VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeals; 2017 rating list; advertising right and premises; digital display; whether value should be enhanced to reflect digital advertising; appeals allowed in part.

APPEAL NUMBERS:	CHG101096042 & Ors
RE:	Various Advertising Sites at Bus Shelters in Rotherham, Sheffield and Barnsley (see schedule appended to this decision for full list of appeal numbers and the "subject hereditaments")

BETWEEN:	Alight Bus Shelter Media Limited	Appellant
	and	
	Amanda Hitchings (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	31 October 2024
BEFORE:	Mr S Ullah (Presiding Senior Member) Mr C Taylor (Senior Member)
CLERK:	Mr S Fletcher
APPEARANCES:	Mr R Wackett of Montagu Evans (Appellant's representative) Mr J Griffin (Respondent's representative)

DECISION and STATEMENT OF REASONS

Decision

1. The appeals were allowed in part and the valuations for advertising rights and premises displayed digitally was determined as a multiplier of three for each of the applicable base rates as stated in the Valuation Office Agency's (VOA) Scheme for static bus shelter roadside displays.

Introduction

2. The appeal process began with proposals made by the appellant's representative, on behalf of its client on the basis that the rateable values (RV) shown in the list for the subject hereditaments were inaccurate. The appellant's representative proposed revised list entries based on a reduced tone of value for six sheet digital advertising displays.

3. The Valuation Officer (VO) issued challenge case decision notices between 23 and 29 February 2024 which stated that the proposals were not well-founded and there should be no alterations to the list. The appellant appealed those decisions to the Valuation Tribunal for England (VTE) between 21 and 25 June 2024 on the grounds that the valuations remained unreasonable.

4. The subject hereditaments were advertising rights and premises which comprised digital displays of six-sheets housed at various bus shelters in Rotherham, Sheffield and Barnsley.

5. The grounds of all twenty-one appeals were that the RV's of the subject hereditaments had been incorrectly determined by applying an uplift of six to the base rates as stated in the VOA's Scheme for static bus shelter roadside displays. It was contended that any valuation for the digital aspect should be disregarded, and the base rates for static advertising rights remain applicable.

6. The material dates were the same as the respective effective dates of each subject hereditaments' entry into the 2017 rating list. The antecedent valuation date (AVD) was 1 April 2015. Should the appeals succeed, the effective dates of any list alterations were the same as the effective dates of the current list entries.

7. Mr Wackett appeared on behalf of the appellant as both advocate and expert witness. He stated that neither he nor Montagu Evans were instructed under a conditional fee arrangement.

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

Issue

9. The panel was required to determine the correct RVs to be attributed to the subject hereditaments in the 2017 rating list. The issue in dispute concerned the tone of value for the six sheet digital advertising displays.

Evidence and submissions

10. 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 processes, the appellant's representative's challenge submissions, the respondent's challenge decision notices, a copy of the VOA's Scheme for static bus shelter roadside displays, an agreement between the appellant and South Yorkshire Mayoral Combined Authority (SYMCA) and various pieces of correspondence between the parties. The VTE decisions of *J C Decaux UK Ltd ME v Valuation Officer* [VTE:135528967647/537N10, 4 September 2018] and *Alight Bus Shelter Media Limited v Valuation Officer* [VTE: CHG100893554, 17 June 2024] were also provided.

Relevant law

11. The term 'rateable value' is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (the "1988 Act") (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;

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.

12. Section 64(2) of the 1988 Act confirms that an advertising right is rateable:

(2) In addition, a right is a hereditament if it is a right to use any land for the purpose of exhibiting advertisements and –

(a) the right is let out or reserved to any person other than the occupier of the land, or
(b) where the land is not occupied for any other purpose, the right is let out or reserved to any person other than the owner of the land.

13. Section 64(11) further clarifies the definition of "land" in respect of advertising rights:

(11) In subsection (2) above "land" includes a wall or other part of a building and a sign, hoarding, frame, post or other structure erected or to be erected on land.

