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

Case No: CHG101086802
Case No: CHG101086811

Sitting remotely using Microsoft Teams

Date: 29 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 —: Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 [SI 1992 No 556]; the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 [SI 2009 No 2268]; Barnard & Barnard v Walker (Valuation Officer) (LVC/231/1975); end allowance allowed in previous list no change of circumstances. Appeal dismissed.

Before:
MR K EVERETT
MR SC KAMALAN

Between:

PETER NICHOLAS **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) **Respondent**

Regarding:
BRISTOL STREET MOTORS VAUXHALL,3 SHADBOLT AVENUE,CHINGFORD,E4 8PZ
(the "subject premises")

Joanne Corney of Knight Frank on behalf of the appellant
Simon Forbes for the Respondent

Hearing date: 1 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal found that no allowance should be given for poor access as it was not satisfied that this was a disability that would affect the hypothetical rental bid.

Introduction

3. The appeal process began when the Appellant served a proposal on the Valuation Officer on 1 February 2023, challenging a Valuation Officer's determination enter the subject property into the 2017 Rating List as a new hereditament. At the date of the proposal, the existing assessment was £287,500 Rateable Value with effect from 30 April 2018. The Appellant's proposed valuation, in its proposal, was £234,000 Rateable Value on the grounds that the land area to be valued, lack of allowance for access issues and relativities for air conditioning were wrong. The Valuation Officer considered the merits of the proposal, and agreed with the Appellant regarding the area to be assessed, and the relativities to be applied in their decision notice dated 19 August 2024. The Rateable Value was revised to £246,000 effective from 1 April 2017 and £255,000 from 30 April 2018.

4. At the commencement of proceedings, Ms Corney declared that she was instructed under a fixed fee arrangement. In her declaration, Ms Corney stated that she understood and accepted that her duty was to the Tribunal in giving her evidence, that she would comply with this duty, and the requirements of her professional body, regardless of whether or not the evidence supported the Appellant's case.

5. Noting the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), the Tribunal Panel nevertheless accepted this expert witness evidence on the above basis because –

    (1) the appeal was not complex;

    (2) to do otherwise would be contrary to the requirements to deal with cases proportionately, avoiding unnecessary formality and ensuring parties are able to participate in proceedings (provided by Regulation 3 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269] (the "Tribunal Procedure Regulations")); and

(3) was nevertheless permissible whether or not it would be admissible in a civil trial (provided by Regulation 17(2)(a) of the Tribunal Procedure Regulations).

6. The Panel therefore considered Ms Corney's expert evidence and attached such weight to it as it saw fit.

7. The Valuation Officer considered that an allowance for a private road of 2.5% was reasonable however the 5% sought for access was not well founded. The Appellant subsequently appealed the Valuation Officer's decision to the tribunal, under Regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (the "NDR Regulations")

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

Background

9. The subject premises are a purpose-built car showroom providing modern main dealership facilities. It had been refurbished in 2000. It was held freehold and therefore no rental evidence was held.

10. The material day for the first challenge was 1 April 2015 and for the second was 30 April 2018 following the alteration to the original assessment as a result of the inclusion of the storage and car wash facility.

11. The Appellant argued that differences or disabilities can be reflected in the valuation, either in the rate per m² adopted or in an end allowance. Disabilities can be due to location, access to a site or masking of the showroom or vehicle spaces. Modern car showrooms can be valued on a formula as they typically have a similar size showroom, ancillary areas, vehicle display spaces and are of similar quality so they are easily comparable. All these factors are dictated by the manufacturer's requirements. Due to this formula, any difficulties and disabilities are reflected in end allowances or allowances in the rate per m². There are acknowledged allowances due to:

    • Location/Cluster location preferred
    • Quality/Converted showrooms
    • Access/Shared/One way system
    • Masking Visibility/Prominence
    • Fragmentation. Split level sites/Slopes/Multiple showrooms on one site
    • Unbalanced proportion of the showroom accommodation to ancillary
    • Not enough vehicle display or excessive vehicle display

12. The Appellant observed that the subject premises has no allowance in the current assessment to reflect the poor access to and from the site as there was no direct access from the North Circular Road. The other car showrooms which were also on the North Circular Road and the A12 are valued at the same rate

as the subject premises and have the benefit of direct access unlike the subject premises.

