

Appeal Numbers:	683536335835/285NV17 – Item 6 683539382783/283NV17 – Item 7
Appellant:	Mr W D Hopkins of Aber Roof Truss Ltd
Appeal Property:	Factory and Premises, Aber Roof Truss Ltd, Engineer Park Industrial Estate, Sandycroft, Deeside CH5 2QD
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	24 April 2025
Appearances:	Mr D Hopkins and Ms K Downing (for the respondent Valuation Officer)
Decision and its date:	Appeals Dismissed – 22 May 2025
Tribunal Members:	Mr R C W Handy (Presiding Member) Mr C J Newman Mr W D Brereton
Tribunal Clerk(s):	Mrs M S Minty

Introduction - Issues in Dispute

1. The appeals before the Tribunal followed proposals made by Mr Hopkins (Item 6) and Altus Group (Item 7) on behalf of Aber Roof Truss in respect of the appeal property, which the Valuation Office Agency (VOA) received on 16 November 2022 and 18 November 2021, respectively.
2. The proposal for Item 6 sought a reduction of the rateable Value (RV) from £30,500 to £20,250 with effect from 1 April 2017, on the grounds that “*there had been changes to the layout and usage of the premises, also the size was different now*”.
3. The proposal for Item 7 sought a reduction to the RV to £1 with effect from 1 September 2021, on the grounds that “*there has been a material change of circumstances (MCC) because of a group of Travellers building an encampment outside of the subject property, degrading the physical environment in the surrounding area; being a change of matters mentioned in paragraph 2(7)(d) and 2(7)(e) of the Schedule 6 of the Local Government Finance Act 1988, which has reduced the rental value of the subject hereditament*”.
4. Prior to the hearing, the clerk had informed the parties of the procedure in providing their cases and that only the evidence presented during the hearing could be considered. They were also informed that the hearing was a public hearing and any request for all or part of their case to be heard in ‘camera’ should be made at the hearing. No such request was brought to the Tribunal.

5. Prior to the commencement and during the morning of the hearing, IT issues were encountered and resolved. During the hearing of the subject appeals, the Tribunal determined during the hearing that a 20-minute adjournment was required to enable Ms Downing to clarify a factual matter regarding the inclusion of a bund within the appeal property's valuation.
6. The following is a summary of the cases presented 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 and Case Law

- The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 (SI 2005/758)
- The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992
- The Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000
- The Local Government Finance Act 1988 - Paragraph 2(1) Schedule 6 (LGFA 1988):

2(1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from 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.*

Schedule 6 also provided for the Antecedent Valuation Date (AVD), the date by reference to which the rateable value of the hereditament was to be determined, this was 1st April 2015 for the 2017 Rating List.

- *Vines Ltd v de Mauny* (Valuation Officer) (2000) UKUT 322 (LC) [2010] - This case set a general principle that the onus was on the appellant to prove its case.
- *Lotus & Delta Ltd v Culverwell* (VO) & Leicester City Council [1976] – This case provided guidance on the weight to be attributed to rental and assessment evidence.

Valuation Officer Case

7. Ms Downing stated the matters under contention related to the price per m² placed on the appeal property, inclusion of the bund and storage land in the valuation and lack of allowance for the MCC.
8. Reference was made to the basis of valuation under Schedule 6 of the LGFA 1988, in terms of the hereditament and the assumptions which must be made as they were as at the material day. The date that each proposal was served and received by the VO sets the material day which for Item 6 was 16 November 2022 and Item 7 the 18 November 2021.
9. With the use of location maps and photographs, Ms Downing explained that the appeal property was situated on Engineer Park, within the well-established industrial areas of Sandycroft and lay approximately six miles west of Chester. Aber Roof Truss was located at a mixed-use area of the park with a residential mobile home complex abutting the site. The property comprised a factory/production area, portable building office and staff accommodation as well as hard surfaced storage land.
10. Ms Downing referred to the copy of the inspection notes undertaken by her colleague on 20 June 2024 and a revised property/survey plan. It was noted that the quality for one of the portable buildings used as a staff/mess room was substandard which had been reflected in the proposed valuation. There had been no changes to the main building since its construction and it had been measured to Gross Internal Area (GRA) as set out in the RICS code of measuring practice 6th edition. Land was used to store trusses, and this had been measured to reflect where the racks to store the timber were located.
11. During an inspection of the appeal property, it was identified that there were two storage sheds, a storage container, bund wall and steel supports for two hoists. CCTV cameras and associated system and security gates have also been added to the proposed valuation. All items excluding the storage sheds and containers were valued in accordance with The Valuation for Rating (Plant and Machinery) (Wales) Regulations 2000.
12. Ms Downing stated it had not been possible to confirm if the compiled list was incorrect in respect of the plant and machinery and of the exact dates the storage sheds and container were brought onto the site. However, they were on site at the date of inspection. The usable land size had been reduced. All amendments to the appeals valuation resulted in no change to the RV.
13. Regarding Item 6, which cited physical changes to the appeal property that had occurred on 1 April 2017, Ms Downing remarked that, although this had already been appealed and settled at a £/m² of £34.13/m², as at the material day there had been no extension to the unit, nor had there been a reduction in footprint. In relation to the way in which the property was occupied, she was unable to identify a physical alteration to the property.

