VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating appeal; Car showroom and premises; Proposal seeking a lower £ p/m² and an end allowance; Appeal allowed in part.

APPEAL NUMBER: CHG101060352

RE: 3 Mill Hill, Northwest Industrial Estate, Peterlee SR8 2HR

BETWEEN: Vertu Motors Plc — Appellant

and

The Valuation Officer — Respondent

SITTING: 7 January 2025 (remotely using Microsoft Teams)

BEFORE: Mrs S Patel (Senior Member)
Miss R Punia (Member)

CLERK: Mr A Johnson IRRV (Tech)

APPEARANCES: Miss J Corney of Knight Frank LLP (representing the Appellant)
Miss L Willis (representing the Respondent)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The panel reduced the rateable value (RV) of the subject property to £53,500 with effect from 1 April 2017.

Introduction and background

3. This decision and statement of reasons is not a verbatim record of the proceedings.

4. The subject property was described as a purpose built ‘car showroom and premises’ that had been constructed in 1986. It was located close to the A19 and accessible via an industrial estate. It had a total area of 943m^2.

5. The 2017 RV of the subject property was £72,500 with effect from 1 April 2017, based upon an adopted rate of £100 p/m^2. A Challenge was submitted to the Valuation Officer on the grounds that the RV was unreasonable and should be reduced to £40,000, based upon an adopted rate of either £55 p/m^2 (to include an allowance of 15% for poor access) or £65 p/m^2 (with an allowance of 15% subsequently deducted). Whilst the Valuation Officer had determined that the Challenge was not well-founded, the RV of £72,500 was considered to be unreasonable and the RV was revised to £58,000, based upon an adopted rate of £80 p/m^2 (and no allowance for poor access). An appeal was subsequently submitted to this Tribunal. For the purposes of this decision document, the panel will refer to £65 p/m^2 and consider the allowance separately.

6. The representatives appeared in the dual roles of advocate and expert witness and Miss Corney declared that Knight Fank LLP were representing the Appellant on a contingency fee basis. Mindful of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), 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 Tribunal’s 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). It was therefore appropriate for the panel to consider the ‘expert’ evidence and assess what weight, if any, to give it in the context of the issue before it.

7. Both representatives acknowledged that when presenting evidence as expert witnesses that their duty was to the Tribunal, regardless of whether or not it supported their case.

Discussion

8. This was an appeal against an entry in the 2017 rating list and so 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. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended). The material day in respect of the subject property is 1 April 2017.

9. Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 provides that 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 based upon three assumptions. These assumptions are well known to the parties and so the panel did not consider it necessary to set them out in this decision notice.

10. The starting point for consideration is the actual rent passing on the subject property. The rental information that had been provided took the form of a fifteen year lease which had commenced on 10 May 2021. The rent was £80,000 per annum which included an element of plant and machinery. Whilst the plant and machinery are not rateable, it was

reflected in the rent. Miss Corney submitted that the rent had not increased following rent reviews in 2016 and 2021. The panel gave less weight to the rent given that it had been agreed approximately four years prior to the AVD and included an unquantified amount of plant and machinery. Furthermore, the panel found that it had not been provided with any compelling rental evidence relating to comparable properties close to the AVD.

11. Miss Corney referred the panel to group pre-challenge discussions between the Valuation Officer Agency and the representatives of ratepayers who occupy car showrooms throughout the North. In broad summary, it had been agreed that car showrooms in prime locations such as Silverlink in Newcastle and Preston Farm in Stockton, had been reduced to £137.50 p/m^2. The subject property was located in a secondary location and it was argued that this supported an adopted rate of £65 p/m^2 for the subject property which would be the same as the adopted rate in the 2010 list. Miss Corney also referred the panel to a report from Knight Frank (which she had authored) which, in general terms, detailed the lack of demand at secondary locations and the closure of a significant number of car showrooms. Miss Willis disputed the contents of the report, highlighting a number of car showrooms which had opened or had been refurbished in the North since the commencement of the 2010 rating list. Reference had also been made to the BCA's Used Car Market Report 2014 to support £65 p/m^2 for the subject property and for which Miss Corney provided some commentary. Miss Willis argued that this report related to the fleet and private sales markets and not the franchise market and, as such, its contents and any analysis of it was not of any particular relevance in this appeal. Upon review, the panel concluded that these reports were too general in their nature and that they provide no significant assistance to the task at hand, which was to assess the RV of the subject property in its specific location on the AVD.