13. The Appellant advised that an allowance of 2.5% for the private road and 5% for access had been awarded at a Valuation Tribunal Hearing in respect of the 2010 Rating List. The 5% allowance for access was not carried forward into the 2017 list. The appellant argued that there had been no changes to the subject premises or the access and therefore the loss of the allowance was wrong. The caselaw of *Barnard & Barnard v Walker (Valuation Officer) (LVC/231/1975)* was cited to support the argument that differentials in the old valuation list are presumed to be correct and might be rebutted for a valid reason (*Lamb v Minards (VO))* it was not sufficient to allege the old list assessment was irrelevant and unless it is shown that there had been a material change in circumstances justifying a different differential in the new list, it was correct to apply a lower assessment in the next list.

14. The Valuation Officer argued that the lists were independent of each other. There had been a change in the way cars were purchased since 2010 and most initial contact was online. This in turn meant that car showrooms had become destination venues where the customer had already decided to visit and the access was not such an issue. In this case the subject property was clearly visible from the main road and the signage was clear to enable access without difficulty. The approach itself was not poor the road was reasonably maintained.

15. The Valuation Officer also argued that there had been a reduction in tone from the 2010 list to the 2017 list and that the subject property was of a higher specification than some of the other car showrooms that were in the same scheme. The requirement was for the panel to consider whether the access would reduce the rental bid of the hypothetical tenant coming new to the scene. It was the Valuation Officer's opinion that given the change in market this would not be the case and therefore an allowance should not be given.

Relevant Law

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

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.

17. 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).

18. Each appeal hereditament had to be valued, having regard to factual matters the relevant material day, in accordance with paragraphs 2 (6) and (7) of Schedule 6 to the 1988 Act

(6) Where the rateable value is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force) the matters mentioned

in sub-paragraph (7) below shall be taken to be as they are assumed to be on the material day.

(7) The matters are—

(a) matters affecting the physical state or physical enjoyment of the hereditament,

(b) the mode or category of occupation of the hereditament,

(c) the quantity of minerals or other substances in or extracted from the hereditament,

(cc)the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,

(d) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there, and

(e) the use or occupation of other premises situated in the locality of the hereditament.

19. *Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141* provides:

i) Where the subject hereditament is let, the rent should be taken as the starting point

ii) The more closely the rent accords with the rating hypothesis the more weight should be attached to it

iii) Where rents on similar properties are available, they too should be considered to confirm or otherwise the level of value indicated by the rent on the subject
iv) Assessments of comparable properties are also relevant
v) In the light of all the evidence an opinion can then be formed of the value of the appeal hereditament weighting the evidence as appropriate
vi) Where no rents are available on comparable properties a review of other assessments may be helpful, but in these circumstances, it would be difficult to reject the actual rent.

Discussion

20. The panel had regard to the submissions, decision notice and evidence provided by the parties. It had also been provided the decision of *Barnard & Barnard v Walker (Valuation Officer) (LVC/231/1975)* by the clerk in advance of the hearing.

21. It was confirmed at the commencement of the hearing that the only issue outstanding on the two appeals was the end allowance in respect of the access to the subject property. There had been a Valuation Officer's Notice of alteration following the inclusion of the car wash and storage areas which generated the second challenge and appeal.

22. In the challenge the appellant had provided a number of comparable properties which had allowances that were carried forward into the 2017 list. The panel had no regard to those where layout or age were factors. Therefore the following were considered:

18-20 Catherine Street St Albans Herts AL3 5BY (2010) Access 5% (2017) Access 5%
229-235 Hatfield Road St Albans Herts AL1 4TB (2010) Access 5% (2017) Access 5%
200-204 Rickmansworth Road Watford WD18 7GH (2010) No end allowance (2017) Access 5%
207 The Broadway London NW9 7DE (2010) Access 5% (2017) Access 5%
279 Finchley Road London NW3 6LT (2010) Access 25% (2017) Access 20%
277 Finchley Road London NW3 6LT (2010) Access 25% (2017) Access 25%

23. The panel accepted that this supported evidence of allowances being carried forward, but little information was available as to why these properties had been given allowances, it was aware that an allowance is only appropriate where the property suffers a disability which would affect the rental bid.