Discussion

14. Mr Wackett contended that the subject hereditaments were advertising rights valued under Section 64(2) and (11) of the 1988 Act and the digital mechanism at each site was not rateable. Accordingly, it was argued that the VOA scheme for static bus shelter roadside displays should be adopted when determining the correct RVs. He stated that the sites were currently held under a ten-year contract with effect from 18 February 2021 for a figure of £1,034,000 for a potential of 4,500 sites which comprised 842 screens. Those sites were not just for bus shelters but also for freestanding opportunities. He had determined each site payment allocation for the subject hereditaments to be £1,035 per annum.

15. The VO had determined an uplift of six was applicable to the base rate for static displays to reflect the digital mechanism or screen at each site, and Mr Wackett contended that he disagreed with that method of valuation as there was no evidence to support it. He argued that the absence of any reference to digital screens, or digitalisation in section 64 (11) which

defined “land” for the purpose of advertising demonstrated that it is the right and structure required to be valued, not any digital aspect. He stated that the digital mechanism was controlled remotely and argued it was the choice of the hypothetical tenant as to whether he chose to use the digital display, therefore the screen did not comprise part of the land. Mr Wackett criticised the uplift of six arguing that it relied on an assumption that that six displays would rotate per minute, which he accepted was true, but argued it resulted in each advertisement being displayed for a sixth of the fully allotted screen time. Mr Wackett further contended that if there was such a correlation between digitalised advertising rights and higher rents, contractors would convert all static sites to digital. He argued that was not the case nor economic to do so as only 20% of such sites were currently digital.

16. Mr Wackett argued that the VTE had accepted in both *J C Decaux UK Ltd ME v Valuation Officer* and *Alight Bus Shelter Media Limited v Valuation Officer* that digital machinery should not be considered when valuing advertising rights which comprised a digital aspect. As such, he contended that the sites should be valued in common with ‘paste and paper’ sites of the same size and location. He stated that the subject sites carried no additional locational advantages compared to any other sites on the same bus route, and the advertising contractor had decided to install a certain number of digital sites as a matter of portfolio mix and balance. A copy of the VOA’s Scheme for static bus shelter roadside displays was provided which demonstrated that, relevant to these appeals, the values adopted per each six-sheet display which were located in major towns were £425 for the town centres, £300 for the main roads and £185 for other areas.

17. The VO contended that it was correct that the digital display format fell to be valued, and its impact must be reflected in the valuation of the exhibition of advertisements. It was argued that the presence of a digital sign in any rateable exhibition of advertisements increases the value of the whole advertising hereditament significantly, and a further separate addition should be made for the digital or electronic sign as ”land”, where section 64(11) of the 1988 Act applies. The VO considered that a six times multiplier was appropriate for digital sites for the 2017 list.

18. Mr Griffin contended that the agreement between the appellant and SYMCA pertaining to the subject hereditaments was demonstrable evidence that an uplift for the digitalised advertising sites was warranted. He stated that the VO had adopted an uplift of six times the base rate for static advertisements at bus shelters for those with digital displays when they first came into existence on the market. Mr Griffin explained an analysis he had undertaken of the rent to arrive at a figure he believed supported the current RVs of the subject hereditaments. This involved using rents for historic static paper advertising panels and deducting an amount for them from the total amount payable for the subject hereditaments to leave a figure which would pertain to the rent payable for the digital sites. Relativities were applied and the rents had then been adjusted downwards to the AVD, which Mr Griffin stated a comparative differential of between 3 and 9 times was demonstrated between static and digital sites. As such, Mr Griffin contended that an uplift of six was reasonable.

19. 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 as held in *Lotus and Delta v Culverwell (VO)* [1976] RA 141. The panel attached little weight to the rental evidence at the subject hereditaments as it considered that the rental agreement, being dated 18 February 2021, was too remote from the AVD to be of any assistance. Mr Wackett had provided a figure for each site which appeared to have been derived by including potential sites as part of the calculation and henceforth the panel did not find it to be accurate. Mr Griffin had used historic rents for paper-based sites to determine an amount

payable for digital sites at the subject hereditaments and applied relativities and a downward adjustment to the AVD in support of the uplift applied by the VO for the digital sites. The panel did not find that method to be accurate in ascertaining rental values at the AVD as it comprised multiple different factors, one of which was historic data for static sites with no tangible evidence provided before it and therefore considered spurious, and there was a downward adjustment to the AVD over a significant period which was therefore an unreliable indicator of value at that time. No rental evidence for comparable properties or any comparable assessments were provided for the panel to consider.

