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

Case No: CHG100695343

Sitting remotely using Microsoft Teams

Date: 20 June 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 2017; warehouse and premises; end allowance; comparable assessments; appeal dismissed.

Before:
MISS U HAQUE
MR A HUSSAIN

Between:

POUNDLAND — **Appellant**

- and -

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

Regarding:
POUNDLAND DISTRIBUTION CENTRE, ELIZABETH WAY, HARLOW CM19 5AA
(the "subject hereditament")

Mr E Gutt from Colliers International, representative for the Appellant
Mr A Steel, representative for the Respondent

Hearing date: 23 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was dismissed.

2. The Tribunal panel held that the assessment of Poundland Distribution Centre, Elizabeth Way, Harlow CM19 5AA (hereafter, known as the subject hereditament) should remain within the 2017 rating list at £2,220,000 rateable value (RV) with effect from 1 April 2017.

Introduction

3. This appeal had been brought in respect of the following: the subject hereditament was entered into the 2017 rating list as ‘warehouse and premises’ at an RV of £2,390,000 with effect from 1 April 2017.

4. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal was made with regards to the subject hereditament to the Valuation Tribunal for England (VTE). The appeal was made because the valuation officer (VO) decided to alter the 2017 rating list to £2,220,000 RV following the appellant’s challenge. The appellant’s representative had sought a reduction to RV £1,750,000 with effect from 1 April 2017.

5. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the valuation officer had not made sufficient alteration to the rating list in his challenge decision notice.

6. Mr Gutt on behalf of the appellant and Mr Steel on behalf of the respondent, appeared as both advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr Gutt informed the panel that he was instructed on a conditional fee basis. Both declared that they understood and accepted that their duty was to the Tribunal in giving their evidence and that they were aware of and have complied with the requirements of the rules, protocols and directions of the Valuation Tribunal.

7. The panel accepted this expert witness evidence on the above basis as the appeal is 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).

8. 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.

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 hereditament was a regional distribution warehouse. It was built in 2014 and was of standard construction. It first entered the 2010 rating list on 10 August 2014. The subject hereditament had a total area of 32,786.32 m² with the warehouse area being 30,22.63 m². It had an eaves height of 17.13 m and benefited from a fire protection system. The offices

accommodation had air conditioning and the hereditament had 43 dock level loading doors with car parking.

11. Mr Gutt has proposed a RV of £1,750,000 with effect from 1 April 2017 based on a main space value of £55 per m², with an addition of 2.5%, for sprinklers, plus 3% eaves height and an adjustment of 2.5% for heating. He also requested an end allowance of 5% for access and layout.

12. Mr Steel was of the opinion that the subject hereditament should not have an end allowance. The circumstances at the subject hereditament had not changed between the 2010 and 2017 rating lists and the 2010 rating list assessment had been agreed without an end allowance for access and layout. An adopted value of £65 per m² had been applied, which Mr Steel held was the tone within the locality. However, he had agreed that the fire protection addition should be 2.5%. He had removed the age adjustment of 5%, which had been agreed in the 2010 rating list. He had also adjusted the addition for air conditioning from 10% to 5%. Therefore, he considered that the assessment of £2,220,000 RV was correct.

Preliminary matter

13. Prior to the hearing, Mr Gutt sent an email dated 21 May 2025 where he had requested a postponement of the appeal as he had been chasing the appellant for detailed information in connection with the fit out costs of the subject hereditament. However, this information had not been received. The Tribunal did not grant the postponement as this appeal had been registered in March 2023 and required hearing. It was also noted that there was an email dated 28 December 2022 within the evidence bundle where fit out costs had been mentioned, but no evidence or discussion was documented concerning fit out costs.

14. Further on 21 May 2025, Mr Gutt sent another email stating that the appellant had just provided details of the fit out costs which he had attached. He also had provided Mr Steel with a copy of the fit out costs. As Mr Gutt had been provided with the fit out costs from the appellant, at the hearing, he proposed a revised assessment of £1,840,000 RV, which was based on the fit-out costs that he had just received from the appellant.

15. The panel asked Mr Steel if he had any objections to the new evidence or the revised proposed RV from Mr Gutt. Mr Steel stated that he had no objections to the inclusion of the fit out costs or the revised RV by Mr Gutt. Therefore, the panel allowed this evidence to be included within the discussions by Mr Gutt.

Relevant Law

16. The subject hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988).

17. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841), the date of the hypothetical rent was 1 April 2015 the Antecedent Valuation Date (AVD). This common date was used to ensure that every property was treated in a consistent way.

18. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List

Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

Case Law:

19. Several case law had been provided, but only the judgment of *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141 was referred to at the hearing.

