THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; car showroom and premises; level of allowance to be included to reflect nature of the site; appeal allowed in part.

RE: Greenacre Street Garage, Greenacre Street, Clitheroe BB7 1ED

APPEAL NUMBER:	CHG100790761	
BETWEEN	The Clitheroe Carriage Co Ltd	Appellant
	and	
	Ms A Hitchings (Valuation Officer)	Respondent
PANEL:	Mr D C Gardner (Presiding Senior Member) Mrs N Crawshaw (Senior Member)	
CLERK:	Mrs A Keohane	
REMOTE HEARING 3:	18 October 2023	
APPEARANCES:	Mr G Fowke of Altus Group on behalf of the appellant, as advocate and expert witness Ms K Byrne on behalf of the Valuation Officer, as advocate and expert witness	

Summary of decision

1 Appeal allowed in part. The appeal property's assessment was reduced to £41,000 rateable value (RV), with effect from 1 April 2017.

Introduction

2 This is a 2017 rating list appeal in respect of Greenacre Street Garage, Greenacre Street, Clitheroe BB7 1ED (the 'appeal property'). The appeal property is shown in the 2017 rating list as 'car showroom and premises' at £42,250 RV with effect from 1 April 2017.

3 The challenge proposal submitted on behalf of the appellant was received by the Valuation Officer (VO) on 30 March 2022. The proposal disputed the accuracy of the RV shown in the rating list on 1 April 2017 and a revised assessment of £30,000 RV was proposed.

4 The original assessment shown in the list was £45,500 RV. In the decision notice issued by the VO on 9 March 2023, this was reduced to £42,250, based on a reduced main space rate. As the assessment had not been reduced in accordance with the proposal, the appellant appealed to the Tribunal against the VO's decision notice, and this was received on 24 May 2023.

5 Mr Fowke 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 confirmed that he was instructed on contingency fee basis. However, he understood and accepted 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 the evidence supported the client's case.

6 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 could admit evidence whether or not it would be admissible in a civil trial). The panel therefore considered the expert evidence and attached such weight as it saw fit.

7 The appeal property is a car showroom and premises with a total area of 1076.9m^2 (713.6m^2 in terms of main space (ITMS)). It comprises a single storey stone and slate building renovated in 1985, a steel portal frame building from 1979, and purpose-built double storey steel portal frame building constructed around 1989. The property, which is held on a freehold basis, has been a car showroom for over 30 years and is situated on Greenacre Street in Clitheroe.

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

Issue

9 The only issue remaining in dispute between the parties had been identified as the level of allowance applicable in the appeal property's assessment to reflect its divided/split nature.

Evidence and submissions

10 A bundle of evidence comprising the information and correspondence exchanged between the parties was provided for consideration.

11 In brief, Mr Fowke confirmed that the appeal property had been subject to two allowances in the 2010 rating list assessment, namely, 5% to reflect its access/masked position and 10% for its divided/split nature. Whilst allowances for these disabilities had been included in the 2017 rating list assessment, the level of allowance for its divided/split nature had been reduced to 5%. He argued that no material changes had occurred to the property between rating lists and the disabilities that previously existed still remained. He pointed out that none of the allowances awarded in the assessments of the comparable properties had been reduced between lists.

12 Mr Fowke referred to *Lamb v Minards (VO)* 1974 RA 153, and *Barnard & Barnard v Walker (VO)* 1975 RA 383, which he argued suggested that, in the absence of

evidence, adjustments should be carried forward. He also referred to the case of *HMRC v Jackson (VO)* and submitted that this case further emphasised the need for the VO, in the absence of direct evidence to the contrary, to carry through allowances and other aspects of a valuation from one list to the next.

13 Having regard to his evidence, Mr Fowke provided a revised valuation based on £65/m^2 but with allowances of 5% for access/masked position and 10% for divided/split nature, in line with that in the 2010 rating list assessment. This produced a revised assessment of £39,750 RV with effect from 1 April 2017.

14 Ms Byrne submitted that each rating list was 'De Novo' and the properties entered therein were valued afresh having regard to the rental evidence at the relevant antecedent valuation date. As such, percentage valuation changes between lists was of little relevance and she submitted that this was supported by previous Tribunal decisions in *Paul Dinsdale Insurance & Financial Services v Whitehead (VO)* (234017753824/125N10) and *Mears Ltd v Smith (VO)* (234518338273/125N10). She submitted the disabilities within the appeal property had been adequately reflected in the allowances applied and the level of allowance for the appeal property's divided/split nature was supported by those applied to other properties within the same scheme for fragmentation issues.