20. The quandary for the panel was whether the subject hereditaments should be valued in accordance with a scheme for static bus shelter roadside displays, or, if any and if so what, uplift should be applied to reflect their digital nature. Applying the formulation in the Lands Tribunal judgment of *Fir Mill, Ltd v Royton U.D.C* (1960) 7 RRC 171 that “a shop [must be assessed] as a shop, but not as any particular kind of shop; a factory as a factory, but not as any particular kind of factory”, it was apparent to the panel that, although static and digital advertisements shared the same mode or category of occupation being advertising rights and premises, there was a clear distinction between the two which must be considered when assessing the rent which the hypothetical tenant would pay for the hereditament.

21. The panel did not consider an absence of any reference to anything digital in nature, either physically, such as the sign, or incorporeal, such as the digital advertising right, to explicitly imply its exclusion from forming part of the basis of the valuation, especially given that sections 64(2) and (11) were enacted in 1988, prior to the technological advancements which had resulted in the operation of digital advertising seen in the modern day. Such technology has been present for a significant period of time, and the panel concluded that if it was Parliament’s intention to exclude any digital aspect from such valuations, it has been open for it to have amended the legislation. At the point of time of this appeal, it had not done so.

22. The panel determined that, when applying a ‘commonsense’ approach, a digital advertising right would be more valuable than that of a static one. The panel acknowledged that Mr Wackett considered that other VTE decisions had determined otherwise, however, those decisions were made by lay panels based on the evidence in those respective cases and were not binding on any future tribunal panels. The panel was entitled to reach whatever conclusions it saw fit based on the evidence before it in these appeals.

23. The panel considered that any hypothetical landlord would forgo significant comparable cost in the facilitation of a digital advertising right, which any reasonably prudent landlord would expect a return on. The panel found there were clear and distinct advantages to digital advertising displays such as heightened exposure and the ability to display moving images which are more effective at capturing attention. The ability to facilitate multiple advertisements on rotation allows for advertisers to deliver tailored content that resonates with desired target audiences across varying locations. Considering the wider commercial marketing world, the panel deemed that the demand for digital advertisements was high, examples of such were Leicester Square in London, Times Square in New York and advertisements around pitches of football grounds, all of which had the capacity to attract the attention of a large numbers of consumers in a more exuberant manner. The panel was cognizant to the fact that bus shelters can only harbour a significantly smaller comparative number of people, however, it considered that a digital advertisement would attract a person’s attention more effectively than a static advertisement, due to its method of facilitation. As such, a hypothetical tenant would expect to increase their rental bid to benefit from the advantages of the digital technology. The panel found it would be illogical and

counter-intuitive for landlords to make investments in such technology if that was not the case.

24. The panel considered that comparing a static and digital bus shelter roadside display was like comparing apples with oranges, and as such, a multiplier was applicable to the base rate of static advertisements for those with a digital aspect. It determined that it was suitable to use the VOA's static bus shelter roadside displays Scheme as a base rate for each of the corresponding subject hereditaments and apply an appropriate uplift. However, the respondent's uplift of six was deemed excessive and unsubstantiated by the evidence provided. The panel considered that the logic applied by the VO in applying a multiplier to the base rates of six was flawed. The panel found that approach was based solely on the fact that the uplift correlated with the number of sheets capable of being displayed on the screen on rotation, and did not account for the fact that each advertisement would henceforth have a sixth of the exposure from a time perspective when compared to a singular static advertisement. However, given that the panel was satisfied that digital exposure was facilitated in a far more effective and desirable manner, and that digital displays attracted a higher economic value and a financial benefit to warrant an higher comparative hypothetical rental bid, the panel determined that a multiplier of three for each of the corresponding base rates as stated in the VOA's Scheme for static bus shelter roadside displays was both fair and reasonable in this instance.

25. The panel noted that for four of the subject hereditaments there was a difference in the individual valuation lines between the respondent and appellant's representative. Mr Griffin stated that the respondent's records showed that some of the displays were static rather than digital. Mr Wackett said he was unaware of that point. The panel decided it was fair to leave those valuations as they stood in the respondent's valuations which coincidentally was of benefit to the appellant as they were lower valuations than those of a digital nature as determined by the panel. The valuation line which was for digital displays in those assessments were still to be multiplied by three. Those hereditaments were the subjects of appeal numbers CHG101096054, CHG101096096, CHG101096136 & CHG101096121.

