VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; car showroom and premises; tone of value of main space; location and prominence; disputed relativity and description of areas of certain floor space; appeals allowed.

APPEAL NUMBERS:	CHG101099724 & CHG101095383
RE:	King's Lynn Mercedes Benz, Beveridge Way, King's Lynn PE30 4NB ("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 E Stanhope-Smith (Respondent's representative)

DECISION and STATEMENT OF REASONS

Decision

1. The appeals were allowed. The panel determined the rateable value (RV) of the subject hereditament to be £74,500 with effect from 1 April 2017 and £76,000 with effect from 6 July 2017.

Introduction

2. The appeal process began with proposals made by the appellant's representative on 25 July 2023 and 31 July 2023 in in respect of the Valuation Officer's (VO) compiled list entry of the subject hereditament at £105,000 RV with effect from 1 April 2017 and its list entry of £109,000 RV with effect from 6 July 2017. The VO had increased the RV of the subject hereditament with effect from 6 July 2017 due to the existence of an additional workshop/valet bay at the premises, which was not disputed by the appellant's representative.

3. The appellant's representative proposed revised list entries of £74,500 with effect from 1 April 2017 and £76,000 with effect from 6 July 2017, based on a reduced tone of value for main space to £80 per m^2.

4. The respondent issued respective challenge case decision notices on 11 December 2023 and 20 December 2023, which stated that, based on the evidence available, the existing rating list entries were unreasonable, and determined revised entries of £90,500 with effect from 1 April 2017 and £93,000 with effect from 6 July 2017. The revised RVs accounted for an alteration to the description and relativity of two lines of the valuation from areas under a supported floor to workshop, and a revised tone of value for main space from £125 per m^2 to £100 per m^2. The appellant's representative appealed that decision to this Tribunal on 4 April 2024 on the grounds that the valuations for the subject hereditament remained unreasonable.

5. Prior to the hearing the respondent's representative advised that the respondent had revised its position in respect of the tone of value of main space at the subject hereditament and now considered £90 per m^2 was reasonable. The proposed amendment would result in RVs of £83,500 with effect from 1 April 2017 and £85,500 with effect from 6 July 2017 respectively.

6. The respondent had also raised an objection to the inclusion of comparable assessments in the appeal documentation by the appellant's representative which were not provided when the proposal was being considered. The panel noted that the challenge was made in July 2023, and the comparable assessments had been described by the appellant's representative as recent agreements with list alterations effective from 15 August 2023, 3 November 2023 and 29 January 2024. The panel determined it would accept those comparable assessments into the evidence given they were relevant to the proposal, not reasonably known at the time of the proposal and as they were included in the appeal documentation lodged on 4 April 2024, the respondent had ample time to consider them. The panel informed the parties of its determination prior to hearing the substantive issues of the appeal.

7. 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 Beveridge Way in Hardwick Narrows Industrial Estate on the outskirts of King's Lynn. The appellant was the leaseholder of the property.

8. 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.

9. 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.

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

Preliminary issue

11. Prior to hearing the substantive issue of the appeal, the respondent's representative queried whether two lines of its valuation, specifically lines 3 and 5 pertaining to the description and relativity of certain areas of floor space were to be considered as part of the appeal. The respondent had amended its description and relativity for those parts of the valuation during the challenge stage and addressed that alteration in its challenge decision notice. The appellant's representative's valuation maintained the previous description and relativity for those areas prior to the respondent's amendment.

12. The panel was advised by the clerk that the grounds of the appellant's appeal challenged an alteration to the RV made by the VO. Part of that alteration was the amendment of the valuation of the two aforementioned floor areas. The respondent's alteration included those floor areas, and addressed that point in its decision notice, which was disputed in the appellant's representative's valuation. As the appellant's representative was appealing the amendment to the subject hereditament's RV, the panel determined that consideration of the valuations for the two disputed areas was within scope of the appellant's proposal and would therefore be determined in this appeal.

Issues

13. The panel was required to determine the correct rateable values to be attributed to the subject hereditament in the 2017 rating list. The issues in dispute concerned the tone of value for the main space and the description and adopted relativity of two lines of the valuation which the appellant's representative considered to be areas under a supported floor in contrast to the respondent which considered the areas as workshop space.

Evidence and submissions

14. 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

15. 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.

16. 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.

17. 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 days were 1 April 2017 and 6 July 2017.

Tone of value of main space

18. 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 £180,000 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.

19. 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.

20. Ms Corney stated that the subject hereditament was located on Hardwick Narrows Industrial Estate, of which its predominant use was for factories and warehouses. The estate was not on a main road and therefore did not benefit from a high level of passing traffic. Access to the estate was via Hardwick Roundabout, and the subject hereditament was not visible from the entrance point. Ms Corney stated that her client had provided its target sales figures and demonstrated that the site was consistently performing below the manufacturer's requirements, citing location as the reason.