Decision and reasons

15 The appeal hereditament must be valued for the purposes 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 detailed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988. The date of the hypothetical rent was 1 April 2015, the AVD. Matters affecting 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.

16 Although the evidence bundle included various valuation matters, such as the main space price to be applied, this was no longer an issue and the valuations proposed by both parties were based on £65/m^2. The only issue for consideration by the panel was the level of allowance applicable in the appeal property's assessment to reflect its divided/split nature.

17 In considering this case, the panel found merit in the VO's argument that each list was distinct and separate. Properties were valued afresh for each list, and it did not necessarily follow that allowances applied in one list would be carried forward to the next. In the panel's view, each property had to be valued on its own merits, and any allowances given should be warranted and in line with those applied to other properties within the same scheme affected by similar factors.

18 Mr Fowke explained the nature of the appeal property and its layout. There were two separate showrooms and a small workshop area situated on the ground floor. However, the main workshop, of 300m^2, was situated on the first floor and could only be accessed via a ramp. The panel accepted that this was not typical for a car showroom and ascertained through questions that neither party was aware of another car showroom within the scheme that had the same disability.

19 The panel noted that from within the appeal property's scheme, 11 properties had been provided which had allowances in their assessments to reflect fragmentation. These

allowances ranged between 5% and 8%. One of the assessments had been settled between the parties with a 5% allowance agreed for fragmentation. Evans Halshaw on Bolton Street, Chorley, had a 7.5% allowance to reflect that it had previously been two separate assessments that had been merged, part being modern but with a 1950's workshop. Perrys of Burnley, Accrington Road, Burnley had an 8% end allowance, and this had originally been two separate hereditaments, now two separate car showrooms, with no interconnection.

20 On balance, the panel considered the photographs of the appeal property showed little disability with the layout of the property per se, however it did consider the siting of the first-floor workshop and its access via a ramp was unconventional for a car showroom and premises. The most applied allowance for properties within the scheme was 5%; however, the parties had confirmed that these did not have the same workshop access problem as the appeal property. A 5% allowance for the appeal property's divided/split nature was therefore considered to be insufficient. That said, the panel was not convinced by the arguments that a 10% allowance was more appropriate. In the absence of sufficient evidence to show the disability at the appeal property was significantly worse than that at the Perry's of Burnley property, the allowance in the appeal property's assessment to reflect its divided/split characteristics was increased to 8%.

21 The assessment is therefore reduced to £41,000 RV as shown below.

Floor	**Description**	**Area m²/unit**	**£ per m/² unit**	**Value £**
Ground	Reception/Entrance	36.30	65.00	2360
Ground	Showroom	149.90	65.00	9744
Ground	Office and kitchen	13.30	63.38	843
Ground	Toilets	7.60	28.52	217
Ground	Vehicle display spaces, side	20.00	113.75	2275
Ground	Vehicle display spaces, rear	13.00	52.00	676
Ground	Workshop	186.30	29.25	5449
Ground	Showroom	224.60	65.00	14599
Ground	Internal storage	60.80	28.52	1734
Ground	office	17.80	63.38	1128
Ground	Internal storage	31.70	28.52	904
First	Workshop	301.90	19.01	5739
Ground	Office	13.70	65.00	891
Additional features of the property included in the valuation				
	Plant and Machinery			365
			Valuation sub total	46924
Adjustments made to the sub total				
	Access and masked position	5%		
	Divided or split unit	8%		
			Total value of adjustments	5912
			Total	41012

Say £41,000 RV.

Order

22 Under the provisions of regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the respondent to alter the Rating List within two weeks of the date of this order to show Greenacre Street Garage, Greenacre Street, Clitheroe BB7 1ED at £41,000 RV with effect from 1 April 2017.

Refund of appeal fee

23 The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E (1)(a) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended). This will be arranged by the Tribunal administrative office as soon as possible, provided the decision is not reviewed.

Date: 17 November 2023

Appeal Number: CHG100790761

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.