

Appeal Number:	684036099885/537NV17
Appellant:	Mr Afan Bamarni
Appeal Property:	Hand Car Wash at Colour Fayre Site, Bulwark Industrial Estate, Bulwark, Chepstow, NP16 5QZ
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	14 March 2025
Appearances:	Mr A Bamarni (Appellant) Mrs Marie O'Connor, on behalf of the respondent, Valuation Officer (VO)
Decision and its date:	Appeal Allowed (in part) - 4 April 2025
Tribunal Members:	Mr K Curry (Chairperson) Mr S Hennah Mr G Nechvatal
Tribunal Clerk(s):	Mr S Kember and Mrs S Gwilliam

Introduction - Issues in Dispute

1. This appeal was made via a proposal dated 5 July 2022 which challenged the entry of the appeal property in the 2017 Non-Domestic Rating List. The appellant sought a reduction in the Rateable Value (RV) to £2,125 from £10,000, effective 24 September 2021. The grounds of appeal as contained in the proposal are replicated as follows:

“The rateable value shown in the list for a hereditament was inaccurate – the rateable value was £2125...”

2. The appeal property is currently entered into the 2017 Non-Domestic Rating List as RV £10,000.
3. This is a summary of the case and is not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all the evidence was fully considered by the tribunal when it arrived at its decision. Consequently, the absence of reference to any statement, or evidence, should not be construed as being overlooked.

Legislation & Case Law

- Local Government Finance Act 1988
- The Rating Lists (Valuation Date) (Wales) Order 2014 SI 2014/1370 W139

- Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005
- *Vines Ltd v de Mauny (Valuation Officer) (2010) UKUT 322 (LC) (2010) – established the principle that the onus is on the appellant to prove his case*
- *Lotus & Delta v Culverwell (VO) & Leicester City Council (1976 RA 141) – Weight of evidence*
- *Ladies Hosiery and Underwear Ltd v West Middlesex AC [1932] 2KB 679 - Correctness before uniformity*

Evidence and Submissions

4. On behalf of the respondent Valuation Officer, Mrs O'Connor explained the appeal property comprised an area of hard surfaced land of 501.40m² and two steel storage containers which equated to 21.76m² used as a mess room/office. The appeal property was located on an established industrial estate with over 30 hereditaments and had good transport links to major road networks and residential housing close by.
5. In September 2021 the appeal property was identified as being incorrectly valued in the compiled list. Mrs O'Connor explained the VO had a statutory duty to maintain an accurate Rating List and having established the basis of value pertinent for stand-alone car washes, the RV was increased from its original entry of £2,125 to £10,000, with effect from 24 September 2021.
6. Mrs O'Connor informed the Tribunal that the rent for the appeal property was £10,800 at 1 April 2015, the Antecedent Valuation Date (AVD) this being the date by reference to which the RV of the hereditament was to be determined for the 2017 Rating List, in accordance with the regulations and relevant case law.
7. In addition, Mrs O'Connor advised there was a lack of reliable rental evidence apart from the appeal property and provided a list of comparable properties within the surrounding area to ensure fairness and consistency regarding the appeal property. Mrs O'Connor brought attention to three of those comparable properties.
8. 243 Bedwas Road, Caerphilly was located on a main road and Pengam Hand Car Wash was located within a petrol filling station. Mrs O'Connor found these to be in superior locations than the appeal property and warranted a RV of £10,000 in each case. Whereas Car Wash T/A Sams Auto Spar had a lower RV £5,000 as it was accessed via a no through road and located at the rear of a small cluster of retail units.
9. Mrs O'Connor informed the Tribunal that she had considered the passing rent and comparable assessment evidence, and an RV of £7,500 had been considered as fair and reasonable for the appeal property. This she stated had been put to Mr Bamarni in an email in January 2025.
10. Mrs O'Connor requested that the Tribunal confirm a rateable value of £7,500 for the appeal property with effect from 24 September 2021.

