



**IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2017 RATING LIST APPEAL**

Case No: CHG100926681

Sitting remotely using
Microsoft Teams

Date: 16 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Barnard and Barnard v Walker (Valuation Officer) LVC/231/1975; Turnbull (VO) v Goodwyn School, Annemount School and Gower House School RA 88 2014; accuracy of rateable value in list; contractors' basis or rental basis for assessment of sui generis class ambulance station; appeal dismissed.

**Before:
MS R SHARMA
MISS N CLARKE**

Between:

NORTH EAST AMBULANCE SERVICE NHSFT

Appellant

- and -

**Amanda Hitchings
(VALUATION OFFICER)**

Respondent

**Regarding:
3, ARMSTONG WAY, ASHINGTON, NE63 0YB
(the "subject property")**

Mr G Nicholson of Guy Nicholson Chartered Surveyors on behalf of the Appellant
Mr P Holdsworth on behalf of the Respondent.

Hearing date: 25 April 2025

DECISION AND STATEMENT OF REASONS

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Decision

1. The appeal is dismissed.
2. The Tribunal Panel was satisfied that the Respondent's valuation of the subject hereditament is reasonable and confirmed that the Rateable Value (RV) on the subject property was £47,000 from 1 April 2017.

Introduction

3. This appeal has been brought in respect of the following: An appeal was lodged by Mr Nicholson on behalf of the occupier on 10 January 2024 against the Valuation Officer's (VO) Challenge Decision Notice of 28 September 2023 on the grounds that the VO's Notice was inaccurate.
4. Mr Nicholson 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), Mr Nicholson's declaration of truth included a statement that he was instructed under a fixed fee arrangement.
5. Mr Nicholson declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and 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.
6. The panel accepted this expert witness evidence on the above basis as the appeal was not 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 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).
7. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.
8. Mr Heatherington also provided a statement of truth and confirmed he was appearing as advocate on behalf of the VO.
9. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

10. The subject property was located in an Industrial Estate in Northumberland. The property comprises an older industrial type property constructed in approximately 1954 with garage, self-contained office, and duty staff room facility. The property is used as an Ambulance Station .
11. The valuation date for the 2017 Rating List is 1 April 2015, this is known as the Antecedent Valuation Date (AVD). Therefore, the most useful rents are generally ones that were set close to 1 April 2015.

12. The main contention was the method of valuation used on the subject property. In the 2017 Rating List the RV had been assessed using the contractor's method of valuation. This change to the method of valuation caused an increase of 47% in the RV for the subject property which was considered by the appellant to be excessive.
13. It was argued on behalf of the appellant that the subject property was located in the middle of a busy industrial estate with rental evidence available within the class. Historically in the 2005 and 2010 Rating Lists, the valuation basis has been the rentals approach and Mr Nicholson believed this method should continue to be followed for the 2017 Rating List. He quoted from the Rating Manual: "Where useful rental evidence exists on the subject property or within the class a rentals approach should be adopted" "It will normally be possible to value by reference to commercial properties which are rebus sic stantibus similar and for which rental evidence exists."
14. Mr Nicholson argued that the subject property was a general garaging/ light industrial unit where vehicles were stored, there was a rest room and very little specialist adaptations. It was owned by the appellant and therefore there was no rental evidence. He provided rental evidence on properties within the industrial estate where the subject property was located and on other ambulance stations in the Northeast.
15. The VO argued that ambulance stations are a sui generis class and consequently, as a general rule, only evidence relating to hereditaments in that mode or category of use is pertinent. In the absence of direct rental evidence, the next consideration should be of rental evidence derived from the letting of other ambulance stations. Any ambulance stations that are not purpose built have to have a specialist fit out which would not be commensurate with general garaging/ light industrial.
16. The VO considered that in accordance with *Reeves (VO) v decision of Cornwall VT [2007] RA/74/2005*. The rental method should be applied where there is:
 - (a) direct rental evidence;
 - (b) rental evidence derived from the letting of other properties occupied in the same mode and category of use;
 - (c) there is sufficient evidence from other localities to establish that the rents relating to ambulance stations are at a level commensurate with other modes or categories of use such as general garaging/light industrial.

