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

Case No: CHG101187629

Sitting remotely using Microsoft Teams

Date: 21 August 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988; warehouse and premises; appeal against the accuracy of the rateable value of the hereditament; appeal allowed.

Before:
MR M ASLAM
MS J MORTON

Between:

DD GROUP HOLDINGS LTD **Appellant**

- and -

MS K GILES
(VALUATION OFFICER) **Respondent**

Regarding:
UNITS 3-10, PERRY WAY, WITHAM, ESSEX, CM8 3SX
(the "subject property")

Mr C Cates (instructed by Ryan Property Tax Services UK Ltd), advocate for the **Appellant**
Mr M Clayton (instructed by Ryan Property Tax Services UK Ltd), expert witness for the **Appellant**
Ms N Awoyokun for the **Respondent**

Hearing date: 15 August 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The Tribunal panel determined a revised rateable value (RV) of £362,500 in respect of Units 3-10 Perry Way, Witham CM8 3SX with effect from 1 April 2017.

Introduction

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal has been made to this Tribunal on the grounds that the rateable value (RV) for the appeal property is not reasonable.

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

Background

5. The subject property comprised of industrial units which had historically been merged to form a single hereditament. The property had been constructed in 1980. The walls are a combination of protective profile metal (PPM) and brick, with the roof being made only of PPM. The property had an eaves height of 6 metres and the area in terms of main space (ITMS) was 9781.81m^2.

6. The RV for the hereditament with effect from 1 April 2017 was £415,000 which was based on an unadjusted rate of £42.50/m^2.

7. In the proposal, the Appellant's representatives initially sought a reduction to £345,000 RV which was based on an unadjusted rate of £35/m^2.

8. As a result of the appeal, the parties had undertaken a joint inspection which resulted in a change in the survey areas/relativities. The Valuation Officer sought an increase in the RV to £435,000 RV with effect from 1 April 2017. Under the provisions of regulation 38(5) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England could only order increases in rateable value from the date of the decision. As the 2017 rating list was now closed, any increase in RV could not take effect.

9. Following the agreed change in relativities, the Appellant's representatives now sought a reduction to £362,500 RV which was based on the same unadjusted rate of £35/m^2.

10. The evidence submission before the panel comprised all the evidence disclosed and exchanged during challenge which included comparable rental evidence and its analysis, comparable assessment evidence and photographs.

11. Mr Clayton appeared on behalf of the Appellant as expert witness. He stated that his company was being paid on a contingency fee basis but was aware that in giving expert evidence his responsibility was to the Tribunal.

12. The panel accepted this expert witness evidence on the above basis as 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 in England). The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

13. Mr Cates for the appellant, appeared as advocate.

14. Ms Awoyokun for the Valuation Officer, also appeared in the dual role of advocate and expert witness.

15. The Appellant had lodged a second appeal concerning the subject property, which was dependent upon the outcome of the present appeal. Appeal number CHG101214480, relating to the 2023 rating list, was heard following the conclusion of this appeal.

Relevant Law

16. The term “rateable value” was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant responsible for all rates, taxes, repairs and insurance. In respect of the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No.832) requires the rental levels to be taken on 1 April 2015. In respect of the subject appeal, the material day is 1 April 2017.

Discussion

17. In the case under consideration, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

18. The starting point for consideration was the actual rent passing on the appeal hereditament. In this case, the lease was a connected party arrangement as the companies shared company directors. The parties were in agreement that little weight should be given to this rent as it was not an arm’s length transaction.

19. In terms of indirect rental evidence, the Valuation Officer relied on two properties, placing the greatest emphasis on 1 Moss Road. This property was subject to a new lease, with the annual rent of £402,885 effective from 1 January 2015 for a 10-year term. Ms Awoyokun analysed this rent to £53.63/m^2, however, the adopted value was £42.50/m^2. She stated that the oldest building included in the assessment was constructed in 1977, and the base rate of £42.50/m^2 was applied to the warehouse built in that year. At the hearing, the panel established that the ground floor warehouse, constructed in 1977 and sharing the same eaves height as the subject property, measured 2227.20m^2 out of the total building size of 7030m^2.

20. Mr Clayton contended that 1 Moss Road was not comparable with the subject property. He stated that its ITMS area was smaller at 7241.25m^2. Significant portions of it were constructed in 2001, with some parts dating back to 1987. As a result, the majority of the building was considerably newer and featured higher eaves heights of 9 metres in the newer sections, compared to just 6 metres in the subject property. Additionally, the office areas had been fully refurbished, likely commanding a rental premium due to the enhanced specification and improvements. Given that the industrial space was approximately 20 years newer, Mr Clayton argued that it would naturally attract a higher rental rate.

21. The panel noted that the new lease for 1 Moss Road had been agreed relatively close to the AVD, however it shared Mr Clayton's concerns regarding the property's significantly higher eaves heights and its more modern construction compared to the subject property. These factors suggested that the subject property would command a lower rental value. Consequently, the panel was not persuaded that the same adopted rate used for 1 Moss Road should be applied to the subject property.

22. A rent review was conducted on 21 March 2012 for the second property. Although this date would typically be considered too far removed from the AVD, Ms Awoyokun stated that due to the limited availability of rental evidence, it was still relevant. She analysed the rent of £424,000 for Francis House, 4 Freebournes Road to £54.98/m^2. The property had an ITMS area of 10,775.52m^2 and an adopted rate of £40.93/m^2. Ms Awoyokun considered this evidence to carry medium weight in the valuation.

23. Mr Clayton argued that this property was also not directly comparable, as it was more modern, having been constructed in 2001 and benefitted from an eaves height of 11 metres. He stated that the rent was agreed three years prior to the AVD and that the building had superior specification overall.

