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

Case No: CHG101164126

Sitting remotely using Microsoft Teams

Date: 12 January 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating Appeal; 2017 Rating List; Warehouse and Premises; Accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed in part.

Before:
MISS N CLARKE
MR C COX

Between:

ALISTAIR MACKINTOSH LTD **Appellant**

- and -

LUCY FORMELA-OSBOURNE (VALUATION OFFICER) **Respondent**

Regarding:
ALISTAIR MACKINTOSH LTD, BANNERLEY ROAD, BIRMINGHAM B33 0SL
(the “subject hereditament”)

Mr P Rabbette from Rabbette Chartered Surveyors for the Appellant
Mr T Simango for the Respondent

Hearing date: 15 December 2025

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal was allowed in part.

2. The Tribunal panel determined an unadjusted rate of £26 per m² for Alistair Mackintosh Ltd, Bannerley Road, Birmingham B33 0SL, (hereafter, known as the subject hereditament). However, the panel found that the end allowance applied of 5% was fair and reasonable. Therefore, the assessment was reduced from £81,000 Rateable Value (RV) to £61,500 with effect from 1 April 2017.

STATEMENT OF REASONS

Introduction

3. The appellant's representative, Mr Rabbette made a Challenge against the accuracy of the Compiled List assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 8 December 2023. After considering the proposal and evidence submitted during the Challenge period, the VO decided that the proposal was not well founded but considered that the existing assessment of £92,000 was excessive and reduced it to £81,000 RV with effect from 1 April 2017. A Decision notice to that effect was served on the Appellant on 20 March 2025.

4. Mr Rabbette appealed the VO's decision to the Tribunal on 16 July 2025, on the grounds that the current valuation for the subject hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

5. Both Mr Rabbette for the Appellant and Mr Simango for the Respondent, presented in a dual role capacity as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr Rabbette confirmed that he was instructed under a success related fee arrangement. He 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 the client's case.

6. 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).

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

Background

8. The subject hereditament was a workshop and premises located in the Garretts Green area of Birmingham. It was built in 1981 with solid brick walls and a reinforced concrete ring beam at eaves height and owner occupied and had a total floor area of 2,927.56 m². During the 2017 Rating List, the subject hereditament had undergone several changes to its assessment.

9. In his proposal to the VO, Mr Rabbette argued that the assessment incorrectly included 45.8 m² of mezzanine storage that no longer existed and 69.39 m² of canopy area that had been valued as a loading bay. Following an inspection on 21 January 2025, the VO agreed to reclassify the loading bay as canopy and removed the mezzanine storage from the assessment.

10. Based on the evidence provided, the VO concluded that the original RV of £92,000 was excessive and reduced it to £81,000 with effect from 1 April 2017. This adjustment reflected a decrease in the applied rate from £38 per m² to £32 per m². However, Mr Rabbette maintained that the correct unadjusted rate should be £26 per m², based on his comparable evidence and the fact that the subject hereditament should be valued under the Valuation Scheme of 338554 instead of the Valuation Scheme of 384917, which related to industrial properties within Birmingham built between 1971 and 1984.

11. Additionally, Mr Rabbette contended that the current end allowance of 5% for layout should be increased to 10%, again supported by the comparable evidence he submitted.

Effective Date

12. During the hearing, Mr Rabbette advised the panel that he believed the effective date of the appeal should be 1 January 2019. This was based on the fact that the assessment had been deleted from that date by the VO and subsequently re-entered into the 2017 Rating List with effect from 1 January 2019. This was due to the VO who had held that the deletion has been made in error.

13. However, Mr Simango stated that the appeal was a Compiled List appeal and therefore the effective date was 1 April 2017.

14. After the hearing, Mr Rabbette informed the Tribunal that he had made an error when advising the panel. He confirmed that the correct effective date was 1 April 2017. Accordingly, the panel determined that the effective date of this appeal was 1 April 2017.

Relevant Law

15. Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999 provided the statutory definition of rateable value which was as follows:

> 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.

16. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841). This common date was used to ensure that every property was treated in a consistent way.

17. 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).

18. The actual date of valuation is 1 April 2015, this being the AVD. As also noted above matters that affect the physical state or enjoyment of the hereditament or the locality were to be taken as at 1 April 2017, the material day for this appeal. When assessing the RV of any hereditament, rating law also requires that it must be assumed to be ‘vacant and to let’, and in the state set out in paragraph 2(7) of Schedule 6 to the Act, in relation to both its physical nature and mode or category of use.

