THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; car showroom and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141; tone of value of main space; comparable assessments; appeal dismissed.

RE: Crown Honda, Hyde Estate Road, London NW9 6JX
("the subject hereditament")

APPEAL NUMBER: CHG100803011

BETWEEN:	Crown Motors Bushey Heath (Distributors) Limited	Appellant
	and	
	Valuation Officer	Respondent

SITTING: Remotely via Microsoft Teams Conference Call

ON: 5 March 2024

PANEL: Mrs N Crawshaw (Senior Member)
Mrs C Parkes

CLERK: Mr S Fletcher IRRV (Hons)

APPEARANCES: Mr M Evans of Altus Group (Appellant's representative)
Mr S Forbes (Respondent's representative)

DECISION and STATEMENT OF REASONS

Summary of decision

1. Appeal dismissed. The panel confirmed the rateable value (RV) of the subject hereditament to be £340,000 with effect from 1 April 2017.

Introduction

2. The appeal process began with a challenge made by the appellant's representative on 6 May 2022 in respect of the Valuation Officer's (VO)

compiled list entry of the subject hereditament at £340,000 RV with effect from 1 April 2017. The appellant's representative proposed a revised assessment of £297,500 RV from that date based on a reduced main space rate.

3. The respondent issued a challenge case decision notice on 7 July 2023, which stated that based on the evidence available, the existing rating list entry of £340,000 RV with effect from 1 April 2017 was reasonable. The respondent did not consider that evidence had been provided to reduce the tone of value of the main space rate from £200 per m^2 to £175 per m^2 as proposed by the appellant's representative. The appellant's representative appealed that decision to this Tribunal on 27 September 2023 on the grounds that the valuation for the subject hereditament was unreasonable.

4. The subject hereditament was a purpose-built car showroom and premises of 2,152m^2 (ITMS 1,530m^2) constructed in 2014. It comprised 110 outside car spaces and was located in North London adjacent to the A5. The appellant held the property on a sublease from Honda, which was a connected party lease.

5. Mr Evans 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), the representative confirmed that he was instructed under a conditional fee arrangement. He 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.

6. The panel accepted this expert witness evidence on the above basis as the parties agreed the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of Valuation Tribunal for England (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).

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

Issue

8. The issue for the panel to determine was the correct rateable value to be attributed to the subject hereditament in the 2017 rating list. The issue in dispute concerned the tone of value for the main space.

Evidence and submissions

9. Arguments and factual evidence from both the appellant's representative and

the respondent was provided. This comprised documentation exchanged between the parties as part of the challenge process, the appellant's representative's challenge submission, the respondent's challenge decision notice and reference to, and photographs of, properties deemed comparable to the subject hereditament by the parties. The Lands Tribunal's judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 was also referred to.

10. The appellant's representative sought a revised RV of £297,500 following a reduction to the main space rate to £175 per m^2. The subject hereditament was let on a sublease from Honda with effect from 1 May 2010 at £370,000 per annum. A rent review was undertaken on 11 September 2014 and increased to £439,444 per annum. Mr Evans explained that as part of the connected party lease, Honda provided the franchisor with rent support to initially support the business but had continued to do so through to 2020. He argued that the actual rent was therefore unreliable in determining RV as the net rent paid by the tenant was considerably lower. He relied on comparable assessment evidence in the locality to support a lower tone of value.

11. The respondent contended that the list entry of the subject hereditament was reasonable based on a main space rate of £200 per m^2. The annual unsupported rent at the subject, rental evidence of comparable assessments and an agreed settlement were submitted in support of the valuation.

Decision and reasons

12. 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.

13. 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.

14. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day is 1 April 2017.

15. It is a well-established rating principle that the starting point in the determination of a property's RV should be the rent passing on the subject hereditament itself as held in *Lotus and Delta.* The payable rent of the tenant at the property was significantly lower than the rent of £439,444 agreed following the review in 2014 as it was supported by Honda. The net rent payable ranged from £200,000 to £316,944 between 2010 and 2020. Mr Evans contended that the net rent from 2015 to 2020 devalued to £267,850,

which analysed to £153m^2, lower than the tone of value that he sought. The respondent contended that the property would command the unsupported rent should it be valued vacant and to let, which supported its determined RV.

