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

Case No: CHG100884515

Sitting remotely using Microsoft Teams

Date: 8 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — appeal against the accuracy of the rateable value for the hereditament; warehouse and premises; mezzanine floors; end allowance for access sought; appeal allowed-in-part.

Before:
MR I LONSDALE
MR W J READ

Between:

TORQUE RETAIL SERVICES LIMITED **Appellant**

- and -

MS A HITCHINGS (VALUATION OFFICER) **Respondent**

Regarding:
MARTLAND 100, MARTLAND PARK, WIGAN, WN5 0LD
(the “subject property”)

Mr S Turton (instructed by BNP Paribas Real Estate) for the **Appellant**
Mr D Lewis for the **Respondent**

Hearing date: 9 April 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The appeal property's assessment was reduced from £580,000 Rateable Value (RV) to £465,000 RV, with effect from 1 April 2017.

Introduction

3. This appeal has been brought in respect of Martland 100, Martland Park, Wigan, WN5 0LD (the subject property) which was entered into the 2017 rating list as 'warehouse and premises' at £580,000 RV with effect from 1 April 2017.

4. The challenge proposal was submitted on 2 December 2022. The challenge proposal sought a proposed RV of £360,000 with effect from 1 April 2017.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the rateable value shown in the list for the hereditament is not reasonable.

6. The appeal was received by the Tribunal on 7 November 2024 following the Valuation Officer's challenge decision notice of 11 July 2024 in respect of the appeal property (hereditament).

7. The material date and effective date was 1 April 2017. The antecedent valuation date (AVD) was 1 April 2015.

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

Background

9. The subject hereditament comprised of a fairly modern purpose-built distribution warehouse, which had been constructed in 2001. It was part of the JJB Sports headquarters and main national distribution facility. It was let to the appellant having been vacated by JJB prior to 2011. The building was a fully operational facility, which included the three-level mezzanine from the commencement of the lease. The total area was 33,065.97m^2, in terms of main space (ITMS) 15,294.95m^2.

10. The rateable value of £580,000 was based on a price of £38/m^2 plus 3% for fire protection (sprinklers) which equated to £39.14/m^2.

11. The property had been partially inspected by the valuation officer and the appellant's representative on 25 June 2024.

12. The appellant's representative was seeking a reduction to £360,000 RV. This was on the following grounds:

    a) The rent payable in relation to the subject property supports a lower assessment, and
    b) The current assessment overvalues the multi-level mezzanine floors and does not take sufficient account of the inadequacies for the site, particularly the poor/shared access.

13. The appeal property had been subject to an appeal in respect of the 2010 rating list. The Tribunal panel in its decision of 1 November 2019 had determined the relativities that should be applied in respect of the mezzanine floors. In response to the appellant's proposal, the valuation officer agreed to mirror the survey areas and relativities determined in the Tribunal decision. On that basis the RV was reduced to £500,000, which included a line in the assessment for plant and machinery of £4,400. Whilst the appellant's representative had not included plant and machinery within his assessment, there was no dispute raised by the appellant in respect of the valuation officer's revised assessment. The 2010 rating list assessment for the hereditament included plant and machinery assessed at £5,000. The valuation officer made no change to the price of £38/m^2, and no end allowance was granted. The relativities were no longer in dispute and are detailed below:

- Ground floor underneath mezzanine - .70
- Mezzanine 1 - .40
- Mezzanine 2 - .30
- Mezzanine 3 - .30
- 10% adjustment to the £/m^2 of the area of the mezzanine floors and the area beneath the mezzanine floor.

14. The evidence submission before the panel comprised of all the evidence disclosed and exchanged during challenge which included the parties' case submissions and photographs of the appeal property.

15. In advance of the hearing, the appellant's representative made an application for the admission of new evidence. The new evidence was an extract from the VOA's Rating Manual in respect of rental adjustments. As this information was available in the public domain, Mr Lewis stated that the valuation officer had no objection to its inclusion.

16. The appellant's representative appeared before the panel in a dual role of advocate and expert witness. At the hearing, Mr Turton confirmed that neither he nor his employer, BNP Paribas Real Estate, were instructed under a conditional or success-based fee arrangement.

17. Mr Lewis, for the valuation officer also appeared in the dual role of advocate and expert witness.

Relevant Law

18. The term 'rateable value' was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires that the rental levels be taken as at 1 April 2015, the antecedent valuation date (AVD).

Discussion

19. In the case under consideration, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, as referred to by Mr Turton.

20. The starting point for consideration was the actual rent passing on the appeal hereditament. The headline rent was set at £346,100 per annum. This was a new letting from 21 December 2011. The lease was agreed on a 10-year term, with 50% rent payable for the first 27 months. It had a tenant only break clause after five years on six months' notice. If the tenant's break clause was not exercised there was a further incentive at the commencement of year six equating to 7.5 months' rent free. There had been a rent review on 20 December 2016 with the rent being reviewed to £444,987, this rent was adjusted for the rent-free period to £389,363.62.

21. Mr Turton argued that there was a new open market letting before the AVD and a rent review after the AVD which gave a good indication of value in respect of the appeal property. As there was a break clause in the lease, Mr Turton had taken the rent agreed in 2011 over the first five years to calculate the average rent of £267,777.50. As the AVD sat between the first lease date and the rent review date, he had considered the VOA rating manual and data from Savills Logistics Research team to tone backwards from the December 2016 rent review to come to the valuation of £360,000 RV. This resulted in his proposed reduced main space rate of £30.30/m^2.

22. Mr Lewis argued that the lease was too far removed from the rating hypothesis and was therefore unreliable. He considered that the lease provided for very long rent-free incentives at the start of the lease and at the lease renewal date. He further argued that the true cost of removing the internal three mezzanine structure would be prohibitive for the hypothetical landlord and that remedial work to the subject property would be an added cost.

