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

Case No: CHG101175125

Sitting remotely using Microsoft Teams

Date: 21 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2019; vehicle repair shop and premises; comparable assessments; appeal dismissed

Before:
MRS N CARMAN
MR A ASANTE

Between:

AUTO-SLEEPERS LTD — **Appellant**

- and -

KAREN GILES
(VALUATION OFFICER) — **Respondent**

Regarding:
Marquis Motorhomes, Farthing Road, Ipswich IP1 5AP
(the "subject property")

Mr P Rabbette, representing the Appellant
Mrs A O'Callaghan, representing the Respondent

Hearing date: 24 April 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The assessment was confirmed at rateable value (RV) £53,500 with effect from 1 November 2017.

Introduction

3. This appeal has been brought in respect of Marquis Motorhomes, Farthing Road, Ipswich IP1 5AP (the ‘subject property’), which was entered in the 2017 rating list as ‘vehicle repair shop and premises’, the RV was reduced from £54,000 to £53,500 at check stage, effective from 1 November 2017

4. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Mr Rabbette made an appeal to the Valuation Tribunal for England (VTE) on behalf of Auto-Sleepers Ltd. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, the valuation officer had made only a minor reduction to the rating list in his challenge decision notice that being from £54,000 to £53,500 RV. Mr Rabbette sought a reduction to £46,000 RV.

5. The appellant’s representative, when appearing as expert witness, stated that he was on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his 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 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).

7. It was therefore appropriate for the panel to consider the ‘expert’ evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

8. Mrs O’Callaghan stated that she was appearing as expert witness and advocate.

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

<u>Background</u>

10. The subject property is classed as a ‘vehicle repair workshop and premise’ and is valued as an industrial unit. It is a steel framed building with offices, a portable office and land. It was built in 1993, and the site is currently used for the sale of motorhomes. It is located in Farthing Road Industrial Estate, just off the A14.

11. The only issue outstanding in this appeal for the panel to consider was whether an end allowance should be adopted for poor access to the site.

12. In the decision notice the Valuation Officer had accepted that a 5% end allowance should be adopted for the sloping site.

13. Mr Rabbette argued that the site access was narrow and at the bottom of the ramp a part of the access was shared, furthermore, it was not possible to see the subject property from the road. He had provided evidence of what he believed to be comparable properties with poor access where an end allowance had been adopted.

14. Mrs O'Callaghan argued that the comparable properties referred to by Mr Rabbette had disabilities which were not reflected at the subject property, she also referred to an appeal against the Valuation Officer's decision not to adopt and end allowance in the 2010 rating list '350530563755/541N10' which had been dismissed by this Tribunal.

Preliminary issue

15. Mr Rabbette raised a preliminary matter. He stated that in he did not consider Mrs O'Callaghan to be an expert witness as she had played no part in making the decision which was the subject of this hearing. Mrs O'Callaghan stated that there was no requirement for the expert witness to be the person who wrote the decision, and she had tried to inspect the property, but that Mr Rabbette had cancelled the meeting. As the issue was with regard to access to the subject property she had visited and inspected the property from the outside. Mrs O'Callaghan stated that she had also visited one of Mr Rabbette's comparable properties. She therefore believed she had the ability to form an opinion as an expert witness.

16. The panel noted the guidance issued by the President of the Valuation Tribunal for England (VTE) which stated that a caseworker representative who had no knowledge of the property and took no part in the assessment could act only as an advocate, however, in this case it was noted that Mrs O'Callaghan had inspected the access to the subject property and was entitled to give her opinion on it.

17. The panel would then consider the evidence and assess what weight to give it in the context of the matters in issue before it.

Relevant Law

18. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

    The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

    "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

19. The Lands Tribunal judgment in *Lotus and Delta v Culverwell* (VO) [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, the closer that rent was set to the statutory definition, the more weight it should attract. Where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

Discussion

20. The panel noted that in this appeal there had been a form of return for a rent of £120,000 effective from the 1 January 2014 on the subject property, however the parties agreed that this did not reflect an open market rent.

