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

Case No: CHG100837683

Sitting remotely using Microsoft Teams

Date: 10 November 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rating list; 2017 rating list appeal; Local Government Finance Act 1988; office and premises; used as a warehouse; accuracy of rateable value in list; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed in part.

Before:
MR A HUSSAIN
MISS S STAPLETON

Between:

VICTORIA STONES — **Appellant**

- and -

(VALUATION OFFICER) — **Respondent**

Regarding:
103 TURNER LANE, ASHTON-UNDER-LYNE OL6 8SS
(the "subject property")

Mr K Batty from Batty Chartered Surveyors for the Appellant
Mr T Brown for the Respondent

Hearing date: 8 September 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed in part.

2. The Tribunal found that the correct rateable value (RV) for 103 Turner Lane, Ashton-Under-Lyne OL6 8SS was £13,750 with effect from 9 February 2021.

Introduction

3. This was a 2017 rating list appeal. The RV of the subject property was £16,250 with effect from 9 February 2021. A Check was submitted on 24 February 2022 and completed on 12 July 2022. The Challenge was submitted on 4 August 2022 and completed on 6 March 2023 with no change made to the RV of the subject property. An appeal to this Tribunal was received on 9 June 2023.

4. Both Mr Batty on behalf of the appellant and Mr Brown on behalf of the respondent appeared in a dual role 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 Batty stated that he was not instructed under a conditional fee arrangement and 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.

5. The panel accepted the 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).

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

Background

7. The subject property, constructed in 1989 with brick walls and a tiled roof, benefited from dedicated car parking located to the south. It was entered into the 2017 rating list on 9 February 2021 with an RV of £16,250 and was described as "office and premises." The area was agreed at 200.39 m² and the office part of the assessment was currently valued at £74.85 per m². There was also an addition included for seven car bays' at a rate of £300 per space.

8. Previously forming part of a children's day nursery, the property was now used for private storage. It was situated in a predominantly residential area, with a number of industrial units located to the south.

9. Following the submission of the appeal, Mr Batty had been instructed by the appellant. Therefore, he had provided evidence that had initially been omitted when the appeal had been submitted by the appellant, as well as new evidence. This included supporting documentation to reinforce his argument that the current RV of the subject property was excessive. It also included a statement where the appellant had wanted the car parking bays' values removed from the subject property's assessment.

10. At the hearing, Mr Brown raised no objections to the inclusion of the additional evidence submitted by Mr Batty, a position he had confirmed in writing prior to the hearing. While Mr Brown had reserved the right to submit a rebuttal, he included his response as part of his submitted evidence. As both parties had the opportunity to address the additional material, the panel accepted the evidence and related discussions as part of each party’s formal submission.

11. Mr Batty challenged the mode and the category of the subject property. He argued that, given its current use for storage, it should be listed in the 2017 rating list as “workshop/warehouse and premises” rather than as an office. He contended that the internal specification of the property resembled that of an industrial unit, with a very basic internal finish. He maintained that this had not been adequately reflected in the valuation, nor had the property's actual use for storage been properly considered.

12. Mr Batty presented two alternative valuations, depending on which mode and category the panel deemed appropriate for the subject property. If the panel determined that the property should remain classified as an office, Mr Batty proposed a reduced rate of £61.75 per m² to reflect its lower internal quality and the inclusion of car parking spaces. This would result in a revised RV of £13,849, rounded down to £13,750 RV. Alternatively, if the panel agreed that the property should be reclassified as a workshop or warehouse, he suggested a rate of £45 per m², with an additional allowance for car parking spaces totalling £2,100. This would produce a revised RV of £10,660, which he proposed be rounded down to £10,500 RV.

13. In response, Mr Brown stated that properties are assessed on the basis of being “vacant and to let,” meaning that the specific use by an individual occupier does not typically influence the valuation. He explained that, in general, a shop is valued as a shop, regardless of its particular type or use. The Valuation Office Agency would only consider alternative uses or values if the property had undergone significant physical alterations. Mr Brown asserted that no such alterations had taken place in respect of the subject property.

Relevant Law

14. The term ‘rateable value’ is defined in paragraph 2(1), 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 various assumptions.

15. Each appeal hereditament had to be valued, having regard to factual matters as 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.

16. 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).

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 AVD). This common date was used to ensure that every property was treated in a consistent way. When assessing the RV of any hereditament, rating law also requires that it must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both its physical nature and mode or category of use.

18. For this appeal, matters that affect the physical state or enjoyment of the property and locality were to be taken as at the material day, which was 9 February 2021, the date the subject property entered the 2017 Rating List, with the Antecedent Valuation Date (AVD) being 1 April 2015.

19. The judgment of *Lotus and Delta v Culverwell (VO)* [1976] RA 141 was referred to during the hearing.

Discussion

20. Both parties had referred *to Lotus and Delta v Culverwell*. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point. However, as there was no rent on the subject property, where available, rents on similar properties were to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

21. The panel considered the appropriate mode and category of the subject property. It noted that, under rating law, properties must be assessed on the basis that they are "vacant and to let," in accordance with paragraph 2(7) of Schedule 6 of the Local Government Finance Act. This applies to both the physical state of the property and its mode or category of use. While Mr Brown maintained that the property could appropriately be described as offices, Mr Batty argued that the internal specification of the subject property was of a low standard and did not reflect a high-quality office environment. In particular, he highlighted that the walls were unfinished (un-plastered), there were no suspended ceilings, and the property lacked the quality finishes typically found in standard office accommodation.

