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

Case No: CHG101089817

Sitting remotely using
Microsoft Teams

Date: 5 November 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal appeal: Local Government Finance Act 1988; warehouse and premises;; assessment evidence; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council 1976; RV was unreasonable; appeal allowed in part

Before:
MRS LR MCDERMOTT
MRS FER DUGGAN

Between:

RM EDUCATION **Appellant**

- and -

KAREN GILES
(VALUATION OFFICER) **Respondent**

Regarding:
10 OSIER DRIVE, ANNESLEY NG15 0DS
(the "subject property")

Appearances:
Mr K Rabbette of Rabbette Chartered Surveyors representing the appellant
Mr J Holbrook representing the respondent

Hearing date: 6 October 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part. The panel found that the subject property was over assessed and having considered the evidence brought before it, it confirmed an unadjusted rate of £36/m^2.

Introduction

2. This appeal has been brought in respect of the following: 10 Osier Drive, Annesley NG15 0DS which was shown in the 2017 Rating List as 'warehouse and premises' at £475,000 rateable value (RV) effective from 1 April 2017. The subject property comprises a distribution warehouse that was constructed in the late1990s. It is of steel portal construction and is clad in a combination of profiled metal sheeting, glass and stone. The property comprises warehouse accommodation to the rear and a two storey office block to the front, there is a plant deck above the office accommodation on the second floor.

3. A challenge was submitted on 14 July 2023 which disputed the determination of the RV. The tone of £43/m^2 was challenged and a 10% end allowance was sought for poor eaves height this resulted in a proposed RV of £327,500. The challenge decision reduced the unadjusted rate from £43/m^2 to £42/m^2 and maintained the 2% allowance for eaves height which resulted in an RV of £465,000. The appellant's representative was not satisfied with the proposed RV on the basis that he considered that the evidence showed that the unadjusted rate was unreasonable and consequently an appeal was lodged with this Tribunal. At the time of the hearing, the issue which remained in dispute was the unadjusted rate and the appellant sought a reduction to £32/m^2, which resulted in a RV of £355,000.

4. Both Mr Holbrook, for the respondent, and Mr Rabbette, for the appellant, appeared in dual roles of advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr Rabbette declared that he was not instructed under a conditional fee in respect of his role as expert witness but he was on a conditional fee in respect of his advocacy and declared that he understood that his overriding duty was to the Tribunal.

5. The panel accepted the expert witness evidence on this basis as the appeal was not considered to be 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 Tribunals' rules concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Issue & Relevant Law

7. The issue between the parties concerned the RV of the subject property, specifically the unadjusted rate that should apply. The unadjusted rate was £42/m^2, the appellant was seeking a reduction to £32/m^2.

8. The term 'rateable value' as defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

"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."

9. The antecedent valuation date (AVD) for 2017 list rating appeals is 1 April 2015. The material day is 1 April 2017.

10. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta v Culverwell and Leicester City Council (*LVC/376/1975). This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

'(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

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

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

(6) 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.'

Discussion

11. In reaching its decision, having regard to the principles derived from Lotus, the panel found that the starting point was the subject rent. With effect from 3 May 2000 the subject property was sublet on a 20 year lease between The Boots Company PLC (landlord) and Boots UK Limited (tenant). The rent at this point was £526,538 per annum. With effect from 28 September 2009, this sublease was assigned from Boots UK Limited (assignor) to TTS Group Limited (assignee). The assignor paid the assignee £750,000 as an incentive to take the lease commitment on. The May 2005 and May 2010 rent reviews were both settled at nil-increases. There was a rent review with effect from 3 May 2015 which was documented at £552,865 per annum. The lease was renewed with effect from 3 May 2020 on a short-term lease expiring on 24 December 2024. The rent agreed was £575,000 per annum with a 1 month rent free period from commencement. The appellant submitted that is well known in the market that there was an incredibly high level of rental growth in the industrial sector between 2015 and 2020. In his opinion the rent review was settled at an above market level to maintain a positive landlord and tenant relationship, due to the landlord having not seen an increase in rent for some 15 years, consequently it reflected an uplift as opposed to an open market rent. Both parties had disregarded this rent. The panel also placed little weight to the this rent as if it did not reflect the open market it is not in line with the rating hypothesis and found it did appear to be an outlier. It therefore determined that the correct approach was to consider the basket of evidence brought before it.

12. The property is situated on an industrial estate called Sherwood Business Park within 1 mile of Junction 27 of the M1 motorway which provide good motorway links in the region. The property is situated between Nottingham, to the south, and Sutton-in-Ashfield, to the north. The map provided by the appellant outlined the position of the subject property and all the properties being referred. There was one piece of rental evidence and the remaining properties were referred to as assessment evidence. Essentially, the panel were considering properties along a stretch of the M1. The properties referred to range in age from 1995 to 2021 and range in size from 7653.46m^2 to 52418.7m^2 with the subject property measuring 10242.2m^2.

