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

Case No: CHG100814409

Sitting remotely using Microsoft Teams

Date: 29 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Rateable Value unreasonable ; allowances for disabilities; appeal allowed in part.

Before:
MR K EVERETT
MR SC KAMALAN

Between:

ALEX GALWAY **Appellant**

- and -

Andrew Mouland
(VALUATION OFFICER) **Respondent**

Regarding:
HANDS ON SKILLS TRAINING LTD,GATE 17 ROYAL ALBERT BASIN SOUTH,LONDON,E16 2NJ
(the "subject property")

Mr Matthew Hawkins of Colliers for the Appellant
Mr Tom Bleasdale for the Respondent

Hearing date: 01/05/2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal found the entry for the subject property should be reduced to £97,500 Rateable Value with effect from 25 December 2017.

Introduction

3. This appeal has been brought in respect of the following: An appeal was lodged by Colliers on behalf of the occupier on 6 June 2023 against the Valuation Officer's (VO) Challenge Decision Notice of 6 February 2023 on the grounds that the VO's Notice was inaccurate.

4. Mr Hawkins appeared on behalf of the appellant 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 Hawkin's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

5. Mr Hawkins declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the 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 Procedure regulations and was 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. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

8. Mr Bleasdale also provided a statement of truth and confirmed he was appearing as advocate and expert on behalf of the VO.

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

Background

10. The appellant is Hands on Skills Training which provides training and testing for heavy plant construction such as Forward Tipping Dumper, Crane Supervisor, Pedestrian Operated Tower Crane and excavators.

11. The subject property comprises of an area of unsurfaced, fenced land along with ancillary buildings on the bank of the River Thames at the entrance to the Royal Docks. London City airport is situated immediately to the west of the subject property. The site has a shared access with the Environment Agency.

12. The Rateable Value (RV) of £197,000 with effect from 25 December 2017 was considered excessive by the appellant. The land area was disputed the Valuation Officer's measurement of 18,588 m^2 was incorrect, the appellant states the useable area to be 8,801m^2 the remaining land with the fenced area was scrub land and woodland and therefore of no practical use and should not be included in the assessment. The value ascribed to the land was considered excessive at £10 per m^2, the appellant was seeking £1.11 per m^2 with an end allowance of 5% for access restrictions which would result in an RV of £20,000 if all matters sought were agreed.

13. The lease on the subject property commenced on 25 December 2017 at a rent of £10,000 per annum. There was an error in the lease as the land area was noted to be 900m^2 not 9000m^2. This was devalued by the appellant to £1.11 per m^2. A corrected lease was not provided.

14. There was restriction to the access for the site due to the shared access with the Environment Agency which led to the road being busy or blocked and access being restricted at times.

15. The appellant also argued that the value of the subject property was affected by flood risk as it was in a level three flood risk area, it was under the flight path for London City Airport that caused excessive noise and there was poor internet service all of which would affect the rental bid from a hypothetical tenant.

16. It was proposed that if the rent was not the basis for valuation, then allowances for flood risk (40%), poor access (20%), shared access (10%), flight path noise (10%) and poor quality surface (10%) should be allowed to reduce the RV to £19,500.

17. The Valuation Officer advised that the Promap provided by the former representatives of the appellant showed the site to be 18,588m^2 and there was a previous rating assessment where the assessment was revised by

agreement following a reduction in the land area from 20,871m^2 to 18,588m^2. The Valuation Officer argued that all useable land should be included in the assessment and it was clear from the photographs that most of the land within the banked area was being used. The occupiers were using the land to train the students in the use of earth moving equipment and therefore it was of use and should be attributed a value commensurate with other similar properties in the area.

18. With regard to the access issues the Valuation Officer advised that the access way was not included in the assessment and therefore no further adjustments should be made as it would amount to double counting.

19. The Valuation Officer stated that as the lease was two and a half years post 1 April 2015 the antecedent valuation date (AVD) for the 2017 list it was given little weight. The value ascribed to the land was based on other comparable properties in the area and was therefore reasonable.

Relevant Law

11. Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

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.

20. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be
taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance

with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841). Each appeal hereditament had to be valued, having regard to factual matters at the relevant material day, in accordance with paragraphs 2 (6) and (7) of Schedule 6 to the 1988 Act.

> (6) Where the rateable value is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force) the matters mentioned in sub-paragraph (7) below shall be taken to be as they are assumed to be on the material day.
> (7) The matters are—
> (a) matters affecting the physical state or physical enjoyment of the hereditament,
> (b) the mode or category of occupation of the hereditament,
> (c) the quantity of minerals or other substances in or extracted from the hereditament,
> (cc) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,
> (d) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there, and
> (e) the use or occupation of other premises situated in the locality of the hereditament.

21. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject property, the material day was 25 December 2017.

22. **Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141**

The propositions are:

i) Where the hereditament which is the subject of consideration is actually let that rent should be taken as a starting point;
ii) the more closely the circumstances under which the rent is agreed both as to time, subject matter and
conditions relate to the statutory requirements contained in the definition of gross value in s19 (6) of the General Rate Act 1967, the more weight should be attached to it;
iii) where rents of similar properties are available they too are properly to be looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject hereditament.
iv) assessments of other comparable properties are also relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values as estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving some indication of that opinion;
v) in the light of all the evidence an opinion can then be formed of the value of the subject hereditament, the weight to be attributed to the different types

of evidence depending on the one hand on the nature of the actual rent and, on the other hand, on the degree of comparability found in other properties. vi) in those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would clearly be more difficult to reject the evidence of the actual rent.