Discussion

20. In the case under consideration, the panel noted that the rental details of the subject hereditament was as follows:

a) A new 20 year lease with effect from 11 August 2014 on full repair and insurance terms.
b) There was a five-year review.
c) The passing rent commenced at £2,043,347 per annum.
d) There was a Landlord's capital contribution of £5,100,936.
e) No rent free period was granted

21. Mr Gutt relied upon the actual rental figures for the subject hereditament, where he argued for a lower RV based on the actual rent agreed. He stated that the contribution provided by the Landlord should be considered as an incentive, reducing the effective rent and in turn, reduce the RV. Mr Gutt had stated that he had analysed the rental figure to be £22,465,879, less the capital contribution of £5,100,938, which had arrived at a value of £17,364,941. When divided over the 20 year lease, this would equivalent to a rental figure of £1,768,666. Therefore, due to the actual transaction analysed above, he had requested a revised assessment of £1,750,000, which was also based on a rate of £55 per m² and taking into account the allowances in paragraph 11.

22. The panel found that even though the new lease had commenced circa eight months prior to the AVD of 1 April 2015, the capital contribution from the Landlord would require a significant amount of adjustment in order to confirm the correct rental figure for the subject hereditament.

23. The panel referred to the fit out cost sheet that had been provided. The sheet showed a description of items and the amounts paid for each of these items. However, the panel found that quite a few of the items did not have a cost figure and had been excluded. As the fit out cost sheet did not contain the full details of how much was paid for the items listed, the panel placed less weight onto the details provided.

24. The panel noted that when the subject hereditament had been marketed for sale, it was placed on the market as a Category A fit out. Category A properties refer to the basic finish of a space provided by the landlord. A Category B fit out is a fully operational work environment, ready for tenants to move in. The panel found as the subject hereditament was advertised as a Category A hereditament, the rent would have been affected and therefore, not considered to be an open market value.

25. The subject hereditament was situated in Harlow where Mr Gutt stated was a poor location and the access to the M25 could be at times difficult. He stated that a lower rent had been agreed between the landlord and the appellant because the location for the subject hereditament of this nature was poor.

26. The panel turned its attention to the comparable evidence provided by Mr Steel to support the assessment of the subject hereditament. Mr Steel acknowledged the location's impact and that the comparable properties which were also located within Harlow, Essex, had a base rate of £65 per m². The comparable properties were located within Waltham Abbey, Essex; Hoddesdon, Hertfordshire and Hatfield, Hertfordshire. These comparable properties had a base rate between £71.50 per m² and £72.50 per m². The panel was informed by Mr Steel that the base rate for hereditaments located within Harlow Essex was lower due to the inferior location.

27. The panel noted that the comparable properties were all warehouses with measurements which ranged between 10,542.89 m² and 78,200.04 m². The comparable properties located within Harlow, Essex measured between 10,542.89 m² and 32,786.32 m² with the subject hereditament being the largest in size. The panel found that the comparable properties supported the base rate of £65 per m² for the subject hereditament.

28. The panel went on to consider the allowances presented by both parties. Mr Gutt had requested an addition of 2.5% for sprinklers, plus 3% eaves height and an adjustment of 2.5% for heating. He also requested an end allowance of 5% for access and layout. Mr Gutt informed the panel that access to the M11 was poor and the access to the M25 can at times be extremely difficult.

29. The panel noted that Mr Steel had agreed an addition of 2.5% for sprinklers. He had also removed the age adjustment of 5% which had been agreed within the 2010 rating list and adjusted the addition for air conditioning from 10% to 5%.

30. Mr Steel stated that he did not agree with an end allowance of 5% for access and layout, as this had not been agreed within the 2010 rating list. The panel found that the circumstances of the subject hereditament had not changed between the 2010 rating list and the 2017 rating list. It was also noted that the lower base rate of £65 per m² took into account the inferior location of where the subject property was situated.

Determination

31. Taking into account all of the evidence provided, the panel found that in the absence of rental evidence from the comparable properties and the little weight it had placed upon the subject hereditament's rent due to the significant amount of adjustment that would be required. When considering the tonal evidence of the comparable properties, the base rate for the subject hereditament of £65 per m² was found to be fair and reasonable.

32. The panel also found that insufficient evidence had been provided to show that an increase in the end allowance of 5% for access and layout; or a lower base rate of £55 was warranted. No evidence had been provided to show that the assessment provided by Mr Steel with the adjustments detailed was excessive or unfair.

33. In appeals of this nature, the burden of proof was on the appellant to show that the current assessment was excessive. Having regard to the above factors the panel found the appellant's representative had not discharged this burden and it therefore dismissed the appeal.

Right of further appeal

34. 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.

35. 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/.

Miss U Haque, Senior Member (Presiding)

Mr Amran Hussain, Senior Member

20 June 2025

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 20 June 2025