26. In view of the foregoing, the appeals for the subject hereditaments were allowed in part as the existing valuations were deemed unreasonable, but not to extent sought by the appellant's representative.

Disposal

27. In accordance with Regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the VO is ordered to reduce the entries in the rating list for the following subject hereditaments as per the following:

Subject hereditaments	**Rateable Value**	**Effective date**
ADVERTISING SITE 0404 0376 BUS SHELTER O/S SPRING HOUSE, GLOSSOP ROAD, Sheffield S10 2PR	£2,550	1 October 2021
AD BOARD BUS SHELTER O/S KWICK FIT, 726 CITY ROAD, Sheffield S2 1GJ	£2,550	1 April 2021
ADVERTISING SITE 0403 0105 OPP 63 STATION ROAD, KIVETON PARK, Sheffield S26 6QP	£1,675	10 October 2020
ADVERTISING SITE 0403 0325 BUS SHELTER OPP 27 HIGH STREET, Maltby, Rotherham S66 8LG	£1,110	2 September 2020

ADVERTISING SITE 0403 0327 ON BUS SHELTER NEAR, 77 SHEFFIELD ROAD, Rotherham S60 1DA	£1,110	2 September 2020
ADVERTISING SITE 0403 0048 JUNCTION OF NORTH DRIVE &, GREASBROUGH ROAD, Rotherham S60 1QF	£1,110	2 September 2020
ADVERTISING SITE 0403 0339 SOUTH OF STADIUM WAY, ROTHERHAM ROAD, Rotherham S60 1TG	£1,110	26 November 2020
ADVERTISING SITE 0403 0175 ON BUS SHELTER OPP, 148 BROOM ROAD, Rotherham S60 2SR	£1,110	27 August 2020
ADVERTISING SITE 0403 0104 O/S JUBILEE COTTAGES, BAWTRY ROAD, Rotherham S60 5NX	£1,110	10 September 2020
ADVERTISING SITE 0403 0204 MEADOWBANK ROAD OPP, PEMBROKE STREET, Rotherham S61 2NF	£1,110	20 August 2020
ADVERTISING SITE 0403 0152 OPP BRADGATE LANE, WORTLEY ROAD, Rotherham S61 1LH	£1,675	15 October 2020
ADVERTISING SITE 0403 0151 AT UPPER WORTLEY ROAD & OAKS LANE, Rotherham S61 2AA	£1,800	27 January 2021
ADVERTISING SITE 0403 0345 OPP SOUTH STREET, MEADOW BANK ROAD, Rotherham S61 2NF	£1,800	20 August 2020
ADVERTISING SITE 0403 0114 OPP KEPPEL ROAD UPPER WORTLEY ROAD Rotherham S61 2SZ	£740	15 October 2020
ADVERTISING SITE 0403 0025 FENTON ROAD Rotherham S61 3RG	£1,800	2 August 2020
ADVERTISING SITE 0403 0337 AT, FAIRFIELD PARK, MANVERS WAY, Rotherham S62 5AA	£1,675	3 September 2020
ADVERTISING SITE 0403 0344 E/O DALTON LANE OPP, MILHOUSE COURT, DONCASTER ROAD, Rotherham S65 3ET	£1,800	20 August 2020
ADVERTISING SITE 0403 0148 AT 92 HIGH STREET, Rotherham S66 7BN	£1,110	2 September 2020
ADVERTISING SITE 0403 0195 O/S 350, BAWTRY ROAD, HELLABY, Rotherham S66 8EY	£1,110	9 October 2020
ADVERTISING SITE 0403 0102 OPP 65 ROTHERHAM ROAD, MALTBY, Rotherham S66 8LZ	£1,110	8 September 2020
ADVERTISING SITE ON BUS SHELTER OPP 53, GAWBER ROAD, Barnsley S75 2PS	£1,800	5 October 2020

28. Under Regulation 38(9), the VO must comply with this order within two weeks of the date of its making.

29. Any fee paid for the appeals allowed in part will be refunded in full in accordance with regulation 13E of the above Regulations, provided there is no review of the tribunal's decision.

