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

Case No: CHG101045958

Sitting remotely using
Microsoft Teams

Date: 10 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal: challenge against compiled list entry; garage and premises; accuracy of rateable value; Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; *Lamb v Minards (VO) [1974] RA 153 ; appeal dismissed.*

Before:
MR AMRAN HUSSAIN
MR I LONSDALE

Between:

ENSIGN BUS COMPANY LIMITED **Appellant**

- and -

KAREN GILES
(VALUATION OFFICER) **Respondent**

Regarding:
ENSIGN BUS COMPANY, JULIET WAY, PURFLEET INDUSTRIAL ESTATE, LONDON ROAD, SOUTH OCKENDON, ESSEX RM15 4YD
(the "subject property")

Mr M Clayton from Ryan Property Tax Services UK Limited (on behalf of the appellant as advocate and expert witness)
Mr P Williams (on behalf of the respondent as advocate and expert witness)

Hearing date: 11 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal confirms the rateable value (RV) of £462,500 with effect from 1 April 2017.

Introduction

3. This appeal had been brought in respect of Ensign Bus Company, Juliet Way, Purfleet Industrial Estate, London Road, South Ockendon, Essex RM15 4YD (the subject property), which was entered in the 2017 Rating List as ‘garage and premises’ at an RV of £462,500 effective from 1 April 2017.

4. The appellant’s Challenge was submitted by the appellant’s representative on 4 April 2023 and sought a reduction in the RV to £340,000 later changed to £360,000 with effect from 1 April 2017. The appeal to this Tribunal was made on 29 November 2024, following the Valuation Officer’s (VO) Decision Notice of 4 October 2024 in respect of the subject property.

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 valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 29 November 2024.

6. The subject property is a bus garage valued on the local industrial tone. It comprises a series of steel portal framed buildings constructed in 1991, car park spaces and surfaced storage land. One building has first floor offices and there are mezzanine floors in some of the buildings. The buildings have a gross internal area of 9,927.27m^2. There are 55 car parking spaces and over 6,000m^2 storage land both rough and hard surfaced land which is mainly used for parking buses on. The assessment’s total area is 9,369.30m^2. There is an area of land which is used for parking buses on to the south of the main site which has no internal access and can only be accessed externally via a public road.

7. The clerk was sent emails dated 10 June 2025 from both parties explaining that they had met and done a joint site visit. This had resulted in an amendment to the size. The issue of discussion was whether a small area of land (1,530m^2) to the South of the site was rough surfaced or unsurfaced. The parties identified that the land was surfaced, but very poorly, and the parties had agreed that the 765m^2 was rough surfaced and the other 765m^2 as unsurfaced land. This led to no change in the VO’s RV calculation but changed the appellants’ agents calculation to £360,000 which he would be proposing was the correct RV at this hearing.

8. Mr Clayton appeared on behalf of the appellant as both advocate and expert witness. Therefore, it was important to ascertain 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). Mr Clayton confirmed that he was instructed under a contingency fee and he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported his client’s case.

9. 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).

10. The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

Issue

12. The appellant contested the base price for the subject property of £35/m^2 to take into account quantum and a further 5% split site allowance reducing the RV to £360,000 with effect from 1 April 2017. The VO submitted that the current RV of £462,500 with effect from 1 April 2017 with a base rate of £45/m^2 was reasonable and requested that the panel should confirm this RV and dismiss the appeal.

Relevant Law

13. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where 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.

14. 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).

15. 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 appeal, the material date is 24 April 2017 being the commencement date of the 2017 rating list.

Discussion

16. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015.

17. The panel turned to the six propositions set down in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 which were binding on this panel. The first two propositions are that:

> (1)Where the hereditament which is the subject of consideration is actually let, that rent should be taken as the starting basis.
>
> (2)The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in section 19(6) of the General Rate Act 1967 the more weight should be attached to it. (These statutory requirements now contained in Schedule 6, Para 2 (1) Local Government Finance Act 1988 (as amended by the Rating (Valuation) Act 1999)).

18. The panel noted that the appellant was the freeholder and so no rental evidence was available on the subject property. The panel found that it was therefore necessary to move onto consider comparable properties in order to establish the correct RV for the subject property in line with the case of *Lotus and Delta*.

19. The third and fourth propositions set out in *Lotus and Delta* are:

> (3) Where rents of similar properties are available, they too are to be properly 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 property.
>
> (4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the valuation officer. In subsequent proceedings on that list therefore they can be properly be referred to as giving an indication of that opinion.

20. The panel therefore turned to the comparable properties put forward by the appellant's agent which were both on Lamson Road. They were both slightly older than the subject property but almost identical in size to the subject property. However they had a base rate of £30/m^2 which was lower than the subject property and Mr Clayton submitted supported the proposed base rate of £35/m^2 for the subject property. The panel found that these units were different in character, had less storage land and were twice as far from the M25. All of these factors led the panel to find that they were not strong comparable properties for the subject property. They were also likely to have a lower rental yield to the subject property due to the same factors and so the panel was unable to put much weight on these as comparable properties.

