VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; 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.

APPEAL NUMBER: CHG101060195

RE: (Incl R/O Prospect Place) Dagenham Motors, Fleet House, Ripple Road, Barking IG11 9PG
(the "subject property")

BETWEEN:	Ford Retail Limited	Appellant
	and	
	(Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 10 June 2024

BEFORE: Miss KB Riddy, Presiding Senior Member
Mr A Hussain, Senior Member

CLERK: Miss N Shepherd (IRRV Hons)

APPEARANCES: Mr M Clayton, of Altus Group, on behalf of the appellant
Mr S Kelly, on behalf of the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part. The panel determined the rateable value (RV) of the subject hereditament to be £393,000 with effect from 1 April 2017.

Introduction

2. The appeal process began with a challenge made by the appellant's representative on 10 May 2023 in respect of the respondent's rating list entry of the subject property at £432,500 RV

with effect from 1 April 2017. The appellant's representative proposed a revised assessment of £300,000 RV from that date based on a reduced value for main space.

3. The respondent issued a challenge case decision notice on 8 November 2023, which found that the proposal was not well founded, and the current rating list entry was reasonable based on the information and evidence available. The appellant's representative appealed that decision to this Tribunal on 22 August 2023 on the grounds that the valuation for the subject hereditament remained unreasonable and sought a revised RV of £365,000.

5. Mr Clayton 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 stated that he was not 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 his 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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 ("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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Relevant Law

8. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

9. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

10. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

Discussion

11. The panel had regard to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The panel was aware that this was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence. The starting point was the subject rent. Consideration of how the time, subject matter and conditions related to the statutory requirements was required in order to determine how much weight should be attached to the subject rent. The remaining propositions required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

12. The panel noted that a rent review had been provided in respect of the subject property dated 4 May 2017, for £300,000 per annum (pa) following a nil increase review, which analysed to £103.98/m^2. However, both parties agreed that this evidence should be disregarded due to the distance of the date of the rent review from the AVD and also the fact the rental amount took into account work carried out by the tenants. As such, it was not a true reflection of the market rent which the subject property could have achieved at the AVD. Taking this into account the panel therefore attached little weight to this evidence.

13. The panel then addressed the comparable properties submitted by both parties. No rental evidence had been provided but both parties referred to assessments they deemed comparable to support their respective contended tone of main space rate.

14. The Valuation Officer had provided details of five other car showrooms all within the locality of the subject property, all of which also had a main space rate of £160/m^2. Mr Kelly submitted that these properties supported the subject property also having a base rate of £160/m^2, as they were all of a similar specification, being modern showrooms, which had been constructed between 1999 and 2016.

15. Mr Clayton contended the comparability of these assessments, submitting that these were Prime car showrooms and had been valued as such. He referred the panel to the section 6 part 3 - section 205 of the Rating Manual and in particular the phrasing regarding Prime sites as being usually in *“the best locations, e.g. prominent main road sites close to motorway junctions or co-located on motor retail parks”,* and also being “*modern purpose built showrooms built since 2000*” with *“the expected marques are BMW, Audi, Mercedes, Jaguar, Land Rover, Lexus”.* Mr Clayton submitted that the subject property fell into none of these criteria.

16. Mr Clayton submitted that the subject property was not a purpose-built car showroom and should therefore not be valued as such. The panel noted that the subject property had originally been constructed in the 1940’s and had undergone refurbishment in 2006 to modernise it. Mr Kelly contended that it was purpose built as it had been constructed as a car showroom when originally built and although it was mixed age, an allowance of 5% had been applied to the assessment to reflect this disadvantage. The panel had regard to the subject property and considered that it did deem that it was purpose built, however did not consider it to be directly comparable to the properties submitted by the Valuation Officer which had all been originally constructed far more recently.

17. Mr Clayton also referred to the location of the subject property, contending that it was not located in a prominent position, as with the comparable properties submitted by the Valuation Officer, which were all positioned in prime sites highly visible from dual carriageways. Mr Kelly submitted that whilst the subject property was located on an industrial estate this fed directly off the A13 and that it was also in close proximity to Ford Dagenham manufacturers which was well established within the area.

