

Appeal Number:	681030909411/285NV17/35
Appellant:	Newmark Gerald Eve LLP (formerly Gerald Eve LLP) agent for Halfords Limited
Appeal Property:	Retail Warehouse and Premises, Halfords, Caernarvon Road, Bangor LL57 4SU
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	24 April 2025
Appearances:	Mr L Bourke (for the appellant) and Mr S Meadowcroft (for the respondent Valuation Officer)
Decision and its date:	Appeal Allowed in Part – 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 appeal before the tribunal followed a proposal made by Gerald Eve LLP on behalf of the occupier, Halfords Limited, in respect of the appeal property, which the Valuation Office Agency (VOA) received on 22 August 2018. The proposal sought for the entry in the 2017 Rating List be reduced from £178,000 to £1 with effect from 1st April 2017, on the grounds that *'the entry and assessment of the hereditament is bad in law. The value is excessive, incorrect and unfair and should be reduced'*.
2. 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.
3. Prior to the commencement and during the hearing, IT issues were encountered and resolved.
4. 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 Local Government Finance Act 1988 - Paragraph 2(1) Schedule 6:

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.

- Ladies Hosiery and Underwear Ltd v West Midlands AC [1932] 2KB 679
- Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council [1976]
- Specialeyes plc v Felgate (VO) [1994]
- O'Brien v Harwood (VO) [2003]
- Fir Mill v Royston UDC and Jones [1960] 7 RRC 171
- Barnard & Barnard v Walker (VO) [LVC/231/1975]
- Shearson Lehman Bros Ltd and others v Humphreys (VO) and another [1991] 2 EGLR 224
- Burroughs Machines Ltd v Mooney (VO) [1977] 1 EGLR 182
- Trevail (VO) v C&A Modes Ltd [1967]
- FW Woolworth & Co Ltd v Peck (VO) [1967]

Evidence and Submissions

5. Parties having agreed the facts of survey data, additional items and end allowance, requested the Tribunal to determine the £/m² to be applied to the appeal property which was currently at £160/m². Mr Bourke considered a base unit value of £112/m²

to be more appropriate, whereas Mr Meadowcroft contented a base unit value of £135/m². The main issues under contention revolved around rental evidence, tone of lists, height of the eaves, shared entrance, and car parking.

6. With the use of location maps and photographs, parties described the appeal property as a semi-detached steel frame construction with elevations of mixed brick and profile sheet metal, under a pitched profile-panel roof with translucent panels, set within a customer carpark of tarmac and concrete hardstanding. There was a retaining wall along the rear of the site. It was fitted in the occupier's usual retail livery with a tiled floor, partially lined walls and an unlined roof with pendant lighting, fully heated and air-conditioned. It had a supported "mezzanine" floor across the rear half of the unit providing further sales and storage accommodation with a suspended ceiling with inset lighting beneath. The property was contiguous with a Vehicle Repair Workshop and Premises and shared the carpark which provided approximately 45 parking spaces. It was situated in an elevated and setback location along the A4087 in Bangor.
7. A lease was agreed on 27 June 2014 between Halfords Plc and the Landlord Morbaine Properties Ltd, with effect from 24 June 2015 to 23 June 2025. As part of the lease renewal a rental figure of £210,607 p.a. was agreed, being first payable from 23 March 2016 with a 9-month rent free period. This rent included the appeal property and the Vehicle Repair Workshop and Premises. An analysis of the 5-year rent was provided and showed the total /m² of 1,325.9/m² for the site in question. According to Mr Bourke, the total of /m² and the total payable of £175,595.44 p.a. gave a £/m² of £132.43/m².
8. In following the guidance of the six propositions established in the case law of *Lotus v Delta*, the parties agreed that little or no weight should be attached to the appeal property's rent. This was due to the inclusion of the neighbouring Vehicle Repair Workshop, the properties being occupied separately (although under control of the same parent company) and shown as separate entries in the 2017 Rating List. Mr Bourke was of the opinion that the VOA had set the tone value when they had reduced the Vehicle Repair Workshop and Premises and Farm Foods Ltd from £160/m² to £125/m². Consideration was then given to the 'tone of the list'.
9. To support their cases, reference was made to the schedule of rental and comparable properties located at Caernarvon Road, Bangor within the VOA's 2017 list valuation scheme 391485, which had a base rate between £55.00 to £177.50 per sq. m. or unit, and the 2023 list valuation scheme 631112, based on a tone value of £160/m².

