VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeals; 2017 rating list; Challenges against Compiled List entries; Vehicle Repair Workshop And Premises; accuracy of rateable value; Assessment of comparable properties; 5% Allowance for Barrel-Vaulted Roof; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Allowed.

RE: Formula One Autocentres, London Road, Maidstone, ME16 8HS

APPEAL NUMBER: CHG100915086

BETWEEN:	Formula One Autocentres Ltd (Represented by Altus Group)	Appellant
	and	
	Dawn Bunyan (Valuation Officer)	Respondent

PANEL: Mr K Everett (Presiding Senior Member)
Mr M Young (Vice President of the VTE)
CLERK: James Massey IRRV (Dip)
REMOTE HEARING: 20 March 2024

APPEARANCES: Mr L Bright of Altus Group for the Appellant.
Mr R Das for the Valuation Officer.

Summary of decision

1. Appeal allowed. The Panel determined the Rateable Value (RV) of Formula One Autocentres, London Road, Maidstone ME16 8HS (the "Subject Property") at £48,250 with effect from 1 April 2017.

Introduction

2. This was a 2017 Rating List appeal. The subject property had been entered in the 2017 Rating List as "Vehicle Repair Workshop and Premises" at a RV of £57,000 with effect from 1 April 2017. As this was a compiled list appeal the material day was also 1 April 2017.

3. The challenge proposal was submitted by Altus Group on behalf of Formula One Autocentres Ltd and was received by the Valuation Officer (VO) on 8 February 2023. It had

been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong and proposed a revised RV of £48,250 with effect from 1 April 2017 for the subject property.

4. The VO issued a challenge case decision notice on 20 July 2023. The VO's decision was to treat the Appellant's challenge as not well-founded and proposed no change to the rating list.

5. The subject property is a tyre and exhaust centre built between 1955 & 1964 in Maidstone and was refurbished in 1997. It is of traditional brick construction with a felt 'barrel vaulted' roof and has a total significant area (TSA) of 620m^2. It is located on the one way inner ring road, approximately 0.1 miles walk from Maidstone West station and one mile from the main retail area.

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

Issue

7. The issue between the parties concerned the RV of the appeal property. Mr Bright, for the appellant, sought a reduction to £48,250 RV based on a unit price of £80.00 per m² and a 5% allowance to the main warehouse space due to disabilities attributed to its 'barrel vaulted' roof. Mr Das, for the VO, defended the current assessment of £57,000 RV, which was based on the existing unit price of £90.00 per m^2.

8. All relevant factual information regarding the subject propertiy, including the area, was not disputed by the parties.

Evidence and Submissions

9. As Mr Bright appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with her/his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC). It was established that Mr Bright's company would receive a conditional fee or some other success related arrangement if the rateable value was reduced as a result of the panel's decision. However, Mr Bright declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

10. 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 can admit evidence whether or not it would be admissible in a civil trial).

11. The Panel therefore considered the expert evidence and attached such weight to it as it saw fit.

12. The evidence bundle before the Panel comprised all of the evidence disclosed and exchanged during challenge including a copy of the challenge decision notice. The Appellant's supplementary evidence statement was also included which contained a summary of the evidence exchanged and discussed during the challenge. Both documents

included the parties' arguments, expert witness statements and location maps and photographs of the subject premises and their comparable properties.

13. Mr Bright referred to the assessment of two similar properties in Maidstone, at an unadjusted rate of £80.00 per m^2, which he considered demonstrated that the rate applied to the subject property was excessive. In support of his assertion that a 5% allowance was applicable to the warehouse area, he referred to the allowance granted to Lidl Distribution Centre, Fishers Way, Belvedere, Kent DA17 6BS.

14. Mr Das contended that the best comparable to the subject property was an adjacent unit which was also a tyre and exhaust centre and was assessed at £90.00 per m^2 and had not been challenged. He did not consider that the 'barrel vaulted' roof would present any disadvantage for the subject property's use as a tyre and exhaust centre. He argued that the variance in eaves height produced by such a roof was a particular disadvantage in the large distribution warehouse used as a comparable by the appellant, but not for a tyre and exhaust centre, where there was ample height throughout to elevate vehicles so that they could be worked on.

Decision and reasons

15. The appeal 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 let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect 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. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

16. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO)and Leicester City Council* 1976, as referred to by the Respondent. 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 agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in section 19(6) of the General Rate Act 1976 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.'

