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

Case No: CHG101152928

Sitting remotely using Microsoft Teams

Date: 13 November 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 Rating List Appeal: challenge against compiled list entry; warehouse and premises; accuracy of rateable value; Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA 141*; appeal dismissed*

Before:
MS LS MARSHALL
MR M COLLERY

Between:

IPP PROPERTY HOLDINGS LIMITED **Appellant**

- and -

EAST STAFFORDSHIRE BOROUGH COUNCIL (BILLING AUTHORITY) **Respondent**

Regarding:
UNIT C1, BARTON BUSINESS PARK, BARTON UNDER NEEDWOOD, BURTON--ON--TRENT DE13 8BX
(the “subject property”)

Mr M Iles (as advocate and expert witness on behalf of the appellant)
Mr M Muqbil (as advocate and expert witness on behalf of the respondent)

Hearing date: 16 October 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal confirms the rateable value (RV) of the subject property at £210,000 with effect from 1 April 2023.

Introduction

3. This appeal had been brought in respect of Unit C1, Barton Business Park, Barton-Under-Needwood, Burton-On-Trent DE13 8BX (the subject property), which was entered in the 2023 Rating List as 'warehouse and premises' at an RV of £235,000 effective from 1 April 2023. This was reduced during the Challenge stage to £210,000 with effect from 1 April 2023.

4. The appellant's Challenge was submitted on 7 November 2023 and sought a reduction in the RV to £163,000 with effect from 1 April 2023. This was increased during the Challenge stage to £181,000 with effect from 1 April 2023. The appeal to this Tribunal was made on 19 May 2025, following the Valuation Officer's (VO) Decision Notice of 25 March 2025 in respect of the subject property.

5. 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.

6. The subject property was a detached industrial unit built in 2010. It measured 3,728m^2 with a total significant area(TSA) of 3,429m^2. It is on a large industrial estate Barton Business Park with excellent road access. Properties on Barton Business Park had been valued by the VO on a scheme specific to this location because the values on this development were different to other nearby locations.

7. Mr Iles appeared on behalf of the appellant as both 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 Iles confirmed that he was instructed under a contingency fee and he declared 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 his 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.

Preliminary issue

11. The appellant's representative sought to admit a copy of the lease on Unit C2 Barton Business Park into evidence having e mailed it to the Tribunal and the respondent on 15 October 2025 being the day before the hearing. This evidence was new evidence and did not comply with the Tribunal's standard directions. Mr Iles submitted that there had been many comments made about the specific terms of the lease which were important to aid the analysis of the rent on the property. He did however concede that the lease had been available during the course of the Challenge stage but had not been submitted at that stage.

12. Mr Muqbil submitted that the lease on the subject property had been requested by the VO on numerous occasions and to allow it to be put into evidence by the appellant at this late stage would prejudice the VO. He stated that if it were to be included then he would need to request an adjournment in order to carry out further analysis on the rent in light of the terms.

13. The panel, mindful of both the legislation concerning new evidence in relation to 2017 Rating Appeals and also the Court of Appeal decision of *Denton* v *TH White Ltd* [2014] 1 WLR 3926, did not allow the new evidence. This was as it would prejudice the VO and the lease was available during the Challenge stage as the front page of it had already been included at that stage and the whole lease could therefore have been admitted into evidence then. The panel therefore found that it was in the interests of justice not to allow the lease into evidence.

Relevant Law

14. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

    2(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.

15. 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).

16. 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 date is 1 April 2023 being the commencement date the 2023 rating list.

Discussion

17. The issue for the panel to make a finding on is the unadjusted rate for the subject property which is presently £58/m^2 with a RV of £210,000. The appellant submits that the rate is too high and that an unadjusted rate of £50/m^2 is reasonable giving an RV of £181,000.

18. The appeal 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). The date of the hypothetical rent was 1 April 2021.

19. The panel turned to the six propositions set down in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 which was binding on this panel. The first two propositions are:

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

    (2)The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in section 19(6) of the General Rate Act 1967 the more weight should be attached to it. (These statutory requirements now contained in Schedule 6, Para 2 (1) Local Government Finance Act 1988 (as amended by the Rating (Valuation) Act 1999)).

20. The panel noted that the subject property was held under a lease between connected parties and it did not therefore conform with the second proposition in the case of *Lotus and Delta* as the circumstances of the agreement were not in accordance with the statutory requirements. It was not an open market rent and the panel was unable to put much weight on the lease.

21. The panel therefore looked to the comparable properties provided by both parties. The third and fourth propositions set out in *Lotus and Delta* were considered by the panel in regard to the comparable properties put into evidence by both parties:

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

22. The panel first took into account the comparable property Unit C2 Barton Business Park which was on the same development as the subject property. Both parties sought to place weight on this property as a good comparable property to the subject property. The panel noted however that the parties had analysed the rent over different amortisation periods and it was this difference which led to the dispute over the unadjusted rate for the subject property. The panel noted that the lease was for 11 years with a headline rent of £190,000 per annum. In the first two years the rent was to be paid at a concessionary rate of £95,000 per annum and then

£190,000 for the rest of the term. The VO had amortised the rent over the whole term of the lease but the appellant had amortised it over the first five years.

23. Mr Iles referred the panel to the excerpt from Red Book which set out that when considering the amortisation period:

"The most important consideration is clearly the 'equation' period. Support for the view that it should be taken as the period (excepting break clauses) to the rent review at which it is anticipated the open market rental value will reach the headline level".

