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

Case No: CHG101132931

Sitting remotely using Microsoft Teams

Date: 10 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic 2017 rating list appeal; Warehouse and Premises; accuracy of rateable value; rental and comparable evidence considered; found that weight of evidence supported a reduction in the assessment of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141*. Decision: Allowed in part.*

Before:
MR C KAMALAN
MRS P AHARK

Between:

T JAMES (BEDLINGTON) LTD **Appellant**

- and -

AMANDA HITCHINGS (VALUATION OFFICER) **Respondent**

Regarding:
SOUTH EAST NORTHUMBERLAND RECYCLING, SENREC, WEST SLEEKBURN NE22 7LQ
(the "subject property")

Mr J Bell from Bell & Bell for the Appellant
Miss A Hurson for the Respondent

Hearing date: 4 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed in part.

2. The Tribunal held that the existing entry in the 2017 Rating List for South East Northumberland Recycling, Senrec, West Sleekburn NE22 7LQ (hereafter, known as the subject property) £36,250 Rateable Value (RV) was excessive and determined that the evidence showed that an RV of £34,000 with effect from 1 April 2017 was fair and reasonable for the subject property.

Introduction

3. This was a 2017 Rating List appeal. The subject property had been entered into the 2017 Rating List as a 'warehouse and premises' at an RV of £37,500 with effect from 1 April 2017. A Check had been completed on 4 April 2023 and a Challenge submitted on 11 September 2023. The Challenge stage was completed on 6 September 2024 where the RV was reduced to £36,250 with effect from 1 April 2017. An appeal was received to this Tribunal on 6 January 2025 against the Challenge decision requesting that the RV of the subject property be reduced to £26,000 with effect from 1 April 2017.

4. Both Mr Bell, for the appellant and Miss Hurson, for the Respondent appeared in a dual role capacity as advocate and expert witnesses. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr Izett informed the panel that he was instructed on a fixed fee, but if the appeal was allowed, a performance fee would be applied. Both declared that they understood and accepted that their duty was to the Tribunal in giving their evidence and that they were aware of and have complied with the requirements of the rules, protocols and directions of the Valuation Tribunal.

5. 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).

6. It was therefore appropriate for the panel 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. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

8. The subject property was an industrial unit located on West Sleekburn Industrial Estate in Northumberland built in 1984. It had a total area of 3,182 m² and was constructed of a steel portal frame, single skin external cladding with roller shutter access. The subject property had three dividing walls, which created four bays: BU3; BU4; BU5 and the warehouse.

9. The subject property had originally been entered into the 2017 rating list with an RV of £37,500 with effect from 1 April 2017. However, the VO had reduced the assessment to £36,250 RV with effect from 1 April 2017. The VO proposed a further reduction of the subject property's assessment to £34,000 RV with effect from 1 April 2017.

10. Mr Bell had requested a reduction of the assessment of the subject property to £26,000 RV with effect from 1 April 2017.

Preliminary issue

11. Mr Bell had submitted a 14-page document to the Tribunal on 29 May 2025, which included layout plans and photographs. Miss Hurson had no objections to the inclusion of this document for the panel to consider. Therefore, the panel allowed the 14-page document to be included within Mr Bell's submission.

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 antecedent valuation date (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 2017 when the subject hereditament had been entered into the Rating List.

Case Law

15. *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141 was referred to within the evidence. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

Discussion

16. In the case under consideration, the panel noted that the rental details of the subject property had a current rent of £62,400 per annum which had been agreed on 1 March 2021. Miss Hurson informed the panel that a form of return (FO) had been provided from 2017 with a passing rent of £60,000 per annum. The panel noted that some discussion had taken place and details of this discussion was documented within the evidence pack. However further details of this rent had not been discussed between the parties and Mr Bell considered these details as new evidence. Therefore, he objected to the details being considered by the panel.

17. As there had been an objection by Mr Bell, the panel considered the matter in light of the *Upper Tribunal decision in Simpsons Malt Ltd etc. v Jones* (VO) UKUT [2017] 460 and had regard to the test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926.

Stage 1 – If panels conclude that the breach is not serious or significant then relief from sanctions should usually be granted (para. 53).

Stage 2 – Then the panel need to consider why the failure or default occurred. The burden is on the defaulting party to persuade the tribunal to grant relief. They must explain what happened and why. Illness or accidents may be good reasons but overlooking a deadline is not (para. 54).

Stage 3 - The panel must consider all the circumstances of the case including:

(1) The need for litigation to be conducted efficiently and at a proportionate cost;
(2) A failure to grant a sanction may leave an inaccuracy being uncorrected;
(3) The need to enforce compliance with rules, directions and orders (para. 55). However such matters are the handmaids and not the mistress of justice and must never be allowed to assume a greater importance than doing justice (para. 56).