22. The panel, having reviewed the photographic evidence, noted that, while the building was of notably poor quality, its physical characteristics were more consistent with office accommodation than with a workshop or warehouse. Specifically, the property featured

lower, plastered ceilings, heating, lino flooring, and strip lighting, good lighting with quality windows and doors, features typically associated with office use. In contrast, typical workshop or warehouse properties in the area were observed to have roller shutter doors, higher ceilings, and unheated storage areas. Based on these distinctions, the panel concluded that the subject property should remain classified as “office and premises” in the 2017 rating list.

23. The panel noted that the toilet facilities within the subject property were designed for children, reflecting its previous use as a children’s day nursery. These facilities were not of a standard suitable for adult use and, in the panel’s view, represented a functional disadvantage if the property were to be considered for office occupation. As such, the panel held that this limitation should be reflected in the valuation applied to the subject property’s assessment.

24. Mr Batty referred the panel to several comparable office properties in Ashton-Under-Lyne, including 58–66 Wellington Road; 131–133 Old Street; CRC at Birchcroft, Crowthorn Road; Ashton Pioneer Homes Ltd at Margaret House, Margaret Street; The Forum Market Place Europe Ltd, Fitzroy Street; and Cavendish House at 85 Cavendish Street. These properties had been assessed at rates, which ranged from £57 per m² to £72 per m². Based on these comparisons, Mr Batty argued that the Valuation Office Agency had applied an excessive rate of £74.85 per m² to the subject property.

25. Before making its decision, the panel turned its attention to the comparable properties provided by Mr Brown.

26. Mr Brown referred the panel to a comparable property at 62 Turner Lane, OL6 8SS, located approximately 150 m from the subject property. This older building had been assessed as offices at a rate of £75 per m². Mr Brown highlighted its similarities to the subject property in terms of location, absence of raised floors, presence of heating, and good quality windows and doors. The panel noted that the rent achieved for 62 Turner Lane had analysed to £75.46 per m², based on a new six-year lease, which commenced on 8 August 2015. Mr Brown submitted that this rental evidence, which was close to the AVD of 1 April 2015 supported the rate adopted for the subject property.

27. Mr Brown also cited Poppy House at 97 Turner Lane, OL6 8SS, another property assessed as offices. This was a larger and more modern building, constructed in 1990, and had been valued at a slightly lower rate of £72 per m² due to quantum considerations. Mr Brown maintained that, when considered alongside the rental evidence from 62 Turner Lane, the current RV applied to the subject property was reasonable and supported by these comparable assessments.

28. Mr Batty informed the panel that the appellant wanted the value of the car parking to be removed from the assessment of the subject property. Mr Brown was of the opinion that the values for the car parking should remain within the assessment of the subject property.

29. Mr Batty referred to two nearby properties of 115 Turner Lane and Besseges Ltd, also located on Turner Lane, both of which have car parking bays’ that are not separately assessed. Mr Brown explained to the panel that these properties were classified as industrial, and therefore the value of any associated car parking was incorporated into the overall valuation of the buildings. As a result, no separate value has been attributed to the car parking bays’ in the assessments for either property. The panel noted that 97 Turner Lane, also had an additional £2,100 included in its assessment to account for seven car parking

spaces. Therefore, the panel found that the addition of value for the car parking bays’ at the subject property of £2,100 was warranted and to be included within its assessment.

30. While the panel acknowledged that the rent achieved at 62 Turner Lane was close to the AVD of 1 April 2015, it did not consider a single rental transaction sufficient to determine the appropriate rate for the subject property. Although 62 Turner Lane shared some similarities with the subject property, the panel also noted key differences, particularly the condition of the subject property’s internal walls and the unsuitability of its toilet facilities for standard office use. The panel therefore considered the full range of evidence presented before reaching its conclusion. It placed less weight on the details of 97 Turner Lane, as it was a larger, more modern building, and had been subject to a quantum adjustment.

31. The panel gave the greatest weight to the comparable office properties submitted by Mr Batty, which had been assessed at rates ranging from £57 per m² to £72 per m². These properties, while broadly similar in use, did not suffer from the same disadvantages as the subject property, namely, the substandard toilet facilities and unfinished internal walls. The panel considered these factors to be material when assessing the appropriate RV.

Determination

32. In light of its findings and overall assessment of the evidence, the panel concluded that the applied rate of £74.85 per m² was excessive, particularly given the condition of the subject property. The panel determined that the rate of £61.75 per m², as proposed by Mr Batty, more accurately reflected the property’s value on a “vacant and to let” basis, taking into account its disadvantages, specifically the substandard toilet facilities and unfinished internal walls. Applying this revised rate, along with the inclusion of the car parking bays’, resulted in a revised rateable value of £13,849 – rounded down to £13,750, with effect from 9 February 2021. Accordingly, the appeal is allowed in part.

33. Accordingly, we order the Valuation Officer to reduce the 2017 Rating List entry for 103 Turner Lane, Ashton-Under-Lyne OL6 8SS to £13,750 RV with effect from 9 February 2021. within two weeks of the date of this order.

Amended decision in accordance with Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 due to a clerical error. The RV is amended from £13,500 to £13,750 within the decision at paragraph 2 and 12.

Refund of appeal fee

34. The Appellant is also entitled to a full refund of the fee paid in accordance with Regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Right of further appeal

35. 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.

36. 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 A Hussain, Senior Member (Presiding)

Miss S Stapleton, Senior Member

10 November 2025

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 10 November 2025