21. The panel then turned to the seven comparable properties put into evidence by the VO. They were between 1,443.20m^2 and 44,752.78m^2 in size compared to the subject property which was 9,369.30m^2. The panel found that three of the comparable properties were considerably smaller than the subject property and therefore due to quantum were not of assistance to the

panel in determining whether the current RV of the subject property was reasonable. The other four comparable properties were distribution warehouses. The panel found that they were different in type, usage and in distance from the M25 and would therefore be in a different rental market to the subject property. The panel therefore chose to disregard them. The panel appreciated that it was difficult to find suitable comparable properties to the subject one, but those that had been provided by both parties left the panel with no strong rental evidence.' as I think this flows a bit better whilst still gets the meaning across. The panel therefore did not go on to consider the fifth and sixth proposition in the *Lotus and Delta* case.

22. The panel then took into consideration the submission by the appellant's agent that in the 2010 list the base price used reflected the issue of quantum. The subject property was agreed at a lower base rate than other smaller comparable properties within the locality. Mr Clayton explained that this approach had not been brought forward into the 2017 list and the VO had not provided any evidence to explain why this had not been done. Mr Clayton referred the panel to the fact that in the 2017 rating list there appeared to be only one base price for properties between 2,903m^2 and 9,400m^2 with a base rate of £45/m^2. It appeared to him therefore that no allowance for quantum had been applied in the 2017 rating list.

23. Mr Clayton also referred the panel to one of the comparable properties put into evidence by the VO being The Cargo Centre. He stated that this property was much closer to the M25 than the subject property. The increase in the RV between the 2010 and 2017 rating list however was only £2.50/m^2 whereas the subject property had increased substantially. He argued that the same tone had been applied to properties which were one third of the size of the subject property. The panel was aware that in each new rating list any allowance was not automatically carried forward, but that each rating list was a standalone valuation exercise. Mr Williams referred the panel to the case of *Lamb v Minards (VO) [1974] RA 153* in which it was found that "it would be difficult to understand the need for revaluation if relative values as established in one valuation list were to be regarded as frozen for the future". The panel put weight on the findings in this case.

24. Mr Williams stated in his evidence that a quantum allowance had in fact been included in the 2017 list for the same type of property as the subject property. However in the 2017 rating list it was concentrated in the lower size assessments compared to that in the 2010 rating list. He referred the panel to four comparable properties which he submitted demonstrated that comparable properties up to 75m^2 had a base rate of £82.50/m^2 which fell to a base rate of £45/m^2 for properties of between 2,903m^2 to 9,400m^2. Between these values, it is interpolated. The panel noted that the subject property at 9,369.30m^2 fell at the top end of the properties with a base rate of £45/m^2. The panel put weight on this evidence as supporting the present base rate for the subject property.

25. The panel then turned to the proposal by the appellant's agent that an end allowance of 5% should be applied to the RV for the subject property on the basis that it was a split site. Mr Clayton submitted that an end allowance for a split site had been given for a number of comparable properties in the locality of the subject property. He also referred the panel to two agreements reached with the VO in connection with properties that were entered by a public highway. The four comparable properties put into evidence by the appellant's agent had received an allowance of between 5% and 7.5% and the two settlements had given a split site allowance of 7.5% and 5% respectively. The occupier of the subject property had to exit one part of the site onto a public road to enter the other part. The panel found that the site was not split into two by a public highway and both parts of the site were contiguous. The only issue was that of the access between the two parts of the subject property involved leaving one part of the site onto a public road in order to access the other part. The panel took into

consideration that an allowance of 5% for access/layout had already been given in the VO's valuation. On top of this VO had agreed that an allowance was justified on the additional parking to reflect the inconvenient access. As a result the additional land has been valued at only 75% of the normal price, giving a 25% allowance to reflect the inconvenience. This gives a price of £7.50/m2 for hard surfaced land (reduced from £10/m2) and £5.25 for rough surfaced (reduced from £7.00) within the valuation. The panel considered that if a further end allowance was added to the whole assessment as requested by the appellant then it would imply that the value of the buildings were reduced by the addition of the extra parking area, which would not be the case. The panel therefore found that a further end allowance was not appropriate

26. In appeals of this nature the burden of proof was on the appellant to provide evidence to demonstrate that the RV of the subject property of £462,500 based on a base rate price of £45/m^2 was unreasonable. The panel found that the comparable evidence by the appellant's agent were not persuasive as the comparable properties were too far away from the subject property, were not of the same standard and were not the same distance from the M25. Comparing the entries in the two rating lists the panel found was not strong evidence as each one has a separate analysis of the rental values at a different AVD and was based on a different date with different economic factors to consider.

27. In connection with the proposal by the appellant's agent for an end allowance of 5% the panel found that this was not appropriate due to an allowance which had already been given in connection with the land. The panel also found that having extra parking would not reduce the value of the assessment. The panel found that the appellant had therefore failed to discharge his burden of proof that the existing RV was unreasonable. The panel therefore confirmed the current RV for the subject property was reasonable.

Determination

28. In view of the above findings and conclusions, the Tribunal is satisfied that the current RV of £462,500 with effect from 1 April 2017 was fair and reasonable and dismissed the appeal.

Right of further appeal

29. 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.

30. 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)

Mr I Lonsdale, Senior Member

10 July 2025

Miss F Willson
Clerk to the Tribunal
Date issued to the parties: 10 July 2025