Case Law

19. Case law detailed within the submissions was:

    (a) *Lotus and Delta v Culverwell (VO) & Leicester City Council,* [1976] RA 141

Discussion

20. In reaching its decision, the panel considered the competing evidence in light of the authoritative guidance set out in *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141.

21. The panel’s starting point was the rent passing on the subject hereditament. However, as the property was owner-occupied by the Appellant, the panel relied on the comparable evidence submitted by both parties.

22. Mr Rabbette argued that the subject hereditament did not conform to the typical industrial unit design described in Scheme 384917, which applied to properties built around 1981. From the early 1970s, standard industrial construction generally featured steel portal frame buildings with external walls of breeze block up to 3 metres, topped with steel profile cladding, and roofs of steel profile sheeting. In lower-quality examples, the steel cladding extended from ground level upward.

23. In contrast, the subject hereditament was not built using a steel portal frame. Instead, it comprised solid brick walls with a reinforced concrete ring beam at eaves height and numerous internal subdivisions. This resulted in a highly inflexible and fragmented layout. The walls, constructed of solid brick and approximately 300 mm thick, resembled the characteristics of an older building rather than one typical of 1981. Therefore, he was of the opinion that the subject hereditament related to the Scheme of 338554, which was for older industrial units built around the 1950’s.

24. Mr Rabbette explained that the values set out in Scheme 338554 ranged from £21 to £62 per m². This scheme applied to industrial properties in Birmingham that were constructed during

the 1950s and 1960s, or to properties of a similar standard and age that had not been refurbished.

Unadjusted rate

25. To support his argument that the applied value was excessive, Mr Rabbette directed the panel to several nearby assessments of comparable properties, where the rate per m² was £24 and were placed into the Valuation Scheme of 338554. He also stated that some of these assessments included end allowances of either 5% or 10% to account for access or layout constraints.

    (a) 22 Fortnum Close, Birmingham B33 0LG, was a factory and premises separated from the subject hereditament by a railway track. It was similar in size, with an area of 2,793.89 m², and had an unadjusted rate of £24 per m² applied to its assessment. The panel noted that this value had been agreed at the Challenge stage. The construction was also similar to the subject hereditament, featuring solid brick external walls.

    (b) Magnum House, Vale Pits Road, Birmingham B33 0TD, was a warehouse and premises located on the same industrial estate as the subject hereditament. This property was larger, with an area of 3,166 m². Mr Rabbette considered it superior to the subject hereditament due to its good eaves height at the rear of the premises. Referring to the photograph provided, the panel observed that this comparable property offered a more open external space than the subject hereditament.

    (c) Clive Neeley Ltd, Ground Floor, Unit H, Flaxley Business Park, Flaxley Road, Birmingham B33 9AN, was a warehouse and premises slightly smaller in size, with an area of 1,700 m². Mr Rabbette stated that this property had a wider bay than the subject hereditament and may be steel portal framed.

26. The panel placed greater weight on the comparable properties at 22 Fortnum Close and Magnum House, as both were located in close proximity to the subject hereditament. They had the same construction as the subject hereditament and were similar in size. The property at Clive Neeley Ltd, was approximately two miles away and larger in size. However, the panel did not consider that the difference in location was value significant in this instance and was considered by the panel to the extent it deemed appropriate.

27. The panel then turned its attention to the comparable properties submitted by Mr Simango, which were also situated near the subject hereditament, where agreements had taken place of properties within the same Scheme as the subject hereditament.

28. Chambers & Cook, was constructed in 1980 with solid brick walls similar to the subject hereditament, had a floor area of 1,993.75 m². Following an agreement, its rate was reduced from £38 per m² to £32.50 per m².

29. Unit 19, Fortnum Close, with an area of 7,085 m², was built between 1965 and 1970 and also featured solid brick construction comparable to the subject hereditament. As a result of a challenge agreement, its rate was reduced from £35 per m² to £30.50 per m².

30. The panel noted that, following the agreements reached for the two comparable properties mentioned above, the VO had reduced the unadjusted rate applied to the subject

hereditament from £38 per m² to £32 per m². Mr Simango argued that, as Chambers & Cook and Unit 19, Fortnum Close were within the same scheme as the subject hereditament, the current unadjusted rate was fair and reasonable. He explained that the subject hereditament fell within the same scheme due to its age of construction and, therefore, a similar unadjusted rate should apply, consistent with the comparable properties he had provided.

