VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; car showroom and premises; comparable properties; tonal evidence; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council 1976; appeal allowed in part.

APPEAL NUMBER:	CHG100816186	
RE:	381 Shirley Road, Southampton SO15 3JD (the "subject property")	
BETWEEN:	Peter Cooper Motor Group Ltd	Appellant
	and	
	Lucy Dyer MRICS (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	30/09/2024	
BEFORE:	Ms N Ryan, Presiding Senior Member Dr T Webb, Senior Member	
CLERK:	Mrs C McAvoy IRRV(Dip)	
APPEARANCES:	Roderick Bisset of Villiers Surveyors representing the appellant Philippa Rowntree and Adele Buxton Representing the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part. The Tribunal Panel found that the valuation for the subject property was not reasonable and the rateable value (RV) was reduced to £191,000 based on a rate of £135/m^2.

Introduction

2. This appeal has been brought in respect of the following: 381 Shirley Road, Southampton SO15 3JD which was entered in the 2017 Rating List as ‘Car Showroom and Premises’ at £239,000 RV effective from 1 June 2020.

3. The proposal was made on two grounds, the treatment of the car parking and the base rate applied to the main showroom. The Valuation Officer accepted the amendment to the parking spaces and the challenge decision reduced the RV to £223,000 effective from 1 June 2020.

4. The base rate applied to the assessment remained in dispute, the current rate applied is £160/m^2. The appellant’s representative proposed a reduction to £120/m^2 resulting in an RV of £174,916.

5. Ms Rowntree appeared in a dual role of advocate and expert witness. Ms Buxton also appeared as expert witness, as she had inspected the subject property, however, she was not called upon during proceedings.

6. Mr Bisset submitted that he was appearing on behalf of the appellant as advocate and expert witness. In view of the Upper Tribunal’s judgment in Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC), Mr Bisset advised that he was instructed under a conditional fee via a third party company (CPRA Group). He declared that he accepted and understood that his duty was to the Tribunal in giving his evidence regardless of whether or not the evidence supported the client’s case.

7. 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 Tribunals’ 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).

8. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

9. As part of their induction training, a new member of the tribunal was observing proceedings. It was explained to the parties that it was the panel’s intention to invite their colleague to accompany it to the retiring room. The parties were assured that the new member would not participate in the decision making exercise but would simply observe as part of their training. Neither party had any issues or objections to this.

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

Issue and Relevant Law

11. The issue between the parties concerned the RV of the subject property, specifically, the base rate per m^2 that should apply.

12. The term ‘rateable value’ as defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

"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 antecedent valuation date (AVD) for 2017 list rating appeals is 1 April 2015. The material day was 1 June 2020, this being the date the subject property entered the valuation list.

14. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta v Culverwell and Leicester City Council (*LVC/376/1975). This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

'(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

Discussion

15. In deciding this appeal, bearing the six propositions in mind, the panel acknowledged that the starting point was the actual rent passing on the subject property. The subject property is a modern car showroom situated on a split site with access to the main showroom and sales office from Shirley High Street and the workshops are accessed by a single lane alley to the rear of the property. A copy of the lease agreement was provided by Mr Bisset, and both parties submitted that little weight was given to this rent when determining their respective valuations. The lease was dated 1 August 2000 and the annual rent agreed was £175,000. Mr Bisset submitted that it was a rent review with a two year rolling break clause. It was a indexed linked rent with a support package provided by the Landlord, the terms of which were specified in a separate document.

16. The panel found that little weight could be placed on the lease agreement. It was a review agreed five years post the AVD and the terms discussed by the parties demonstrated that it required many adjustments to conform with the statutory rating hypothesis. As per *Lotus v Delta*, the subject rent was the starting point, not necessarily the best evidence, the panel therefore found it necessary to turn to the third proposition and examined rents passing on comparable properties.

17. The respondent referred to two rents. The rental evidence for 21-35 St Denny's Road, Southampton SO17 1GL was a one year new lease agreed on 7 October 2014. The rent agreed was £60,000 and this had been analysed to £69.42/m^2. However, the rate adopted to its valuation was £145/m^2. It was Ms Rowntree's contention that little weight should be applied to this rent as it appeared to be too low and therefore an outlier. Ms Rowntree had placed more weight to the rent on Adams Morey Ltd, Third Avenue, Southampton SO15 0LD. This was a rent review of a fifteen year lease with five yearly upward only rent review intervals and was not on full repairing and insuring terms. The rent had been adjusted and analysed to £158.05. The rate applied to the assessment was £140/m^2.