21. Ms Corney contended that Hardwick Narrows Industrial Estate was a stark contrast to what she believed to be the prime location for car showroom and premises in Kings Lynn, Scania Way, which was opposite Pierpoint and Hardwick Retail Park. That cluster comprised Jaguar Land Rover, Ford, Hyundai, Honda, Renault and BMW. Vauxhall and Toyota were located round the corner from that cluster on Campbell's Meadow Retail Park. 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. All of those comparable assessments had a tone of value for main space of £100 per m^2, some of which the VO had reduced from £125 per m^2. Ms Corney argued that given the tone of value for the subject hereditament had also been reduced by the VO from £125 per m^2 to £100 per m^2, a further reduction was warranted considering the clear disparity in location.

22. The respondent had referred to two comparable assessments on Hamburg Way and Bergen Way within Kings Lynn, occupied by Audi and VW respectively. Ms Corney stated that those assessments also had a tone of value of main space of £100 per m^2, also reduced by the VO from £125 per m^2. She contended that whilst they were similar in terms of quality to the subject hereditament and also double heighted, they were located on the A1078 and visible from the road.

23. 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.

24. Ms Corney contended that given the locality of the subject hereditament and reductions to similar hereditaments which were affected by visibility and prominence, a reduction to the tone of value for the main space to £80 per m^2 was reasonable.

25. Ms Stanhope-Smith contended that the subject hereditament was a prime showroom and should be valued as such. She argued that the comparable assessments on Scania Way were significantly older than the subject hereditament. Ms Corney stated that some of the details provided regarding those properties were incorrect as some were new or had been redeveloped. Ms Stanhope-Smith agreed. Ms Stanhope-Smith stated that Hardwick Industrial Estate was also accessed via the Hardwick Roundabout and was circa a five-minute drive from the comparable assessments in the Scania Way area. She argued that the subject hereditament was not as remote nor isolated as stated by Ms Corney. She stated that EMG Motor Group was also located on Beveridge Way. It was older than the subject hereditament and its tone of value was £100 per m^2, in line with the tone for comparable assessments on Scania Way. There was also a car auction site and second-hand car showroom on Hardwick Industrial Estate. Ms Stanhope-Smith stated that reducing the tone of value for the showroom space to £80 per m^2 would place the subject hereditament's 2017 RV in line with that in the 2010 list, which she argued would be incorrect due to the increase in the rental market between the compilation of those two lists. She did however consider that a reduced tone of value for the main space of £90 per m^2 was reasonable, as the subject hereditament's location was less desirable than the main cluster and due to the lack of visibility from any main road.

26. Ms Stanhope-Smith addressed the agreed assessments provided by Ms Corney and the Valuation Tribunal decision. She agreed that the Valuation Tribunal decision for Audi Unit D, Maidenflower Business Park, Crawley confirmed that location was a driver for value,

however, she argued that the 20% reduction to the tone for main space was given as the subject of that appeal was at least three miles away from the nearest cluster of car showrooms and completely isolated with no visibility from a road. She stated that the reduced tone of value for main space at Hutchinson Honda (Suzuki Dealership) was agreed as the subject was of a poor quality which was supported by rent as well as visibility issues. Ms Stanhope-Smith contended that a tone of value for main space of £90 per m^2, was a fair reflection of the subject hereditament's location when compared to those on Scania Way, however, argued that the figure sought by Ms Corney was excessive given it was less than half a mile away from that area.

27. The panel found there was significant disparity between the location of the subject hereditament and the location of the comparable car showrooms on Campbell's Meadow Retail Park and Scania Way, which was opposite Pierpoint and Hardwick Retail Park. 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. The panel considered that retail parks were magnets for customers, and it was clear a car showroom located in such would be far more desirable to any hypothetical tenant than to that in an industrial estate, which was where the subject hereditament was situated and did not benefit from the same amount of footfall and passing trade. Whilst the retail parks and Hardwick Narrows Industrial Estate were both accessed via Hardwick Roundabout and were only five minutes distance apart via car, it was clear to the panel that adjacent retail parks which comprised eight car showrooms of popular car manufacturers was not the same landscape as an industrial estate which comprised the subject hereditament, EMG Motorgroup, a second-hand car showroom and a car auction site.

28. The panel considered the comparable assessments provided at the retail parks around Scania Way. Whilst it recognised the respondent had stated that some were older than the subject hereditament, it was conceded by Ms Stanhope-Smith that some of the details were incorrect, and they were actually newer than stated or had been recently redeveloped. The panel therefore attached little weight to the respondent's remarks on those properties given that inaccuracies had been identified and admitted.

29. The panel noted that there was a tone of value for main space at those comparable assessments of £100 per m^2, which had been reduced by the VO from £125 per m^2. The VO had also reduced the assessment of the subject hereditament from and to the same, and, as part of this appeal, had proposed a further reduction to £90 per m^2. Whilst the panel appreciated that the art of negotiation was to reach a mutually satisfactory compromise where parties maintained an opposing stance, it was not satisfied that the £90 per m^2 offered had been done so based on any of the evidence put before it.