16. The panel determined that the rental evidence provided at the subject could not be considered reliable given that the franchiser was subsidising it for five years pre and five years post the AVD. The panel found the rent akin to a reverse premium, however, it was unclear, and little evidence was provided to ascertain what the premium was for. Whilst the panel accepted that rent support was reasonable at the beginning of a tenancy to aid a fledgling business, the support was ongoing for at least ten years. It was therefore ambiguous whether the headline rent was artificially higher than what the market could command due to the level of support from the franchisor, which the panel found to be significant. As such, the panel attached little weight to the subject's rental evidence and the parties' respective arguments pertaining to it.

17. When presented, rents on similar properties can be considered. The respondent referred to 618 Western Avenue, London and 660-680 Great Cambridge Road, both car premises and showrooms with a main space tone of value of £200 per m^2. 618 Western Avenue was 1023m^2, refurbished in 2015 and was newly let from 14 July 2015 at £178,000 per annum on a ten-year lease with five-yearly reviews. 660-680 Great Cambridge Road was 1418m^2, constructed in 2006 and had a term of twenty-four years from 1 December 2005 with five-yearly reviews. Its rent was reviewed from 1 March 2015 to £328,248 per annum. The respondent had analysed the rents to £259 and £244 per m^2 respectively.

18. Both Mr Forbes and Mr Evans referred to comparable assessments that had been settled to support their respective contended tone of value of main space. The respondent submitted 114-115 Power Road, London, which was 1289m^2, constructed in 2007 and had tone of value of main space of £200m^2. The appellant's representative submitted 319 Edgware Road, London, which was 3681m^2, constructed in 2001 and had a tone of value of main space of £175m^2.

19. Mr Evans argued that 319 Edgware Road was the strongest comparator as it was a settled agreement of a modern car show room which, like the subject, sat on the A5 with the same postcode and therefore shared the same locality as the subject. He argued that location was one of the biggest drivers for value in the area, and the comparable assessments with rental evidence were over eight miles away in either Ealing or Enfield. Mr Forbes contended that location was less of a factor affecting value within London due to the lack of available land for car showrooms, and as such, tenants often had to compromise. He argued that there was a similar pattern of rent throughout London due to demand, and whilst manufacturers preferred main road locations, very few cars were sold from passing trade and mostly initiated online.

20. Mr Forbes argued that 319 Edgware Road was older than the subject and the other comparable assessments and had a rateable value of £525,000 agreed in line with its passing rent. He also stated that it was significantly larger than the subject, and as such would require higher maintenance costs in comparison to more modern counterparts.

21. When considering the arguments pertaining to location, the panel acknowledged that 319 Edgware Road submitted by Mr Evans was the closest comparable to the subject. However, it did not deem eight miles, the location of the comparable assessments with rental evidence submitted by the the respondent, to be significant given the scarcity of car showrooms and premises within the densely populated area of North London. As such, it was satisfied that the location of the comparable assessments submitted by the parties was not a significant factor when determining their reliability.

22. The panel considered that the differential in tone of value of main space for 319 Edgware Road when compared to that of 618 Western Avenue, 660-680 Great Cambridge Road and 114-115 Power Road. The latter three properties were between 1023m^2 and 1418m^2, whereas 319 Edgware Road was significantly larger at 3681m^2. The subject hereditament, at 2152m^2, was less aligned to 319 Edgware Road in terms of size, and size in terms of main space, than to those comparable assessments with a tone of £200m^2. Consequently, the panel found that the size of the appeal property warranted a higher tone of value of main space in comparison to 319 Edgware Road.

23. Both 618 Western Avenue and 660-680 Great Cambridge Road had rental evidence which the respondent had analysed to £259m^2 and £244m^2 respectively and determined a main space rate of £200 per m^2. The panel found the tone of value to be reliable as the properties either had a new lease or rent review in close proximity to the AVD.

24. Having regard to the evidence, the panel determined that the tone of value for the main space at the subject hereditament was fair and reasonable at £200 per m^2. The subject's RV at £340,000 with effect from 1 April 2017 was confirmed.

25. In view of the foregoing, the appeal was therefore dismissed.

Date: 3 April 2024

Appeal number: CHG100803011

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.