12. The panel found that it did not necessarily follow that because car showrooms located in prime locations did not see an increase in the £ p/m^2 from the 2010 to the 2017 list, that car showrooms in secondary locations should also see a nil increase in their 2017 list entries. The panel respectfully rejected this proposition, finding that each entry in a rating list is separate and distinct with its RV being based upon its own evidence on a different AVD and a different material day.

13. Miss Corney had produced evidence relating to numerous car showrooms in support of her proposition. These, amongst others, included Evans Halshaw, Passfield Way, Peterlee SR8 3AG which was now at £90 p/m^2, Seaham Hyundai, Tempest Road, Seaham, SR7 7AX which is now at £70 p/m^2 , Dow Storey Ltd, Station Road, Chester-le-Street, DH3 3DU which is now at £70 p/m^2, Fred Henderson Ltd, Langley Bridge, Langley Moor, Durham DH7 8JZ which is now at £75 p/m^2. The panel noted that these showrooms had experienced increases from their 2010 entries which had not been appealed despite the apparent engagement of professional rating advisors.

14. Miss Willis had produced what, in her opinion, was evidence of rental growth in the secondary located car showroom market. This related to Sherwoods Durham, Alma Place, Durham DH1 2HN. A new letting was agreed in July 2010 at £125,000 per annum with a subsequent review in July 2015 resulting in an increasing to £140,000 per annum. This, she argued, showed that the adopted RV for the subject property of £80 p/m^2 was reasonable. In contrast, Miss Corney referred to the car showroom at Mike Pullman, Newcastle Road, Sunderland SR5 1QE which was the subject of a 2007 lease at £120,000 pe annum, which had reduced to £105,000 per annum at rent review in 2012 and remained at £105,000 per annum at subsequent reviews in 2017 and 2022. The panel

noted that despite the decrease in rent, the 2017 rating list entry had been agreed at £92.50 p/m^2, which was an increase from the £90 p/m^{2}in the 2010 list.

15. In appeals of this nature, the persuasive and legal burden of proof is with the Appellant to show that the adopted RV is unreasonable. Upon reviewing the significant amount of evidence from the parties, the panel concluded that it had not been provided with compelling evidence from the Appellant to show that the adopted rate of £80 p/m^2 was unreasonable. In view of this, the panel dismissed this limb of the appeal.

16. Turning to the matter of an allowance for poor access, Miss Corney argued that 15% was justified. In support of this, Miss Corney had referred the panel to car showrooms as far afield as Bradford, Worcester, Sheffield, Macclesfield, Rochdale, Blackpool, Peterborough, Boston and Gloucester. The panel was aware that allowances are made to reflect poor access but it did not necessarily follow that because allowances had been made for the sites referred to by Miss Corney, that an allowance should be made for the subject property. In short, any allowance must stand upon its own merits and cannot merely be granted because similar allowances have been made elsewhere. The panel acknowledged that an important factor for a car showroom is its visibility, prominence and ease of access. In this regard, the panel acknowledged that the subject property was significantly masked by a line of tress which significantly reduced visibility from the A19. The panel also acknowledged that access to the subject property was not ideal. On balance, the panel found that the combination of reduced visibility from the A19 combined with poor accessibility justified an allowance of 7.5.%

Disposal

17. In view of the foregoing, the panel is satisfied that the RV of the subject property should be altered to £53,500 (when rounded down) with effect from 1 April 2017 to reflect the aforementioned allowance of 7.5%.

18. In accordance with regulations 38(4) and 38(9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the Valuation Tribunal for England orders the Valuation Officer to alter the rating list within two weeks of the date of this order to show the entry for the subject property at £53,500 with effect from 1 April 2017.

Refund of appeal fee

19. The appellant is entitled to a refund of the appeal fee in accordance with regulation 13E of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. This will be refunded as soon as possible.

Date issued to parties: 11 February 2025

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.