IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2023 RATING LIST APPEAL

Case No: CHG101089134

Sitting remotely using Microsoft Teams

Date: 18 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — warehouse and premises; price per m² in dispute; rental evidence; comparable assessments; appeal allowed in part.

Before:
MR M ASLAM
MR B PROUDFOOT

Between:

K & B MEATS LIMITED — **Appellant**

- and -

LUCY FORMELA-OSBORNE (VALUATION OFFICER) — **Respondent**

Regarding:
UNITS 1-2, ELECTRIC STREET, BURTON-ON-TRENT, DE14 1RQ
(the “subject property”)

Mr M Iles from Ryan, representing the Appellant
Mr M Adepoju for the Respondent

Hearing date: 26 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The panel determined a rateable value (RV) of £24,500 with effect from 1 April 2023, based upon an adopted price of £43.00 per m^2.

Introduction

3. This is a 2023 rating list appeal. Units 1-2 Electric Street, Burton-on-Trent, DE14 1PQ (the 'subject property') had been entered in the 2023 rating list as 'warehouse and premises' at £36,000 RV with effect from 1 April 2023, based upon an adopted price of £67.99 per m^2.

4. A challenge proposal was submitted by Altus Group (now Ryan) on behalf of K & B Meats Limited and was received by the Valuation Officer on 14 July 2023. It had been made on the grounds that the RV was inaccurate. A revised RV of £23,000 was proposed, based upon £43.34 per m^2.

5. The Valuation Officer issued a challenge case decision notice on 10 July 2024, which disagreed with the proposed alteration of the list, but considered that the current rating list entry was unreasonable based on the evidence and information available. A revised RV of £26,500 was confirmed, based on a revised price of £50 per m^2.

6. 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 22 August 2024.

7. Mr Iles appeared on behalf of the appellant 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), he declared that he was instructed on a contingency based fee, and 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 the client's case.

8. 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).

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

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

Relevant Law

11. Rateable value is to be determined in accordance with paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988, which provides:

(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.

In respect of an appeal against an entry in the 2023 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2021 in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

12. 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 day is 1 April 2023.

Discussion

13. The subject property is an end of terrace industrial unit of 514.81m^2, built in 1983. It is located in Electric Street, close to an established industrial business area to the north of Burton town centre.

14. Following an inspection on 2 October 2024, the Valuation Officer identified a number of errors, which resulted in a revised valuation of £28,250 RV. The factual errors were acknowledged by the appellant’s representative, who revised his proposed valuation to £22,750 RV.

15. Both parties referred to the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This case set out the six propositions to have regard to when considering the weighting of evidence and expert opinion. These are:

(i) Where the property which is the subject of consideration is actually let, that rent should be taken as the starting point.

(ii) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements, the more weight should be attached to it.

(iii) 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 appeal property.

(iv) 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 properly be referred to as giving an indication of that opinion.

(v) In light of all the evidence an opinion can then be formed of the differing types of evidence depending on the one hand the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

16. In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but, in such circumstances, it would be clearly more difficult to reject the evidence of the actual rent.

17. Taking the subject rent as the starting point, the lease effective from June 2019 at £23,016 per annum analysed at £43.34 per m^2. In the challenge proposal, the appellant had sought a revised base price in line with the analysis of the subject rent, however, he acknowledged that the rent had been agreed between connected parties. As such, it could not be relied upon in isolation, and therefore the panel turned to the rental evidence in respect of comparable properties.

18. Mr Iles submitted that there are two key pieces of comparable rental evidence in the locality which support a tone reduction for the subject property:

3 Canal Street, Burton-on-Trent, DE14 3TB

A property of 861.41m^2, held on a lease effective from 3 February 2021, the rent analysed at £35.14 per m^2. This was older than the subject property, but Mr Iles considered that it demonstrated that there had been no increase in value between the 2017 and 2023 lists: the 2023 list value is £40 per m^2 and the 2017 list value was £45.00 per m^2.

Spa House, Wharf Road, DE14 1PZ

A property of 554.7m^2, held on a lease effective from 3 February 2021, the rent analysed at £43.00 per m^2. This was a comparable put forward by the Valuation Officer who had analysed the rent at £72.01 per m^2, based upon incorrect details provided in the form of return. The Valuation Officer subsequently amended the rental analysis to £53.15 per m^2, however, Mr Iles submitted that the Valuation Officer had incorrectly assessed the mezzanine at a relativity of 0.33, rather than 1.1 as set out in the valuation scales.