14. Regarding Item 7, the MCC relating to the locality was noted as being the development off Station Road under Planning Application lodged with Flintshire County Council (FCC) on 5 November 2021. This confirmed a MCC was present as at the material day of 18 November 2021. Prior to Altus Group being dis-instructed, they had provided the VOA with a submission stating in generality a hypothetical tenant would not pay the same rent on a property new to the market if it had a group of travellers camped outside. This would impact the tenant as well as the landlord who would lose rental income. In focusing on a hypothetical tenancy, the rental figure would be negatively impacted in this situation and as such a 20% allowance should be considered with effect from 1 September 2021 for the period this MCC persisted. Altus provided a proposed valuation with a price per m² of £34.13 with the unit adjustment -20% giving a RV of £24,537.60.
15. To determine the effect of such a change in the locality and whether the hypothetical tenancy would pay less rent for the disturbance, consideration was given to rental evidence in accordance with the principles established in *"Lotus & Delta v Culverwell (VO) & Leicester City Council"*. This case established that in any valuation dispute regarding tone, the starting point must be to consider any rent passing on the subject hereditament. Ms Downing explained that as the appeal property was freehold there was no rent to consider, therefore consideration must be given to comparable properties or to the tone of the list.
16. With the use of photographs and rental and comparable assessment summary, reference was made to Deeside Indoor Karting Centre, Plot 5, Areen Stonecraft Unit A, Units 1 & 2, Promens Packaging Ltd, Willacy Oil for Services Ltd and Unit 32 situated in Engineer Park Industrial Estate to support the basic rate of £35/m² and adopted rate of £34.13/m² applied to the appeal property. Proposals for these properties had been raised and settled (withdrawn) with various agents and appellants.
17. Ms Downing stated that Mr Hopkins had requested for the appeal property to be valued in line with Promens Packaging Ltd. In considering comparability, Promens being a large industrial unit of 15,505.61m² fell into a different classification to that of the appeal property, as large sites show an element of quantum. Its assessment was referred to within the assessment summary.
18. Ms Downing explained that there were two MCCs noted within Mr Hopkins submission. Site 1 set up in 2016 and Site 2 as the site off Station Road.
19. Site 1 predated the compilation of the 2017 rating list and therefore, an appeal could not be validly made as the MCC must have occurred on or after the day in which the list was compiled.
20. Site 2 the matter of planning was a matter for the planning authority; however, consideration was given to the grounds of the proposal for Item 7.
21. Regarding the Effluent Plant, Ms Downing stated that this was not a physical alteration in the locality and whilst she empathised with the problem, the rental bids reflected this issue.
22. Having considered the physical locality and whether any assessments had been reduced for similar MCC's, Ms Downing stated that no reduction of rental evidence had been identified, nor any allowances agreed.

23. Regarding the age of the property, under the hypothetical tenancy it is required to assume that the hereditament is in a reasonable state of repair. Maintenance cost increases as the building ages and this had been reflected in any rental bids.
24. Ms Downing stated in the absence of any evidence of loss in rental values by the appellant, no allowances were given for similar MCCs in the locality and having regard to the settlements establishing a tone of the list, she was satisfied that the tone was correct. Therefore, she requested that the appeals be dismissed.

