesses due to the reduction in passing trade, it does not follow that the property is in the same mode and category of use.

21. Mr Loxley argued that unlike Motorpoint Birtley, which was previously a warehouse that had been adapted to a car supermarket, the subject property

was a purpose built showroom, it held two franchises for MG cars and Ford vans. The fit out of the showroom was of higher quality with more space to attract main dealerships and a lower proportion of used cars with a less diverse range. In contrast, car supermarkets had lower quality fit out with a large range of stock, normally used cars. There was more competitive pricing with no haggle fixed price deals and finance available. These were destination sites where customers could view online and shop on a self-service basis with little assistance from dedicated sales staff.

22. Mr Loxley also stated that the description of car showroom and the RV were agreed in the previous list in 2012 when the subject property entered the list.

23. The Tribunal Panel having had regard to all of the evidence and submissions made by the parties concluded that the subject property was a car showroom rather than a car supermarket. In reaching this decision the Tribunal Panel found that it was finely balanced; the much larger size of the subject property made it more similar to a car supermarket than a car showroom. However, the internal fit out of the subject property appeared to be of a better quality than the two comparable properties provided by the appellant, and the photos showed the subject property appeared to have better signage and surroundings. The number of display spaces was much lower than Motorpoint Birtley and there were two dealership franchises operating from the subject property which, in the Tribunal Panel's view, tipped the balance in favour of the VO's submission that the subject property was a car showroom rather than a car supermarket.

24. Having determined that the subject property was a car showroom the panel went on to consider whether the RV was reasonable. In accordance with the decision of *Lotus and Delta* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141,without there being a rent available as a starting point the Tribunal Panel had regard to the other assessments provided.

25. Mr Wackett's comparable properties demonstrated that the range for car supermarkets was from £32.50 per m^2 to £100 per m^2. They were situated over a wider area and varied considerably in size, with little correlation between size and value per m^2. This demonstrated to the Tribunal Panel the variation in assessments for this type of hereditament was dependant on the locality and standard of fit out.

26. The Tribunal Panel noted that the range of values provided by Mr Loxley for car showrooms that had been agreed fell between £85 per m^2 and £145 per m^2 and also noted that half of Mr Wackett's comparable properties also fell within that range. The Tribunal Panel concluded that this indicated that the 100 per m^2 unadjusted rate on the subject property was not excessive.

Disposal

27. In view of the above findings and conclusions, the Tribunal Panel was satisfied that the Rateable Value of £387,500 was not unreasonable and dismissed the appeal.

Date issued to parties: 15 May 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.