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

Case No: CHG101177824

Sitting remotely using Microsoft Teams on 23 March 2026

Date: 21 April 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Robert Dyas Holdings Limited v Ms J Moore [2025] UKUT 163 (LC) — Saintta Global Lawyers (UK) Limited v Rickets [2021] UKUT 0242 (LC) — factory and premises — main space price — appeal allowed in part

Before:

MR A HETHERTON
MS S KINSELLA

Between:

MTI WELDING TECHNOLOGIES LTD	**Appellant**
- and -	
LUCY FORMELA-OSBOURNE (VALUATION OFFICER)	**Respondent**

Regarding:

UNIT C, RIVERSIDE INDUSTRIAL ESTATE, ATHERSTONE STREET, TAMWORTH B78 3RW
(the “subject property”)

Mr Matthew Iles for **Ryan Property Tax Services** the Appellant
Mr Albert Masvisi for the **Respondent**

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is allowed-in-part.

2. The Tribunal finds that the unadjusted main space price should be reduced to £58.50/m^2 with a 2.5% allowance for lack of access. The resultant rateable value (RV) was £62,500.

STATEMENT OF REASONS

Introduction

3. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2023 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 26 January 2024. After considering the proposal and evidence submitted during the challenge period, the VO decided that a revision was warranted and the Rateable Value for the subject property should be reduced to RV £64,500. A decision notice to this effect was served on the appellant on 26 June 2025. His representatives then appealed the VO's decision to the Tribunal on 21 October 2025, on the grounds that the current valuation for the hereditament was not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

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

Background

5. The appeal property was a Factory and premises with an agreed area of 1,055.54m^2 (1,092.04m^2 In Terms of Main Space (ITMS)). It was of steel frame portal construction, built in the 1990s. The appeal property comprised a workshop, offices, staff room and area under the mezzanine on the ground floor, a mezzanine floor also containing an office and storage and first floor offices. The passing rent for the subject property of £70,440 effective from 11 September 2019 which was a lease renewal.

6. As Mr Iles appeared on behalf of the appellant as both advocate and expert witness, the clerk asked 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) dated 3 August 2018.

7. He verbally declared that he was instructed under a contingency fee arrangement in his role as both advocate and expert witness. Mr Iles confirmed 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 or not the evidence supported the client's case.

8. 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[1] 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).

[1] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No2269]

9. However, the Royal Institute of Chartered Surveyors (RICS) Professional guidance for England, Wales and Northern Ireland, Surveyors acting as expert witnesses, client guide PS 5 ‘Reports and oral evidence’ does state at 5.4 (o) that an expert witness report includes a signed statement of truth and a declaration as set out in (p). There was no signed statement of truth within the appellant’s evidence bundle. The Tribunal accepted the verbal statement of truth and a declaration as provided for under the guidance.

10. Mr Masvisi confirmed that she was representing the VO as advocate and expert witness.

11. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Mr Iles sought a reduced entry of £54,500 RV from 1 April 2023 based on an unadjusted value of £50/m².

12. However, Mr Misvisi defended the VO’s assessment of £64,500 RV based on a tone of value of £59.12/m².

13. The evidence bundles before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties’ comparable assessments, skeleton arguments, an external photograph of the subject property and Mr Iles’ comparable properties.

Relevant Law

14. The term ‘rateable value’ is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

> *“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; and*
>
> *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”.*

Discussion

15. In the appeal under consideration, firstly, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141 dated 20 May 1976. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be

taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

16. The appellant argued that as there were only two landlords for the industrial estate, they could, in effect, control the rents and therefore the rent for the subject property, as it was also a rent review was not reliable.

17. The clerk referred the parties to the Upper Tribunal judgment of *Saintta Global Lawyers (UK) Limited v Rickets* [2021] UKUT 0242 (LC) dated 8 September 2021 in which less weight was applied to the rent. P.21 of that judgment states:

> *"In this case, two factors might call into question its robustness in the light of the hypothetical tenancy we are required to assume…Mr Lu's submission that the freeholder owned much of the property in the area and could, to an extent, control rent levels. That is possible but of course tenants are not forced to take leases so there must be, albeit perhaps begrudging, acceptance of the level of rent. And while the hypothetical landlord might include the actual landlord, it can't necessarily be assumed that the hypothetical landlord also owns sufficient of the surrounding properties in the hypothetical world to be able to control rental levels. That might be an arguable assumption in say an out-of-town shopping centre, but I am not persuaded that it can be safely assumed in this area of central London".*

18. Whilst this judgment referred to properties in London, Mr Iles was in effect using the same argument for the lease renewal. However, he also argued that an occupier would 'begrudgingly' remain in a property and renew a lease at less favourable terms to avoid the need for a costly relocation.

19. However, to support his argument that the lease renewal was out of kilter with a new letting, he referred to a number of new lettings within the same industrial estate which he had analysed at between £50.22/m^2 to £51.37/m^2 which he argued supported the main space price of £50/m^2.

20. The VO had also presented a number of comparable properties that were all within Riverside Industrial Estate. Most of them were lease renewals rather than new lettings. As well as presenting the same units as Mr Iles, the VO also referred to Unit Z, a new lease effective from January 2021, which was very close to the Antecedent Valuation Date (AVD) which the VO had analysed at £61.50 and was very similar in size to the subject property. The panel applied some weight to this assessment.

