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

Case No: CHG101125668

Sitting remotely using Microsoft Teams

Date: 29 October 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; Workshop and premises; Area for Circulation and Access: Comparable assessments. Appeal allowed.

Before:
MRS AE FIELDER
MS S KINSELLA

Between:

JAN DE RIJK TRANSPORT LTD **Appellant**

- and -

(VALUATION OFFICER) **Respondent**

Regarding:
10 PULBOROUGH WAY, HOUNSLOW, TW4 6DE
(the "subject property")

Mr M Rowell, from Colliers International, on behalf of the Appellant
Mr K Chamba, on behalf of the Respondent

Hearing date: 2 October 2025

DECISION AND STATEMENT OF REASONS

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Decision

1. The appeal is allowed.

2. The Tribunal Panel reduced the subject property's existing assessment of £101,000 Rateable Value (RV) with effect from 5 September 2019 to £86,000.

Introduction

3. This appeal had been brought in respect of the following: 10 Pulborough Way, Hounslow. TW4 6DE, which was entered in the 2017 Rating List as a workshop and premises at £101,000 RV, effective from 1 April 2017.

4. The appellant's challenge to the Valuation Officer (VO) was made on 11 September 2023. The appeal to this Tribunal was made on 11 March 2024, following the Valuation Officer's decision notice of 2 January 2024, in respect of the subject property (hereditament).

5. The subject property is a two storey industrial unit stated to have been built circa the 1980s, situated on an industrial estate in Hounslow, in the southwest part of London. The building comprises ground floor reception and warehouse, and ground and first floor offices, measuring 487.2m^2, with the valuation for the hereditament also including an area of hard surfaced fenced land measuring 5,528.1m^2.

6. Mr Rowell was appearing on behalf of the appellant as 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 Rowell confirmed that he was representing the appellant at the hearing on a contingency fee basis. He also declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether the evidence supported his client's case.

7. Mr Chamba stated that he was appearing in a dual role as advocate and expert witness.

8. The panel have accepted this 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 Procedure regulations 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Background

10. The only matter in dispute was whether the area of hard surfaced fenced land included in the respondent's valuation was inaccurate and excessive.

11. Mr Rowell was of the opinion that the hard surfaced fenced land area included in the assessment should be reduced from 5,528.1m^2 to 4,172m^2, to allow for access and circulation.

12. Mr Chamba was of the opinion that the value of the hard surfaced fenced land area should remain as 5,528.1m^2 within the assessment, maintaining that the RV of £101,000 was not excessive.

Preliminary issue

13. Prior to the hearing, on 18 September 2025 the Tribunal was sent an email from the appellant's representative which included information about three comparable properties which Mr Rowell wished to refer to as part of his evidence. This evidence was stated to have become available after the submission of challenge and appeal evidence had been submitted. This email was forwarded to the respondent's representative on 25 September and again on 30 September 2025, asking for his comments about the appellant's request to include this new evidence.

14. At the hearing Mr Chamba confirmed that he had no objection to the inclusion of the appellant's new evidence. He apologised for having not replied, adding that this request had gone under the radar as he had only picked up this case, as he was a late replacement for a colleague previously dealing with this appeal.

15. On the day of the hearing, 3 hours prior to the scheduled start of this particular appeal, the clerk received an email from the respondent's representative. Mr Rowell was also sent this email. The email stated that at the hearing Mr Chamba wished to refer to a decision regarding a comparable property, as well as the rent of the subject property. With regard to the first of these matters, an email was attached dated 11 July 2023, that provided information about the assessment of the comparable property.

16. Mr Rowell objected to the inclusion of the late evidence request submitted by Mr Chamba, stating that this information had only been sent 3 hours prior to the start of the hearing. This would not allow him sufficient time and opportunity to consider and respond to the late evidence referred to in Mr Chamba's email.

