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

Case No: CHG101070014

Sitting remotely using Microsoft Teams

Date: 12 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — warehouse and premises – end allowance – fragmentation and access

Before:
MR W J READ
PROF P CATTERALL

Between:

BUSINESS MOVES GROUP **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) **Respondent**

Regarding:
WAREHOUSE 2 AT 4 ACRE ROAD, READING, RG2 0SU
(the "subject property")

Mr M Saxby of Colliers International, for the Appellant
Mr J Griggs, for the Respondent

Hearing date: 15 April 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. We find that the entry in the 2017 rating list is unreasonable and should be reduced to £130,000 from 1 April 2017.

Introduction

3. Mr Griggs stated that he was appearing as Advocate and Expert Witness for the respondent.

4. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Saxby declared that he was also appearing for the appellant as Advocate and Expert Witness. He confirmed that his firm was instructed under a conditional or other success-based fee arrangement and that he understood his duty was to the Tribunal, regardless of whether the evidence supported his client's case.

5. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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). It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

6. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

7. The appellant made a proposal on 5 June 2023 to challenge the entry in the 2017 rating list of £136,000 with effect from 1 April 2017. The proposal sought a reduction to £123,000 to reflect allowances for fragmentation and access. The Valuation Officer (VO) did not find the proposal to be well founded, and a Challenge decision was issued maintaining the existing entry in the rating list. An appeal against that decision was received by the Tribunal on 13 November 2024.

8. The subject hereditament is a warehouse and consists of three main buildings separated by a large, surfaced yard. Another separate property shares part of the main entry road to the site. The survey details were not in dispute in this case.

9. The issue to be determined by the Tribunal was the correct level of end allowance to reflect fragmentation of the site and access issues. The existing compiled list entry included a 5% end allowance for fragmentation. The appellant's representative contended the allowance for fragmentation should be increased to 10% and a further 5% should be awarded to reflect access issues.

Preliminary issue

10. Initially, following the appeal being lodged, the VO raised an objection to the contents of the appeal. It was highlighted that comparable properties subject to settlements and VTE

decisions were cited that had not been provided during the challenge discussions. It was stated that those list alterations had been made prior to the decision notice being issued for the subject appeal and they were therefore available to the appellant’s representative at that time. No response was received from the appellant’s representative to the objection. However, at the hearing when questioned, Mr Griggs stated that he was not objecting to the evidence and was content to proceed with the evidence served. The panel therefore took this to be an agreement between the parties and proceeded to hear the appeal.

Relevant Law

11. The subject property must be valued by the statutory assumptions set out in in Schedule 6 to the Local Government Finance Act 1988 as follows:

“(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 material date on which to consider the physical state of the hereditament and its locality was 1 April 2017, when the entry was made in the rating list. The valuation date for the 2017 rating list is 1 April 2015, the antecedent valuation date (AVD).

Discussion

13. Mr Griggs contended that the 5% allowance in the existing valuation was appropriate for the subject property and the valuation was supported by the rent passing on it. Mr Saxby submitted that the subject hereditament consists of physically separate buildings and is therefore fragmented and he considered a higher allowance was justified than currently applied to the valuation. In support of his case for a higher allowance he supplied a number of VTE decisions and settlements that he submitted were not available before the challenge discussions on the subject property were concluded. In relation to the access, Mr Saxby highlighted that access to the subject property is shared with another building at the front of the site. He contended that it is unusual for a site of this size to have shared access and deliveries to the neighbouring property can prevent access to the subject property at times. The panel considered the evidence presented by the parties.

14. In accordance with *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 the panel found that the starting point of any valuation must be the rent passing on the subject property. Mr Saxby submitted that the appellant ratepayer has been in occupation of the subject property for many years prior to the current lease, which commenced on 20 February 2014 at £160,000 per annum. The lease renewal was agreed to extend the

previous lease at a nil increase. Considering Mr Saxby stated the appellant had been in occupation since 1995, the panel found that the rent was not as useful as a new letting. It was possible an established tenant would agree to a level of rent not necessarily reflective of the site's disabilities, rather than face the expense of moving its operation to a more favourable location. A new letting close to the AVD would be more useful in demonstrating the negotiations between the parties to reflect the site's advantages and disadvantages but this was not available. As no other rents were presented for comparison, the panel could not establish if the subject property's rent was reliable evidence.

15. The subject property comprises four units, two being adjacent to each other at the front of the site, and two separate buildings to the rear of the site. Aeriel photographs were provided to show the yard in between the buildings. The panel found the site was clearly fragmented and this fact was conceded by the VO in the 5% allowance already applied to the valuation. The issue for the panel was to determine whether the disadvantage was serious enough to warrant a higher allowance.