30. The panel was satisfied that the tone of value for main space clearly warranted a lower tone of value than those aforementioned comparable assessments on the retail parks referred to, given its sub-prime location. The A149 ran through the retail parks and the frontages of some of the comparable assessments were visible from it. The subject hereditament was not visible from a main road and was located on the corner of a dead-end. 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 prominence and visibility was a driver for value, and allowances or reduction to tone were given, some significant, in the cases where they were negatively impacted. The panel also attached weight to the comparable assessments on Hamburg Way and Bergen Way. The properties were similar to the subject hereditament as they were double-heighted modern car

showrooms, however they benefitted from locations on A roads and a high level of prominence and visibility when compared to the subject hereditament, which the panel found supported a lower tone of value at the subject.

31. Having regard to the evidence, the panel was persuaded that the location of the subject hereditament, when compared to those on Campbell's Meadow Retail Park and Scania Way, warranted a further reduction than that proposed by Ms Stanhope-Smith. The panel determined that Ms Corney's valuation was fair and reasonable given the significant detriment to the subject hereditament when compared to those with a tone of main space of £100 per m^2 within its locality, which were in far superior locations. As such, it determined that a tone of value for main space for the subject hereditament of £80 per m^2 was fair and reasonable in this instance.

Disputed relativity and description of areas of certain floor space

32. In the respondent's original valuations, lines 3 and 5 were described as areas under supported floor with an adopted relativity of 0.315 of the tone of value for main space. It its decision notices, the respondent stated that at challenge stage the areas were determined as misidentified and altered them to workshop areas which an adopted relativity of 0.45 of the tone of value for main space. Ms Corney stated that the areas were below the works canteen and had reduced head height, akin to an area under a mezzanine floor.
She sought for the areas to remain valued as originally so by the respondent.

33. Ms Stanhope-Smith was asked what prompted the change in the respondent's stance with regard to the areas, however she was unable to specify. She confirmed that she had not inspected the subject hereditament and was unaware whether any caseworker for the respondent had done so internally. Ms Corney confirmed that she herself had internally inspected the property and considered that the areas were areas under supported floors with reduced head height and should be valued at the lower relativity of main space.

34. In the absence of any such satisfactory evidence to support the respondent's revised valuation and description of the disputed areas, and in line with Ms Corney's capacity as an expert witness who had internally inspected the subject hereditament, the panel determined that the areas should be valued as areas under supported floor with an adopted relativity of 0.315 of the tone of value for main space.

35. The revised assessment for the compiled list entry with effect from 1 April 2017 as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
Ground	Showroom	303.21	80.00	24,257
Ground	Workshop	315.46	36.00	11,357
Ground	Area Under Supported Floor	64.94	25.20	1,636
Ground	Workshop	8.06	36.00	290
Ground	Area Under Supported Floor	100.36	25.20	2,529
Ground	Workshop	96.88	36.00	3,488
Ground	Workshop	66.31	36.00	2,387
Ground	Canopy	28.89	16.00	462
Ground	External Store	14.03	20.00	281
First	Office	57.02	48.00	2,737

First	Store	33.18	24.00	796
First	Store	135.72	24.00	3,257
First	Canteen	23.82	48.00	1,143
First	Store	27.00	24.00	648
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION				
	Vehicle Display Spaces	5.00	300	1,500
	Car Display Spaces	11.00	200	2,750
	Surfaced Open Spaces	177	75	13,275
	Unsurfaced Open Spaces	30	60	1,800
			Valuation sub-total	74,953
			Say RV	**74,500**

36. The revised assessment for the list entry with effect from 6 July 2017 as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
Ground	Showroom	303.21	80.00	24,257
Ground	Workshop	315.46	36.00	11,357
Ground	Area Under Supported Floor	64.94	25.20	1,636
Ground	Workshop	8.06	36.00	290
Ground	Area Under Supported Floor	100.36	25.20	2,529
Ground	Workshop	96.88	36.00	3,488
Ground	Workshop	66.31	36.00	2,387
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Ground	External Store	14.03	20.00	281
First	Office	57.02	48.00	2,737
First	Store	33.18	24.00	796
First	Store	135.72	24.00	3,257
First	Canteen	23.82	48.00	1,143
First	Store	27.00	24.00	648
Ground	Workshop	104.67	35.10	3,674
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION				
	Vehicle Display Spaces	5.00	300	1,500
	Car Display Spaces	11.00	200	2,750
	Surfaced Open Spaces	177	75	13,275
	Unsurfaced Open Spaces	30	60	1,800
			Valuation sub-total	76,142
			Say RV	**76,000**

Disposal

37. In view of the foregoing, the appeals were allowed.

38. 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 £74,500 with effect from 1 April 2017 and £76,000 with effect from 6 July 2017. The respondent must comply with this order within two weeks of its making.

39. 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.