24. The panel had regard to the judgment of *Barnard & Barnard v Walker (Valuation Officer) (LVC/231/1975)* noting that when there is a consideration of differentials in the old list there must be a presumption that those differentials were correct. This could only be rebutted by evidence of a change in circumstances. The panel appreciated that the previous allowance for access

had been granted by agreement and ratified by the Valuation Tribunal and therefore there were no facts recorded for the reasons for this decision. It was also aware that a previous decision was not binding upon it.

25. The panel gave weight to the Valuation Officer's argument that there had been a change to the market in respect of car buying and that there was now more reliance on online searches and therefore the approach to visiting car showrooms had changed. This was also confirmed by the appellant in her submission there had been a change in the market with purchases from car supermarkets using online searches.

"Car supermarkets are also internet savvy heavily using digital marketing with online images and videos online and using intermediaries such as Auto trader and Car snip. Customers are also more happy and confident to buy online and do their research online to find the best deal. Customers expect significant discounts and are comparing prices and deals online to ensure transparency."

"The Change in Customers Perception of Online Car Sales and Car Supermarkets

Following the introduction of online sales, we have seen a significant growth in online sales across all retail sectors, resulting in a change in how consumers approach a purchase. The starting point being research online for customers.

- Examples include travel retailing with the introduction of Booking.com and Trivago, leading to a difficult time for the traditional high street travel agents, resulting in consolidation and evolution. Similar changes occurring in estate agency with the introduction of Zoopla. The impact of Amazon on High Street sales is well documented. The coverage by Amazon is nationwide, from a limited number of distribution centres, the same applies to the car supermarkets.

The consumer is now very comfortable in making online purchase including big-ticket sales.

The advantages of purchasing a car online include-

- Transparency of pricing with the ease of comparing prices.
- Pressure free sales, no haggling.
- More stock options, no restriction on stock.
- Convenience to purchasing without leaving home with deliveries to the customer house.
- Quicker delivery times with nearly new cars in stock, no need to wait.

"UK online retail is growing at a rate of three times the rate of offline and, within just five years, online retail is likely to be over 50% of all UK retail sales.

" AutoTrader Market Report – The Future of car retailing September 2019".

26. The subject property was held on a freehold basis and there was no evidence of rents in the locality to demonstrate that the lack of direct access would affect the rental bid by the hypothetical tenant coming fresh to the scene. The appellant had provided some comparable properties that did not have access issues to demonstrate the disability suffered by the subject property. Photographic details were provided of BMW Caxton Way in Bedford which had an allowance for access, this was given little weight by the panel as it was in a different scheme and not in the same locality. 279 Finchley Road was in London; however it was clear to the panel from the photographs provided that the access issue was a greater disability than that suffered by the subject property, it was flanked on both sides by railway tracks and it was not on a major road.

27. The Valuation Officer provided photographs of the subject property and the approach, the panel found access was not direct, but it was clearly visible from the main road and sign posting existed and there were two access points from the A406. The panel considered that the condition of the road was good, and the fact that the land adjacent to the road was in poor condition was unlikely to prevent the customer from visiting the subject property.

28. The panel found that the approach to the subject property did not appear difficult, the property itself was highly visible and the access was adequately signposted with two separate access routes from the A406. The panel accepted that there was now a new approach to purchasing cars by searching online before going to the showroom and modern technology such as Sat Nav now assists in locating properties with ease. As a consequence the panel formed the opinion that the rental bid would not be affected to such an extent as to justify an allowance.

Determination

29. In view of the above findings and conclusions, the Tribunal is satisfied that no allowance for access should be granted as it was not satisfied that the rental bid would be affected by the access issue.

Right of further appeal

30. 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.

31. 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 K Everett, Senior Member (Presiding)

Mr SC Kamalan, <<Senior Member / Member>>

29 May 2025

Mrs J Routledge
Clerk to the Tribunal
Date issued to the parties: 29 May 2025