21. Mr Iles had argued that Unit Z was more secure than the subject property, and would achieve a higher main space price as it was secured and gated. The photographs showed that the fencing was not more than one metre in height and the gates did not appear to be particularly secure and therefore the panel applied less weight to that argument. But, the photograph did show that there were a significant number of concrete bollards in front of the subject property to separate it from the traffic flow at the filling station. During questioning it was confirmed that Unit P had been granted a 2.5% allowance for lack of access and the photographs demonstrated that the access to the subject property the access was even more restricted due to the bollards being in front of the subject property. The panel therefore concluded that a 2.5% allowance for lack of access should also be granted for the subject property, irrespective of the main space price.

22. The arguments boiled down to how the parties' analysed the new lettings. The VO had analysed the rents to the full term of the letting. Mr Misvisi argued that with Unit D & E, the tenant had been given 18 months half rent as an incentive. The panel applied significant weight to the VO's contentions that he considered that it was unreasonable to apply such a long the incentive to the five year break option.

23. There were also arguments with the initial rent free periods for the new lettings. The VO had analysed the rents by adopting the initial rent free periods as fitting out costs. However, Mr Iles only analysed those rents to reflect this where it was known that there was a period of fitting out.

24. The clerk referred the Tribunal to the Upper Tribunal judgment of *Robert Dyas Holdings Limited v Ms J Moore* [2025] UKUT 163 (LC) dated 5 June 2025. P.39 states:

> *"we are not convinced that an unquestioning adoption of a notional fitting out period is appropriate in every case and it should be facts dependent".*

25. In consideration of the main space price for the subject property, the rent had been analysed to £60.62/m^2 by the VO. The panel then compared both parties' comparable properties and their respective analysis of the rents.

26. Units D and E was significantly larger with an area of 1,431m^2 ITMS and therefore the panel could not apply as much weight to this assessment due to its size. It also applied less weight to the rent for Unit O. Although it was similar in size to the subject property, it was a lease regear effective from May 2022 which was post AVD and therefore not as reliable (*Specialeyes Plc v Felgate (VO)* RA/387/1992 dated 15 July 1994).

27. Both parties had analysed the rent for Unit T to £50.65/m^2 and £51.51/m^2 respectively which were not too far apart. It was a new letting, albeit nearly two years before the AVD and it was smaller with an area of 753m^2 ITMS. This demonstrated to the panel that the main space price of £50/m^2 that Mr Iles was seeking was too low as there could be growth in the rental market, although it accepted that there may also be a quantum allowance warrented for the subject property.

28. Unit P was a new letting, albeit again, 18 months prior to the AVD. It was a new letting and there was a significant difference in the parties' analysis of the rent at £50.71/m^2 and £55.85/m^2 respectively. However, this property was smaller with an area of 948m^2 ITMS and therefore the panel applied less weight to the rent for this property.

29. To determine the RV for the subject property, the panel noted that the VO had analysed the rent for the subject property at £60.62/m^2. Although Mr Iles had suggested that the rent was higher than if it was a new letting, the panel noted that Mr Iles had analysed the rent for Unit Z at £60/m^2. Although this assessment was 100m^2 smaller, it was a new letting. Nonetheless, the main space price of £60/m^2 suggested that the rent for the subject property was not out of kilter with the other units and that was the starting point.

30. The panel then concluded that the main space price should be lower at £58.50/m^2 to reflect the larger size of the subject property, compared to Unit Z and that the subject property would benefit from a quantum allowance. The panel noted that there was a dearth of reliable evidence, as the comparable properties were a different size. To be persuasive, ideally, they should be 'like for like' properties due to the effects of quantum, and, some of the rents were either too far before or after the AVD, to be reliable.

Conclusion

31. In view of the above findings and conclusions, the Tribunal is satisfied that the main space price for the subject property should be £58.50/m² with a 2.5% allowance for lack of access due to the fixed bollards separating the subject property to the filling station. The resultant RV was £62,500 rounded down. The appeal was therefore allowed in part.

32. The Valuation is as follows:

Floor	Description	Area	Rate/£	Value
Ground	Workshop	612.97	58.50	35,854
Ground	Office	35.08	77.22	2,709
First	Office	35.08	70.20	2,463
Ground	Mess/Staff room	80.68	51.48	4,153
First	Office	80.68	77.62	6,262
Mezzanine	Internal storage	112.38	29.25	3,287
Ground	Area under supported floor	112.38	40.95	4,602
Mezzanine	Office	18.67	71.15	1,328
Ground	Area under supported floor	18.67	41.16	769
Ground	Office	39.28	70.20	2,757
			total	64,184
	Less allowance for access		-2.5%	1,605
			Sub total	62,579
			Rateable value say	62,500

Order

33. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entries in the rating list to rateable value £62,500 with effect from 1 April 2023.

34. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Refund of appeal fees

35. As the grounds of the appeals have been made out, 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.

Right of further appeal

36. 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.

37. 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 A Hetherton, Senior Member (Presiding)
Ms S Kinsella, Senior Member
21 April 2026

Mr Richard Gath IRRV (Hons)
Clerk to the Tribunal
Date issued to the parties: 21 April 2026