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

Case No: CHG101064326

Sitting remotely using Microsoft Teams

Date: 4 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — industrial unit – tone of the rating list – comparable properties – rental analysis

Before:
MRS O O ROBSON
MR A SHETH

Between:

ELB PARTNERS LTD — **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) — **Respondent**

Regarding:
UNIT 18 BEDDINGTON CROSS, BEDDINGTON FARM ROAD, CROYDON CR0 4XH
(the "subject property")

Mr M Hawkins of Colliers International, for the Appellant
Mr A Aubrey, for the Respondent

Hearing date: 6 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal finds that the existing valuation at £214,000 with effect from 8 December 2021 is reasonable and that value is confirmed.

Introduction

3. The appellant made a proposal on 19 May 2023 to challenge the entry in the 2017 Rating List of £225,000 with effect from 8 December 2021. The Valuation Officer (VO) did not find the proposal to be well founded, but a Challenge decision was issued on 15 August 2024 reducing the existing entry in the rating list to £214,000. An appeal against that decision was received by the Tribunal on 13 December 2024.

4. Mr Aubrey stated that he was appearing as both Advocate and Expert Witness for the respondent, providing his statement of truth prior to the hearing.

5. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Hawkins declared that he was also appearing for the appellant in a dual role as Advocate and Expert Witness. He confirmed that his firm was instructed under a conditional or other success-based fee arrangement, but he understood his duty was to the Tribunal, regardless of whether the evidence supported his client's case.

6. 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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 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). It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

7. The subject hereditament is an industrial unit originally constructed in 2000, which had been deleted from the rating list due to a period of works to refurbish the property. It re-entered the list from 8 December 2021 and that valuation was the subject of this appeal. There was no dispute on the survey data for the building, but the parties disagreed over the land valued as part of the hereditament.

8. The issue to be determined by the Tribunal was the correct valuation in the 2017 rating list. The material day was 8 December 2021, the effective date of the current entry in the list. The property must be valued on the antecedent valuation date (AVD) of 1 April 2015.

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

Preliminary issues

10. A preliminary issue was dealt with prior to the hearing concerning late evidence. Mr Hawkins sought to introduce further evidence of comparable properties and settlements which were not referenced during the challenge discussions. Mr Aubrey agreed to the inclusion of settlements that had been negotiated after the VO's decision was made on this appeal but

opposed the inclusion of a settlement that the appellant's representative could have been aware of prior to the date of the decision. This issue was considered by the Presiding Senior Member under Regulation 17A of the Tribunal's procedure regulations. Reference to 1 Bourne End Mills, Upper Bourne End Lane, Hemel Hempstead, Hertfordshire HP1 2UJ was excluded, as the settlement on that property was agreed in October 2023 prior to the decision on the subject appeal. The Senior Member's decision on that matter was issued to the parties on 28 April 2025.

11. On 25 April 2025, Mr Aubrey served on the Tribunal and the appellant's representative some photographs taken during an inspection conducted on 15 April 2025. The photographs were of the subject property, comparable properties referred to in evidence, and their locality. Mr Hawkins objected to their inclusion and asked the panel to consider this as a preliminary issue at the hearing.

12. The panel had regard to paragraph 11 of the explanatory notes enclosed with the directions in the Notice of Hearing. That paragraph states:
"…Similarly, there is no need to include photographs and plans within the submission to the Tribunal, but these can be provided electronically to the Clerk prior to a remote hearing if the parties agree that they represent a true reflection of the circumstances at the material day. Any disputes over the plans or photographs will be decided by the panel at the hearing."

13. Mr Hawkins submitted that the VO had not explained why these photographs were required when the decision notice already contained photographs and submitted that some of the photographs were of traffic lights and unrelated properties. Mr Aubrey explained that an inspection had been carried out on 15 April 2025, and he considered these additional photographs provided the Tribunal with more information about the properties referred to in this appeal.

14. After retiring to consider the matter, the panel found that the photographs were not new evidence but factual information. Mr Hawkins had not disputed they were a true reflection of the properties and their surroundings. It concluded that the photographs should be admissible and would be weighed by the panel. Both parties were invited to provide any comments on the photographs during their presentations.

Relevant Law

15. The subject property must be valued by the statutory assumptions set out in in Schedule 6 to the Local Government Finance Act 1988 as follows:

"(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."

16. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141, mentioned in the parties' submissions, which provided guidance on the weight to be attached to different forms of evidence.

Discussion

17. There were two issues in dispute for the panel to determine in this appeal. Firstly, whether the hard surfaced land should be valued as part of the hereditament and secondly, the valuation of the hereditament.