11. In addition to his proposal, and oral evidence, Mr Bamarni provided photographs of his own premises and those of Newport Hand Car Wash (NHCW).
12. Mr Bamarni informed the Tribunal that having spoken with a legal advisor and Citizens Advice, he contented the jump in RV from £2,125 to £10,000 was too high. He also confirmed that he did not agree with the revised RV of £7,500 as he considered this was also too high.
13. Turing to his comparable, Mr Bamarni informed the Tribunal that NHCW had a RV of £10,000 and did not compare with his premises. NHCW was located at a former petrol filling station garage, which comprised a large canopy and signage over the forecourt. Adjoined to the canopy was a large brick-built single-storey building with glass frontage. This housed a customer waiting room in a former office/shop and had a counter area. Other areas were shown which included toilet facilities and storage. There was also another smaller building onsite which comprised a roller shutter door and was being used to store a large skip. It was also established that NHCW was located on a main arterial route.
14. In response Mrs O'Connor confirmed that she had exchanged an additional comparable property with Mr Bamarni, namely, rear of 34-36 Chepstow Road, Chepstow which had a RV £7,500 ascribed to it and in her view the RV of £7,500 was fair and reasonable for the appeal property, having regard to both the rental evidence and location.
15. Mr Bamarni and the Tribunal sought clarity regarding the initial increase in RV to £10,000 and the offer that was now being made of £7,500. Mrs O'Connor confirmed when the 2017 list was originally compiled, the appeal property was rated as industrial with steel storage containers and ancillary land, it had a lesser value than Hand Car Washes, which were dealt with separately. On reviewing the location and access, Mrs O'Connor considered £10,000 RV was too high for the appeal property.
16. Mr Bamarni considered the offer of RV £7,500 too high and sought RV £2,125 for the appeal property.

Decision & Reasons

17. The issue for the Tribunal to consider was whether the Valuation Officer (VO) was correct to amend the rateable value for the appeal property with effect from 24 September 2021, and to confirm the rateable value of £7,500 or £2,125.
18. The Tribunal had regard to relevant Non-domestic Rating legislation, in particular paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 which contains the assumptions made for valuation purpose, which state:

“...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..."*

19. The Tribunal was able to place weight to the rental evidence provided which showed the appeal property commanded a rent of £10,800 at the Antecedent Valuation Date (AVD) and as outlined in the pertinent case *Lotus & Delta v Culverwell (VO) & Leicester City Council* this supported the initial revised RV of £10,000.
20. Having considered the information brought by both the appellant and the VO with regard to other comparable assessments, the Tribunal found the appeal property was in a less desirable location and had a lesser quality of buildings onsite. This supported the arguments for a lower RV than those comparable assessments.
21. The Tribunal also considered the extract of the Valuation Office Agency's 2017 Practice Note – 6.3 sets out the survey requirements and valuation scheme for valuing Hand Car Washes. The Tribunal accepted that the criteria had been followed by the VO in her submission.

"...Other existing commercial and bare sites – a wide variety of sites exist and consequently rental values do also. Indicative values show general levels to be in the region of £5,000 - £25,000 but when considering bare land sites, in the absence of a passing rent display land values may prove a useful indicator of value, with additions for any improvements such as storage containers, temporary buildings etc. It is considered this can always be used as a guide to the end value of such operations, no matter which approach to value is taken..."
22. In cases such as these higher court authorities had accepted that the burden of proof rested with the appellant on the basis 'he who asserts must prove'. Moreover, it was an accepted tenet of law that any assertions made before a Tribunal should be underpinned by evidence. Therefore, in the case under consideration the persuasive burden of proof rested with the appellant and not the respondent Valuation Officer by virtue of a statutory duty to prepare and maintain an accurate Rating List.
23. The Tribunal considered the arguments put forward by the appellant, however it formed the view the appellant had not substantiated his opinion that the RV was incorrect and had not, with reference to evidence undermined the Valuation Officer's valuation of the appeal property.
24. Having considered the evidence provided, the Tribunal noted the regulations and case law provides that the Valuation Officer has a duty to correct an error, if found, to maintain an accurate Valuation List. It found the VO had acted in accordance

with the regulation and the decision to amend the rating list from 24 September 2021 when the review was undertaken was correct.

25. Accordingly, the Tribunal Orders the Valuation Officer to alter the rating list to accord with this decision.

Decision: The entry in the 2017 Non-Domestic Rating List for Hand Car Wash at Colour Fayre Site, Bulwark Industrial Estate, Bulwark, Chepstow, NP16 5QZ, be amended to alter the Rateable Value to £7,500 with effect from 24 September 2021.

26. In view of the foregoing, the appeal was allowed in part.