19. Mr Iles had scheduled further rental evidence, but acknowledged that as either lease renewals or effective further away from the AVD, less weight should be attached:
    - Unit 6B Ryknild Factory Estate, Derby Road, DE14 1RZ: a lease renewal effective from 10 June 2022 analysed at £38.54 per m^2 for a unit of 1,389.28m^2.
    - Unit 3 Ryknild Factory Estate, Derby Road, DE14 1RZ: a new lease effective from 11 June 2020 analysed at £36.63 per m^2 for a unit of 1,873.9m^2.

20. The Valuation Officer disputed the relevance of Unit 6B and Unit 3 Ryknild Factory Estate, as they were older and significantly larger than the subject property. It had been stated in the challenge decision that most weight should be attached to the rent for Spa House, a new letting agreed within three months of the AVD, which had led to the Valuation Officer's revision of the base price for the subject property at £50 per m^2. Mr Adepoju defended the

analysis of £53.15 per m^2, which had taken account of a relativity of 0.33 for the mezzanine, as agreed on a settlement for the 2005 list to reflect quality.

21. In further support of £50 per m^2 for the subject property, the Valuation Officer cited the following rental evidence:

Unit 6 Clarke Industrial Estate, Wetmore Road, DE14 1QT

A property of 562.9m^2, a lease renewal effective from 1 May 2020 analysed at £66.00 per m^2.

Ground Floor Europa House, Wharf Road, DE14 1PZ

A property of 544.41m^2, a lease renewal effective from 1 October 2019 analysed at £64.20 per m^2.

22. As lease renewals, Mr Iles submitted that the rental transactions for Unit 6 Clarke Industrial Estate and Ground Floor Europa House carried less weight.

23. It was a point made by Mr Iles that the main issue in dispute centred on the analysis of Spa House. Both parties agreed that this rental transaction carried the most weight, however, Mr Iles' analysis was at £43.44 per m^2, against the Valuation Officer's analysis at £53.15 per m^2. The difference in the figures was due to the relativity applied to the mezzanine.

24. With reference to the valuation scales provided by Mr Iles, the panel noted that the standard relativity for a mezzanine was 1.1. In the absence of any evidence to support a relativity of 0.33 for Spa House, the panel accepted Mr Iles' analysis at £43.44 per m^2. Taking into consideration the fact that the Valuation Officer had reduced the base price to £50 per m^2 with reference to Spa House, the panel was satisfied that Mr Iles had demonstrated that £50 per m^2 was not reasonable.

25. Mr Iles had proposed a price of £40 per m^2, based on the analysis of Spa House, together with consideration of comparable properties which were assessed at £40 per m^2. However, the panel noted that 3 Canal Street and Units 3 and 6 at Ryknild Factory Estate were not directly comparable as they are larger, older properties. The panel considered that a price of £43.00 per m^2 reflected the analysis of the subject rent (albeit between connected parties) and Spa House, the property relied on by the parties as the most suitable comparable. This resulted in a revised RV of £24,500 as follows:

Floor	Description	Area (m^2)	£/m^2	Value
Ground	Warehouse	101.53	41.93	4,257
Ground	Cold Store	34.00	55.90	1,901
Ground	Reception/ Entrance	20.89	56.76	1,186
Ground	Office/Kitchen	16.04	52.03	835
Ground	Staff Toilets	53.77	43.00	2,312

Ground	Food Processing Areas	127.78	49.45	6,319
Ground	Cold Store	14.62	55.90	817
Ground	Chill Store	21.68	49.45	1,072
Ground	Residual Warehouse Area	20.01	41.93	839
First	Office	87.28	52.03	4,541
			subtotal	24,079
	Hard Surfaced, Fenced Land	65.00	4.00	260
	Storage Container	1.00	80.00	80
	Plant and Machinery			95
			total	24,514

Rounded down to £24,500

Determination

26. In view of the above findings and conclusions, the Tribunal panel is satisfied that the appellant’s representative has demonstrated that the present RV is unreasonable, and therefore the appeal is allowed in part.

27. 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 alter the entry in the rating list to rateable value £24,500 with effect from 1 April 2023.

28. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

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

Right of further appeal

30. 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.

31. 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 M Aslam, Senior Member (Presiding)

Mr B Proudfoot, Senior Member

18 July 2025

Mrs L Horne
Clerk to the Tribunal
Date issued to the parties: 18 July 2025