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

Case No: CHG100909384

Sitting remotely using Microsoft Teams

Date: 10 September 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Non-Domestic Rating Appeals; 2017 Rating List; industrial unit; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed-in-part.

Before:
MR AMRAN HUSSAIN
MRS S PATEL

Between:

FLAKT WOODS LTD — **Appellant**

- and -

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

Regarding:
FLAKT WOODS LTD, FLAKT WOODS, COLCHESTER, CO4 5ZD
(the "appeal property")

Mr Matthew Hawkins of Colliers International Ltd on behalf of the appellant as both advocate and expert witness
Ms Nnennaya Awoyokun, on behalf of the respondent as both advocate and expert witness

Hearing date: 21 August 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal determined that the appeal property's assessment should be reduced to £765,000 rateable value (RV) with effect from 1 April 2017.

Introduction

1. This is a 2017 rating list appeal. The appellant is seeking a reduction in the current RV of £890,000, contending that the rate of £51.50/m^2 is excessive.

2. The rateable value of the appeal property was reduced from £905,000 following the check stage. The appellant remained dissatisfied and submitted a challenge which the valuation officer determined to be not well-founded. A decision notice to that effect was issued on 30 April 2024. That decision was appealed to this Tribunal on 5 September 2024 under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009, the grounds being that the current valuation for the hereditament was not reasonable.

3. In order to assist the panel, the parties had agreed the basic facts before the hearing.

4. Both representatives were appearing as advocate and expert witness. Mr Hawkins confirmed that he was employed on a contingency fee basis in connection with his role as advocate. He declared that he understood and fully accepted that his duty was to the Tribunal in giving evidence and that he would comply with this as well as the requirements of the professional body, regardless of whether or not the evidence supported his client's case.

5. The panel accepted the expert witness evidence on the above basis: the appeal was not considered complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions - general) of the Procedure Regulations. The panel determined that it was appropriate to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

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

<u>*Background*</u>

7. The issue before the panel was the correct unadjusted rate to be adopted in the valuation for the appeal property. The appellant is seeking a reduction in the rateable value to £625,000, based on a main space rate of £36/m^2.

8. The appeal property is an industrial unit built in 2006. Functions carried out in the premises include assembly, warehousing and distribution. It has a total area of 16,480m^2, an eaves height of up to 10 metres and is fully insulated. It is located on the outskirts of Colchester within reach of the A12.

9. It is valued in scheme 413347, which is described as industrial properties measuring over 10,000m^2 within Essex. Distribution warehouses and food production factories are not part of this scheme.

10. The evidence before the panel comprised of the information disclosed and exchanged during the challenge process. The submissions included photographs of the appeal property, a location plan, rating assessments in support of tone, the parties' skeleton arguments, a schedule of comparable assessment evidence, and a copy of the current and the proposed valuations.

Relevant Law

11. 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 (SI:2014 No.2841) requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

12. The material day (the date by which physical factors have to be considered) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. The material day in this appeal is 1 April 2017.

Discussion

13. The panel analysed the competing evidence with reference to the Lands Tribunal judgment in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, which was included in the evidence documents. This provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the appeal property is accepted to be the correct starting point, with consideration given to how that rent accords to the terms of the statutory definition of rateable value. In this appeal the parties' representatives had not exchanged rental evidence prior to the hearing and therefore the panel placed little weight on the rental evidence of either the appeal property or the comparable properties. The panel noted that the rent for the appeal property was agreed in January 2022 and was therefore not reliable as an indicator of value at the AVD.

14. In accordance with *Lotus & Delta*, the panel moved on to consider the assessments applied to comparable properties.

15. The appellant's representative had provided a schedule of assessments of properties within scheme 413347; he argued that the appeal property was one of the largest properties within the scheme, but it was valued at a higher tone than other assessments. He contended that this was at odds with the principles of quantum.