23. Neither party relied on the rental evidence in respect of any comparable hereditaments. Mr Turton argued that he was not aware of any other distribution warehouses with three floor mezzanines. Instead, he had provided a list of comparable properties in which he had compared the percentage decrease in the values between the 2010 and 2017 rating lists. He argued that all other assessments had seen percentage decreases ranging between 1% and 25% but the RV on the subject hereditament had initially increased from £530,000 to £580,000. Mr Lewis argued that the reduction to £500,000 RV demonstrated a 5.66% reduction in the RV from the 2010 to the 2017 rating lists and this reflected the slight reduction in the market between lists.

24. The valuation officer had provided comparable assessment evidence in respect of two hereditaments.

25. The adjacent large warehouse occupied by Makita (UK) Ltd, was previously occupied by JJB alongside the subject hereditament. It had a total area of 33,065.97m^2 and ITMS 40,874m^2. It had been assessed with a price of £40/m^2 plus 3% addition for fire protection which equated to £41.20/m^2.

26. The second assessment evidence related to Poundland Distribution Centre, Ashton-in-Makerfield, Wigan, which was approximately 1.5 miles from the subject property. It had a total area of 31,692m^2 and ITMS 32,302.33m^2. It had been assessed with a price of £40/m^2 with an additional for fire protection of 3% to £41.20/m^2 and had been agreed at challenge on 20 March 2024.

27. The appellant's representative argued that the comparable properties were very different to the subject hereditament. These two warehouses had no multi-level mezzanines, whereas 87% of the subject property's area was covered by three tier mezzanine levels.

28. The panel accepted that the hypothetical tenant might view the mezzanine floors as a disadvantage within a distribution warehouse as it would affect the eaves height, and was therefore more persuaded by Mr Turton's argument that the warehouse accommodation at Makita and Poundland was superior to the accommodation at the subject hereditament, and on that basis considered that the price per m^2 should be higher than that of the subject property.

29. The appellant was also seeking an end allowance of 10% for shared access. He argued that the property was disadvantaged by only having single lane access into and out of the property, with a gatehouse in between the two lanes. The access was also shared with other companies on site, including Makita (UK) Ltd. Generally, warehouses would have separate access for cars and HGVs. The panel noted that this matter had been considered as part of the appeal in respect of the 2010 rating list and there had been no changes to the layout and no new evidence was presented to demonstrate that the access created a significant disadvantage to warrant an end allowance, or that any other hereditaments had received an end-allowance for this type of access. The panel was therefore not convinced that an end allowance of 10% was warranted for shared access.

30. After giving careful consideration to all the evidence presented, the panel was more persuaded by the argument that the current valuation based on an unadjusted main space rate of £38/m^2 was unreasonable for the subject hereditament. The panel considered that the rent on the subject property should be taken into account, in particular the headline rent of £444,987 which was agreed at rent review on 20 December 2016, particularly in the absence of further rental evidence or comparable assessment evidence of similar hereditaments.

31. However, having said that, the panel was not convinced that a reduction to £360,000 RV, based on an unadjusted main space rate of £30.30/m^2 as proposed by Mr Turton was justified. Having reviewed the evidence, the panel considered a reduced unadjusted main space rate of £35/m^2 was more appropriate reflecting the appeal property's physical attributes and this equated to a valuation more in line with passing rent on the appeal property as at the AVD.

32. At the hearing, the valuation officer had not provided a breakdown of the relativities that he had used, so the panel found it difficult to ascertain how he had come to his adjusted main space price. The parties provided their full valuations after the hearing, and the panel found the appellant's easier to follow. It also included a 3% addition for sprinklers which both parties had agreed at the hearing should be included. Therefore, the panel decided to go with the appellant's relativities. However, the appellant had omitted the valuation of £4,400 for plant and machinery. As this had been included in the valuation officer's valuation and not disputed at the hearing, the panel included this figure in the final valuation.

Determination

33. The appeal was allowed in part as the panel reduced the valuation to £465,000. A breakdown of the valuation is shown overleaf:

Hereditament Address					
Martland 100, Martland Park, Wigan, WN5 0LD					
Floor	**Description**	**Area (m^2)**	**Price (£/m^2)**	**Factor**	**Value (£)**
Ground	Area Under Supported Floor	7886.83	£22.71	0.6489	£179,110
Ground	Warehouse	682.92	£36.41	1.0403	£24,865
Ground	Office	343.67	£39.66	1.1330	£13,630
Ground	Office	215.58	£39.66	1.1330	£8,550
Mezzanine L1	Works Office	75.16	£39.66	1.1330	£2,981
Mezzanine L1	Warehouse	7886.83	£12.98	0.3708	£102,371
Mezzanine L2	Warehouse	7961.99	£9.73	0.2781	£77,470
Mezzanine L3	Warehouse	7961.99	£6.49	0.1854	£51,673
Ground	Plant Room	51	£31.00	0.8858	£1,581
	Area:	33,065.97	£35.00		£462,231
Additional Items					
Add Plant and Machinery					£4,400
		Total Value	£466,631		
		Say Rateable Value	£465,000		
		Effective Date	1 April 2017		

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 amend the subject property's entry to £465,000 Rateable Value, with effect from 1 April 2017 within two weeks of the date of this order.

35. A refund of the paid fee will now be arranged provided there is no review sought of the Tribunal's decision. The refund will take around six weeks to process.

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 I Lonsdale, Senior Member (Presiding)

Mr WJ Read, Senior Member

8 May 2025

Mrs K Edhouse-Thomas
Clerk to the Tribunal
Date issued to the parties: 8 May 2025