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

Case No: CHG101189965

Sitting remotely using
Microsoft Teams

Date: 17 December 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 Rating List Appeal: Local Government Finance Act 1988; Retail Warehouse and Premises; Correct main space rate to be applied; Subject Property Rent; Mode and Category of Occupation; Comparable Property Rent and Assessment Evidence; Appeal allowed in part.

Before:
MS J GITTENS
MR J THOMAS

Between:

LIBRA TEXTILES LTD — **Appellant**

- and -

KAREN GILES
(VALUATION OFFICER) — **Respondent**

Regarding:
BOUNDARY MILLS, UNIT 2, POPLAR WAY, ROTHERHAM, S60 5TR
(the "subject property")

Mr A Stacey, from Colliers International, representing the Appellant
Mr T Freeman, from Shoosmiths LLP, Expert Witness for Colliers International
Mrs K Cockhill, representing the Respondent

Hearing date: 17 November 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal found the subject property's existing assessment of £1,050,000 Rateable Value (RV) was unreasonable and reduced it to £910,000, with effect from 1 April 2023.

Introduction

3. This appeal had been brought in respect of the following: Boundary Mills, Unit 2, Poplar Way, Rotherham, S60 5TR which was entered in the 2023 Rating List as Retail Warehouse and Premises at £1,050,000 Rateable Value (RV), with effect from 1 April 2023.

4. The appellant's challenge to the Valuation Officer (VO) was made on 5 March 2024. The appeal to this Tribunal was made on 27 September 2024, following the VO's decision notice of 8 July 2024, that the subject property's Rateable Value would remain unaltered. The material day in this appeal is 1 April 2023.

5. Mr Stacey was appearing on behalf of the appellant as advocate and expert witness, except for representation relating to evidence regarding the leases of the subject property. On this matter, Mr Freeman was present to provide expert witness testimony.

6. It was important to ascertain if there was a success related fee involved and if so whether its existence was compatible with both Mr Stacey's and Mr Freeman's obligations to the tribunal as experts. This question was raised in view of the Upper Tribunal's judgment in Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC). Both Mr Stacey and Mr Freeman stated that they were not representing the appellant at the hearing on a contingency fee basis, declaring that they understood and accepted that their duty was to the Tribunal in giving evidence and they would comply with this as well as the requirements of their professional bodies regardless of whether or not the evidence supported Mr Stacey's client's case

7. The panel accepted this 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

8. Mrs Cockhill, for the Valuation Officer, appeared before the panel in a dual capacity, as both advocate and expert witness.

9. The matter before the panel was previously listed before a different panel on 14 February 2025, when the appeal was adjourned with Directions issued to the parties for the further provision and exchange of evidence and submissions by 11 March 2025. The parties had adhered to the Directions. The documents provided by 11 March 2025 were appended to the evidence bundles submitted to the Tribunal prior to the initial hearing in February 2025.

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

Background

11. Located approximately five miles north-east of Sheffield city centre, the subject property is situated just off the A630, close to its junction with the M1. It is found on a self-contained site which is shared with a Morrisons supermarket with no other retail hereditaments on site.

12. The subject property is of a portal frame construction and is clad with brick, curtain walling and profile metal sheet. The internal finish has plastered walls and suspended ceiling tiles. The whole of the public area is air conditioned and sprinklered. Its description in the rating list is retail warehouse and premises. Originally built as a ‘Big W’ retail warehouse for Woolworths in March 2000, the subject property, has an area of almost 12,000m^2.

13. The respondent questioned the description and valuation approach to the subject property. Whilst described as retail warehouse and premises the appellant believed the description should be ‘shop and premises’ stating it operates and has the physical characteristics of a discount department store/destination retail unit, which normally has a description of shop and premises. The VO remained of the opinion that the subject property is a retail warehouse and premises.

14. Taking the issues about description and approach to valuation into account, the panel was required to determine the correct valuation to be applied to the subject property’s assessment.

15. The appellant sought a reduction in the RV of the subject property from £1,050,000 to £565,500 based on a main space rate of £47.50/m^2, contending that the current main space rate of £85/m^2 was excessive. The respondent maintained that the existing RV was fair and reasonable.