16. The panel noted that the range of values was from £13.50/m^2 to £51.50/m^2, with the four that were larger than the appeal property falling between £15/m^2 and £30/m^2. The valuation officer's representative stated that these figures reflected the fact that the appeal property was newer, with a good eaves height, and that different areas across the county of Essex attracted different values. She stated that for example Bury St Edmunds and Basildon were different markets to Colchester. Mr Hawkins considered that Colchester was not a desirable location for large units because motorway access was poor.

17. The appellant's representative identified only one property within Colchester that he considered to be comparable to the appeal property. TBS Distribution Centre is of a similar

age to the appeal property, but it is approximately twice the size. It is not in the same scheme, being instead in 416447, which is large distribution warehouses in Norfolk, Suffolk and Essex. It is assessed at a rate of £37.75/m^2. Mr Hawkins argued that this scheme was a better fit for the appeal property than the one it was actually assessed in, but the valuation officer's representative disagreed, considering that only medium weight should be applied to this evidence.

18. The comparable property preferred by Ms Awoyokun was De Novo House, Colchester. This factory and premises, constructed in 1981, is slightly under two-thirds of the size of the appeal property. It is assessed at £50/m^2, and the respondent's representative pointed out that the base rate had not been challenged. There was no evidence before the panel to indicate how the rate of £50/m^2 had been arrived at.

19. Site E2 and Sealey Service Centre, both in Bury St Edmunds, were assessed at £34/m^2. Ms Awoyokun argued strongly that properties in Bury St Edmunds should be given low weight as comparators because the location was very different to Colchester. The panel considered that the properties were in the same scheme, and therefore they carried some weight, but it considered that properties within the scheme and in Colchester carried more weight. However, it felt that it was necessary to look beyond the borders of Colchester in order to gather a sufficiently full basket of evidence.

20. Amaryllis House in Chelmsford has recently been the subject of a successful challenge. It was stated by Mr Hawkins to be much better situated than the appeal property. The warehouse and premises, measuring 16,233m^2 has seen the assessment rate reduced from £50/m^2 to £47.50/m^2, in line with a similar reduction applied to Anton House in Basildon. Anton House is a factory and premises of 15,885m^2.

21. The appellant's representative had submitted evidence in respect of an exercise that it had undertaken comparing assessments between lists. The panel noted the information provided but knew that each list was considered on its own merits.

22. The panel considered that the evidence provided by the appellant's representative demonstrated that £51.50/m^2 was not reasonable: it was the highest on the schedule of scheme 413347 properties, of which only three were in Colchester. The third of these, Factory Hill, measured 11,617m^2 and was assessed at £15.50/m^2. The panel acknowledged that it was a much older property. The only other property assessed at £50/m^2 or above was Trucklite, in Harlow. This property was approximately two thirds the size of the appeal property.

Determination

23. In view of the above findings and conclusions, the Tribunal is satisfied that the unadjusted rate should be reduced to £44/m^2, resulting in a rateable value of £765,000, as shown in the valuation below:

Line	Floor	Description	Area m^2/unit	£ m^2/unit	Value £
1.1	Mezzanine	Locker Room	113.94	44.00	5,013
1.2	Ground	Mess / Staff room	137.66	48.40	6,663
1.3	Ground	Reception / Entrance	38.39	52.80	2,027
1.4	Ground	Production area	14,254.70	44.00	627,207
1.5	First	Offices	938.88	58.08	54,530
1.6	Ground	Staff Toilets	82.33	44.00	3,623
1.7	First	Kitchen	13.68	52.80	722
1.8	First	Staff Toilets	29.26	28.60	837
1.9	Ground	Offices	871.84	58.08	50,636
					751,258
Additional features of the property included in the valuation					
Plant and machinery					13,860
Valuation Sub-Total					**765,118**
Rateable Value (rounded down)					**765,000**

24. As a consequence of the above decision, the valuation officer is ordered to reduce the 2017 Rating List entry to £765,000 RV, with effect from 1 April 2017, within two weeks of the date of this Order.

25. 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). This will take approximately six weeks to process.

Right of further appeal

26. 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.

27. 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 Amran Hussain, Senior Member (Presiding)

Mrs S Patel, Senior Member

10 September 2025

Mrs D Davies
Clerk to the Tribunal
Date issued to the parties: 10 September 2025