VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; car showroom and premises; tone of value of main space; location and prominence; appeal allowed in part.

APPEAL NUMBER: CHG101062824

RE: Barons Autostar Garages Ltd, Club Way, Cygnet Park, Hampton, Peterborough PE7 8JA ("the subject hereditament")

BETWEEN: Group1 Automotive Ltd — Appellant

and

Jo Moore (Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 14 August 2024

BEFORE: Mr A Hussain (Presiding Senior Member)
Mr W Read (Senior Member)

CLERK: Mr S Fletcher

APPEARANCES: Ms J Corney of Knight Frank (Appellant's representative)
Ms K Cockhill (Respondent's representative)

DECISION and STATEMENT OF REASONS

Decision

1. The appeal was allowed in part. The panel determined the rateable value (RV) of the subject hereditament to be £198,000 with effect from 1 April 2017.

Introduction

2. The appeal process began with a proposal made by the appellant's representative on 17 May 2023 in in respect of the Valuation Officer's (VO) compiled list entry of the subject hereditament at £248,000 RV with effect from 1 April 2017. The appellant's representative

proposed a revised list entry of £188,000, based on a reduced tone of value for main space to £150 per m^2.

3. The respondent issued a challenge case decision notice on 30 August 2023 which stated that, based on the evidence available, the existing rating list entry was unreasonable, and determined a revised entry of £221,000 with effect from 1 April 2017. The revised RV accounted for a revised tone of value for main space from £200 per m^2 to £175 per m^2. The appellant's representative appealed that decision to this Tribunal on 21 December 2023 on the grounds that the valuation for the subject hereditament remained unreasonable.

4. The subject hereditament was a purpose-built double-height car showroom and premises of steel-frame construction with a glazed showroom frontage. It was located on Club Way in Cygnet Park, described as a mixed-use industrial estate to the south of Peterborough. The appellant was the leaseholder of the property.

5. Ms Corney appeared on behalf of the appellant as both advocate and expert witness. She stated that neither she nor Knight Frank were instructed under a conditional fee arrangement.

6. As part of their induction training, two new members of the tribunal were observing proceedings. It was explained to the parties that it was the panel's intention to invite their colleagues to accompany it to the retiring room. The parties were assured that the new members would not participate in the decision-making exercise but would simply observe as part of their training. Neither party raised any issues or objections to this.

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

Preliminary issue

8. Prior to the hearing, Ms Cockhill raised an objection to the inclusion of three comparable assessments referred to by Ms Corney, which were not included in the appeal documentation provided to the Tribunal and respondent at appeal stage. Ms Corney stated that she had been transparent through the process, and she was of the position that Ms Cockhill was aware of the assessments and discussions had been undertaken regarding them. Ms Cockhill stated that she did not think the comparable assessments in questions negatively impacted her case and she would accept the comparable assessments as evidence to avoid the hearing being adjourned. The panel briefly retired to apply the three-stage test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926, to assist its determination whether to allow the comparables into evidence.

9. In this case, the panel found that the breach was serious and significant. The directions issued are formal orders and must be complied with, the comparable assessments had not been included in the appeal documentation. The panel considered the circumstances as a whole and determined it would admit the comparable assessments into evidence in this instance. Ms Cockhill was aware of the comparable assessments and had reasonable time to review them. Given she stated she was happy to proceed with the hearing should they be admitted, and whilst that statement was not determinative, coupled with the panel finding no evidence of prejudice, the panel determined it was in the interests of justice to proceed to hear the appeal.

Issue

10. The panel was required to determine the correct RV 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. All relativities were agreed between the parties.

Evidence and submissions

11. 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, location plans and photographs of, the subject hereditament and properties deemed comparable to it by the parties.

Discussion

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. The subject hereditament was let on a lease at £230,000 per annum with effect from 25 December 2017. Ms Corney had advised that it was an intercompany rent and not open market. As such, the parties attached little weight to it and the panel found the same.