Preliminary issue

16. Prior to the hearing, Mr Stacey informed the clerk that he would be calling upon an expert witness to provide evidence regarding the leases in respect of the subject property. He suggested to both the clerk and the respondent’s representative, for reasons of expediency and efficiency, that at the start of the appellant’s presentation he and the expert witness refer to issues pertaining to the leases of the subject property, about which the respondent’s representative and the panel could cross examine Mr Stacey and the expert witness, thereafter. The expert witness could then leave the hearing allowing Mr Stacey to then continue in a dual role of advocate and expert witness in relation to all other matters about this appeal. There were no objections to this suggestion from Mrs Cockhill, or the panel, with it agreed the appeal would be heard this way, with one condition attached. This being that should the expert witness be required to address or clarify any issues that arose after he left the hearing, he would be available to return to the hearing without any significant delay.

17. Notices of hearing were issued on 12 September 2025 advising that the hearing was to be held on 17 November 2025. Information included with these notices notified the parties about the submission of further evidence. Both parties had submitted further evidence, to which the panel had regard and considered in light of the Upper Tribunal’s judgment in Simpsons Mall Ltd etc v Jones (VO) UKUT [2017] having regard to Denton v TH White Ltd [2014] as follows:

- Stage 1: Does the panel conclude that the breach is not serious or significant. If so, relief from sanctions should usually be granted.
- Stage 2: The panel needs to consider why the failure or default occurred. The

burden is on the defaulting party to persuade the Tribunal to grant relief from sanctions. The defaulting party must explain what happened and why.

- Stage 3: The panel must consider all the circumstances of the case, including:
  a. The need for litigation to be conducted efficiently & at a proportionate cost
  b. The failure to grant a sanction may leave an inaccuracy being uncorrected
  c. The need to enforce compliance with rules, directions and orders. Such matters, however, are the handmaids and not the mistress of justice and must never be allowed to assume a greater importance than doing justice.

18. The appellant had submitted evidence in respect of the leases of the subject property, referred to as an 'Advice Note' composed by Shoosmiths LLP. This had been forwarded to the respondent in May 2025, who confirmed there was no objection to the inclusion of this evidence. The panel noting this acceptance, decided to allow this to be included as evidence.

19. The respondent requested on 15 October 2025, for further evidence to be submitted, which comprised three elements, to which the appellant's representative objected. The panel considered each in their own merits, deciding that there was no reason to admit photographs submitted as the evidence already included photographic evidence. Likewise, the evidence referred to as 'valuations' of the subject property, was not admitted, with the panel finding that the request for the inclusion of this evidence did not satisfy the Tribunal's test to warrant inclusion.

20. Notwithstanding, the panel elected to allow the inclusion of further evidence submitted by the respondent, which comprised comments from caseworkers of the Valuation Office Agency during discussions in respect of the assessments for Boundary Mills properties. This information had been provided to the appellant upon request. The panel, noting the comments of the appellant that this evidence did not provide a comprehensive account of the written dialogue between the parties, stated that they would attach weight to this evidence as they saw fit, after hearing from both parties. Mr Stacey could choose to apply to submit further new evidence in reply to this admitted evidence, however he stated his client had no option other than to proceed, as this appeal was made on the basis of hardship and further delays to the already prolonged process would not be in the interests of his client.

Relevant Law

21. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

22. 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, in accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No. 832). In respect of this appeal the material day is 1 April 2023.

Discussion

23. In this appeal, the panel had to determine whether the existing RV of £1,050,000 was excessive, or if it was fair and reasonable. This required the panel to have consideration to two linked issues, these being the mode and category of occupation of the subject property as at the material date of 1 April 2023, and the main space rate on which the £1,050,000 RV had been calculated. The parties were afforded ample time and opportunity to present their arguments and evidence, with the panel taking into account the extensive verbal accounts from Mr Stacey, Mr Freeman and Mrs Cockhill made on the day of the hearing.

24. In the 2023 Rating List, the subject property was described as a retail warehouse and premises. The VO was defending the current valuation of £1,050,000, which valued the appeal property taking into consideration the rent of the subject property, as well as rents and assessments of other retail warehouses and premises, considered to be comparable to the subject property. In contrast, the appellant contended that the passing rent on the subject property was unreliable. Furthermore, the appellant contended that the assessment of the subject property should be as a shop and premises, stating it had been converted into a department store type operation. Evidence of rents and assessments that the appellant considered to be comparable to the subject property were submitted by the appellant.