17. The panel considered the new and late evidence requests from both parties in light of the Upper Tribunal's judgment in *Simpsons Malt Ltd v Jones (VOs)* [2017] UKUT 460 (LC) having regard to *Denton v TH White Ltd* [2014] EWCA Civ 906 as follows:
    - Stage 1: Does the panel conclude that the breach is not serious or significant. If so, relief from sanctions should usually be granted.
    - Stage 2: The panel needs to consider why the failure or default occurred. The burden is on the defaulting party to persuade the Tribunal to grant relief from sanctions. The defaulting party must explain what happened and why.
    - Stage 3: The panel must consider all the circumstances of the case, including:
      a. The need for litigation to be conducted efficiently & at a proportionate cost
      b. The failure to grant a sanction may leave an inaccuracy being uncorrected
      c. The need to enforce compliance with rules, directions and orders. Such matters, however, are the handmaids and not the mistress of justice and must never be allowed to assume a greater importance than doing justice.

18. Firstly, with regard to the appellant's request. This was made two weeks prior to the hearing, albeit forwarded to the respondent one week later. Notwithstanding, whilst the respondent

had not replied, he did not object to the inclusion of the late evidence. The panel decided to allow the inclusion of this evidence, determining that it would be in the interests of justice to do so, with it considered fair and just to decide this appeal taking into account this evidence, with this breach not considered serious and significant.

19. Turning to the respondent's request, the panel noted that this included two separate elements. Firstly, there was reference to an assessment of a comparable property, about which evidence in the form of an email had been attached. The panel recognised that the comparable property evidence was in respect of a property that had been referred to as part of the appellant's evidence, with this new evidence comprising a revision of the assessment, to which the appellant had referred. Mr Rowell had accepted this revision was correct. He stated that he had not included this updated information as part of his submission, as like Mr Chamba, he was also a late replacement for a colleague previously assigned this case. He added that the ratepayer in that other case was no longer represented by Mr Rowell's employer, as they were no longer a legal business entity.

20. Additionally, the email sent by Mr Chamba on the day of the hearing also provided information about the rent of the subject property, although there was no documentation provided to support this information.

21. The panel noted the appellant's objection to the late evidence. Taking into account that the late evidence regarding the comparable property related to a property relied upon by the appellant, the panel deemed that the breach was not serious and significant. Any decision to disallow this specific evidence could be viewed as unreasonable and unjust. Whilst the panel agreed that it would be in the interests of justice to include the respondent's late evidence, the parties were informed that whilst considering verbal submissions relating to the disputed issue, the panel would attach weight and make decisions based on the available evidence.

Relevant Law

22. 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).

23. 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.

24. 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 property in this appeal, the material day is 5 September 2019 when the rateable value for the subject hereditament had been entered into the Rating List at £101,000.

Discussion

25. The panel had been provided with an aerial plan and photographic image, showing the building and land that comprised the subject property's assessment, with the plan specifying the total area of the hard surfaced fenced land as 5,528m^2, included in the assessment.

26. The appellant had provided details of an area that he argued should not form part of the assessment, which was required for access and circulation, stating, with all industrial

premises, there is always an element of land or yard required for circulation and access. Mr Rowell argued that additional value should only apply to areas with significant land overage. With the subject property including a proportion of land only used for access and deliveries via articulated lorry operations, the value of the land required for circulation and access should not be included within the assessment. The appellant asserted that the area be reduced from 5,528m^2 to 4,172m^2. On this basis the RV would be £86,000.

27. Both parties had provided details about comparable properties. The appellant had provided information about comparable properties where the land area had been reduced or removed, at the Check and Challenge stages, or following Tribunal decisions. The respondent provided details about comparable properties where settlement evidence was stated to show assessments where land was valued on a gross area basis, to support the Valuation Officer's decision that the reduction for access or circulation was not warranted.

28. With regard to the properties relied upon by the appellant, photographs had been provided to show the similarities between the land occupied by the subject hereditament and the comparable properties. Whilst the respondent had not provided photographs of the four comparable properties submitted to support his case, the appellant had provided aerial images in respect of two of these properties, in which information was presented to explain the reduction of land area for these assessments.