18. Mr Clayton referred the panel to Vickers (Lakeside) Ltd, which he considered to be the property most comparable to the subject property. He submitted like the subject property this was situated on a less prominent road and was of mixed age but had a main space rate of 135/m^2, and therefore this would also be appropriate for the subject property. Mr Kelly contended that minimal weighting should be applied to this assessment, as it was not directly comparable to the subject property being significantly smaller and of a different construction type as well as having less advertising presence and display spaces.

19. The panel had consideration to the evidence and submissions of both parties and found that this did support a reduction in RV at the subject property. Whilst the panel did consider the subject property to be a purpose-built showroom, it found that the comparables submitted by the Valuation Officer to be more modern constructions situated in more prominent locations. However, based upon the evidence provided the panel did not consider the proposed main space rate of £135/m^2 to be appropriate. In view of all the evidence presented the panel determined a main space rate of £145.00/m^2 to be reasonable giving an RV of £393,000 from 1 April 2017.

COMPONENT PARTS OF THE PROPERTY					
Ref	**Floor**	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
1.1	Ground	Showroom/Offices	662.10	152.25	100,805
1.2	Ground	Staff Toilets	N/A	65.25	0
1.3	Ground	Public Toilets	17.50	145.00	2,538
1.4	Ground	Internal Storage	3.00	65.25	196
1.5	Ground	Kitchen	4.50	87.00	391
1.6	Ground	Showers	N/A	0.00	0
1.7	Ground	Equipment Store	18.00	65.25	1,174
1.8	Ground	Electrical Switch Gear	N/A	65.25	0
1.9	First	Office	439.20	114.19	50,152
1.10	First	Staff Toilets	N/A	43.50	0
1.11	First	Kitchen	3.5	87.00	304
1.12	First	Mess/Staff Room	24.10	53.29	1,284
1.13	First	Kitchen	17.30	87.00	1,505
1.14	First	Canteen	28.50	91.35	2,603
1.15	Ground	Service Workshop	642.70	65.25	41,936
1.16	Ground	Parts Reception	40.20	152.25	6,120
1.17	Ground	Parts Store	137.10	65.25	8,946
1.18	Ground	Internal Storage	44.00	65.25	2,871
1.19	Mezzanine	Internal Storage	79.50	36.63	2,594
1.20	First	Internal Storage	25.60	43.50	1,114
1.21	Mezzanine	Plant Room	N/A	0.00	0
1.22	First	Locker Room	17.70	65.25	1,155
1.23	First	Staff Toilets	N/A	43.50	0
1.24	First	Staff Toilets	N/A	43.50	0
1.25	Ground	Mot Testing Area	77.40	65.25	5,050

1.26	Ground	Body Repair Workshop	1322.20	65.25	86,274
1.27	Ground	Cleaning Bay	178.60	65.25	11,654
1.28	Ground	Cleaning Bay Office	12.40	145.00	1,798
1.29	Ground	Plant Room	N/A	65.25	0
1.30	Ground	Body Shop Reception	45.70	152.25	6,958
1.31	First	Body Shop Office	43.20	114.19	4,933
1.32	Ground	Used Car Sales Office	152.90	152.25	23,279
1.33	Ground	Staff Toilets	N/A	65.25	0
1.34	Ground	Kitchen	3.10	87.00	268
1.35	Ground	Internal Storage	2.00	65.25	131
1.36	Ground	Vehicle Display Spaces	91.00	253.75	23,091
1.37	Ground	Vehicle Display Spaces	114.00	116.00	13,224
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION					
		Canopy Over Disabled Parking	45.00	15.00	675
		Hard Surfaced, Fenced Land	840.00	10.00	8,400
		Unsurface Fenced Ex Prospect	400.00	6.00	2,400
				Valuation sub-total	413,82
ADJUSTMENTS MADE TO SUB TOTAL					
		Mixed Ages	-5%	393,132	

Say RV of £393,000

Disposal

20. In view of the above findings and conclusions, the panel allowed the appeal in part.

21. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the subject hereditament's entry in the rating list to £393,000 RV with effect from 1 April 2017. The respondent must comply with this order within two weeks of its making.

22. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date issued to parties: 9 July 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.
