VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; car showroom and premises; appeal dismissed.

APPEAL NUMBER:	CHG101086004
RE:	Lookers Newcastle Renault, Newcastle Upon Tyne NE6 5XA (the "appeal property")

BETWEEN:	Lookers	Appellant
	and	
	Amanda Hitchings BA (Hons) MRICS (Valuation Officer)	Respondent

SITTING:	*Remotely using Microsoft Teams*
ON:	29 January 2025 14:15
BEFORE:	Mrs M Chaggar, Presiding Senior Member Mrs AE Fielder, Senior Member
CLERK:	Mr R Gath IRRV(Hons)
APPEARANCES:	Ms Joanne Corney from Knight Frank, (Appellant's representative) Mr P Loxley (Valuation Officer's representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal panel was not persuaded that the rateable value was unreasonable.

Introduction

3. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 11 July 2023. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was

served on the appellant on 3 May 2024 and Knight Frank then appealed the VO's decision to this Tribunal on 30 August 2024, on the grounds that the current valuation for the hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

4. The appeal property was a car showroom which included a showroom, offices, workshops and vehicle display spaces.

5. As Ms Corney 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 obligations to the tribunal. This question was raised in view of the Upper Tribunal's judgment in Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC).

6. Ms Corney declared that she was instructed under a fixed fee arrangement. Ms Corney confirmed that she understood and accepted that his duty was to the Tribunal in giving her evidence and she would comply with this, as well as the requirements of her professional body regardless of whether or not the evidence supported the client's case.

7. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).

8. Mr Loxley confirmed that he was representing the VO as advocate and expert witness.

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

Background

10. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Ms Corney had sought a reduced entry of £83,500 RV based on a main space price of £85 per m². On behalf of the respondent, Mr Loxley defended the VO's existing assessment of £88,500 based on a tone of value of £90 per m².

11. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' skeleton arguments, location maps and a photograph of the appeal property.

Relevant Law

12. The term 'rateable value' is defined in 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; and

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".

Discussion

13. Ms Corney had explained in great detail why she did not consider the appeal property to be comparable to the primary showrooms (type 1) within the locality and that was because it was not within a cluster of car showrooms. She also argued that the appeal property did not benefit from passing trade which most of the VO's comparable properties did.

14. Ms Corney argued that there was not as much profit in the selling of new cars as there had been previously and that there was little demand for car showrooms as a number of them had been empty or converted to other uses. However, the panel applied little weight to these arguments noting the VO's contention that the appeal property was occupied by the Benfield Motor Group which had been purchased by Lookers PLC for £87.5m. Mr Loxley contended that Lookers had made significant investments in car showrooms by buying up smaller dealerships.

15. However, irrespective of the arguments over the profits made by dealers over the sale of new cars, the buying up of smaller dealerships and issues such as pre-registered cars etc, the panel did not consider these arguments to be relevant to this appeal as the appeal property has to be valued as vacant and to let, having regard to its mode or category of use as at the material date. It was the value of that use to the occupier that had to be determined.

16. Whilst the panel applied some weight to Ms Corney's argument that the appeal property did not benefit from passing trade, the panel applied significant weight to Mr Loxley's argument that the appeal property had been established for 34 years, and it was located 75 meters from the A1028 which was one of the main roads to the north. The panel was also aware that being a car showroom it was less reliant on passing trade as some customers would go there as a destination if they wanted to buy a new car or if they were having work undertaken on one. The location map also showed that the appeal property was located close to a large built up area.

17. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141.

18. In terms of rental evidence, there was no passing rent on the appeal property as it was owned by the appellant company.

19. The only rental evidence provided to the panel, which it applied significant weight to, was the Pulman VW, Sunderland. It was a first generation showroom. Ms Corney's evidence bundle

stated that it was similar quality to the appeal property. It appeared to be located on a very similar A-road, not within a cluster site and located within a large urban area. Whilst it was located 12 miles away from the appeal property, given that it was the only rented car showroom, the panel concluded that it was close enough to the appeal property, in terms of location, quality and size. It applied significant weight to this property as it was valued in the 2010 rating list at £90 per m^2 and had been agreed at £92.5 per m^2 for the 2017 rating list. The RV was £103,000 including a 7.5% end allowance for access. The VO analysed the rent to £93.85 per m^2 which the panel considered supported the value of £90 per m² for the appeal property and the resultant RV of £88,500.

20. Turning to Ms Corney's tonal evidence, she listed a number of properties which were a mix of modern prime showrooms and older first generation showrooms, however, the panel could not attach any significant weight to the modern prime showrooms because the appeal property was a first generation showroom. The first generation show rooms were valued at between £115 per m^2 to £140 per m^2, with RV's of between £102,000 to £207,000. There was also another first generation showroom, Pulman Seat which had been valued at £60 per m^2. However, the panel applied less weight to that property as it was not comparable to the appeal property as it had no main road frontage and was on a split level site.

21. Given this tonal evidence, the panel concluded that these also supported the appeal property being valued at £90 per m² as it was valued significantly less than her tonal evidence and reflected the disadvantages such as not being in a cluster or benefitting from passing trade as much as others that he been presented by Ms Corney.

Disposal

22. In view of the above findings and conclusions, the Tribunal panel was satisfied that the RV was reasonable as the appeal property was valued in line with other broadly similar units in the locality. The panel dismissed the appeal.

Date issued to parties: 25 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.