29. Both parties commented on the reliability of the other's comparable property evidence. The case submissions highlighted disagreements about whether reductions in the comparable property assessments for the removal or reduction of areas of land should be attributed to reasons for circulation and access issues, or for different reasons.

30. In addition to the fourteen comparable properties, which the appellant had submitted, the late evidence provided by him included details about three further assessments, where at check or challenge stage, areas of land were reduced for reasons of access and circulation. With regard to one of these fourteen properties, 20 and 25 Ashford Industrial Estate, Shield Road, Feltham, the late evidence provided by the respondent confirmed that the decision on which the appellant had referred to, had been revised taking into account a correction and reinstatement in the assessment of the area of land. Mr Rowell, as aforementioned in paragraph 19 above, did not dispute this, accepting the revised evidence.

31. In addressing the panel, the respondent stated there was a lack of reliable comparable property evidence and it was more appropriate to consider the rental evidence. He added that the existing rateable value of £101,000 signified that the subject property was undervalued, based on the rental evidence, adding that any further reduction to the RV, if the panel were to allow the appeal, would only serve to exacerbate this.

32. During oral submissions Mr Chamba referred to part of his late evidence; his email that stated the rent for the subject property was £228,000 effective from 1 June 2015 and following a rent review was £364,250 effective from 1 June 2020. He stated that the appellant's Challenge document specified the issue in dispute was that the rateable value of £101,000 was incorrect and excessive. He highlighted that the first of these rents, was an open market letting, some £127,000 greater than the disputed rateable value. He commented that the appellant had not presented any evidence of rents, with there being an absence of rental evidence of properties in a comparable location, from both parties.

33. In arriving at a decision, the panel deliberated about the different approaches taken by the parties. The appellant contended that the rateable value was incorrect as it did not take into

account the issues of access and circulation within the line entry for the hard surfaced fenced land. The respondent contended that the rateable value was not excessive, actually stating that based on the subject property's rent, it was underrated.

34. With regard to the appellant's case, the panel considered whether the hard surfaced fenced land in the subject property's assessment should remain at 5,528m^2 encompassing all of the land within the curtilage of the hereditament, or whether this area should be reduced to 4,172m^2, taking into account the area calculated as required for access and circulation. Mr Rowell's case contended that the subject hereditament did have an overage of land, with the aerial photograph and plan demonstrating this overage. He maintained the land not required for access and circulation should be included in the assessment.

35. The panel noted that all of the comparable properties were industrial hereditaments, albeit being mindful that the comparable properties were located in different parts of the country. The respondent's point that little weight should be attached to the comparable properties as they were not in comparable locations was disregarded by the panel. The important factor in this appeal, was when deciding a valuation for industrial properties, whether the comparable property evidence signified that account needed to be made for access and circulation issues when determining the area of land to be included within the assessment

36. Mr Chamba verbally acknowledged that it was accepted and usual practice for provision to be made with regard to industrial properties which included areas required for access and circulation. More significantly, despite both parties submissions refuting the other's comments, evidence clearly showed that in other cases, the Valuation Officer had removed or reduced the area of land, required for access or circulation. This was verified by the evidence presented for Unit 3C, Ridgeway Distribution Centre, Iver, and Parker Building Supplies Ltd, Jarvis Brook Goods Yard, Crowborough. The evidence submitted by the appellant for 312 Brook Drive, Erith, and Unit 4, Riversend Business Park, Riversend Road, Hemel Hempstead also showed this to be the case for these two properties.

37. Turning to the respondent's rationale, that the rateable value of the subject property, when taking into account its rent, was undervalued, let alone not excessive, the panel noted the comparable property evidence in this appeal related only to matters relating to line entries about land areas.

