IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF 2017 RATING LIST APPEALS

Case Nos: CHG100927477
and CHG100828260

Sitting remotely using
Microsoft Teams

Date: 22 August 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — workshop and premises — main space price — end allowance for disabilities — appeals dismissed.

Before:
MR WJ READ
MRS AE FIELDER

Between:

GAVIN JONES **Appellant**

- and -

ANDREW MOULAND
(VALUATION OFFICER) **Respondent**

Regarding:
OWEN MUMFORD, GREEN LANE, WOODSTOCK, OXFORDSHIRE OX20 1JY
(the "subject property")

Mr Matthew Hawkins of Colliers for **the Appellant**
Mr Kieran Chamba of the Valuation Office Agency for the **Respondent**

Hearing date: 13 August 2025 10:00

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals are dismissed.

2. The Tribunal finds the rateable value was not unreasonable and that there was no evidence to justify an allowance for flooding.

Introduction

3. The appellant had made two challenges against the accuracy of the compiled list assessment in the 2017 Rating List, by way of proposals that he served on the Valuation Officer (VO) on 14 July 2022 and 16 February 2023 respectively. The second proposal was made on the same grounds as the initial proposal but it was submitted as a result of an increase in the rateable value due to changes to the subject property.

4. After considering the proposals and evidence submitted during the challenge period, the VO decided that the proposal was partially well founded and agreed to reduce the assessment from Rateable Value (RV) £175,000 to £162,000 effective from 1 April 2017 to 18 November 2019 (inclusive) and RV £176,000 effective from 19 November 2019

5. Decision notices to this effect were served on the appellant on 16 December 2022 and 18 December 2023. His representatives then appealed the VO's decisions to the Tribunal on 14 April 2023 and 17 April 2024, on the grounds that the current valuation for the hereditament was not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

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

Background

7. The subject property was a workshop and premises, which included workshops, offices, warehouses and a production area an agreed total area of 5,979.77m² and then 6,015.67m². The increase in the RV effective from 19 November 2019 was a resulted in the increase in the size of the assessment.

8. As Mr Hawkins appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

9. He declared that he was instructed under a success fee arrangement in his role as both advocate and expert witness. Mr Hawkins confirmed 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. The appellant stated that his fee basis had changed from the initial preparation and submission of the bundle and the date of the hearing.

10. 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 Procedure regulations 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).

11. Mr Chamba confirmed that he was representing the VO as advocate and expert witness.

12. The issues in dispute before the panel was the correct tone of value to be applied to the subject property. Mr Hawkins sought a reduced entry of £85,000 RV from 1 April 2017 based on an unadjusted main space price of £25/m² and an allowance of 30% due to a potential flood risk. He also sought an allowance of 10% for a split site, however, prior to the hearing, the VO had agreed to an allowance of 7.5% which Mr Hawkins was satisfied with. The RV has already been adjusted to reflect this allowance.

13. However, Mr Chamba defended the VO's assessments of £162,000 and £176,000 RV respectively, based on a tone of value of £30/m². He had also refused to award any allowance for the alleged risk of flooding.

14. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties comparable assessments, skeleton arguments and location maps. Mr Hawkins had also introduced two decisions of this Tribunal *Johnson Cars v Andrew Mouland* appeal number CHG101079624 and *Alex Galway v Andrew Mouland* appeal number CHG100814409.

Preliminary issue

15. There was a preliminary issue in that Mr Chamba wanted to provide some internal and external photographs of the subject property. He confirmed that he had taken the photographs when he had visited the subject property which was some seven years after the material date.

16. Mr Hawkins objected to the inclusion of the photographs as he was unable to confirm that they represented a true representation of the situation at the material day.

17. The clerk advised the Tribunal that "There should be agreement before the hearing between the parties that any photographs and plans submitted to assist the panel on the day are a true representation of the situation at the material day".

18. Although the panel understood that there may not have been any significant changes to the assessment between the material date and the photographs being taken, the panel decided the as seven years had elapsed and no good reason had been given for the delay in the photographs being taken, as the subject property had previously been inspected by the VO, the panel decided to exclude the photographs.

Relevant Law

19. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "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; and

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".