16. Ms Corney explained that car showrooms have two main drivers of value, the quality of the showroom itself and its location. She stated this was demonstrated by the value the VO attributed to certain areas of the premises with the highest amount of visibility, for example, car spaces to the front of the showroom attract 175% of the showroom value whereas rear spaces only 80%. She argued that the differential in percentages demonstrated the importance of visibility at a car showroom. Furthermore, she stated that the Valuation Office Agency's (VOA) manual stated that the most valuable car showrooms and premises were located on prominent, highly visible sites with good access. She described the prime locations as retail clusters. She stated that car showrooms often conglomerated in retail hubs, with high levels of passing traffic. She stated that the next most desirable locations were smaller clusters of showrooms, usually on busy main roads, also with high levels of passing traffic. She argued that the least desirable locations were showrooms which were isolated and could usually be found on industrial estates with little passing traffic. She

contended that whilst the subject hereditament was high specification in terms of quality, it was located in the latter and its tone of value should be reflected as such.

17. Ms Corney stated that the subject hereditament was located on Cygnet Park, an industrial estate to the south of Peterborough and the A1149. She stated that the premises was not located on a main access road, but on a roundabout inside the estate with access from the rear of the site, which the VO had given a 5% allowance for. Ms Corney provided several photographs of the area to demonstrate which she contended was poor or no visibility of the subject hereditament from areas of the site or any main road.

18. Ms Corney contended that Cygnet Way was a stark contrast to what she believed to be the prime locations for car showrooms and premises in Peterborough, which she stated were Boongate and Newark Road/Story Bar Road. Ms Corney stated that this area was adjacent to two car supermarkets, Carstore and Big Motoring World, and Boongate Retail Park. Car showrooms occupied by Suzuki, Jaguar Land Rover and Volvo, Toyota, Peugeot, Vauxhall and Honda, Skoda, Seat, Mitsubishi, VW & Citreon and Kia were all present at this location. Ms Corney stated that this location was prime due to the number of car dealerships in the immediate vicinity and the significant retail presence, which would attract a larger number of customers. She stated that the tone of value for main space at the showrooms of prime, typical and basic quality were £200 per m^2, £150m^2 per m^2 and £125 per m^2 respectively. Jaguar Land Rover and Volvo was considered a prime quality double heighted showroom, with a prestigious showroom fit out and suspended ceilings. Skoda and Honda were considered to be of typical quality fitouts. Seat was considered to be of basic quality, it was described as an older showroom with low showroom height.

19. Mr Corney referred to two comparable assessments which she described were located in a less desirable location than a cluster, yet they were on a main access road to the north of Peterborough. 1 and 2 Papyrus Road were occupied by BMW and Audi respectively. Ms Corney described the showrooms as double height with prime fitouts and suspended ceilings. The VO had reduced the tone of main value at these properties from £200 per m^2 to £175 per m^2. Ms Corney stated that the rental evidence at 2 Papyrus Road supported those valuations. She argued that the VO was wrong to value the main space at the subject hereditament the same as those two assessments given it was in an inferior location.

20. Ms Corney referred to three comparable assessments at Sturrock Way, Peterborough. She stated they were in a similar location to Papyrus Road as they too were also on a main road being the A47, and also benefited from close proximity to retail parks. Nissan, Renault and Hyundai were valued at a tone for main space of £150 per m^2. Ms Corney described those as properties as of typical quality, and stated the subject hereditament was superior. However, she argued they were in a more desirable location than the subject, and therefore supported the same of tone of value when offsetting quality and location. She referred to Ford, Oxney Road, which she described as a good quality double height showroom on an industrial estate with minimal passing traffic. She stated it was older than the subject hereditament, but its location was isolated in a similar manner.

21. Ms Corney referred to comparable assessments which she had agreed reductions with the VO for car showrooms with limited visibility. A circa 8% reduction to the tone of value for main space was agreed at Hereford Audi, Legion Way, Hereford, described by Ms Corney as a prime quality double heighted car showroom. The hereditament was located behind the main road and other showrooms, and a reduced assessment was agreed to reflect the limited visibility when compared to the car showrooms with main road frontage. A 10% end allowance was agreed at Volkswagen House, Ashworth Road, Blackpool. The hereditament