Appellant Case

10. Mr Bourke considered the VO's decision to reduce the tone value for Farm Foods Ltd was influenced by its agreed open market rent of £60,000 p.a. on 1 September 2015, close to the AVD of 1 April 2015. This rent adjusted to £61.15/m² significantly less than the £112/m² revised tone value. He contended that the tone of the list was established by the VO at £112/m² and therefore, £112/m² should be applied to the appeal property with effect from 1 April 2017. He also questioned the VO's approach in valuing food stores as retail warehouse and premises, and not as large food store or supermarket and premises.

11. Regarding the height of the eaves, Mr Bourke rejected the VO's assertion of the appeal property having a tone value of 30% higher than Farm Foods at £146/m² as opposed to £112/m². Firstly, due to the eaves at the appeal property measuring 6.8 metres which was considered standard for a portal frame unit. Additionally, the VO had not provided any rental evidence or authoritative guidance during the five years of negotiation that would support this assertion. Mr Bourke explained that such a premium for high eaves height did not exist in the retail warehouse market. The VOA's guidance for valuing industrial warehouse and premises indicated a 2.5% uplift for eaves height per metre between 6m to 10m and 1% uplift thereafter. When the VOA first valued the appeal property in both the 2017 and 2023 rating lists, it had been seen fit to value the appeal property and Farm Foods assessments with the same tone value (£160/m² at the start of 2017 list and £145/m² in the 2023 list), irrespective of any differential in eaves height. There has been no change in factual matters impacting either of these properties, therefore there had been no material change of circumstance to justify the application of a different differential.
12. Apart from Farm Foods, Mr Bourke considered the remaining assessments were not comparable to the appeal property, as they benefitted greater passing footfall due to being located alongside other Retail Warehouse and Premises. The VO had initially valued those properties at a higher £/m² rate than the appeal property in the rating lists.
13. In relation to limited car parking and shared entrance, Mr Bourke stated that this could apply to both the appeal property and Farm Foods. He emphasised that Halfords Retail Ltd and Halfords Autos were two separate businesses and occupiers. As such, for the VO to consider the same ratepayer to be in occupation of both assessments would be improper. The shared entrance and shared limited parking should be disregarded. Additionally, Farm Foods benefitted from greater visibility along Caernarfon Road for passing footfall in comparison to the appeal property, which was elevated and set back with it having been dug out of a hill side.
14. Mr Bourke contended that a hypothetical tenant coming fresh to the scene would not place a premium on the appeal property over Farm Foods due to the evident disabilities. He requested the Tribunal to apply a revised tone value of £112/m² at a RV of £129,000 with effect from 1 April 2017.

Valuation Officer Case:

15. Mr Meadowcroft explained that except for Farm Foods, Mr Bourke believed any other settlements had no bearing on the appeal property's assessment. The property of Farm Foods had renewed its lease close to the AVD; however, the agreement was subject to incentives, a considerable rent-free period, and in his opinion was not thought to present strong evidence for valuation purposes. Farm Foods had also been subject to a successful appeal.
16. Regarding Mr Bourke's belief that the subject appeal must be valued off the same base rate of £112/m² without consideration to any other settlements nearby, Mr Meadowcroft stated that the 2017 Rating List was at an advanced stage. In his opinion, the several settlements nearby had a bearing on the base rate of the appeal property and that the settlement of the Farm foods appeal formed part of that basket of evidence for consideration.