17. The Panel was aware that, following the propositions set out above, the rent on the subject property should be a starting point, followed by those on similar properties. As no rental evidence had been submitted by either party, the Panel was required to consider the assessment of similar properties in the locality.

18. Mr Bright had referred to 20-30 Upper Stone Street, Maidstone (Express Auto Centre) which had a total area of 145.52m^2 and the rate of which had been reduced from £110 per m^2 to £80 per m^2 following a challenge. He also referred to 188 Loose Road, Maidstone (Kwik Fit) which had a total area of 453.72m^2. The VO had reduced the rate of this property from £100 per m^2 to £80 per m^2 following a change of use from car showroom.

19. Mr Das did not consider that the Express Auto Centre and Kwik Fit properties were comparable to the subject property due to differences in size, age and location. He considered that Southern Tyre Co Ltd, London Road, Maidstone, although smaller and older than the subject property, was most comparable, due to its close proximity; its assessment at £90 per m^2 had not been challenged. Having inspected the subject property on 15 March 2024, Mr Das considered that the subject property also had the advantage of being able to create additional vehicle bays if required.

20. The Panel noted that all of the comparable properties submitted by the parties were in the same valuation scheme, of which neither party had provided a copy. Whilst Mr Das had referred to the differing locations of the appellant's comparable properties, there was no evidence that location closer to the town centre would necessarily be an advantage for a car workshop. The Panel considered that the subject property's locality would encompass both the Appellant's and the Respondent's comparable properties. Although it accepted that there was scope for the number of bays at the subject property to be increased from its current single bay, it noted that both Express Auto Centre and Southern Tyre Co Ltd both already had multiple bays and Kwik Fit had the potential for additional bays.

21. The Panel determined that most weight should be placed on the assessment of Express Auto Centre, where the reduced rate £80 per m^2 had been agreed between professional parties. It also considered the fact that Kwik Fit had been reassessed as a Car Workshop and Premises at £80 per m^2 was more indicative of the tone of the list in the subject property's locality than the unchallenged assessment of Southern Tyre Co Ltd. It considered that these assessments indicated that the tone for similar properties in the locality was £80 per m^2 and was therefore satisfied that £90 per m^2 was excessive for the subject property, and that a reduction to £80 per m^2 was appropriate.

22. The Panel considered the parties' opposing arguments for and against a 5% allowance for the warehouse part of the subject property. The Appellant had outlined what he considered to be the various disadvantages of a 'barrel-vaulted' roof;

- Higher construction and maintenance costs than traditional flat or pitched roof.
- Higher heating costs due to increased surface area
- Less scope for natural light via skylights or electricity generation via solar panels

23. Mr Das stated that there was no evidence that any of the disadvantages described by the appellant would result in a hypothetical landlord accepting a lower rent at the AVD for a property with a 'barrel-vaulted' roof than for an identical property with a more standard roof. He referred to the only evidence submitted in support of an allowance, a distribution warehouse of over 30,000 m^2. He stated that in the case of the Lidl Distribution Centre, there was a large variation in eaves height from 5.4m to 11.4m which would have a bearing on its use for storage and distribution.

24. Having examined the internal photographs of the subject property, the Panel was of the opinion that the varying eaves height presented a similar disadvantage, in that there were restrictions regarding the placement of vehicle lifts – particularly for higher vehicles such as vans. There was also a large amount of storage required for tyres and exhausts and this would be restricted where the vaulted roof was at its lowest points. The Panel was satisfied that the disadvantages described by the Appellant, in addition to that of the restricted ceiling height warranted a 5% reduction for the warehouse space in the subject property (to £76 per m^2).

25. On this basis the assessment was determined at £48,250 rateable value and the appeal was allowed.

Order

26. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list for the subject property to £48,250 RV in accordance with the valuation below, with effect from 1 April 2017.

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

Refund of appeal fee

28. A refund of the paid fee will now be arranged under Regulation 13E of the NDR (Alteration of Lists and Appeals) Regulations 2009. The refund will take around six weeks to process.

Date: 15 April 2024
Appeal number: CHG100915086

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.

Floor	Description	Area (m2 /unit)	£ per m2 /unit	Value (£)
Ground	Workshop	567.78	£76.00	£43,151.28
Ground	Office	52.24	£96.00	£5,015.04
	Total Area	620.02	Subtotal	£48,166.32
Plant and Machinery				£286.00
			Total Value	£48,452.32
			Say RV	£48,250.00