Appellant Case

25. Mr Hopkins explained that there were two parts to the appeal (Item 6 and Item 7). His son had researched the grounds of the proposal for Item 6 and he had dealt with the grounds of proposal for Item 7, in the written submissions provided.
26. Mr Hopkins referred to correspondence dated 10 October 2024. In relation to Item 6, his son researched information from the VOA's own guidance on their website regarding location, physical characteristics, features and age of the property. With so much variation, Mr Hopkins focused on the appeal property's neighbouring companies, Promens Packaging Ltd (Valuation Scheme Reference 636358) and The Circuit (Valuation Scheme Reference 632844). He considered these properties to be most comparable to the appeal property due to sharing its location and access off Babbage Road. There was no difference to the surrounding environment except that the appeal property had the disadvantage of being first inline to break ins, which over the years resulted in business losses.
27. Other similarities between the appeal property and Promens included workshop and office areas, and both properties were considered as manufacturing facilities operating plant and forklifts. Although there was a difference in age between these two commercial properties, Mr Hopkins explained that the appeal property required a lot of maintenance in recent years such as major leaks across the roof, drainage issues, structural and electrical issues. He requested that the properties should not be a significant point when calculating the base rate value.
28. Mr Hopkins stated Aber Truss Roof was struggling like all businesses with rising costs across all areas, and the market fall out post Covid. Taking account of the costs concerning the break ins, property repairs, and rising business rates, he had considered relocating to Enterprise Zones in Ellesmere Port or Manchester as the current and proposed rate values were becoming unaffordable.
29. He requested that the base rate be lowered to match Promens Packaging Ltd at £24/m² as this business was the most identical to the appeal property, rather than The Circuit's base rate of £11.50 as it was not a manufacturing facility. A copy his proposed valuation was provided.
30. With regard to Item 7, Mr Hopkins explained that there were two travellers' sites. Site 1 off Station Road, opposite Reach next to bridge off Factory Road set up in 2016 and Site 2 opposite J R Engineering off Factory Road set up around October/November 2021.
31. FCC planning never advised tenants within its locality of Site 1; however, he was informed by FCC that they had not approved this site and would contact all tenants of their final verdict. That was in 2016 and still no reply.

32. Mr Hopkins said he rang FCC planning department on 5 November 2021 asking for an explanation to why Aber Truss was not advised or given the opportunity to accept or reject Site 2. FCC asked if he could send details of this site as they were not aware of it. An email was sent to FCC that same day, as of October 2024 no further update had been received from FCC.
33. Mr Hopkins explained that geographically the appeal property was situated approximately $\frac{3}{4}$ mile down from the Effluent Plant near Site 1. Since 2006 he has experienced horrid smells mainly in the summer periods. In the early years he had continually complained to FCC environmental department who continuously used the same excuses, that they had visited the site, and the management of that Plant informed them that they were operating in accordance with government legislation. Mr Hopkins wondered if that was the case then how had the owner/occupiers of the houses bordering the site had been relocated and the houses boarded up.
34. Mr Hopkins was of the opinion that FCC planning were treating all the tenants with contempt. The repercussions of the FCC planning allowing these sites was outrageous.
35. Mr Hopkins stated, without prejudice, that since the travellers had set up in 2016, the thefts at the appeal property commenced and perpetually got worse when the 2nd site became into being. The thefts were always targeted at diesel and TR26 engineered timber (high value cost), which had to be stored outside and left to the weathering elements, otherwise the timber would warp if stored within the factory. In July 2024, thieves cut through 2 security fences and attempted to break into the office which caused approximately £2500 worth of damage. A high investment had been made in security cameras, unfortunately this has not deterred the break ins.
36. Mr Hopkins respectfully requested that the Tribunal acknowledged his plight and to make concessions in reducing the appeal property's rates, with the mitigating factors of change in circumstances.
37. During cross-questioning, the following salient points were noted:
- Ms Downing confirmed that the whole of the area for loading/unloading at the gable end entrance of the factory was not included within the land. The area in which the racking was stored was measured and anything outside of that had not been included, including the car park.
 - Mr Hopkins confirmed that all areas had been agreed with the VO over the phone prior to the hearing. Mr Hopkins asked if a premium was being paid on the bund as that area was non-productive. Ms Downing advised that the bund had been included within the valuation as it formed part of the hereditament. Mr Hopkins disagreed with this as the creating of the bund wall was forced upon them.
 - Ms Downing confirmed that the Travellers site existed at the material day.
 - Mr Hopkins stated that the information regarding the thefts was gained from the police and talk within the community. There were no resulting convictions.