25. The panel was aware that the Lands Tribunal judgment in *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. This case had established six propositions that gave clear guidance to be followed when assessing rateable value. Bearing these six propositions in mind, the panel acknowledged that the rent on the subject property, where available, was considered to be the correct starting point and consideration to how that rent compared to the statutory definition of rateable value. The rents on similar properties were also considered and assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

26. The first issue to be addressed by all the parties was the passing rent of the subject property. Further to the directions issued in February 2025, copies of three lease documents in respect of the subject property were included as evidence for this appeal. These documents were a lease dated 1 September 2012 effective from 1 August 2012, a lease renewal dated 5 April 2016, and a Deed of Variation dated 6 September 2019. The first two of these documents were stated to be agreements between connected parties, with the landlord, Rotherham (BMS) Ltd and the tenant, Libra Textiles Ltd who traded as Boundary Mills, all under the same ownership. The latter document was agreed between the appellant and the Council of the Borough of Middlesborough, with Rotherham (BMS) Ltd having sold their freehold interest to this Council in 2016.

27. The panel listened to the assertions from Mr Stacey, which were detailed within the evidence bundle, in support of his claim that the passing rent on the subject property was unreliable and should be afforded no weight. In summary, these views were on the basis that the rent was agreed between connected parties; that the date of rent was that agreed in 2012, nine years before the AVD, with rent reviews in 2017 and 2022; and that the 2016 rent was an unreliable 'sale and leaseback' rent

28. Mr Freeman confirmed that he was not acting on behalf of the appellant and that he was part of the property litigation team at Shoosmiths LLP, with experience and specialism in development issues and complex landlord and tenant disputes. An “Advice Note” dated 12 May 2025 provided information about the opinion of Shoosmiths LLP about the three aforementioned subject property lease documents. Mr Freeman, during his testimony, stated that the three documents were essentially linked and that the 2019 Deed of Variation was not a stand-alone document, containing provisions which signified that it was not an open market agreement. He added that the appellant remained bound to the subject property via the 2012 and 2016 agreements and could not be considered a willing tenant who had come fresh to the scene.

29. The entry for the subject property was such that its description was as ‘retail warehouse and premises.’ Mr Stacey submitted that when determining the appropriate rateable value consideration had to be given as to what was being valued at the relevant date. He contended that the property, after its acquisition by the appellant, had works undertaken resulting in its deletion from the rating list for seven months and that taking into account the substantial alterations to the property, at the relevant date it was no longer a retail warehouse and premises. The evidence included an extract from 2012 in which the subject property was referred to as ‘not a standard warehouse’, with Mr Stacey stating in reality, with a size of 11,853m^2, it was too large to be considered a standard retail warehouse. He stated that its mode of use was retail, with the subject property being more akin to a discount department store. Letters from various concession occupiers operating within the property were presented to the panel to show that they believed the appellant’s operation was that of a discount department store. The evidence also included an extract from sales and marketing particulars in which the subject property was referred to as a ‘Prime Open A1 Retail Warehouse.

30. The respondent stated that the subject property was an excellent, modern retail warehouse adding that the description in the rating list was not determinative of its value. Mrs Cockhill stated that the works undertaken did not alter the structure of the property, regarding it more as an enhanced fit out. No evidence had been provided in this appeal about the works undertaken or a breakdown of the costs involved and whilst significant works involving air conditioning, suspended ceilings, and changes to the entrance and displays happened, Mrs Cockhill asserted that this did not stop the property being a retail warehouse.

31. Although the parties disagreed about the mode and category of the subject property, both representatives agreed that the subject property was difficult to value. In determining the RV of the subject property, the panel taking into account the propositions in *Lotus v Delta* then considered the comparable property evidence submitted by both parties. The appellant’s evidence comprised information in respect of an abundance of properties, with the respondent referring to judgments that indicated evidence should be relevant and not excessive. It is not necessary in this decision to refer to all items of evidence however the parties can be assured regard was given by the panel to the entirety of their evidence.

32. In turning to the comparable property evidence of the appellant, this comprised rental evidence of seven properties whose rents were stated to analyse between £0.00/m^2 and £53.63/m^2, in comparison to the £91.59/m^2 at which the respondent had analysed the rent for the subject property. The property with the lowest analysed rental value was a shop and premises in the centre of Rochdale formerly occupied by Marks and Spencer, with the property at Beales, Stockwell Gate in Mansfield having the highest analysed rent figure. The main space rate values for this Mansfield property also had the highest main space rate value of these seven properties, with the main space rate values for the other properties

ranging from £25/m^2 to £70/m^2. What was noticeable, was that these seven properties were shops and premises predominantly situated in or near town or city centres which the respondent did not regard as comparable to the subject property. Of these seven properties, five were significantly different in size to the subject property, with Unit 45, Victoria Gate, Leeds, being more than double in size, and four properties being thirty six per cent or less in size when compared to the subject property.