18. The panel had to consider whether there had been a minor or significant breach. The panel found that it was a significant breach. Miss Hurson could have submitted an application under Reg 17a for the new evidence to be submitted and considered, as this new evidence had been available since 2017, but he had failed to do this.

19. The details of the rent passing had been documented as being £60,000 per annum with effect from 2017, two years after the AVD of 1 April 2015. The panel was also informed and agreed by both parties that the form of return, nor the lease in 2017 had been signed. Even though the panel allowed this further information to be included within the evidence submission, it placed little weight onto the details, as it deemed it not reliable as there was no evidence to show that a lease had been signed in 2017 or that the rent of £60,000 had actually been agreed to be paid.

20. As the current rental details was from March 2021, the panel found these details too far removed from the AVD to be of any assistance. The panel noted there was only one comparable property provided with regards to rental evidence, which was Unit 7, Sleekburn Business Park Centre, Sleekburn, in Bedlington. This property was much smaller in size than the subject property with a total area of 1,029.30 m². It was a workshop and premises which had demanded a rental figure of £18,333 per annum. The lease had commenced on 1 January 2014 for a period of three years. The price per m² had been set at £21.10 per m². The panel placed less weight onto the details of this property. It was much smaller in size and the rent had commenced 15 months prior to the AVD of 1 April 2015.

21. To support a lower price per m² for the subject property, Mr Bell had referred the panel to BU1 and BU2 where the adopted price per m² had been £11.85. Both BU1 and BU2 were within the same block as the subject property but much smaller in size with areas of 946.50 m². The panel also placed less weight on to the details of this comparable property, as again it was much smaller in size than the subject property.

22. The panel referred to other comparable workshop / warehouse properties located at Unit 5, Sleekburn Business Park Centre, Sleekburn and Hodges Recycling, Brock Lane, West Sleekburn. These two properties were again much smaller in size with areas of 812.35 m² and 815.66 m² with adopted values of £21.72 per m² and £21.18 per m². Therefore, the panel placed less weight onto the details of these two comparable properties.

23. Originally, the subject property adopted base value had been based on a price per m² of £17.30. Taking into consideration the lack of central heating; the lack of roof and wall insulation. The VO had reduced the adopted value to £16.03 per m² with a further reduction for quality of 20% on each line entry, which resulted in the current price per m² of £12.98. This had amended the RV of the subject property to £36,250 with effect from 1 April 2017.

24. Mr Bell had requested a reduced price per m² of £10.76, supported by the details of the adjoining units of BU1 and BU2. Mr Bell had requested the panel agreed a revised assessment for the subject property to include an adopted price per m² of £10.76 with £2.00 per m² for the land value; less allowances of 17% for access, 15% for divided unit and 10% for adapted buildings. Therefore, the proposed RV for the subject property to be considered was £26,000 with effect from 1 April 2107.

25. The panel considered the adopted value of the subject property. Even though the subject property was situated within the same block as BU1 and BU2, it was much larger in size than BU1 and BU2. The panel noted that originally, the adopted value for the subject property had been £17.30 per m² but had been reduced to £12,98 per m² due to the considerations mentioned above. Even though BU1 and BU2 were within the same block as the subject property, the panel held that the current adopted rate of £12.98 per m² was reasonable for the subject property.

26. Mr Bell had also originally requested the following end allowances be applied to the subject property: 15% for access; 20% for quality and 15% for fragmentation. Two of the allowances had been agreed during discussions. 17% had been agreed for access and 10% for adapted buildings. However, the allowance for divided or split unit had not been agreed. The panel noted that an agreement had been reached for an allowance of 5% for divided or split unit with regards to BU1 and BU2. Mr Bell stated that with the subject property being much larger in size, an allowance for divided or slip should be higher at 15%. Miss Hurson stated that an end allowance of 5% for divided or split unit was satisfactory, as the subject property already had a 10% allowance for adapted buildings.

27. The panel noted that the subject property was much larger with an overall size of 3,182.4 m², whilst BU1 and BU2 were measured at 1,893 m². Both BU1 and BU2 comprised of two bays, whilst the subject property comprised of four bays. The panel placed more weight onto the details provided for units BU1 and BU2.