13. The rental evidence provided was for Cerealto, Claylands Avenue, Worksop S81 7DJ. It was a mid-2000's constructed industrial property which was let in September 2015 so just five months post the AVD. It measured 31,213.20 and the appellant had analysed the rent to £35.76/m^2. When considering the weight which should be attached to this evidence, the panel was mindful that it was located the furthest away, some 26 miles from the subject property. Furthermore, redevelopment works were carried out to make this a factory (it was previously rated as a Warehouse). The assessment was reduced to £26/m^2 following the change. The appellant referred to *Carpetright v Ray* (VO) [2014] in support that evidence for a factory could be considered and should not be disregarded. The panel agreed that it could be considered but ultimately, the panel had to weigh the evidence and given that it was located further away and there was evidence that the rate had been reduced when it was categorised as a factory, it concluded that a factory would potentially attract a lesser rent. The panel found this was a good starting point as it was the only rent available but did not place significant weight to it, as in this case, there was other evidence available for warehouses situated closer to the subject property.

14. The appellant placed great reliance on the assessment of Romo LTD, Oddicroft Lane, Sutton -In-Ashfield NG17 5FB. This was rated as a factory and premises but the panel heard that the original intended use was a distribution warehouse. This property was agreed in the 2017

list as a ‘Factory and Premises’ on an industrial scheme which comprises of factories over 10,000m^2. It was assessed at £32/m^2. The panel had viewed the video submitted by the appellant which provided a tour of this property. It was clearly a high specification property and the panel could understand why the appellant would suggest that this meant the subject was over assessed, however, it did find it to be a different vehicle to the subject property. It was clearly a factory and as the evidence has shown, factory and premises are rated lower. The panel was not persuaded that this was more akin to a warehouse or a strong comparable property. It was therefore not persuaded that the £32/m^2 on this assessment meant that the subject should be in line with this. The panel was not persuaded to place more weight on this one assessment but rather viewed it in conjunction with the basket of assessment evidence available to it.

15. The two properties in closest proximity were 13A Little Oak Drive NG15 0DR and 21A, Willow Drive NG15 0RS. They were assessed at £40/m^2 and £34.25/m^2 respectively. However, whilst they did offer insight into the location they were 1995 built factory and premises not distribution warehouses. The two warehouses situated closer to junction 26 were Langley 255 and 10 Oyster Road were of much higher specification. 10 Oyster Road was an 2020 built amazon distribution warehouse. It was assessed at £43/m^2. Langley 255 was closer in age to the subject as it was built in 2006 and was assessed at £40/m^2. The clear differences in specification meant they were not strong comparisons and therefore did not offer the panel great assistance, but did support that the subject property, which was older and of inferior specification, appeared to be excessively valued.

16. For obvious reasons, good road connections are beneficial for distribution warehouses and would therefore have an impact on value but specification and age was also a consideration. The panel placed weight on Unit B, Castlewood Business Park NG17 1BZX, Units C1/C2 Castlewood Business Park and UDG 1,2 and 3 Amber Park, DE55 2FH which were warehouse and premises built in 2013, 2014 and 1997 respectively. All three were assessed at £42/m^2 and Units C1/C2 had been challenged and well founded and Unit B withdrawn. Having viewed these properties, which were in a similar location to each other, there did not appear to be a change in value in respect of size or age. The panel found that they were superior in terms of location given that they had access to roads in two different directions, having direct access to the M1 and the A38. As evidenced on the maps provided, in comparison, the subject property had no direct access to the M1 and no access to the arterial road. These properties benefit from direct access onto one of the country’s principal motorways and one of the country’s principal non-motorway arterial roads and are of a high specification and modern, yet were assessed at just £0.50/m^2 lower than the subject property. This evidence further supported that the subject property appeared to be excessively valued.

17. Having considered the basket of evidence, which ranged from £32/m^2 to £43/m^2, the panel found that the subject property, which was in a more isolated location, was rated higher than more modern properties, properties with superior specification, and with better road connections. The panel concluded that the evidence demonstrated that the subject property was excessively valued. However, it was not persuaded that it should be reduced to £32/m^2 in line with the Romo assessment. The panel concluded that a unadjusted rate of £36/m^2 was fair and reasonable. Applying the current relativities for heating, air conditioning, fire protection and eaves height, this results in a RV of £397,500 as shown in the below valuation:

Description	Area m²/unit	£ per m²/unit	Value
Ground floor area under supported floor	2178.6	25.96	56556
Mezzanine floor warehouse	2178.6	18.54	40391
Ground floor warehouse	7024.5	36.34	255270
Ground floor office	336.9	48.95	16491
First floor office	336.9	48.95	16491
Second floor plant room	39.8	14.04	559
Second floor computer room	11.9	48.95	583
Second floor plant room	285.2	14.83	4230
Ground floor external storage	28.4	27.11	770
Ground floor canopy	596.8	9.27	5532
Total			396874
Additional Details			
Description			
Storage container			0
Portable building			0
Total			0
Plant and machinery			3076
Total			3076
		Total value	**399,950**
		Rateable value (rounded down)	**397,500**

Determination

18. In view of the above findings and conclusions, the Tribunal is satisfied that the RV is unreasonable and the appeal is allowed in part.

19. Under the provisions of regulations 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 reduce the entry in the rating list in respect of 10 Osier Drive, Annesley NG15 0DS to £397,500 with effect from 1 April 2017.

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

Right of further appeal

21. 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.

22. 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 LR McDermott, Senior Member

Mrs FER Duggan, Member

5 November 2025

Mrs C McAvoy
Clerk to the Tribunal
Date issued to the parties: 5 November 2025