18. The panel decided to begin with the valuation of the building as there appeared to be no dispute about the attributes of the property. Mr Hawkins sought a reduction in the main space price to £78.50/m^2 from £80/m^2 in the existing valuation. In accordance with *Lotus & Delta Ltd v Culverwell* the VO had considered the rents available on the subject property as a starting point. There were two rents available for the subject property, one agreed before the 2010 list AVD in September 2007 at £210,000 per annum. The second rent was after the 2017 list AVD, on 1 June 2018, for £314,250 per annum. The VO analysed the earliest rent to £76.12/m^2 and the second to £110.55/m^2. The property was valued in the compiled 2017 rating list at £80/m^2 producing a valuation of £219,000.

19. The panel noted that these rents were both some distance from the AVD and therefore were of limited assistance in establishing the likely rent achievable on 1 April 2015. It was also mindful that the relevant date to consider the property and its locality was 8 December 2021, after its re-entry in the rating list following the refurbishment. The Challenge submission provided an annual rent for the subject property post refurbishment of £410,000. The panel noted that all three rents for the subject property were in excess of the valuation proposed by Mr Hawkins of £178,000 and the VO's revised valuation in the challenge decision at £214,000 was lower than the valuation before refurbishment.

20. In order to test the subject property's rent, the panel considered the VO's rents presented from other units in the same locality. Unit 2 Beddington Cross is smaller than the subject property but had a rent agreed in August 2015 for £106,280, which the VO analysed to £101.42/m^2 and was valued at £82.35/m^2. Mr Aubrey submitted that Unit 2 had been deleted from the list and entered in the wrong scheme on its re-entry. This error was not identified until the 2017 list was closed but had been corrected in the 2023 list.

21. Unit 4 Beddington Cross is also smaller than the subject property and was subject to a rent renewal in October 2015 for £157,500, which the VO analysed to £88.31/m^2 and was valued at £80/m^2. The panel found both transactions were close to the AVD and therefore useful evidence of the market on the same estate as the subject property. It concluded that both Unit 2 and Unit 4 supported the existing valuation at £80/m^2.

22. Unit 17 Beddington Cross was subject to a new ten-year lease from 16 April 2013, some two years before the AVD. This rent was for £190,480 per annum and the VO analysed to £91.34/m^2. Mr Hawkins submitted that his analysis of this warehouse produced a figure of £69.29/m^2, which he felt supported a reduction for the subject property. The panel noted that this property was the closest in size, but the lease was two years prior to the AVD so did not carry as much weight as rents agreed in 2015.

23. Unit 9 Beddington Cross had a rent review on 1 August 2016, over a year post AVD, for £160,644 which the VO analysed to £116.16/m^2. Both units 17 and 9 were valued at £80/m^2. While Mr Hawkins raised issue with the reliability of some of the rents cited by the VO, none of the leases were provided in evidence and Mr Aubrey submitted that the VO had taken the information provided on the Form of Return (FOR) in each case in the absence of any evidence to call their reliability into question.

24. Mr Hawkins placed most weight on two comparable properties in Commerce Way and ZK Park, which he submitted are located around one mile from the subject property and are of similar age and construction. Photographs were provided of Units 7 & 8 Commerce Park and Units 1 & 2 ZK Park, which were argued to be aesthetically superior and slightly more modern. Both are valued at £78.50/m^2, and Mr Hawkins contended the subject property should be valued no higher than these examples.

25. After considering the rental evidence, the panel found that rents in the same business park as the subject property were more useful than comparison with units a mile away. There was no rental evidence available on the units in Commerce Park or ZK Park and therefore the panel could not be satisfied that those valuations were not based on open market rents, which may be lower on those sites than at Beddington Cross. There were rents available on the subject property itself which clearly showed it had increased in value between 2007 and 2018, with the 2021 rent demonstrating the refurbishment had added further value. Mr Hawkins submitted that the refurbishment of the subject property was not extensive, but the panel found that it must have been sufficient to persuade the VO to delete the entry from the list and was therefore likely to increase value as demonstrated by the higher rent achieved. There was a basket of rental evidence from units on the same estate as the subject property and the panel placed more weight on those rents than comparison with units on another site, without rental evidence, some distance away. It was therefore satisfied that the existing valuation based on £80/m^2 was reasonable.

26. The panel then turned to the issue of the land in the valuation. Mr Hawkins submitted that the compiled list entry for the subject property on 1 April 2017 included 531.3m^2 of land and fifty car parking spaces. When the property re-entered the list from 8 December 2021, the VO had valued land measured to 3,606.31m^2 with twenty-eight car parking spaces. In the challenge decision, the VO accepted this measurement was incorrect and revised the land measurement to 2,687.39m^2 and removed the car parking spaces from the land measurement as they are reflected separately in the valuation. It was explained that the land measurement was lower in the original compiled list valuation because a portion of the land was valued as fifty car parking spaces. The revised valuation under appeal in this case included a larger measurement of hard surfaced land because there were fewer car parking spaces in the valuation and the VO considered the land should be accounted for in the valuation.

