THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeals; factory and premises; amount of allowance for poor access and floor variation levels in dispute; variation between 2010 and 2017 list; appeal dismissed.

RE: Butts Mill, Butts, Barnoldswick, Lancashire BB18 5HP

APPEAL NUMBER: CHG100816516

BETWEEN	Filtrox Carlson Limited	Appellant
	and	
	Ms A Hitchings Valuation Officer	Respondent
PANEL:	Mrs A Fielder (Presiding Senior Member) Mrs S Nix (Senior Member)	
CLERK:	Miss N Shepherd (IRRV Hons)	
REMOTE HEARING:	Wednesday 7 February 2024	
APPEARANCES:	Mr G Fowke from Altus Group, representing the appellant Mr J Richardson, representing the Valuation Officer	

Summary of decision

1. Appeal dismissed. The panel confirmed the Valuation Officer’s rateable value (RV) at Butts Mill, Butts, Barnoldswick, Lancashire BB18 5HP as £123,000 with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal. The challenge proposal was submitted by Altus Group on behalf of Filtrox Carlton Limited and was received by the Valuation Officer on 10 June 2022. The proposal had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. The appellant’s representative sought a 10% end allowance for access and a 7% allowance for variation in floor levels from 1 April 2017.

3. The Valuation Officer issued a challenge case decision notice on 3 July 2023 which disagreed with the proposed alteration but stated that the rating list entry was unreasonable based on the evidence and information available. The Valuation Officer concluded that the allowance for access should be increased from 5% to 7.5% and the allowance for variation in floor levels should remain at 5% and the RV was revised to £123,000 with effect from 1 April 2017.

4. The appellant did not consider these allowances to be appropriate. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal to this Tribunal was then made on the grounds that the valuation of the hereditament is not reasonable. The appeal was registered by the Tribunal on 9 August 2023.

5. The subject hereditament was described in the 2017 Rating List as Factory and premises. It consists of a number of a number of industrial buildings of varying ages and is located close to the centre of Barnoldswick.

6. Mr Fowke appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC) his statement of truth included a statement that he was not instructed under any conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported the client's case.

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

Issues

8. The issues in dispute were the appropriate levels of allowance to reflect poor access and floor level variations at the appeal hereditament.

Evidence and submissions

9. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge, Valuation Officer's challenge case decision notice, and appellant's challenge submission.

Decision and reasons

10. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at

which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

11. In respect of an appeal against an entry in the 2017 rating list, 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 (SI 2014 No. 2841).

12. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

13. It was Mr Fowke's contention that the encumbrances at the subject dwelling were as such to warrant a 10% allowance for poor access and 7% for variation in floor levels. These were the allowances adopted in the 2010 list and he submitted that there was no reason for these to reduce in the 2017 list.

14. The panel firstly addressed the issue of poor access and the appropriate level of allowance applicable to reflect this. The panel noted the subject dwelling had two access points, with entrances from both Monkroyd Avenue and Butts. Both entry points were accessible via narrow side streets, making access more difficult. Furthermore, the entrance accessible via Monkroyd Avenue was weight restricted, meaning it could not be used by heavy goods vehicles (HGV's).

15. The panel had regard to the comparable properties submitted by Mr Fowke which he considered supported the proposed allowance of 10% for poor access at the appeal dwelling. Both of these properties had no change to the amount of allowance adopted between the 2010 and 2017 lists, and both were within the same scheme as the subject dwelling. Cameron Mill had a 5% allowance for poor access and a 5% allowance for loading and Learoy Packaging had an 11.5% allowance for access, with Mr Fowke submitting these properties suffered from similar encumbrances to the subject dwelling.

16. Having regard to the photographs provided the panel noted that the loading area at Cameron Mill was far tighter and restricted than that at the subject dwelling and as such warranted an allowance for loading. With regards to the access, it was similar to the subject dwelling in that it could only be accessed

via narrow streets. However, the panel noted that at Cameron Mill there was no restriction for weight. Taking this into account the panel considered that the allowance for access at the subject dwelling should be higher than that at Cameron Mill. The panel also had regard to Learoy Packaging and considered that this property was also similar to the subject property in that it could only be accessed via narrow streets. However, the panel noted that this access was four times longer than that at the subject property and therefore access would be more difficult, warranting a higher allowance.

17. The panel also had consideration to the VO's comparable of Hope Mill, which was the closest in terms of location to the subject dwelling, being situated the other side of Monkroyd Road. The panel noted that this property also had an allowance of 7,5% for poor access and was also only accessible by the same weight restricted road as the subject dwelling. The panel therefore considered this to be good evidence and to support an allowance of 7.5% at the subject dwelling to be reasonable.

18. With regards to the proposed allowance of 7% for variation in floor level no comparable evidence had been provided in support of this, nor any photographs of the subject dwelling showing the perceived disadvantage this caused. However, Mr Fowke submitted that the allowance had been reduced between the 2010 and 2017 list from 7% to 5% for no reason and that the allowance should remain at the same level as it had in the 2010 list.

.

19. Mr Fowke argued *Barnard & Barnard v Walker* (VO) [1975] RA 383 means that the valuation officer must provide strong evidence before removing an end allowance that had been allowed in previous rating lists. Whilst the panel accepted the relevancy of this case, the panel concluded that no sufficient evidence had been provided to demonstrate that a 5% allowance for floor level variation was not reasonable. With regard to the issue of poor access the panel considered that based upon the comparable properties provided that the allowance of 7.5% was adequate to reflect the disadvantages of access at the subject property.

20. In conclusion, the panel was not persuaded by the arguments and evidence put forward by Mr Fowke in respect of his contention. In view of the foregoing, the panel dismissed the appeal.

Date: 6 March 2024

Appeal Numbers: CHG100816516

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.