28. Mr Bell referred to a neighbouring comparable property situated circa a mile from the subject property of Ferguson’s Transport, West Sleekburn Park, where an allowance of 15% for layout had been included. The panel considered the photographs provided which showed the layout of the site where the subject property was situated in comparison to the layout of the site where the comparable property of Ferguson’s Transport was situated. The panel noted that there was a one way system around the site where the subject property was situated off Brock Lane, which was the road which connected both the subject property and the comparable property of Ferguson’s Transport. However, as no details had been provided as to the reason why the assessment of Ferguson’s Transport had been granted an allowance of 15% for layout of the site, the panel placed less weight onto this comparable property.

29. The panel placed more weight onto the neighbouring units of BU1 and BU2 which had an allowance of 5% for dividing /split unit. The panel considered that a further 5% for dividing or split unit was fair and reasonable, as the 10% allowance for adapted building already echoed any physical disadvantages the subject property had with regards to adapted buildings.

30. Miss Hurson had stated that the current valuation of £36,250, which was based on a price per m² of £12,98 was correct. However, the panel noted the VO had revised the assessment for the subject property again. The VO had stated that the addition for plant and machinery had been removed, as the temporary weighbridge was no longer in situ; the area of land had been reduced slightly from £2.50 per m² to £2.00 per m² to reflect only the land that could be used or was in use for storage and an end allowance of 5% had been applied to reflect fragmentation. Therefore, Miss Hurson stated that a revised RV of £34,000 with effect from 1 April 2017 was put forward for the panel to consider.

31. The panel noted that there had been some confusion during the hearing as to what comparable property Miss Hurson had discussed. Mr Bell informed the panel that Miss Hurson had referred to a different property of T James (Bedlington) Ltd stating the information Miss Hurson had provided was incorrect. The panel noted that there was another assessment situated on the same site as the subject property which was named T James (Bedlington) Ltd. However, Miss Hurson confirmed that she had meant to refer to the comparable property where BU1 and BU2 was situated. The panel referred to a plan which showed six units situated together in a block. The subject property occupied BU3 through BU6 and the comparable property discussed by Miss Hurson was for BU1 and BU2.

32. During the hearing Miss Hurson referred to the case of Hainsworth Park Golf Club, Leven Road, Brandesburton, Driffield YO25 8RT, which she stated was case law. The panel noted that this had not been mentioned within the evidence pack and Mr Bell had not been aware of this case. The panel requested that Miss Hurson provide a copy via email to the Tribunal after the hearing and to copy in Mr Bell. Once the panel received the case, the panel noted that this was a decision by the Valuation Tribunal for England (VTE) heard on 18 February 2015 and not case law. The panel was aware that case law was binding on the panel, but previous VTE decision were not binding. However, the panel would place weight on the decision as it saw fit.

33. The panel considered that while a VTE decision was not considered new evidence, it was always best practice for a party to disclose any decision (it is seeking to rely on) in advance. Where a decision is not well known (e.g. unlike DOMBLIDES, LADIES HOSIERY etc) then a full copy should be disclosed within the evidence bundle.

34. The panel referred to the VTE decision of Hainsworth Park Golf Club, where an allowance had been discussed with regards to the presence of a footpath running through the golf course. The panel held that the circumstances of the issue of access was totally different with regards to the subject property and the details of the access issue. Therefore, it placed little weight onto the details of this VTE decision provided by Miss Hurson.

Determination

35. In view of the above findings and conclusions and referring to the evidence above, the Tribunal held that the assessment provided by Miss Hurson with the revised allowances proposed was fair and reasonable. The panel, therefore, allowed the appeal in part in view of the VO's proposed base rate of £12.98 per m² with allowances documented below and confirmed the revised RV of £34,000 with effect from 1 April 2017.

South East Northumberland Recycling, Senrec, West Sleekburn NE22 7LQ				
Floor	Description	Area m² / unit	£ per m² / unit	Value (£)
Ground	BU3	644.70	12.98	8,368

Ground	BU4	644.70	12.98	8,368
Ground	BU5	946.50	12.98	12,286
Ground	Warehouse	946.50	12.98	12,286
Additional features of the property included in the valuation				
	Hard surfaced, fenced land	3,358.00	2.00	6,716
			Valuation sub-total	48,024
Adjustments made to the sub total				
	Access		-17%	
	Divided or split unit		-5%	
	Adapted buildings		-10%	
				-13,941
				£34,083
			RV say	£34,000

36. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the VO is ordered to alter the list entry for the appeal property to £34,000 RV with effect from 1 April 2017. The VO must comply with this Order within two weeks of its making.

Refund of appeal fee

37. 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

38. 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.

39. 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 SC Kamalan, Senior Member

Mrs PK Ahark, Member

10 July 2025

Clerk to the Tribunal: Ms R Muller
Date issued to the parties: 10 July 2025