24. As with 1 Moss Road, the photographs submitted by the Appellant demonstrated that Francis House was not sufficiently comparable to the subject property. The panel concluded that the evidence did not support assessing the subject property in line with Francis House, given the significant differences in key characteristics.

25. In terms of comparable assessment evidence, the challenge had been submitted based on changes to two assessments within the local area, specifically for properties at 29 and 31 Eastways, which was smaller, with an ITMS area of 6331.01m^2 and had agreed an unadjusted rate of £37.50/m^2. Mr Clayton also referred to 18 Eastways, which had an ITMS area of 8296.37m^2, and had agreed an unadjusted rate of £35/m^2. He maintained that the agreed assessments for buildings constructed in the early 1980s supported a reduction to £35/m^2 for properties of a similar size and £37.50/m^2 for slightly smaller units of that age. He further argued that although the subject property had good access to the A12, it was less favourably located compared to these other properties due to its distance from the A12 junction.

26. Ms Awoyokun stated that Units 29 and 31 Eastways had been merged following a check in 2019. Prior to the merger, Unit 31 had an unadjusted rate of £40/m^2. After the merger, the increased cumulative size meant the property was reassigned to a different valuation scheme, the same scheme applied to the subject property, and it was subsequently assessed at £42.50/m^2. This revised figure was challenged by the taxpayer, and the assessment was adjusted to reflect the actual circumstances on the ground. She further stated that 18 Eastways had also challenged the base rate of £42.50/m^2, citing the revised valuation of 29/31 Eastways. The rate was then amended, not based on rental evidence, but rather on how the property sits within the Eastways valuation scheme.

27. The panel noted that the two properties cited by the Appellant were constructed around the same time as the subject property, within a year either side, and shared the same eaves height. It considered these properties to be more comparable, particularly 18 Eastways, which was closer in size to the subject property. The panel concluded that the adopted rate of £35/m^2 for 18 Eastways was more appropriate for the subject property, given its larger size. Although not a major factor, the map provided also showed that the subject property was slightly further away from A12 within the industrial estate.

28. The panel noted that although Ms Awoyokun had pointed out that the photographs submitted by the Appellant were undated, no alternative images were provided by the Valuation Officer. Given that a joint inspection had taken place, the panel considered that any concerns regarding the accuracy of the Appellant's photographs should have been raised earlier, or alternative evidence should have been submitted. There was no indication that the properties differed materially on the relevant date.

29. Having considered all the evidence, the panel found the case presented by the Appellant's representatives more persuasive. They demonstrated that a rate of £35/m^2 was more reasonable and consistent with other comparable assessments. The new lease and rent review relied on by the Valuation Officer related to properties with additional advantages, and the rent review was considered too distant from the AVD to carry significant weight. The panel concluded that key factors such as age, eaves height, and location were more relevant for industrial properties, and the Appellant's comparable properties aligned more closely with these criteria.

Determination

30. In view of the above findings and conclusions, the Tribunal panel determined that the RV in respect of the subject hereditament was unreasonable, and that an unadjusted rate of £35/m^2 more accurately reflected the appeal property. The panel calculated the revised valuations as shown below.

Hereditament Address					
Units 3-10 Perry Way, Witham CM8 3SX					
Ref	**Floor**	**Description**	**Area (m^2)**	**Price (£/m^2)**	**Value (£)**
1.1	Mezzanine	Store	2489.67	£17.50	£43,569
1.2	Ground	Area Under Supported Floor	351.82	£24.50	£8,620
1.3	Mezzanine	Office	814.14	£42.35	£34,479
1.4	Ground	Mess/Staff Room	56.39	£38.50	£2,171
1.5	Mezzanine	Mess/Staff Room	59.79	£35.00	£2,093
1.6	Mezzanine	Store	292.03	£17.50	£5,111
1.7	Ground	Area Under Supported Floor	2489.67	£24.50	£60,997
1.8	Mezzanine	Store	1224.52	£17.50	£21,429
1.9	Ground	Office	247.34	£46.20	£11,427
1.10	Ground	Area Under Supported Floor	1224.52	£24.50	£30,001
1.11	Ground	Warehouse	678.39	£35.00	£23,744
1.12	Mezzanine	Office	247.34	£42.35	£10,475
1.13	Ground	Office	757.74	£46.20	£35,008
1.14	Ground	Warehouse	1904.14	£35.00	£66,645
1.15	Ground	Warehouse-Link	61.08	£35.00	£2,138
	Additional Features				
		Canopy	90.93	£6.00	£546
		Hard Surfaced, Fenced Land	689.00	£7.50	£5,168

		Portable Building	27.38	£30.00	£821
		Storage Container – 20 Ft	12.00	£72.00	£864
		Plant and Machinery			£4,559
		Surfaced Open Spaces	80	£150	£12,000
				Total Value	£381,862
Layout -5%					-£19,093
				Total Value after allowance	£362,769
				Rateable Value	£362,500
				Effective Date	1 April 2017

31. As a consequence of the above decision, the Tribunal panel orders the Valuation Officer to reduce the 2017 Rating List entry in respect of Units 3-10 Perry Way, Witham, CM8 3SX to £362,500 RV with effect from 1 April 2017. The Valuation Officer must comply with this Order within two weeks of the date of its making.

32. The Appellant is entitled to a full refund of the fee paid in respect of the subject hereditament in accordance with regulation 13E(a)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

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 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) within **four weeks** of the date this decision and statement of reasons is issued.

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/.

Mr M Aslam, Senior Member (Presiding)

Ms J Morton, Member

21 August 2025

Mrs K Edhouse-Thomas
Clerk to the Tribunal
Date issued to the parties: 21 August 2025