Date: 14 November 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.

SCHEDULE

Appeals consolidated and heard together by the tribunal on 31 October 2024

Appeal Number	Subject hereditaments
CHG101096042	ADVERTISING SITE 0404 0376 BUS SHELTER O/S SPRING HOUSE, GLOSSOP ROAD, Sheffield S10 2PR
CHG101096045	AD BOARD BUS SHELTER O/S KWICK FIT, 726 CITY ROAD, Sheffield S2 1GJ
CHG101096054	ADVERTISING SITE 0403 0105 OPP 63 STATION ROAD, KIVETON PARK, Sheffield S26 6QP
CHG101096178	ADVERTISING SITE 0403 0325 BUS SHELTER OPP 27 HIGH STREET, Maltby, Rotherham S66 8LG
CHG101096063	ADVERTISING SITE 0403 0327 ON BUS SHELTER NEAR, 77 SHEFFIELD ROAD, Rotherham S60 1DA
CHG101096068	ADVERTISING SITE 0403 0048 JUNCTION OF NORTH DRIVE &, GREASBROUGH ROAD, Rotherham S60 1QF
CHG101096073	ADVERTISING SITE 0403 0339 SOUTH OF STADIUM WAY, ROTHERHAM ROAD, Rotherham S60 1TG
CHG101096084	ADVERTISING SITE 0403 0175 ON BUS SHELTER OPP, 148 BROOM ROAD, Rotherham S60 2SR
CHG101096091	ADVERTISING SITE 0403 0104 O/S JUBILEE COTTAGES, BAWTRY ROAD, Rotherham S60 5NX
CHG101096109	ADVERTISING SITE 0403 0204 MEADOWBANK ROAD OPP, PEMBROKE STREET, Rotherham S61 2NF
CHG101096096	ADVERTISING SITE 0403 0152 OPP BRADGATE LANE, WORTLEY ROAD, Rotherham S61 1LH
CHG101096104	ADVERTISING SITE 0403 0151 AT UPPER WORTLEY ROAD & OAKS LANE, Rotherham S61 2AA
CHG101096113	ADVERTISING SITE 0403 0345 OPP SOUTH STREET, MEADOW BANK ROAD, Rotherham S61 2NF
CHG101096121	ADVERTISING SITE 0403 0114 OPP KEPPEL ROAD UPPER WORTLEY ROAD Rotherham S61 2SZ
CHG101096123	ADVERTISING SITE 0403 0025 FENTON ROAD Rotherham S61 3RG
CHG101096136	ADVERTISING SITE 0403 0337 AT, FAIRFIELD PARK, MANVERS WAY, Rotherham S62 5AA
CHG101096141	ADVERTISING SITE 0403 0344 E/O DALTON LANE OPP, MILHOUSE COURT, DONCASTER ROAD, Rotherham S65 3ET
CHG101096154	ADVERTISING SITE 0403 0148 AT 92 HIGH STREET, Rotherham S66 7BN
CHG101096168	ADVERTISING SITE 0403 0195 O/S 350, BAWTRY ROAD, HELLABY, Rotherham S66 8EY
CHG101096185	ADVERTISING SITE 0403 0102 OPP 65 ROTHERHAM ROAD, MALTBY, Rotherham S66 8LZ
CHG101096191	ADVERTISING SITE ON BUS SHELTER OPP 53, GAWBER ROAD, Barnsley S75 2PS

Addendum

Following the release of the panel's decision on 14 November 2024, the respondent drew to the Tribunal's attention that the decision referred to incorrect effective dates for the rating list entries of two of the subject hereditaments.

This was a clerical error which occurred when the decision was drafted. ADVERTISING SITE 0403 0105 OPP 63 STATION ROAD, KIVETON PARK, Sheffield S26 6QP incorrectly stated that the effective date was 10 October 2021, and ADVERTISING SITE 0403 0114 OPP KEPPEL ROAD UPPER WORTLEY ROAD Rotherham S61 2SZ incorrectly stated that the effective date was 15 October 2021. The correct effective dates were 10 October 2020 and 15 October 2020 respectively.

The decision record has therefore been altered and reissued under Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

Date when amended decision was released: 27 November 2024