Discussion

20. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

21. However, both parties accepted that the rent was not reliable to determine the RV as the lease was between connected parties. Therefore, to determine the unadjusted rate, Mr Hawkins had identified a number of comparable properties within the same scheme. They had been valued at between £30/m^2 to £35/m^2 in the 2010 rating list and the 2017 rating list. However, in the 2010 rating list the subject property was valued at £25/m^2 which had increased to £30/m^2 for the 2017 rating list. He argued that it was the only property within the scheme that had its main space price increased. He referred to the judgment of *Barnard and Barnard V Walker* [1975] LVC/231 where it was held that an allowance should continue into the next rating list.

22. Mr Hawkins also objected to the VO using rental and tonal evidence from Witney which was located some distance away from the subject property and Witney was a larger village than Woodstock. He argued that using comparable properties in Kidlington or Oxford would be more reliable.

23. To support the current value, Mr Chamba referred to Units 1, 2, 3, 4 and 5 Avenue 2, Station Lane which had been built in the 1960s and were similar in size to the subject property. It was a new lease effective from 1 November 2015 which had been analysed at £37.45/m^2. The VO had adopted a main space price of £40/m^2 and Unit 2 Oxford House, Dehavilland Way. The rent had commenced in 2010 and had been analysed at £55.31/m^2. The VO had adopted a main space price of £45/m^2. This property was 2,000m^2 larger than the subject property.

24. Mr Chamba also referred to a number of comparable properties which had been built from the 1950s to the 1990s. They varied from a total area of 4,598m^2 to 9,834m^2. The values that had been adopted ranged from £25/m^2 to £45.00/m^2.

25. Weighing up the evidence, the panel understood the reason for Mr Hawkins being unhappy with the main space price of the subject property increasing from the 2010 rating list to the 2017 rating list. However, the panel understood that *Barnard and Barnard V Walker* referred to allowances such as those granted for a split site, rather than changes in the main space

price from one rating list to another, which reflect changes to the rental markets for the respective properties.

26. However, although Mr Hawkins had criticised the VO's use of comparable properties in Witney, he produced no comparable properties to support his argument that the subject property should be valued at £25/m^2. Although he had referred to those properties that were in the same scheme and had remained at £30.00/m^2, with one of these being slightly larger at 6,694m^2 these supported the subject property being valued the same as these at £30/m^2. Mr Hawkins produced no argument or evidence to explain the reasons the subject property should be valued less then these, apart from the fact that the value had increased from one rating list to the next rating list. The panel therefore concluded that the subject property should also be valued at £30/m^2 in line with the other properties in the scheme and dismissed this aspect of Mr Hawkins' argument.

27. The panel then considered Mr Hawkins' argument that the subject property should have a 30% allowance for flooding.

28. The clerk advised the Tribunal that the two decisions provided by Mr Hawkins were decisions of this Tribunal and were not binding on this panel. However, the panel differentiated the two decisions as the decision of *Johnson Cars v Andrew Mouland,* the subject property was actually flooded which had been exacerbated by a new warehouse being built in the immediate locality. The *decision of Alex Galway v Andrew Mouland* stated "the panel also noted that 38 Fourth Way Wembley had an allowance of 30% for flood risk an allowance was given due to a higher risk of flooding and being under the flight path with poor communication network and some restrictions in access". The VO had stated that the property in respect of that decision had actually been flooded in 2011.

29. Although the panel accepted that the subject property was located next to the river Glyme and Mr Hawkin's evidence stated that the subject property was at high risk of flooding, no evidence had been presented to the panel to prove that the subject property had actually been flooded. There had not been any record of any flooding at the subject property, or, that there had been any actual increased cost to the occupant in respect of any potential flooding. The panel was therefore not persuaded that an allowance should be awarded in respect of any flooding and also dismissed this aspect of the appeal.

Determination

30. In view of the above findings and conclusions, the Tribunal is satisfied that the subject property should be valued at a main space price of £30/m^2. It was also satisfied that no allowance in respect of any potential flooding should be allowed. The panel therefore dismissed the appeals.

Right of further appeal

31. 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.

32. 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 WJ Read, Senior Member (Presiding)
Mrs AE Fielder, Senior Member
22 August 2025

Richard Gath IRRV (Hons)
Clerk to the Tribunal
Date issued to the parties: 22 August 2025