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

Case No: CHG101183320

Sitting remotely using Microsoft Teams

Date: 4 December 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rating; 2023 list appeal; Local Government Finance Act 1988; Warehouse and premises; Lotus & Delta Ltd v Culverwell (VO) [1976] RA 141; Appeal property rent; Rental evidence; Comparable properties; Appeal dismissed.

Before:

MR A SHETH
MRS V HOLLENDER

Between:

MKM BUILDING SUPPLIES LTD — **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) — **Respondent**

Regarding:
JOHN NICHOLLS LTD, OVERTHORPE ROAD, BANBURY, OXON OX16 8SY
(the appeal property)

Mr Paul Roberts of Roberts Vain Wilshaw, Chartered Surveyors for the appellant,
Ms Pippa Rowntree for the respondent.

Hearing date: 12 November 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was dismissed.

2. The Tribunal found that the rateable value (RV) of £167,000 was reasonable.

Introduction

3. This appeal has been brought in respect of the following: John Nicholls Ltd, Overthorpe Road, Banbury, Oxon OX16 8SY is shown in the 2023 Rating List as 'Warehouse and premises' with an RV of £169,000 effective from 1 April 2023. It is currently assessed under scheme reference 601259, good quality industrial units in Banbury.

4. A challenge was submitted on 13 February 2024 which disputed the determination of the RV. The RV was assessed based on a tone of £50/m^2 and the appellant sought a reduction to £34.50/m^2 to give an RV of £123,000 with effect from 1 April 2023. The respondent valuation officer (VO) considered that the rating list entry was unreasonable but disagreed with the entry proposed.

5. During the respondent's review of the appeal property he identified that a loading bay had not been included in the RV and this increased the RV to £170,000 with effect from 24 January 2024. Further, after reviewing the relativities in respect of the lean to stores the RV was reduced to £167,000 with effect from 1 April 2023. The rate of £50/m^2 remained.

6. The appeal was now against the RV of £167,000.

7. Both Mr Roberts for the appellant and Ms Rowntree for the respondent appeared in dual roles of advocate and expert witness and confirmed that they accepted and understood that their overriding duty was to the Tribunal. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO) [2018]* UKUT 0253 (LC), Mr Roberts declared that he was instructed under a conditional fee in respect of his role as expert witness.

8. The panel accepted the expert witness evidence on this basis as the appeal was not considered to be 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 Tribunals' rules concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Relevant Law

10. The issue between the parties concerned the RV of the subject property, specifically the rate per m^2 that should apply.

11. The term 'rateable value' as defined in paragraph 2(1), 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;

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."

12. The antecedent valuation date (AVD) for 2023 list rating appeals is 1 April 2021. The material day is 1 April 2023.

13. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO)* [1976] RA 141 This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, 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 is 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 1967 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

14. In deciding this appeal, bearing in mind the six propositions derived from Lotus, the panel acknowledged that the starting point was the actual rent passing on the subject property.

15. This was a fifteen year lease agreed on 15 June 2023 at a rent of £175,000 per annum. Taking into account the rent for the first ten years and the two years and ten months rent free incentive, this rent analysed to £36.80/m^2.

16. The appellant's representative had stated that this therefore supported a reduction in the RV of the appeal property, however, the VO's representative stated that it was not an open market agreement.

17. The panel noted that the John Nicholls Ltd business was taken over by MKM Building Supplies in 2023, however, the appeal property itself was not part of that transaction. The panel found that there appeared to be some connection between the two companies but not enough information had been submitted to be able to decide whether the lease was or was not an open market transaction. The panel was aware that it was a new letting, however, it was over two years after the AVD and for this reason decided to give it little weight.

18. In accordance with the Lotus case, the panel then referred to the properties submitted as comparable by the parties, of which both had stated that the rental evidence was sparse.

19. The appellant's representative submitted the property at Cherwell IV, Middleton Close, Banbury. He stated that this was a more modern distribution warehouse and better than the appeal property. The RV was £365,000 and the rent from 2019 was £436,750 p.a. The RV was reduced to £417,500 by the VO and he felt that this perhaps showed a trend that the VO had overvalued properties in this area.

20. The respondent's representative had given this property low weight as it was much larger at 5,820m^2 than the appeal property at 3,102m^2 and more modern and therefore not very comparable.

21. The panel noted that it was also a lease renewal over one and a half years after the AVD. The rent analysed to £70/m^2 and the panel found that it was not particularly helpful in valuing the appeal property and gave it low weight.

22. The VO had submitted two other properties for comparison.

23. Plot 22B, Wildmere Road, Banbury was a lease renewal agreement for 10 years from 1 May 2021 at a rent of £165,000. The rent analysed to £62.78/m^2. The agreement was just one month post AVD and not between connected parties and for these reasons the VO had given it medium weight.

24. However, the panel found that being a lease renewal and not an open market letting reduced the comparability. Similarly, an agreement for 10 years with no review at 5 years was unusual but no explanation had been given as to why this might be. The panel, however, still gave this evidence medium weight.

25. Whatman International Limited was also a lease renewal but between connected parties and the rent on 1 October 2020 analysed to £66/m^2. The VO had given this little weight as had the appellant's representative and both had also pointed out some significant differences between these two properties and the appeal property. The panel found no reason to disagree with those comments and gave this evidence little weight.

26. The panel found that there was little evidence in the locality but considered the basket of evidence as presented. The panel found that the appeal property's rent agreement and analysis was not convincing particularly as it was over two years after the AVD. The panel

found that the property at Plot 22B was the most comparable in supporting the tone of £50/m^2 for the appeal property.

27. In general, the onus is on the appellant to provide evidence to support a lower valuation for the appeal property and the panel found that this had not been done.

Conclusion

28. In view of the above findings and conclusions, the panel dismissed the appeal.

Right of further appeal

29. 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.

30. 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 Sheth, Senior Member (Chair)
Mrs V Hollender, Senior Member
4 December 2025

Mr D Adamson
Clerk to the Tribunal
Date issued to the parties: 4 December 2025