Discussion

23. The evidence submitted for consideration for this appeal consisted of the appellant's challenge submission the VO's challenge decision and photographs and location maps of the subject property, photographs and location maps of properties submitted as comparable to the subject property, and the agent's written appeal statement.

24. The first determination that was required was the size of the demised area.

25. The panel noted that the lease required the tenant to keep parts not built on clean and tidy and free from weeds and the landscaped areas to be well tended which indicated that the whole area including the grassed and wooded areas were available and accessible for the use of the tenant.

26. The panel found that it was clear from the aerial photographs that a great deal more land was being used than that submitted by the appellant where only the cleared areas had been measured. The photographs did not show newly fenced areas or restrictions to the access to any area. The photographs did show pathways through the scrubland which satisfied the panel that these areas were used for training purposes given the nature of the appellant's business. The panel was also satisfied that the grass covered and banked areas would be of use for training and testing purposes where such hazards would be part of the construction business.
The Valuation Officer confirmed that the area used as access, the 'woodland' ar ea and the banked up boundary line area were excluded from this assessment. The panel also placed some weight on the agreement previously made with the agent acting on behalf of the occupiers as there was no evidence of any changes to the area. Therefore, the panel found that the area to be assessed was 18,588m^2.

27. The panel had regard to the comparable properties cited by the appellant to support an allowance for poor access. It placed little weight on those identified as supporting a 5% access allowance as they appeared not to be suffering from the same type of access disability as the subject property nor were they in the locality. The Valuation Officer had provided the following in respect of the comparable properties identified:

UNITS 11/12, Court Lane Estate, Iver, Bucks, SL0 9HL

5% allowance to reflect the disadvantage of a "split site".

BRITISH FUELS, Awsworth Road, Ilkeston, Derbyshire, DE7 8JF -
5% allowance to reflect restricted opening times.

KBC LOGISTICS, Beacon Hill Industrial Estate, Purfleet Essex, RM19 1SR -
5% allowance to reflect the subject land is a corner plot and can only be accessed through adjacent yards

STORAGE LAND, Tower House Lane, Saltend, Hull, HU12 8EE -
5% allowance to reflect shared access with construction site.

EASCO (MIDLANDS) LTD, Ibstock Road Coventry, CV66JR
5% allowance to reflect the poor access as the subject is next to a railway bridge.

SOUTH EASTERN TANKER SERVICES LTD, Breach Lane Dagenham Essex, RM9 6EG –
5% allowance to reflect access across site for Channel Tunnel Rail link (High S peed 1).

28. The panel was aware that in accordance with *Lotus and Delta the* starting point is the actual rent of the subject property which was relied upon by the appellant to demonstrate the RV was excessive as it devalued to £1.11 per m^2. The closer the lease was to the AVD the greater weight could be attributed. This was two years eight months post AVD and therefore carried little weight. The rent also appeared exceptionally low when the other comparable properties in the basket of evidence were considered.

29. The panel then considered the evidence of the comparable properties cited by the Valuation Officer. There were four identified all within the London are with rents effective from 3 February 2013 and 13 December 2016 and noted that all appeared to be for hard surfaced land with values between £9.00 per m^2 and £13 per m^2 . The panel found this to be good evidence of the likely rental value of land in the area, this was hard surfaced land and therefore the panel considered any assessment of the subject property should be adjusted as the land at the subject property was unsurfaced.

30. The panel considered the best approach was to adjust the RV originally ascribed considering the evidence of allowance given on properties with similar disadvantages provided. The unsurfaced Land at 10 & 12 Herbert Drive was valued at £9.00 per m^2, this was the only evidence of unsurfaced land provided and was not disputed by the Valuation Officer therefore a 10% allowance for the unsurfaced land at the subject property was considered reasonable.

31. The panel also noted that 38 Fourth Way Wembley had an allowance of 30% for flood risk. The panel considered the location of the subject property was at a higher risk of flooding given its location and therefore considered an adjustment should be made for this and an additional allowance to recognise the various disabilities relating to the location of the subject property being under the flight

path with poor communication network and some restrictions in access. Having considered the allowance on properties with similar disabilities identified by the appellant in total a 45% allowance was considered reasonable to recognise that the hypothetical tenant taking these factors into account would reduce the rental bid by this amount.

32. In view of the foregoing the panel's valuation is as follows:

Address	**Description**	**Rateable value**	**From 25 December 2017**
Hands on Skills Training17 Royal Albert Basin South, Woolwich Manor Way London E16 2NJ	Land used for training	£197,000	£197,000
Less 10% Allowance unsurfaced land		£19,700	£177,300
Less 45% allowance for disabilities relating to location.		£79,785	
Total			£97,515 Rounded to £97,500

Determination

33. In view of the above findings and conclusions, the panel found that the existing valuation for the appeal hereditaments were not reasonable and should be reduced to reflect the limited rental bid that would be achieved on the subject property.

34. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to give effect to the following reduced entry for the subject hereditament of £97,500 from 25 December 2017.

35. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Right of further appeal

36. 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.

37. 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/.

Mr K Everett, Senior Member (Presiding)

Mr SC Kamalan, Senior Member

29 May 2025

Mrs J Routledge
Clerk to the Tribunal
Date issued to the parties: 29 May 2025