17. Mr Meadowcroft explained that having regard to the negative aspects of Farm Foods, namely inferior shared access, low level of parking and being a low height building that did not allow the possibility of additional mezzanine accommodation, there were significant differences between the two units in this regard. The schedule of evidence provided details of the comparable properties, which he and Mr Bourke agreed demonstrated the original RV of the appeal property was too high at a base rate of £160/m². Mr Meadowcroft contended that the basket of evidence supported a base rate of £135/m² and represented a fair rent that could have been achieved on the subject property at the AVD.
18. Based on the settled tone of the 2017 Rating List, Mr Meadowcroft requested that the Tribunal confirm and order his proposed revised valuation of a RV of £153,000 with effect from 1 April 2017.
19. During cross examination, the following salient points were noted:
- Mr Meadowcroft confirmed that Farm Foods had been inspected the day prior to the hearing. Farm Foods ridge height which was more difficult to measure due to suspended ceiling, measured approximately 5 metres centre of shop and eaves around 4 metres. The appeal property's eaves region measured 6.9 metres.
 - Mr Meadowcroft confirmed in his proposed valuation no value had been applied to the car park.
 - Mr Meadowcroft confirmed if this appeal was successful, he would look at correcting the 2023 Rating List.
 - Parties described delivery accesses to the appeal property and Farm Foods.

Decision and Reason

20. The matter for the Tribunal to decide was whether the 2017 Rating List entry for the appeal property be reduced from a RV of £178,000 to £129,000, as contended by the appellant (with a base rate of £112/m²), or to £153,000 as conceded by the VO (with a base rate of £135/m²), with effect from 1 April 2017.
21. The Tribunal was mindful that Non-Domestic property must be valued in line with the statutory definition of Rateable Value, as contained in paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, as amended by Section 1(2) of the Rating (Valuation) Act 1999, and in accordance with The Rating Lists (Valuation Date)(Wales) Order 2007, Statutory Instrument No: 2007/3153 (W269), which determined that the appeal hereditament must be valued by having regard to rental values achieved at the AVD, 1 April 2015, whilst looking at the physical circumstances of the property at the Material Day, 1 April 2017.
22. It was also aware that the appeal hereditament must be assumed to be "vacant and to let" and could not have regard to the actual trade of the occupier and the importance of ascertaining whether a tone of value had been established.
23. Referring to the statutory definition of Rateable Value and the Lands Tribunal judgement in *Lotus & Delta v Culverwell (VO) and Leicester City Council [1976]*, the

Tribunal was mindful that the best evidence was provided by rents synonymous with the statutory definition, passing on the subject property and which required little or no adjustment.

24. The Tribunal agreed that the passing rent should be considered as the starting point but believed that the rent on the appeal property to be of little assistance because of the proportion of that rent was unclear. Accordingly, the tribunal looked at the assessments of the comparable properties provided.
25. On examination of the basket of comparable properties, the Tribunal believed it was important to ascertain whether a tone of value had been established within the appeal property's locality and accordingly considered the arguments put forward by both parties.
26. Having considered the locality, the buildings, and the availability of the car parking provision (albeit not in their occupations or given a value within the proposed valuations), the Tribunal found the appeal property to be of a better quality to that of Farm Foods.
27. The Tribunal found that, although the appeal property did have some disadvantages, it was of a standard quality and concluded it did fall in line with the comparable properties, with the exception of Farm Foods. Therefore, the Tribunal determined that a tone of value had been established for the 2017 Rating List.
28. Based on the established tone of value, the Tribunal concurred with Mr Meadowcroft that the comparable properties supported a base rate of £135/m². Having regard to legislation, case law and evidence, the Tribunal agreed with the VO's proposed valuation.
29. Accordingly, the appeal was allowed in part. Consequently, the Tribunal orders the VO to alter the 2017 Rating List to accord with its decision: -
Retail Warehouse and Premises, Halfords, Caernarvon Road, Bangor LL57 4SU, to £153,000 with effect from 1 April 2017.