VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating appeal; Offices and Premises; Proposal seeking a lower £ per m^2 and an end allowance; Appeal allowed in part.

APPEAL NUMBER:	CHG101095376
RE:	Unit 7, Horton Industrial Park, Horton Road, Uxbridge UB7 8JD
BETWEEN:	Tesla Motors Limited — Appellant
	and
	The Valuation Officer — Respondent
SITTING:	22 November 2024 (remotely using Microsoft Teams)
BEFORE:	Ms J Hadley (Presiding Senior Member) Mr J Thomas (Senior Member)
CLERK:	Mr A Johnson
APPEARANCES:	Mr M Hawkins of Colliers International (representing the Appellant) Mr K Chamba (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 £219,000 with effect from 20 June 2017.

Introduction and background

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

4. The subject property is one of seven units in the Horton Industrial Park and described as a ‘warehouse and premises’. It is a 1990’s brick and portal frame construction with a total significant area of 2,345m^2. It was used as ancillary overflow storage and staff parking in respect of the main site close by.

5. The 2017 rateable value of the subject property was £243,000 with effect from 20 June 2017. A Challenge was submitted to the Valuation Officer on the grounds that its RV was unreasonable and should be reduced to £181,000 upon the basis of an adopted rate of £72.50 per m^2 and a reduction from 67 to 35 car parking spaces at a rate of £235 per space. The Valuation Officer subsequently reduced the RV to £231,000 based upon an adopted rate of £90 per m^2 and 67 car parking spaces.

6. The Appellant subsequently appealed to this Tribunal on the basis of an adopted rate of £72.50 per m^2, having agreed that 67 car parking spaces existed. This, if successful, would result in a revised RV of £189,000

7. The representatives appeared in the dual roles of advocate and expert witness. Mr Hawkins declared that Colliers International 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.

8. 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

9. 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.

10. 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.

11. The starting point for consideration is the actual rent passing on the subject property. The rent was based upon a new lease which was effective from 20 June 2017 for a term of five years at £293,250 per annum. Mr Hawkins argued that because the subject property was used as ancillary space, the rent agreed was not reliable as a truly open market rent because the landlord would have been aware of the Appellant's need for additional space close to its main site. Instead, this was something of a special purchase lease agreement. During questioning, Mr Chamba accepted that it was not an arm's length letting due to the Appellant being an existing occupier of the site but it nevertheless showed what it was willing to pay.

Given the nature of the lease and the fact it was agreed more than two years after the AVD, the panel decided to give it less weight.

12. Mr Hawkins argued that the adopted rate in respect of the property at 520 Stone Close supported his proposition that the adopted rate for the subject property should be £72.50 per m^2. This, he said, was comparable in terms of its size. Mr Hawkins highlighted similarities between Horton Industrial Park and that Unit 2 Zodiac Business Park was valued the same at £90 per m^2 before being reduced to £82.50 per m^2, making them directly comparable. Furthermore, Units 5 & 6 Zodiac Business Park had been reduced from £90 per m^2 to £85 per m^2, Unit 7 Zodiac Business Park had been reduced from £110 per m^2 to £100 per m^2 and Unit 5 Horton Yard had been reduced from £100 per m^2 to £94 per m^2.

13. In broad summary, Mr Harkins argued that the basket of evidence supported no more than £82.50 per m^2 for the subject property but, due to the close proximity and comparability of 520 Stone Close, the adopted rate for the subject property should be the same at £72.50 per m^2.

14. Mr Chamba argued that the Appellant's main comparable (520 Stone Close) had been valued using an incorrect matrix and was under review. However, the panel noted that, at the time of the remote hearing, its adopted rate had not been altered and the list was closed. Mr Chamba also argued that the settlements in respect of the units at Zodiac Business Park should not carry any significant weight because they were over one mile away from Horton Industrial Park and because the units on Horton Industrial Park themselves were valued on their own matrix with the adjusted rate ranging from £91 per m^2 to £110 per m^2.

15. The panel found that it was unable to conclude that the basket of evidence relating to the other Horton units supported an adopted rate of £90 per m^2 for the subject property. Units 1 and 2 were given less weight given that they were, as car showrooms, in a different mode and category of occupation, and units 3 and 4 were smaller. Unit 5 was also smaller and had been reduced from £100 per m^2 to £94 per m^2 and this was found to support a lower adopted rate for the subject property. The Zodiac units were, despite being slightly more modern, found to be in relatively close proximity and similar in appearance. Unit 2 was 3,133m^2 in size and had been reduced to £85 per m^2 whilst Units 5&6 were 2,846.62m^2 in size and had been reduced to £82.50m^2 and Unit 7, at 653m^2 had been reduced to £100 per m^2. Additionally, 520 Stone Close, at £72.50 per m^2, was found to support a lower rate for the subject property. The panel was entitled to accept it as being correct as to do anything else would risk impugning the valuation list. However, it was at the lower end of the range in the basket of evidence.

16. The panel found that, after considering all the evidence before it, that an adopted rate of £85 per m^2 was reasonable for the subject property.

Disposal

17. In view of the foregoing findings and conclusions, the panel is satisfied that the RV of the subject property should be reduced to £219,000 with effect from 20 June 2017 (as set out below).

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 £219,000 with effect from 20 June 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: 18 December 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.

	Area m/2	**£ per m^2**	**Value (£)**
Ground floor warehouse	1662.81	85.00	141,339
Ground floor warehouse	248.22	85.00	21,099
Ground floor reception / entrance	41.35	102.00	4,218
First floor office	282.36	102.00	28,801
Ground floor staff toilets	59.83	85.00	5,086
First floor staff toilets	50.76	55.25	2,804
	2,345.33		**203,347**
Car parking spaces	67	235	15,745
			219,092
		RV SAY:	**219,000**