Decision and Reason

38. The Tribunal was required to determine the appropriate price per square metre, the inclusion of the bund wall and storage land in the valuation, and the consideration of a MCC in relation to the appeal property.
39. The basis of valuation for rating purposes is provided for by Schedule 6 (2)(1) of The Local Government Finance Act 1988, as amended by Section 1(2) of the Rating Valuation Act 1999. These provisions set out the assumptions that must be applied when valuing a property for rating purposes.
40. The Tribunal recognised that the appeal hereditament must be valued with regard to rental values as at the Antecedent Valuation Date, 1 April 2015, whilst reflecting the physical circumstances of the property as at the Material Day. The relevant material days were 16 November 2022 for Item 6 and 18 November 2021 for Item 7.
41. It was also acknowledged that the hereditament must be assumed to be “*vacant and to let*” and that the actual trade or occupation cannot be taken into account. It also recognised that determining whether a tone of the list had been established was a key consideration.
42. After reviewing the evidence, the Tribunal found that the basic rate value of £35/m² applied to the appeal property was appropriate. An adopted rate value of £34.13/m² had previously been appealed and subsequently agreed upon, as confirmed by Altus Group in their proposed valuation. That same valuation also included a proposed end allowance unit adjustment of 20%, intended to reflect the potential rental impact of an MCC associated with the presence of travellers’ sites effective from 1 September 2021 for the duration of the MCC.
43. Regarding Item 6, the Tribunal found no evidence of any significant physical change to the appeal property at the material date. While Mr Hopkins disputed the inclusion of the bund wall in the valuation, the Tribunal determined that, as the bund wall was in existence, it formed part of the hereditament and must therefore be included in the valuation. It was noted that the storage land area referred to was not included within the valuation. It was also noted that the amendments made to the VO’s proposed valuation did not alter the existing RV of £30,500.
44. In relation to Item 7 and Sites 1 and 2, with the travellers’ site being in situ at Site 1 in 2016, the Tribunal agreed with the VO that this MCC did predate the compilation of the 2017 Rating List. It was noted that for both travellers’ sites and the Effluent Plant, Mr Hopkins expressed his grievance with FCC planning and environmental departmental. Whilst they deeply empathised with Mr Hopkins these issues fell outside of the Tribunal’s remit.
45. With respect to Item 7 and Sites 1 and 2, the Tribunal noted that the travellers’ site at Site 1 had been established by 2016, predating the compilation of the 2017 Rating List. The Tribunal agreed with the VO that this precluded it from constituting an MCC for rating purposes. While Mr Hopkins raised concerns about the planning and environmental matters involving Flintshire County Council (FCC), these issues fell outside the Tribunal’s jurisdiction, though his concerns were acknowledged with empathy.

46. The Tribunal considered both parties' arguments concerning the potential impact of the travellers' sites on rental and rateable values, including guidance established in *Lotus & Delta Ltd v Culverwell (VO)* and others.
47. In the absence of a rent passing on the appeal property, the Tribunal focused on whether a *tone of the list* had been established by examining comparable properties within or near Engineer Park Industrial Estate.
48. From the evidence submitted, the Tribunal acknowledged Mr Hopkins' assertion that Promens Packaging Ltd was the most comparable property. However, with a total floor area of 15,505.61 m², its valuation included an element of quantum, making direct comparison to the appeal property, measuring 782.86 m², unsuitable.
49. Apart from Promens Packaging Ltd and Deeside Indoor Karting Centre (both affected by quantum), the remaining comparables supported the basic rate of £35/m². There was no evidence that any MCC had affected the RVs of those properties.
50. On the balance of the evidence, the Tribunal was persuaded by the VO that a *tone of the list* had indeed been established for the current 2017 Rating List.
51. In line with the High Court decision in *Vines Ltd v De Mauny (VO)* [2010], it is the responsibility of the appellant to prove that the existing assessment is incorrect. As Mr Hopkins failed to provide evidence that a material change of circumstances had occurred which would impact the RV of the appeal property, the Tribunal found that the burden of proof had not been met.
52. In conclusion, the Tribunal found that the base rate of £35/m² and the adopted rate of £34.13/m² were fair and reasonable. It therefore determined that the VO's proposed valuation, with an RV of £30,500, was correct for the 2017 Rating List. Accordingly, the appeals are dismissed.