was also double heighted but located below road level. The allowance was given as vehicle display spaces had limited visibility. The VO had reduced the tone of value for main space from £125 per m^2 to £85 per m^2 at Hutchinson Honda (Suzuki Dealership), Forty Acre Road, Peterborough. Ms Corney stated that this hereditament was not of the same quality as the subject hereditament, but an agreement was reached as a tree line impeded its visibility. The VO agreed to reduce the tone of value from £150 per m^2 to £100 per m^2 at Mercedes Showroom, Northern Way, Bury St Edmonds, as whilst it was considered a prime quality showroom, it was located in a poor industrial estate location. Ms Corney also referred to Audi Unit D, Maidenflower Business Park, Crawley. A Valuation Tribunal determined the hereditament warranted a 20% reduction it its tone of value for main space as it was isolated from the main car alley which comprised other dealerships. A Valuation Tribunal had given a 10% and 5% end allowance at Lookers, and Benfield Vans, Auchinleck Drive, Carlisle, respectively for a lack of visibility and prominence.

22. Ms Corney contended that given the locality of the subject hereditament and allowances given to similar hereditaments which were affected by visibility and prominence, a reduction to the tone of value for the main space to £150 per m^2 was reasonable.

23. Ms Cockhill contended that the subject hereditament was located on a mixed-use industrial and retail area, and this was demonstrated by the close proximity of a Dobbies Garden Centre and a Tesco Express to the subject hereditament, which was accessed via an A road. The VO agreed that the subject hereditament did not bear a direct comparison with prime car showrooms in terms of location. However, Ms Cockhill argued that Ms Corney had overstated how isolated the subject hereditament was, and she considered that whilst not being visible from a main road, it still cast an imposing figure from an aesthetic perspective for those passing through the area or visiting the retail stores in the vicinity.

24. Ms Cockhill stated that the comparable assessments at 1 and 2 Papyrus Road had their tone of main space value reduced to £175 per m^2 based on the fact they were not in a cluster and based on rental evidence of 2 Papyrus Road provided at challenge. The VO agreed that the subject hereditament had less visibility and prominence than those two comparable assessments. However, it was also considered that the subject hereditament was located to the fore of Cygnet Park which contained a mixture of industrial units, offices and retailers which would still generate significant traffic, interest and passing trade. Ms Cockhill contended that any differences between Cygnet Park and Papyrus Road were minor.

25. Ms Cockhill addressed some of the comparable assessments referred to by Ms Corney. She stated that Ford, Oxney Road, which was valued at a tone for main space at £125 per m^2, was an older generation of showroom located in a remote location on the edge of the city. She stated that the properties with a tone of value for main space of £150 per m^2 at Boongate were also much older than the subject hereditament and therefore not comparable. She referred to the Valuation Tribunal decision of Lookers, and Benfield Vans, Auchinleck Drive and stated that decision was made relying on evidence of comparable assessments which were located up a winding hill, and therefore not comparable to the circumstances in the subject appeal.

26. Ms Cockhill stated that she acknowledged that subject hereditament was not in a prime cluster which was a significant driver of value, however, she contended there was significant retail movement within Cygnet Park, similar to that on Papyrus Road. She argued that the assessments with a tone of value for main space of £150 per m^2 at Sturrock Way were of a significantly lesser quality than the subject hereditament. As such, she considered a tone of

value of main space of £175 per m^2 was fair and reasonable at the subject hereditament.

27. It was clear to the panel that the subject hereditament was in an inferior location to similar hereditaments in terms of quality to those situated at Boongate and Newark Road/Story Bar Road. The latter locations were prime areas for retail trade, evidenced by the cluster of occupiers of numerous car showrooms vying for custom within the same vicinity.

