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

Case No: CHG101102041

Sitting remotely using Microsoft Teams

Date: 13 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non Domestic Rating Appeal; 2017 Rating List; Accuracy of the Rateable Value in the List as at 1 April 2017; Warehouse and premises; Comparable assessments Appeal allowed.

Before:
MISS U HAQUE
MR A HUSSAIN

Between:

JM CLARK — **Appellant**

- and -

(VALUATION OFFICER) — **Respondent**

Regarding:
CARO HOUSE, UNIT 1, BELVEDERE INDUSTRIAL ESTATE, BELVEDERE DA17 6BS
(the “subject hereditament”)

Mr S Dowds-Jones from Colliers International, on behalf of the Appellant
Mr R Dash, on behalf of the Respondent

Hearing date: 23 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed.

2. The Tribunal panel reduced the assessment for Caro House, Unit 1, Belvedere Industrial Estate, Belvedere DA17 6BS (hereafter, known as the subject hereditament) to a Rateable Value (RV) of £36,000 with effect from 1 April 2021.

Introduction

3. Mr Dowds-Jones from Colliers International, on behalf of the appellant, made a Challenge against the accuracy of the complied list assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 2 August 2023. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded and a Challenge Decision Notice was issued on 22 November 2023. However, the VO found that the existing assessment of £50,500 RV was incorrect due to fact that when the Appellant took occupation on 1 April 2021, the mezzanine floor had been removed. Therefore, the VO deleted the mezzanine area of from the subject hereditament's assessment, which reduced its RV to £48,500 with effect from 1 April 2021. This was done by way of a Notice of Alteration that was issued on 30 November 2023.

4. Mr Dowds-Jones then appealed the VO's Decision to the Tribunal on 26 February 2024, on the grounds that the current valuation for the subject hereditament was not reasonable, under Regulations 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

5. Both parties appeared before the panel in a dual capacity as both Advocate and Expert Witness. Mr Dowds-Jones stated that he was on a conditional fee basis but accepted that his first duty was to the Tribunal and that he would comply with this duty together with the requirements of his professional body, regardless of whether or not the evidence supported the appellant's case.

6. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), 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 in England).

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

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

Background

9. The subject hereditament was a detached warehouse and was located on a self contained site on Belvedere Industrial Estate. Originally, the area had been in dispute, however, both parties had agreed that the correct measurement for the subject hereditament was 985.34

m². Its current valuation of £48,500 had been derived from a main space rate of £37.07 per m² and the value for the fenced yard (land) was £12 per m².

10. Mr Dowds-Jones was of the opinion that the land area of 478.90 m² should not be included within the assessment of the subject hereditament, as this was used for circulation.

11. Mr Dash, the representative of the Respondent was of the opinion that the value of the land area should remain within the assessment.

Relevant Law

12. The subject 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).

13. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841), the date of the hypothetical rent was 1 April 2015 (the AVD). This common date was used to ensure that every property was treated in a consistent way.

14. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined 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 2021 when the subject hereditament had been entered into the Rating List.

Case Law

15. The following was referred to within the evidence pack.

Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA141.

Discussion

16. In the case under consideration, the panel had been provided with a site plan which showed the area where the land was located. Mr Dowds-Jones provided settlements of comparable properties where the land area had been removed at the Check or Challenge stages. The panel noted that all of the comparable properties were industrial hereditaments and were located in different parts of the country.

17. Photographs had been provided to show the similarities between the land occupied by the subject hereditament and the comparable properties. Mr Dowds-Jones argued that additional value should only apply to areas with significant land overage. As the subject property does not have excess land and the land only used for access, deliveries and articulated lorry operations, the value applied should not be included within the assessment of the subject hereditament.

18. Mr Dowds-Jones referred the panel to the photographs which demonstrated the need for the land for sale loading and unloading. The photograph showing 1 Bourne End Mills site overview, shows a lower site coverage but had additional land value removed due to a lack of excess land. The panel noted that 130 Kingston Road had its land reduced to reflect the true amount of overage (amount under 50% density). The panel found that the subject hereditament did not have an overage of land, as it was noted that the site coverage for the

subject property was deemed to be over 70%, which was above the norm of 50%. Therefore, as the land for the subject hereditament was used for access and the movement of lorry operations, the panel held that the land should not be included within the assessment of the subject hereditament.

19. Mr Dowds-Jones had also provided an email from the lead industrial valuer at the Valuation Office Agency, with regards to Unit 3C Ridgeway Distribution Centre, Iver, Bucks SL0 9JQ, where the entire land area had been removed, as it was all required for access and loading, which he argued was an identical situation to the subject hereditament. The VO in this email agreed with the approach of not valuing land where it was used for access and loading. However, the panel placed weight as it saw fit onto the details of this email, as the email was to do with Unit 3C Ridgeway Distribution Centre only, as the VO stated: *'they have confirmed that access land does apply in this case',* which meant it did not apply in *every* case.

20. Mr Dowds-Jones informed the panel that he had been involved in discussions with regards to Asda Stores Ltd, Anderson Way, Belvedere, DA17 6BG, where an agreement had been reached to remove the land by Consent Order at the appeal stage. This comparable property was located less than a mile from the subject hereditament. The panel placed great weight on the details of this comparable property, as well as Unit 3C Ridgeway Distribution Centre, it both had land removed due to it all being used for access and loading.

21. Mr Dash argued that the land is beneficial occupation and should be included within the assessment of the subject hereditament. He also stated that there was plant and machinery on the subject hereditament's frontage, however, no photographs had been provided to show where the plant and machinery had been situated. Mr Dowds-Jones did inform the panel that there was a storage tank on the subject property's land, but he was not aware of how long this had been on site or if it still was there. Although this issue was discussed during the hearing, the panel held that the issue to do with plant and machinery was not part of this appeal, therefore, it was not considered as part of the panel's determination.

22. The panel found that industrial properties necessitate ample space for vehicle circulation, particularly large vehicles like lorries. Sufficient land was crucial for loading, unloading and safe manoeuvring of deliver vehicles. The vast majority of industrial properties require significant land area for logistical operations. The panel found that the subject hereditament area of land was used solely for access and the movement of lorries, similar to the comparable properties of Asda and Unit 3C, where it had been agreed that their lands had been removed due to being used for access and operational purposes. Therefore, it was only correct that the land area for the subject hereditament should be removed from its main assessment.

Determination

23. In view of the above findings and conclusions, the Tribunal panel found that the appellant's grounds of appeal were compelling. The evidence provided supported that the existing assessment to include the land value was unreasonable. The appeal was therefore allowed and the RV proposed by Mr Dowds-Jones of £36,000 was confirmed.

Order

24. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to

alter the list entry for the appeal property to £36,000 RV with effect from 1 April 2021. The VO must comply with this Order within 2 weeks of its making.

Refund of appeal fee

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).

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/.

Miss U Haque, Senior Member (Presiding)

Mr Amran Hussain, Senior Member

13 June 2025

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 13 June 2025