31. The panel noted that the full addresses of the comparable properties provided by Mr Simango had not been disclosed. It was aware that Unit 19, Fortnum Close was likely close to 22 Fortnum Close, submitted by Mr Rabbette, and therefore in close proximity to the subject hereditament. However, the panel was not informed of the distance between the subject hereditament and Chambers & Cook. In addition, no photographs or assessment summaries for these properties were provided. Consequently, the panel placed limited weight on the details of Chambers & Cook when reaching its decision. It did, however, place some weight on Unit 19, Fortnum Close, but as this property was significantly larger, less weight was given compared to 22 Fortnum Close, which was more comparable in size to the subject hereditament.

32. The panel found that age-based scheme inclusion does not imply construction differences. Therefore, consideration should extend beyond age alone. On this basis, the panel placed greater weight on the comparable properties provided by Mr Rabbette, as they were similar not only in size but also in construction.

End Allowance 'Layout'

33. The panel noted that an end allowance of 5% had already been agreed for access in relation to the subject hereditament. Therefore, the only remaining allowance for consideration was that relating to layout. The VO had applied a 5% allowance for layout, whereas Mr Rabbette argued that a 10% allowance would be more appropriate, based on the evidence from the comparable properties he had submitted.

34. The panel considered the assessments for 83–84 Alcester Street, Birmingham, and 101 Charles Henry Street, Birmingham, where end allowances of 10% had been applied for layout. It also noted that Units 2 and 3, Lovell Development Centre, Lower Loveday Street, Birmingham, had an end allowance of 10% applied for access/fragmented units. However, the panel observed that no supporting evidence had been provided to justify why these allowances were set at 10%. Mr Rabbette confirmed that he had not inspected these properties and was therefore unable to comment on the reasons for the allowances applied.

35. The VO advised Mr Rabbette that the layout of 83–84 Alcester Street was sufficiently severe to impact its usability. Mr Rabbette argued that the layout of the subject hereditament was similarly restrictive. However, the panel noted that no photographs of the subject hereditament had been submitted to demonstrate the extent of any layout issues. Consequently, the panel attached little weight to the details provided.

Conclusion

36. In view of the above findings and conclusions, and after considering all the evidence submitted by both parties, the panel concluded that the basket of evidence supported a reduction in the unadjusted rate applied to the subject hereditament from £32 per m² to £26 per m². However, there was not enough evidence to support an increase in the end allowance of 5% for layout. Therefore, the appeal was allowed in part.

37. The valuation determined by the panel is shown below, using the revised valuation provided by Mr Rabette.

Description	Area (m²)	£ / m²	Relativities	£ / m²	Value
Workshop (unheated)	478.19	26.00	0.950	24.70	£11,811.29
Canopy	69.39	26.00	0.146	3.80	£263.40
Open store	100.93	26.00	0.146	3.80	£383.13
Workshop	510.39	26.00	0.975	25.35	£12,938.39
Mezzanine store	50.42	26.00	0.475	12.35	£622.69
Workshop (unheated)	590.98	26.00	0.950	24.70	£14,597.21
Mezzanine showroom	124.77	26.00	0.600	15.60	£1,946.41
Showroom	179.61	26.00	1.170	30.42	£5,463.74
Workshop (heated)	390.12	26.00	0.975	25.35	£9,889.54
Showroom / Office	158.80	26.00	1.170	30.42	£4,830.70
Mezzanine showroom	158.80	26.00	0.600	15.60	£2,477.28
Showroom / Office	41.81	26.00	1.170	30.42	£1,271.86
Reception / entrance	8.31	26.00	1.170	30.42	£252.79
Staff toilets	65.04	26.00	0.950	24.70	£1,606.49
	2927.56				£68,355
	deduct	access	5%	£3,418	
	deduct	layout	5%	£3,247	
					-£6,665
Total Value					£61,690
Rateable Value					£61,500

Order

38. 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 £61,500 RV with effect from 1 April 2017. The Valuation Officer must comply with this Order within 2 weeks of its making.

Refund of appeal fee

39. 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)

Right of further appeal

40. 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.

41. 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 N Clarke, Senior Member (Chair)
Mr C Cox, Member
12 January 2026

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 12 January 2026