It was the VO's case that there was not sufficient reliable rental evidence for the rental method to be used.

Relevant Law

11. Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

2(1) 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. The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 prescribes the requirements to establish the material day. In this case:

A valuation date of: 1st April 2015

A material day of: 1st April 2017

Discussion

- 17. The evidence submitted for consideration for this appeal consisted of the VO's challenge decision and challenge update, the agent's rebuttal to the VO's initial response, photographs and location maps of the appeal property, photographs and location maps of properties submitted as comparable to the appeal property, and the agent's written appeal statement. Mr Nicholson also provided further photographs and details of a number of settlements for ambulance stations in the Northeast. These were provided late, but no objection was raised to the inclusion of this information.
- 18. Mr Nicholson referred the panel to *Barnard and Barnard v Walker (Valuation Officer) LVC/231/1975* this caselaw established the principle that assessments in the previous list should be followed unless it can be shown that there has been a change of circumstances. In this case it was argued that in the previous lists the rental method had been used and there had been no change in circumstances for the contractor's method to be applied.
- 19. Mr Heatherington advised that the case of *Turnbull (VO) v Goodwyn School, Annemount School and Gower House School RA 88 2014* heard in 2016 created a precedent in the assessment of properties that were in a unique class and rarely subject to rental agreements. This decision set down that in the absence of sufficient reliable rental evidence the contractor's method should be used.
- 20. The panel noted this decision states:

"What sort of evidence is sufficient for the Rentals Basis?"

20 The Respondents' Statement of Case expressed some disagreement with the Appellant as to the extent of rental evidence needed to support a valuation on the Rentals Basis. However, it was clear at the hearing, and indeed is clear from the Appellant's Statement of case and Mr Turnbull's evidence, that the Appellant is not saying that the slightest rental evidence will do. It is common ground, and well-established in the case law, that the rental evidence has to be good enough. It has to be relevant to the properties concerned.

That said, there was a difference of view between the expert witnesses as to what amounts to a relevant rent. Mr Turnbull expressed the view that provided there is a rental figure and a date, some use can be made of that rent. Mr Bacon, by contrast, regards as useless a rent that fails to meet two or more of the following criteria:

- a) The document provides full details of the transaction.
- b) The rent is negotiated on a vacant, to let, and open market basis.
- c) Rent was agreed between unconnected parties.
- d) The property is in the same mode and category of occupation.
- e) Proximity to the properties to be valued.
- f) The rent was agreed at a date close to the valuation date (1 April 2008 in this case).
- g) The demise (we take this to mean the terms of the lease) is known and certain.
- h) The proximity of the rent to the RV, indicating that the VO attaches weight to it.

22. We do not need to make any findings as to precise criteria for usefulness. As we indicated above, the case law makes it clear that there are no rules laying down precise limits to the locality within which the comparables must be situated, nor is there any rule that the use of the comparable properties must be exactly the same as that of the properties to be valued. Suffice it to say that the suggested comparables have to be close enough, in locality, type of occupation, size and so on, to indicate the rental value of the properties to be valued. The more unlike the comparables, the less useful they will be."

- 21. The panel accepted that each list was independent of each other and that some consideration had to be given to the previous lists. However it found that it was clear from the judgment in *Turnbull (VO) v Goodwyn School* that a different approach to properties that were in a specialist class was to be considered following that judgment.
- 22. The panel having had regard to the above found it could give very little weight to the comparable properties identified from the local industrial estate relied upon by Mr Nicholson. Although within the same locality they were not in the same mode or category of occupation, and they lacked many of the specialist facilities such as diesel pumps, sluice rooms, rest rooms, training rooms, locker rooms and shower rooms required to function as an ambulance station. Therefore, the rents on these properties would not reflect the value of these specific requirements.
- 23. Fifteen ambulance stations/ garages from the Northeast were identified as having been assessed under the rental method. There were rent details for four of these ambulance stations and two on which agreements had been reached using the rental method. The panel found there were no details supplied of the sizes of these premises, lease details, including the start date of the lease or whether the parties were connected. The panel concluded that without sufficient details these rents were not good enough to have weight given to them to establish the rent on the subject property with any reliability.