This relies on the date by which the parties when agreeing the lease at the transaction date believe the rental value of the premises would reach the headline rent. It was Mr Iles opinion that the headline rent analysed to £66.16/m^2 and so the question was would the parties envisage that the rental value of the subject property have reached £66.16/m^2 by November 2025.

24. In the case of the subject property the 2017 assessment had a value of £35.00/m^2 which is the hypothetical value at 1 April 2015. This he submitted implied a growth between 1 April 2015 and November 2020 of 45% which would lead to an unadjusted rate of £51.30/m^2. The growth would therefore need to be 30% in the following five years to reach £66.16/m^2. Mr Iles argued that taking into account the effects of Covid and the overall structural changes in the market the growth was slowing down. He therefore submitted that the parties would have envisaged a growth in rental to £66/m^2 by the fifth anniversary and therefore the period for amortisation should be five years. When the rent is amortised to the fifth anniversary it analyses to an unadjusted rate of £51.30/m^2. The panel found that the evidence before them was that the comparable property lease had a break clause in it and other terms of the lease were unknown and so the period to the rent review was not the appropriate period for amortisation in this case.

25. The panel then turned to the method adopted by the VO. Mr Muqbil submitted that the rent should be analysed over the whole term of the tenancy as was the normal practice in rating and not only over the first five years. This was he submitted necessary as the tenant had confirmed that there was a break clause. There was also a possibility of a penalty fee being built into the lease to take account of the break clause and this would also affect the analysis. In order to use the period of amortisation to the rent review it would necessitate knowing what the parties to the lease had discussed and what terms and incentives had been agreed. Without knowing the terms of the lease this was almost impossible to know. This, he stated, meant that it was appropriate to amortise the rent over the whole term of the lease as was the established practice in rating law. The panel found that the period of amortisation over the whole term of the lease was the more appropriate term. This led to an analysed rent of £58.37/m^2. The panel found that this supported the unadjusted rate of £58/m^2 adopted by the VO which led to an RV of £210,000.

26. The panel then turned to the other comparable properties put into evidence by the appellant:

(1) Zone D Barton Business Park which had a lease with an effective date of December 2020. The appellant argued that this comparable property was in the vicinity of the subject property. It was in the small distribution market the same as the subject property. The lease dated 1 December 2020 with a capital contribution of £193,000 but was for only the warehouses which had an ITMS of 7,337m^2 at a rent of £386,000 per annum

which therefore analyses to £41.86/m^2. Mr Iles submitted that this supported the rate of £50/m^2 on the subject property.

(2) Unit 2 Gateway is another smaller distribution unit only two miles from the subject property. It had an ITMS of 4,913m^2 with a stepped rent of £252,302 which analysed to £51.35/m^2 based on a 2019 lease. Mr Iles submitted that this again supported a rate of £50/m^2 on the subject property.

27. The panel found that these properties were not good comparable properties for the subject property due to accessibility or location. Further the panel had not been given any evidence of what incentives or terms were in the leases. It was therefore impossible to analyse the rent and determine whether they were good comparable properties for the subject property. Unit 2 Gateway had poor access. The panel found that access was of prime importance for the warehouses and a hypothetical tenant would be willing to pay more for a warehouse with good road access. In relation to Unit 2 Gateway the lease relied upon by Mr Iles was from 2019 and so was too remote from the AVD for the panel to place much weight on.

28. The panel then took into account the three comparable properties put into evidence by the VO which were all on Barton Business Park in close vicinity of the subject property. They were between 15,357.08m^2 and 60,718.95m^2. The panel noted that they had a basic price of £60/m^2. The panel notes that these comparable properties were much larger than the subject property. It found that neither side had introduced any evidence in relation to quantum and so put placed weight on these comparable properties. The panel found that these comparable properties supported the unadjusted rate of £58/m^2 on the subject property.

29. The panel turned to the fifth and sixth propositions from *Lotus and Delta*, namely:

(5)In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attached to 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.
(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but, in each circumstance, it would be difficult to reject the evidence of the actual rent.

30. Taking into account the totality of evidence submitted by both parties the panel found the VO evidence was more persuasive in particular Unit C2 Barton Business Park. The panel put weight on the comparable properties which were on the same business estate and had the same basic price as the subject property. The panel found that they supported that a tone had been established of an unadjusted rate of £58-60/m^2 for warehouses in the vicinity of the subject property. Therefore, in line with the fifth and sixth propositions in *Lotus and Delta* the panel found the basket of evidence supported the unadjusted rate of £58/m^2.

31. In appeals of this nature the burden of proof was on the appellant to provide evidence to demonstrate that the RV of the subject property was unreasonable. The panel found that the appellant had failed to discharge this burden. The evidence put in by the appellant's agent was of comparable properties which had poorer road access or was further away from the subject property. The panel was therefore satisfied that the current assessment for the subject property was reasonable

Conclusion

32. In view of the above findings and conclusions, the Tribunal is satisfied that the current RV of £210,000 with effect from 1 April 2023 was reasonable and dismissed the appeal

Right of further appeal

33. Any party who is aggrieved at the Tribunal's decision, and who appeared or was represented at the hearing, has a statutory right of appeal to the Upper Tribunal (Lands Chamber) pursuant to Regulation 42 of the Tribunal Procedure Regulations. Appeals must be made directly to the Upper Tribunal using Form T385 within **four weeks** of the date this decision and statement of reasons was issued. A party does not require permission from the Tribunal to appeal.

34. 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/.

Ms LS Marshall, Senior Member (Chair)
Mr M Collery, Member
13 November 2025

Clerk to the Tribunal
Date issued to the parties: 13 November 2025