18. The panel did not place much weight on the rent of 21-35 St Denny's Road, as although it was a new lease close to the AVD, there was a question over the low rent and it was a smaller site. The panel was not persuaded that the rent on Adams Morey Ltd, Third Avenue should hold great weight. It was a stepped rent which required a lot of adjustment to conform with the rating definition. Furthermore, it was a HGV sale location so the panel found this to be insufficiently similar to the subject property.

19. Due to the lack of relevant rental evidence available, the panel turned its considerations to tonal evidence. Tonal evidence can be relied on and as the 2017 rating list is now closed, the assessments are well established. Mr Bisset referred to six assessments, five of which he argued were in a superior location. He submitted that those situated on second and third avenue were in a prime position, looking onto the motorway. Furthermore, the dealerships were in a cluster whereas the subject property was situated in a satellite position. The adopted values ranged from £90/m^2 to £135/m^2. Unhelpfully, neither party had provided photographs of the assessments put forward for comparison. Mr Bisset provided details regarding each of the assessments and submitted that £135/m^2 appeared to be the rate

applied to those which are of a similar standard to the subject, a standard which enables them to be franchised. He had reached the proposed rate of £120/m^2 for the subject property by adjusting downwards for the substandard location.

20. The panel found that the appeal property was rated much higher than the other assessments within the locality, the explanation offered by the respondent was they were older than the subject property. According to the valuation officer's records the subject property was built in 2000. However, there was clearly some question in regards to its age. The photographs provided demonstrated that it had been refurbished and it benefited from a fully glazed glass frontage. There was also some confusion regarding it being in the rating list previously, thus proving it was an older converted property as opposed to newly built. Ms Rowntree did not have the information to answer this point but agreed during proceedings that the roof of the workshop appeared to be much older.

21. In any case, the panel was satisfied that it had been refurbished and found that age alone did not appear to justify the higher base rate applied to the subject property. It could not ignore that there was a difference in terms of the locality and that the cluster of dealerships were in a superior position.

22. The panel placed great weight to the tonal evidence and found that the subject property was unreasonably valued in comparison. It placed most weight on the assessment of Snows Motor Group, Second Avenue, Southampton SO15 0BA which had a base rate of £135/m^2. This was described as a similar modern standard to the subject property. The panel was not persuaded that the proposed rate of £120/m^2 was justified. It accepted that Snows Motor Group was situated in a more desirable location but this was outweighed by the property being five years older. On balance, the panel found £135/m^2 to be reasonable. There was no dispute raised regarding the relativities within the valuation, therefore applying the base rate of £135/m^2 provides a RV of £191,000 as set out below:

Description	**Area m²**	**£ per m²**	**Total Value**
Ground Floor Showroom	492.1	£141.75	£69,755.18
Ground floor office	33.51	£141.80	£4,751.72
First floor office	155.23	£85.05	£13,202.31
Ground floor workshop	871.48	£60.75	£52,942.41
Ground floor office	11.02	£141.75	£1,562.09
Ground floor office	46.94	£141.75	£6,653.75
Ground floor mess/staff room	14.49	£67.50	£978.08
Ground floor kitchen	38.63	£81.00	£3,129.03
Mezzanine floor internal storage	21.78	£15.19	£330.78
Ground floor store	417.86	£54.68	£22,846.50
			£176,152

Vehicle display spaces	50	£120.00	£6,000
Vehicle display spaces	28	£325.00	£9,100
Car wash (class d)	1	£5,000.00	£5,000
			£20,100
			£196,252
Adjustment for split site		-2.50%	-£4,906
			£191,346
		Rateable value (rounded down)	£191,000

Disposal

23. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the rateable value is unreasonable and the appeal is allowed in part.

Order

24. Under the provisions of regulations 38(4) and 38(10) 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 entry in the rating list to show the following:
 381 Shirley Road, Southampton SO15 3JD
 £191,000 RV effective from 1 June 2020

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

26. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date issued to parties: 21 October 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.