24. The panel was aware of the caselaw of *K Shoe Shops Ltd v Hardy and anr* [1980] RA 333 [12] at p 345 where the Lands Tribunal referred to "locality" as being "an area within which it was likely there would be sufficient rental evidence to produce a reasonably expected rent, and outside which the reasonably expected rent might be different." Accordingly, the area from which comparables are drawn must be one in which there is some consistency in rental values. The ambulance stations/ garages were varying distances from the subject property and in varying locations and therefore the panel found that it had not been shown that these would provide consistency of rental values.
25. The panel was informed by the VO that ambulance stations are generally valued on a national basis due to being in a specific class. The panel noted that there had been a Group Pre-Challenge Review (GPCR), a draft of which was contained in the bundle. This indicated a draft agreement had been reached to use the contractor's method of valuation for ambulance stations. Mr Nicholson argued that he had not contributed to this document and therefore it should not be given weight. He did not contribute because he believed the method of valuation was wrong and it was based on southern ambulance stations which were in more expensive areas.
26. Mr Heatherington explained the process followed where a GPCR was used. This consultation was open to all agents and occupiers of ambulance stations nationwide and allowed the input of those interested parties to enable a general agreement on the method of valuation which in turn allowed for a consistent approach nationally.
27. The panel understood the reasons that Mr Nicholson had not contributed to this agreement. However, it found that it could give some weight to the draft agreement as it demonstrated that a large number of representatives of ambulance stations nationally had contributed and agreed to the contractor's method of valuation.
28. The panel found that although there were no rules laid down stating that the locality or whether the use of the comparable properties must be exactly the same, the caselaw required that comparable properties had to be close enough in locality, mode and category of occupation, and size in order for a reasonable comparison to be made with the subject property to establish the rental value to the hypothetical tenant coming new to the scene. It is for the appellant to satisfy the panel on balance of probabilities that the comparable properties identified met this requirement.
29. In this case the panel found that it was not satisfied that the light industrial premises and garages within the industrial estate where the subject was situated were sufficiently comparable to carry weight as they were not in the same mode and category of use and did not have the specialist adaptations required to function as an ambulance station. The panel also found that there was insufficient details of the leases, localities, sizes, and ages of the ambulance stations/ garages in the Northeast identified to provide consistency in rental values in order to use the rental method to value the subject property. The panel also found that the number of ambulance stations identified were a small proportion of the number of ambulance stations nationally.

Disposal

30. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the correct method of valuation for the subject property is the contractor's basis and confirmed the RV of £47,000 on the subject property from 1 April 2017.

Right of further appeal

31. Any party who is aggrieved at the Tribunal's decision, and who appeared or was represented at the hearing, has a statutory right of further appeal to the Upper Tribunal (Lands Chamber) pursuant to Regulation 42 of the Tribunal Procedure Regulations. A party does not require permission to appeal from the Tribunal. Any appeal must be made directly to the Upper Tribunal (Lands Chamber) within **four weeks** of the date this decision and statement of reasons is issued.
32. Further information regarding this statutory right of further appeal, and the parties' other rights, is contained in the guidance booklet "*A guide to tribunal decisions*" available on the Tribunal's website at www.valuationtribunal.gov.uk/guidance-booklets/.

Ms R Sharma, Senior Member (Presiding)

Miss N Clarke, Senior Member

16 May 2025

Mrs J Routledge
Clerk to the Tribunal

Date issued to the parties: 16 May 2025