21. The panel therefore turned to the comparable properties referred to by Mr Rabbette which were all in or around Ipswich town centre:

- E Green, The Drift, Spring Road, Ipswich, this property had an end allowance of 7.5% due to narrow access the panel noted that this property appeared from the photograph to be situated in a residential area and down a narrow lane possibly suitable for single lane traffic. The panel did not consider that access to this property was similar to the subject property.
- 7A-C Stoke Hall Road, Ipswich, this property had an end allowance of 10% again, this property was in a residential area with very narrow access from a small lane to the rear of residential properties unlike the subject property.
- Amir Car Sales 47 Key Street Ipswich, this property had an end allowance of 10% the panel noted that access to this property did not appear to be visible from the photograph, however, in the rebuttal the Valuation Officer had stated that it was hidden behind walls and a small gate.
- Portia House Workshop, 118-120 Star Lane, Ipswich, this property had an end allowance of 5%, Mr Rabbette argued that access to this property was considerably better than the subject property, however, on questioning by Mrs O'Callaghan it became apparent that Mr Rabbett had mis-identified Portia House Workshop. Mr Rabbette stated that he did not know which of the properties in the picture was Portia House Workshop.
- Vaults at 7 Stoke Hall Road, Ipswich, this property had an end allowance of 10%, this property was the same property as E Green, The Drift, (referred to above) which had been reconstituted, the panel noted that Mr Rabbette stated that at the time of researching his evidence these two properties were both live assessments.

- R/O 30 St Matthews Street, Ipswich, this property had an end allowance of 15%, from the photograph access appeared to be off the main road and through a gap between a row of shops.
- Stanley House, West Road, Ransomes Europark, Ipswich, this property had an end allowance of 5% both parties stated that they were unable to identify the issue with access at this property.
- No2 Shed Cliff Quay, Ipswich, this property had an end allowance of 5% but unlike the subject property was situated on the dockside and access was hampered by security on the dockside.
- Unit C5 R/O Richmond House, Sproughton Road, Ipswich, this property had an end allowance of 5%, the panel noted that this was the closest property to the subject in the same locality. Mrs O'Callaghan had tried to inspect this comparable property but was not able to find it, having made further desktop investigations she submitted that it was to the rear of the buildings in the photograph with a very narrow access, which was shared with six other occupiers. There was no photographic evidence to assist the panel.
- 4 Newson Street, Ipswich, this property had an end allowance of 20%, this was a lone industrial unit which appeared to the panel to be surrounded by residential properties it could also be seen to have two very narrow points of access which did not appear to be wide enough for two cars to pass.

22. On questioning Mr Rabbette was asked which of his comparable properties was the most similar to the subject property in terms of disability, locality and use. Mr Rabbette stated that he would like to rely upon all 10 pieces of evidence. The panel was aware that Mr Rabbette had not inspected or visited any of his comparable properties and therefore in some cases was not able to assist the panel by answering questions about the issues with access and how they reflected the subject property. Because of this the panel did not find Mr Rabbette's evidence to be particularly persuasive.

23. The panel turned to the photographs of the subject property in considering difficulties with access. The panel did not consider that access was narrow, there was clearly shown to be enough room for two motorhomes to pass on the ramp and at the top of the ramp, furthermore, the bend to the right at the top of the ramp did not appear to present a difficulty as the occupier had seen fit to position motorhomes all the way around the corner. The panel noted that if there actually was a difficulty in this area it could have been resolved by moving some of them. It was also noted that a speed bump had been positioned around the corner to ensure that visitors had to slow down. The panel noted that 'SLOW' had also been painted on the ground. The photographs provided did not appear to the panel to support Mr Rabbette's argument for poor access.

24. Whilst the warehouse could not be seen from the road the photographs showed that the motorhomes at the top of the ramp could be seen along with signs at the bottom of the ramp. The panel was also aware that a business selling caravans and motorhomes would likely be a destination business rather than one which required significant roadside visibility of the warehouse.

25. With regard to shared access the panel could see no reason why this would warrant an end allowance. It amounted to a small area at the bottom of the ramp, Mr Rabbette had provided no evidence to show that this small area had caused any disability for the appellant. The panel noted that the property was hindered by a sloping site, but this had already been allowed for with an end allowance of 5%.

26. The panel considered the previous decision of the Tribunal with regard to no end allowance being adopted in the 2010 rating list, though the panel was not bound by that decision it would have to be provided with compelling evidence before it made a different decision. It noted that whilst Mr Rabbette stated that different evidence of comparable properties had been provided for this appeal, however, the panel did not find it to be persuasive. Mr Rabbette made no reference to any worsening of access to the subject property since the last appeal was heard. The panel determined that access appeared from the photographs to be adequate for the mode and category of use of the subject property.

27. In appeals of this nature the burden of proof is with the appellant's representative to show that the appeal property's rateable value is unreasonable. After full consideration of the evidence before it, the panel found that the appellant's representative had not discharged the evidential burden of proof and, therefore, had not persuaded the panel that the appeal property's rateable value should be reduced. The panel found that the RV of £51,500 was reasonable.

Determination

28. In view of the above findings and conclusions, the appeal was dismissed.

Right of further appeal

29. 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.

30. 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/.

Mrs N Carman, Senior Member (Presiding)

Mr A Asante, Senior Member

21 May 2025

Mrs H Beresford
Clerk to the Tribunal
Date issued to the parties: 21 May 2025