27. The panel noted that Mr Hawkins' valuation at the challenge stage was based on £78.50/m^2 producing a valuation of £185,000, including 1,400m^2 of hard surfaced fenced land with no separate entry for the car parking spaces. However, when lodging the appeal, he contended that the land should be excluded from the valuation completely and sought a reduction to £178,000, based on £75/m^2. He contended that there had been no material changes to the land or car parking spaces during the refurbishment of the subject property, so he felt there was no reason to alter that part of the valuation. Mr Hawkins submitted that the VO had taken the measurements of the land from the letting brochure, which provided a guide only, and had not been properly considered when the decision notice was issued. The panel was

disappointed that the parties had not resolved any factual issues about the measurement of the land prior to the hearing and it was provided with no scaled plan in evidence.

28. The panel considered the aerial image of the subject property provided by Mr Hawkins, which detailed the four loading bays and access to the site. He contended the site coverage of the premises at around 45% and submitted this is typical for an industrial property of this nature and only the overage, over and above that commonly found with warehouses, should attract any additional value. Mr Hawkins stated that it is clear from the aerial images that there is no land used for storage as it is required to be kept clear for circulation of vehicles and access. In support of his case to remove any value for the land at the subject property, three examples were presented of industrial units where the land had been either reduced or removed.

29. Mr Aubrey contended that the valuation of the subject property was based on rental analysis and the rent supports the existing valuation. He submitted that each case must be assessed individually and there was no rental information available on the comparable properties cited by Mr Hawkins, where land had been reduced or removed from the valuation, which were in different localities such as Southampton, Southeast London, and Slough. The panel appreciated there maybe different values in other localities, and this would be reflected in the passing rent on those properties. It also accepted the principle that the value of land may vary depending on the individual layout and use.

30. While the panel noted Mr Hawkins' examples of industrial properties where land had been reduced or removed from the valuation, it was not persuaded that this was appropriate in the appeal before it. The statutory definition of rateable value is the "*amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year"* on the AVD. The rents on the subject property were all far in excess of the figure of £178,000 sought by the appellant and, although those rents were removed from the AVD, the values on the same estate supported the existing tone. Mr Hawkins' valuation when making the proposal on behalf of the appellant included a value for land and a different main space price. He subsequently reduced the tone sought and removed all land from the valuation.

31. It was accepted that the compiled list entry for the subject property had not been scrutinised by way of a proposal, but the panel found it was unlikely that the refurbished property entering the list from 8 December 2021 would be less valuable than the pre-refurbished property. If the appellant considered the compiled list entry from 1 April 2017 to be excessive, the panel considered a proposal should have been made to challenge the valuation. Instead, the appellant sought deletion for the duration of the works and then sought to challenge the increased valuation post refurbishment. The entry from 8 December 2021 at £225,000 had been reduced in the challenge decision to £214,000 to reflect a revised measurement for the hard surfaced fenced land. Mr Hawkins' valuation included nothing for the land, or the car parking spaces, which he did not appear to dispute were in use. The panel accepted that the majority of the land was needed for circulation of vehicles around the site and there did not seem to be any used purely for storage. However, it was not persuaded that the land had no value.

32. Of the three examples presented by Mr Hawkins, the panel found that the warehouse in Southampton was a completely different locality to the subject property. Both Asda Stores, Anderson Way, Belvedere DA17 6BG and Units 1-2 Langley Connect, Station Road, Langley, Slough SL3 6EG appeared to have more confined areas of land for vehicles to manoeuvre compared to the building in each case. Removing all land and car parking spaces from the subject property's valuation appeared to contradict the rent achieved which suggested that

the land has a value. The panel concluded that the rent agreed on the subject property reflects both the warehouse and the associated land and therefore the valuation must also reflect both.

33. In appeals of this nature, the burden of proof rests on the appellant to persuade the Tribunal that the valuation entry is wrong. The panel was not convinced on this occasion, having considered all the evidence, that burden had been discharged.

Determination

34. In view of the above findings and conclusions, the Tribunal is satisfied that the existing rating list entry at £214,000 is reasonable and the appeal is dismissed.

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/.

Mrs O O Robson, Senior Member (Presiding)

Mr A Sheth, Senior Member

4 June 2025

Mrs A Sloan
Clerk to the Tribunal
Date issued to the parties: 4 June 2025