38. The panel was aware that the Lands Tribunal judgment in *Lotus and Delta Ltd v Culverwell (VO)* and Leicester City Council [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. This case had established six propositions that gave clear guidance to be followed when assessing rateable value. Bearing these six propositions in mind, the panel acknowledged in appeals of this nature, the rent on the subject property, where available, was considered to be the correct starting point, with consideration to how that rent compared to the statutory definition of rateable value. Rents on similar properties could also be considered as could assessments on other comparable properties, with all of the evidence then being weighted, as the panel saw fit. In this appeal being heard, the panel had not been presented with any evidence in respect of the rental values of other comparable properties.

39. The rent for the subject property was stated to be £228,000 effective from 1 June 2015 and £364,250 effective from 1 June 2020. Only the latter of these figures was referred to, within the challenge and appeal documents, submitted as evidence. This higher rent was agreed five years after the AVD.

40. No reference was made to the June 2015 rent until the date of the hearing. The panel attached little weight to this rent. Whilst it was two months after the AVD, there was no evidence to show how it accords with the statutory definition of rateable value, with very little known about this rent. No details about the June 2015 rent was provided to the panel, other than the respondent's email received three hours before the start of the appeal hearing, which stated that this rent was £228,000 effective from 1 June 2015, along with Mr Chamba's verbal evidence during which he stated this rent to be an open market letting. The panel noting the respondent's comments about this rent being £127,000 above the existing rateable value, regarded the rent to be an 'outlier' as it did not appear to be the case that sufficient regard was given to this rent when arriving at a rateable value at £101,000. There was an absence of information about whether this rent involved connected parties, the terms and conditions of the letting, including financial and payment clauses, whether there were any rent free periods, break clauses, as well as rent review details, transferability and termination clauses, and information about the responsibilities of the lessee.

41. Moreover, the respondent during his verbal submission referred to the appellant's statement in the Challenge document being misleading. The panel did not find this to be the case. The statement specified the precise reason of the appellant's dispute. The response from the VO focused on the issue of the valuation of the hard surfaced fenced land. The respondent had sight of the Challenge document in which the appellant had referred to the existing rateable value as incorrect and excessive. The respondent had received the Challenge document and there was no evidence to suggest that the appellant had sought to mislead the respondent.

42. The panel found that industrial properties necessitate ample space for vehicle circulation and access, particularly large vehicles like lorries. Sufficient land was crucial for the safe manoeuvring of delivery vehicles when loading or unloading goods. The vast majority of industrial properties require significant land area for logistical operations. The panel found that the subject hereditament comprised an area of land used for access and the movement of lorries, similar to other comparable properties, where it had been agreed that their land areas be removed or reduced due to being used for access and operational purposes. The rate of the land area was not in dispute. Therefore, it was only correct that the land area proposed by the appellant for the subject hereditament should be used in the subject property's assessment.

Determination

43. In view of the above findings and conclusions, the Tribunal panel found that the appellant's grounds of appeal were persuasive. The evidence available supported the appellant's argument that to include the total area of hard surfaced fenced land in the assessment was unreasonable. The appeal was therefore allowed and the proposed £86,000 RV was confirmed. A breakdown of the assessment has been shown below.

Line	Floor	Description	Area m^2	£/m^2	Value (£)
1	First	Office	92.28	102.00	9,413
2	Ground	Entrance / Reception	12.79	102.00	1,304
3	Ground	Warehouse	312.39	85.00	26,553
4	Ground	Office	69.74	102.00	7,113
		Valuation Sub-total			**44,383**
	Outside	Hard Surfaced, fenced land	4,172	10.00	41,720
		Valuation Total			86,103
	Say £86,000 Rateable Value, with effect from 5 September 2019				

44. 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 £86,000 RV with effect from 5 September 2019. The Valuation Officer must comply with this Order within 2 weeks of its making.

Right of further appeal

45. 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.

46. 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 AE Fielder, Senior Member (Presiding)
Ms S Kinsella, Senior Member

29 October 2025

Mr R Patel
Clerk to the Tribunal
Date issued to the parties: 29 October 2025