28. The panel attached significant weight to the comparable assessments at 1 and 2 Papyrus Road. Both parties agreed that rental evidence supported a tone of value for main space at those properties of £175 per m^2. The panel found that the subject hereditament was similar to them as they were all modern glazed double height showrooms with prime fitouts. The panel considered there was also disparity between the location of the subject hereditament and the location of the properties on Papyrus Road which it determined would warrant a comparably reduced tone of value at the subject hereditament. 1 and 2 Papyrus Road were located on a roundabout of the A47 with their main frontage visible from the main road. The VO also stated that the subject hereditament had less prominence and visibility than 1 and 2 Papyrus Road in its decision notice. The subject hereditament was not located or visible from a main road and had poor access which the VO had already given an allowance for the latter. Whilst the agreements referred to by the Ms Corney where allowances had been conceded were in different localities to the subject hereditament and may have been influenced by factors unique to them, the panel found a recurrent concept between them. That was that prominence and visibility was a driver for value, and allowances or reductions to tone were given, some significant, in the cases where they were negatively impacted

29. The panel considered the comparable assessments at Sturrock Way with a tone of value for main space of £150 per m^2. It was clear to the panel that the subject hereditament was far superior in terms of quality than Nissan, Renault and Hyundai, and Ms Corney has described them as such. Whilst Sturrock Way benefitted from being located in the proximity of two retail parks, the panel did not find it was in a significantly superior location to Cygnet Park. Cygnet Park also had retail use which the panel considered would draw customers and henceforth reasonable footfall to the area. The subject hereditament would be clearly visible to visitors of Cygnet Park from within it.

30. Having regard to the evidence, the panel was persuaded that the location of the subject hereditament, when compared to Papyrus Way, warranted a comparable reduction. However, the panel was not satisfied that the Ms Corney had successfully demonstrated that the tone of value of main space at the subject hereditament should be reduced to £150 per m^2. Given the subject hereditament's superior quality to the hereditaments with a tone of value of £150 per m^2 at Sturrock Way, and its inferior location to similar quality hereditaments with a tone of value of £175 per m^2 at Papyrus Way, the panel determined a tone of value for main space at the subject hereditament of £160 per m^2 was fair and reasonable in this instance.

31. The panel also noted there was also a disparity between the parties' valuations as the respondent had included plant and machinery as an additional feature of the property. This was not challenged by Ms Corney therefore the panel determined it would include it in its revised assessment.

32. The revised assessment for the subject hereditament's compiled 2017 rating list entry with effect from 1 April 2017 as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY

Floor	Description	Area m²/unit	£ per m²/unit	Value (£)
Ground	Showroom	551.7	168.00	92,686
Ground	Reception/Entrance	5.48	160.00	877
Ground	Office	9.33	160.00	1,493
Ground	Office	17.48	160.00	2,797
Ground	Workshop	36.74	72.00	2,645
Ground	Internal Storage	79.38	72.00	5,715
Ground	Internal Storage	13.37	72.00	963
Ground	Workshop	519.77	72.00	37,423
Ground	Staff Toilet	0	0	0
First	Office	31.29	100.80	3,154
First	Plant Room	22.32	48.00	1,071
First	Office	14.57	100.80	1,469
First	Internal Storage	16.25	48.00	780
First	Internal Storage	5.5	48.00	264
First	Office	56.06	100.80	5,651
First	Staff Toilets	0	0	0
First	Locker Room	7.92	72.00	0
First	Canteen	24.44	96.00	2,346
First	Internal Storage	0	0	0
First	Kitchen	7	90.00	630
First	Office	16.24	100.80	1,637
Ground	Workshop	83.46	72.00	6,009
Ground	Workshop	50.94	72.00	3,668
Ground	Workshop	50.43	72.00	3,631
Ground	Store	22.23	72.00	1,601
Total		**1,641.90**		**176,510**
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION				
	Vehicle Display Spaces	17	400.00	6,800
	Vehicle Display Spaces	20	300.00	6,000
	Plant and Machinery			835
	Surfaced Open Spaces	190	100.00	19,000
			Sub-total	**209,145**
ADJUSTMENTS MADE TO THE SUB TOTAL				
	Access		- 0.05%	
				-10,457
			Valuation sub-total	**198,688**
			Say RV	**198,000**

33. The panel therefore allowed this appeal in part as it considered the respondent's valuation of the subject hereditament was unreasonable, but not to the extent as sought by Ms Corney.

Disposal

34. In view of the foregoing, the appeal was allowed in part.

35. 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 £198,000 with effect from 1 April 2017. The respondent must comply with this order within two weeks of its making.

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

Date: 23 August 2024

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.
