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

Case No: CHG101153064

Sitting remotely using
Microsoft Teams

Date: 16 December 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — 2023 rating list appeal; Workshop and premises; Compiled List Entry; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed.

Before:
MR K EVERETT
DR S PENNI

Between:

BREHENY GROUP LTD **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) **Respondent**

Regarding:
UNIT 7, CANADA CLOSE, BANBURY OX16 2RT
(the "appeal property")

Mr H Seabrook from Ryan Property Tax Services UK (Appellant's Representative)
Mr K Chamba (Respondent's Representative)

Hearing date: 1 December 2025

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is allowed.

2. The Tribunal finds that the current assessment of £34,750 Rateable Value (RV), with effect from 1 April 2023 was unreasonable and determined the reduced value of £30,250 RV, with effect from 1 April 2023.

STATEMENT OF REASONS

Introduction

1. The challenge proposal was submitted by the appellant's representative and was received by the Valuation Officer (VO) on 8 November 2023. It had been made on the grounds that the RV shown in the rating list of £34,750 on 1 April 2023 was inaccurate. A revised RV of £30,250 was proposed with effect from 1 April 2023, based upon a reduced unadjusted rate from £75/m^2 to £65/m^2. The VO issued a challenge case decision notice on 6 April 2025.

2. 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. The appeal was lodged by the appellant's representative on behalf of the appellant, and received by the Tribunal on 24 June 2025.

3. Mr Seabrook appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Seabrook's understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.

4. 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 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).

5. The panel hearing the evidence considered the "expert" evidence and assessed what weight, if any, it should give to it in the context of the matters in issue before it.

6. Mr Chamba was representing the VO in the dual role of advocate and expert witness.

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

Background

8. The appeal property was a 1990's mid terraced, brick built with a pitched, profile metal sheet roof. It comprised of two storeys. There was a ground floor workshop with first floor offices above. It was situated on Canada Close Business Park, just off the A361 Southam Road and Marley Way. It was 1.5 miles from Junction 11 of the M40 London to Birmingham motorway.

Relevant Law

9. The issue before the panel was to determine the correct valuation for the subject property with effect from 1 April 2023. 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.

10. 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 1992/556) as amended. In respect of the subject appeal, the material day is 1 April 2023.

11. The subject property 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 of the Local Government Finance Act 1988).

12. The panel was aware of the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 cited by the parties. This case had established six propositions, which gave clear guidance to be followed, 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 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 1976 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

13. Mr Seabrook detailed that the appeal property was held under a lease effective from 13 November 2018 for a five year term at a headline rent of £31,750 with a rent review in the fourth year and one year rent free incentive. The landlord was responsible for insuring the

premises. This analysed to £56.48/m^2 against an adopted tone of £75/m^2. Although this transaction was 2.5 years prior to AVD, Mr Seabrook argued that it should hold some weight as rent on the appeal property.

14. The VO stated that he had been unable to confirm the rent and lease details for this property despite asking twice for the information to be provided.

15. In further support of a reduction, the parties referred to the following comparable properties;

a) <u>5 /m2 Close, Wildmere Road, Banbury</u>
This property was held under a new lease effective from 6 September 2020 for a six year term with a rent review in September 2023 at a headline rent of £16,750pa. There was also three months rent free incentive. He had analysed the rent over the three year term inclusive of the rent free period which produced an analysed tone of £60.70/m^2. As this rental evidence was only seven months pre-AVD, he considered this strong evidence that the appeal property was over assessed.

b) <u>Unit 5 Wates Way, Acre Estate, Banbury</u>
This property was held under a new lease effective from 15 June 2020 for a ten year term with a break in the fifth year. The headline rent was £44,800pa with nine months rent free as an incentive. The landlord was responsible for external repairs and insurance producing a net effective rent of £33,818 over the five year term. This equated to an analysed tone of £50.66/m^2. This property was in the same scheme as the appeal property and was slightly smaller.

In response the VO argued that this property was older (1980's build) and larger in size at 667.58m^2 compared to 652.21m^2 for the appeal property. The VO had analysed this to £62.08/m^2.

c) <u>Unit 8, Wates Way, Acre Estate, Banbury</u>
This property was held under a new lease effective from 2 January 2020 for a term of ten years with a break in the fifth year. The headline rent was £44,600 pa with eight months rent free incentive. The landlord was responsible for external repairs and insurance producing a net effective rent of £33,459 over the five year term. This equated to an analysed tone of £58.94/m^2. This property was in the same scheme as the appeal property and was similar in size. Although the transaction was further away from the AVD, Mr Seabrook considered it to still hold some weight as it showed the trend in the market which helped to evidence that the tone was over assessed within the locality and scheme.

The VO had originally analysed this property to £74.53/m^2. However, at the hearing he submitted a revised analysed figure of £61.34/m^2. It was smaller in size than the appeal property at 571.21m^2 and was again older as it was a 1980's build.

16. Having regard to the evidence presented by the parties, the panel placed little weight on the rent of the appeal property was it was too far removed from the AVD.

17. Looking at the analysed rents provided by both parties on the comparable properties, the panel held that they supported a reduced rate of £65/m^2. Whilst two of the units were built in the 1980's, the panel held that the VO had failed to demonstrate a difference in quality. Given that Unit 5 Wates Way and 5 Wildermere Close had a rate of £60/m^2, the panel concluded

that £65/m^2 was not unreasonable for the appeal property given that it was slightly smaller than the comparable units.

Conclusion

18. In view of the above findings, the panel held that the unadjusted rate should be reduced from £75/m^2 to £65/m^2 resulting in a reduced RV of £30,250 with effect from 1 April 2023.

Line	Floor	Description	Area (m2)	£/m2	Value
1	Ground	Workshop	211.64	£65.00	£13,756.60
2	First	Office	211.64	£78.00	£16,507.92
		TOTAL	**423.28**	**TOTAL**	**£30,264.52**

Total Value	£30,264.52
Rateable Value	**£30,250.00**

19. The appeal is allowed.

20. Accordingly, we order the VO to reduce the 2023 Rating List entry to £30,250 RV, with effect from 1 April 2023, within two weeks of the date of this Order.

Refund of fees

21. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Right of further appeal

22. 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) using Form T385 (Notice of appeal) within **four weeks** of the date this decision and statement of reasons was issued.

23. 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 K Everett, Senior Member (Chair)
Dr S Penni, Senior Member
19 December 2025

Miss K Hendry
Clerk to the Tribunal
Date issued to the parties: 19 December 2025