33. In addition to the above, the property at Cheadle Royal Retail Park, Wilmslow Road, Cheadle, was regarded by the appellant to be one of the most comparable to the subject property. It was stated to be situated in an out of town site which it shared with one other occupier, this being a supermarket, which was also the case for the subject property. The appellant recognised the Cheadle property as larger than the subject property arguing the size difference, being more than twice the size of the subject property, was balanced out by its more affluent location. The appellant argued the main space rate of £50.75/m^2 of this property should be the ceiling value for the subject property.

34. The property at Cheadle Royal Retail Park, Wilmslow Road, Cheadle, was one of fifty properties submitted by the appellant to demonstrate a dramatic decline in value in the assessments of department stores in the north of England. The main space rate for these fifty properties ranged from £15/m^2 to £82.50/m^2, with the appellant acknowledging that these assessments related to properties that differed in size, age, quality and location. To support the appeal, focus was given to eight of the fifty properties, which the appellant stated were out-of-town locations, rather than department stores located in city centres. These included the aforementioned properties at Unit 45, Victoria Gate, Leeds, and Cheadle Royal Retail Park, Wilmslow Road, Cheadle, as well as two properties occupied by John Lewis and Selfridges in the Trafford Centre, Manchester, and a department store occupied by John Lewis at the Cribbs Causeway, Bristol. One of these eight properties was the property at Downtown Superstore, Gonerby Moor, Grantham, occupied by the appellant company, which was stated to be an out-of-town store in a more rural location than the subject property, which was shared with another occupier, adjacent to which was a garden centre. The fall in value from £50/m^2 to £37.50/m^2 between the 2017 and 2023 rating lists of the Grantham property represented a twenty one per cent decrease, with the appellant adding that it was unwarranted that the main space rate of the subject property was more than double the level of this other property also operated by the appellant.

35. Of the wealth of evidence presented by the appellant, it was proposed that most weight be afforded to the properties occupied by the appellant, particularly the properties at Colne and Newcastle, more so than the property at Grantham. Like the appellant’s Grantham property, not only had the assessments at Colne and Newcastle had reductions in their main space rates between the 2017 and 2023 rating lists, it was contended by Mr Stacey that historically the settlements for the Colne and Newcastle properties had been the primary evidence in determining the value of the appeal property, arguing that he saw no reason to change this approach. A main space rate of £47.50/m^2 had been agreed for both the Colne and Newcastle properties in the 2023 rating list, having been reduced from original respective values of £85.00/m^2 and £65.00/m^2.

36. The panel was mindful that both parties offered contrasting perspectives on the reasons for the reductions in main space rate for the subject property and the Boundary Mills stores at Colne and Newcastle, with Mrs Cockhill asserting that each assessment had been determined on the basis of local rental and assessment evidence, especially with the property at Colne being significantly different to both the subject property and the Newcastle property. She maintained that the respondent’s valuations remained based on establishing

an appropriate and reasonable amount of rent that a hypothetical tenant would be willing to pay for each property, rather than any such determination inaccurately being based on that of the occupier.

37. Mrs Cockhill, whilst recognising its shortcomings, did not consider that the rental evidence in respect of the subject property was worthless and should be overlooked, stating that there had been costs in the region of £1,000,000, which required an uplift in the respondent's rental analysis. Moreover, she stated that the appellant's evidence, taking into account location, size, and building envelope was not in respect of comparable properties, with there being a lack of comparable rental evidence provided by the appellant to meet the burden to show that the existing rateable value is excessive. The Valuation Officer's case included rental evidence of comparable properties that she contended were similar to the subject property, with similar building envelopes. She added these properties were interchangeable to a hypothetical tenant, when considering the estimated rent at which a property might reasonably be expected to let on a year to year basis.

38. In defending the existing valuation, the respondent's evidence included details of six retail warehouses and premises, with rents analysing at values between £96.77/m^2 and £134.78/m^2. The main space rates for these properties ranged from £65/m^2 to £105/m^2. Four of these six properties were occupied by the retailer B&Q, with three properties larger and one smaller than the subject property. As was the case with the majority of evidence in this appeal, these four properties were located in towns and cities some distance away from the subject property, with the closest in Sheffield, and the other three in Chelmsford, Oldham and Washington. The appellant challenged the weight to be attached to this evidence highlighting that the rents agreed were from lease renewals, a rent review, and a sale and leaseback agreement adding that these properties were not comparable to the subject property, with it stated that the appellant company would be unable to occupy these properties without noteworthy alterations taking place, as had taken place in respect of the subject property.