16. Mr Griggs contended that the main building consisted of two adjacent properties, and this was usually reflected with a 5% allowance. He also highlighted the location was desirable and close to a nearby distribution centre. The panel noted his submission that the other property on the site, sharing access, does not have any allowance and no challenges had been made to the 2017 list entry. The panel was not persuaded that an allowance could not be considered merely because the other ratepayer on site had not appealed its valuation. There may have been no challenge, but the valuation had therefore not been scrutinised following a proposal or rent examined to establish if any negotiations had taken place to reflect the issues raised in this appeal. Therefore, the panel turned to the examples provided by the appellant's representative of other properties facing similar issues.

17. While the panel appreciated that the examples relied upon by Mr Saxby were not in the same location as the subject property, and location is relevant, it found that the nature and characteristics of the site was important. Units 5-6 Ouzel Industrial Estate, Leighton Buzzard was highlighted as being a hereditament consisting of two adjoining industrial units and a 5% allowance was agreed between the parties. Mr Saxby contended that the situation was worse at the subject property as, in addition to two adjoining units, there were two further entirely separate buildings forming the hereditament. The Tribunal increased a fragmentation allowance from 5% to 7.5% on Units 1 & 2 Acorn House, Dagenham, where the hereditament was formed of three separate units. Mr Saxby contended that the disadvantage faced by the appellant in this case was worse than either of these examples and a 10% allowance for fragmentation was reasonable.

18. A further example was given of John Guest Ltd (factories 3, 4, 5, 7 & Claremont House) Horton Road, Uxbridge. In that case the hereditament comprised three adjoining units plus two separate buildings and the fragmentation allowance was increased from 6% to 15%. At Aylesford MTW, Larkfield Mill, New Hythe Business Park, Aylesford, there were three separate buildings forming the hereditament and a 10% allowance was agreed at challenge stage.

19. After considering the comparable properties presented, the panel was satisfied that the existing 5% allowance for fragmentation did not reflect the separation of the subject property's site and it was reasonable to increase that allowance to 10%.

20. The panel then turned to the second issue of access to the site. The aerial photographs showed the access to the site was between the subject property's two adjoining units and the

neighbouring property. There appeared to be parking spaces along the side of the subject property's building and a road providing access to the rear of both ratepayer's buildings. The volume of vehicles on site varied between the images provided, with some showing the site more congested than others. There appeared to be adequate turning space for lorries at the end of the access road and each site had its own yard for deliveries and loading.

21. Mr Saxby referred the panel to the example of Diffusion Environmental Systems Ltd, Central Avenue, West Molesey. In that example there was shared access between three occupiers. Mr Saxby conceded that the access issue was more severe in that case, but he highlighted a 10% access allowance was given there and he sought only 5% for the subject property.

22. At Tams Packaging Ltd, Sopers Road, Potters Bar, a 2.5% access allowance was agreed to reflect the loading doors are to the rear of the property. Mr Saxby contended this was similar to the subject property but in the case for this appeal the subject property was also disadvantaged by the shared access point. Other examples were presented where a 5% allowance for access was applied to the valuation.

23. After considering all the evidence, the panel was not persuaded that the shared access at the subject property warranted an allowance. It accepted that the fragmented site presented a significant disadvantage for the occupier as use of the various buildings meant travel between different parts of the site, across an open yard with vehicles presenting potential hazards. However, the access was shared with just one other property, which had its own yard, and the panel considered there was adequate turning space available. No detail was provided to demonstrate the claimed congestion from lorries delivering to the neighbouring unit and no data on the volumes of traffic involved for both the subject property and that sharing the access.

Determination

24. In view of the above findings and conclusions, we are satisfied that the fragmentation allowance should be increased to 10% but no allowance is warranted for access. The appeal is therefore allowed in part.

Description	Area/m^2	£/m^2	Value
Main Space		£57.50	
Warehouse	1331.87	£53.26	£70,935
Office	103.74	£65.55	£6,800
Warehouse	617.45	£53.26	£32,885
External Storage	236.73	£39.95	£9,457
Office	99.60	£65.55	£6,529
Office	99.60	£62.27	£6,202
Canopy	136.32	£8.19	£1,118
Total	2,625.31	Total	£133,926
		Portable Building	£1,678
		Storage Container	£1,322
	Adjustments	- Additional 5% Fragmentation (5% already accounted in tone)	£6,846
		Total	£130,080
		RV	£130,000

25. Accordingly, we order in accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer to amend the entry for Warehouse 2 at 4 Acre Road, Reading, RG2 0SU in the 2017 Rating List to £130,000 effective from 1 April 2017.

26. The Valuation Officer must comply with this Order within two weeks of its making.

Right of further appeal

27. 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.

28. 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/.

Mr W J Read, Senior Member (Presiding)

Prof P Catterall, Member

12 May 2025

Mrs A Sloan
Clerk to the Tribunal
Date issued to the parties: 12 May 2025