39. The remaining two properties provided to support the respondent's case were located in the West Midlands. The Range, Willenhall, had a rent stated to analyse at £87.68/m^2 and a main space rate of £65/m^2 and the appellant's Boundary Mills store at Walsall had a rent stated to analyse at £134.4/m^2 with a main space rate of £95/m^2. These two properties in terms of size were approximately thirty and forty per cent smaller than the subject property. The Willenhall property's predominant occupation was by the retailer known as The Range, with the panel noting that the property comprised an outdoor sales area of 5% of the assessment and more notably it also comprised an area occupied by the retailer, Iceland. The Boundary Mills at Walsall was not considered by the appellant to constitute reliable evidence on the grounds that the situation regarding its rent paralleled that of the subject property in that it there was a sale and leaseback agreement and a deed of variation.

40. In reaching its decision, the panel considered the array of written and verbal evidence with which it had been presented. Having regard to the propositions in Lotus v Delta, the panel found that the rent in respect of the subject property was not helpful in determining a figure indicative of the rent at the AVD which could be relied upon. Turning to the rental evidence of comparable properties, taking into account the reliability of the rental agreements as well as location, size, mode and category, the panel also found that the majority of the comparable property evidence provided by both parties did not assist. The panel agreed with the parties that the valuation of the subject property was not straightforward. Notwithstanding, turning to the basket of evidence, the panel agreed that in this appeal, the best evidence available upon which it could make a decision was to have regard to the assessment of the property occupied by the appellant, at Newcastle, with the Colne property clearly distinctive from and

unreliable to assess the valuation of the subject property. However, it was not simply the case that the subject property's assessment should reflect the main space rate of £47.50/m^2 at Boundary Mills, Park Lane, Shiremoor, Newcastle, or that any reduction applied should be at the same rate of twenty seven per cent, which the Newcastle property was reduced within the 2023 rating list. The evidence presented as to how the reductions reached for the settlement at the Newcastle Boundary Mills, as well as that at Colne, was not clear one way or the other to the panel. By the appellant's own admission, the subject property was superior in access and location when compared to the Newcastle property, which was located within a housing estate. Taking into account the access and location differentials, combined with the fact that the evidence exhibited a decline in the retail market followed by the reductions of property assessments, the panel found the existing assessment to be excessive. Taking a stand back and look approach, in reviewing all the submissions and evidence, the panel concluded that a main space rate for the subject property of £72.50/m^2 was fair and reasonable.

Conclusion

41. In view of the above findings and conclusions, the panel decided that the current assessment was unreasonable. The panel determined that an assessment of £910,000 RV more accurately reflected the appeal property. A breakdown of the assessment is shown below. The appeal is allowed in part.

Ref	Floor	Description	Area m^2	£/m^2	Value (£)
1.1	Ground	Retail Area	9131.34	72.50	662,022
1.2	Ground	Toilet/Plant Room	209.30	72.50	*15,174*
1.4	Ground	Warehouse	1,773.76	72.50	128,598
1.3	First	Office	739.13	72.50	53,587
Additional Features of the Property Included in the Valuation					
	Air Conditioning System		9568.12	4.00	*38,272*
	Supported Storage Floor		12.06	15.00	*1,496*
	Plant and Machinery				12,116
				Valuation sub-total	*911,265*
	Say *£910,000* Rateable Value, with effect from 1 April 2023				

Order

42. 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 £910,000 RV with effect from 1 April 2023. The Valuation Officer must comply with this Order within 2 weeks of its making.

43. 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) Regulations 2009 (as amended).

Right of further appeal

44. 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.

45. 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/.

Date issued to parties: 16 December 2025 (reissued on 17 December 2025)

46. Amended decision in accordance with Regulation 39 – Clerical mistakes and accidental slips or omissions, of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009. Incorrect values shown in the table in paragraph 41 had been entered resulting in a calculation of an inaccurate Rateable Value calculated using the original rateable value as the unrounded rateable value had not been provided prior to the hearing. The amounts in italic in the table in paragraph 41 above indicate where there has been a revision. The Rateable Value determined by the panel was £910,000 effective from 1 April 2023.

Ms J Gittens, Senior Member (Chair)
Mr J Thomas, Senior Member
17 December 2025

Mr R Patel
Clerk to the Tribunal
Date issued to the parties: 17 December 2025