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

Case No: CHG101217595

Sitting remotely using
Microsoft Teams on
15 June 2026

Date: 20 July 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 Rating List Appeal: challenge against compiled list entry;retail warehouse and premises; accuracy of rateable value; Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA 141*; appeal dismissed.*

Before:

MR SW CHAPPELL
MR AN BACKWAY & MRS V LLOYD

Between:

DREAMS LIMITED **<u>Appellant</u>**

- and -

KAREN GILES
(VALUATION OFFICER) **<u>Respondent</u>**

Regarding:

8 CHARTER WAY, BRAINTREE CM77 8YJ
(the “subject property”)

Mr C Strong from Ryan Property Tax Services (as advocate and expert witness on behalf of the appellant)
Mr H Leigh (as advocate and expert witness on behalf of the respondent)

DECISION AND STATEMENT OF REASONS

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DECISION

1. The appeal is dismissed.

2. The Tribunal confirms the rateable value (RV) of £106,000 with effect from 1 April 2023.

STATEMENT OF REASONS

Introduction

3. This appeal had been brought in respect of 8 Charter Way, Braintree CM77 8YJ (the subject property), which was entered in the 2023 Rating List as 'retail warehouse and premises' at an RV of £106,000 effective from 1 April 2023.

4. The appellant's Challenge was submitted by the appellant's representative on 10 May 2024 and sought a reduction in the RV to £71,000 with effect from 1 April 2023. The appeal to this Tribunal was made on 16 January 2026, following the Valuation Officer's (VO) Decision Notice of 12 December 2025 in respect of the subject property.

5. The subject property was a portal-frame warehouse built in 1990. It is an end terraced unit on Braintree Retail & Leisure Park (the Park) which is a mixed use development predominantly occupied by national companies. It is on the outskirts of Braintree accessible to the A120. Chelmsford is approximately 13 miles away and Colchester 15 miles away. The Park is in close proximity to Braintree Freeport railway station. It is a 439.70m^2 retail warehouse with a mezzanine floor.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament was not reasonable.

7. Mr Strong appeared on behalf of the appellant as both advocate and expert witness. Therefore, it was important to ascertain 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). Mr Strong confirmed that he was instructed under a contingency fee and he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported his client's case.

8. The panel accepted this expert witness evidence on the above basis as the appeal was not 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 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.

9. The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

Issue

11. The issue for the panel to make a finding on is the unadjusted rate for the subject property which is presently £220/m^2 with an RV of £106,000. The appellant submits that the rate is too high and that an unadjusted rate of £140/m^2 is reasonable giving an RV of £71,000.

Relevant Law

12. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

    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.

13. 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 2014 (SI 2014 No. 2841<Background>

14. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material date is 1 April 2023 being the commencement date of the 2023 rating list.

Discussion

15. The appeal 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). The date of the hypothetical rent was 1 April 2021.

16. The panel turned to the six propositions set down in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 which was binding on this panel. The first two propositions are:

    (1) Where the hereditament which is the subject of consideration is actually let, that rent should be taken as the starting basis.

(2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in section 19(6) of the General Rate Act 1967 the more weight should be attached to it. (These statutory requirements now contained in Schedule 6, Para 2 (1) Local Government Finance Act 1988 (as amended by the Rating (Valuation) Act 1999)).

17. The panel was aware that the subject property was held on a fifteen year lease dated 1 December 2013 and the rent had not changed over the past twelve years. This panel found that the date was too far removed from the AVD to be of any assistance. The panel was aware that the rent on a subject property is always the starting point for determining the correct unadjusted rate but it was then necessary to look at other rental evidence in line with the leading case of *Lotus v Delta*.

18. The panel therefore looked to the comparable properties provided by both parties. The third and fourth propositions set out in *Lotus and Delta* were considered by the panel in regard to the comparable properties put into evidence by both parties:

(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 be properly be referred to as giving an indication of that opinion.

19. The panel then considered the comparable property submitted in evidence by the appellant. This was 9 Charter Way which was the neighbouring unit to the subject property and was of a similar age to it. It was based on a lease renewal effective from 1 January 2020 with a headline rent of £50,000 per annum. It was 454.30m^2 which analysed to £110.06/m^2 compared to the UAR of £220/m^2. Mr Strong submitted that this was the strongest rental evidence available in regard to the UAR on the subject property.

20. The panel noted that the rent was from a lease renewal and was not a tenant fresh to the scene. The rent was agreed in August 2019 which is far removed from the AVD and therefore the panel could place limited weight on this evidence.

21. The panel then turned to the comparable properties put into evidence by the VO:

(1) 10A & 10C Charter Way which was 1,399.93m^2 with a total significant area (TSA) of 669.59m^2. It had a new lease dated 21 February 2020 with a rent of £202,804 per annum. The lease had a rent free period of one year and then half a year at half rent. Mr Leigh explained that he had analysed to the fifth year break clause. He had analysed the rent including the break fee of £126,000 with three months rent free taken as an incentive and nine months removed for fit out the analysed rent was £274.48/m^2. It had a UAR of £220/m^2. Mr Strong analysed the rent allowing an uplift of £126,000 to the final step should the break be exercised. He assumed the air-conditioning to be a tenant fit out, which would equate to a net rent of £154,777. He then deducted £16,387

in connection with the additional mezzanine floor which had formed part of the original letting, leaving £137,899. This gave an analysed rent of £205.95/m^2.

(2) 10 Charter Way which is 922.80m^2 with a TSA of 439.70m^2. The rent was based on a lease renewal dated 7 June 2018 with a rent of £215,000 per annum for a 20 year term with five yearly upward only rent reviews and on FRI terms.

(3) 3A Charter Way which has a TSA of 472.8m^2. The rental evidence was from a lease renewal dated 1 March 2019 for an eight year term with no rent reviews, shared repair and insuring liability which the VO had used an 8.5% adjustment to factor that in. The rent was for £147,835 per annum and analysed to £291.58/m^2 and a UAR of £220/m^2.

22. The panel found that 10A & 10C Charter Way was a modern build being 21 years newer than the subject property and was built to a better specification. It was close to the entrance to the Park having been built on what was formerly a car parking area and so has a high visibility. The lease was based on stepped rents which required adjustments to be made to the rent passing on it. This was necessary to align with the rent a hypothetical tenant would be willing to pay for the subject property. It had a mezzanine sales and storage areas as well as air conditioning. The panel placed limited weight on this comparable property as it was a newer build to a higher specification and was a destination property being occupied by Sports Direct.

23. The panel noted that in connection with 10 Charter Way it was a significantly larger property and had a mezzanine floor. The lease was for a 20 year term and the lease renewal was dated three years pre AVD. The panel placed little weight on this comparable property.

24. In connection with 3A Charter Way the panel found that the lease renewal was again too far removed from the AVD and was not an open market lease with a tenant new to the scene and so the panel placed little weight on it.

25. The panel now turned to the fifth and sixth propositions from *Lotus and Delta*, namely:

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attached to the differing types of evidence depending on the one hand 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 each circumstance, it would be difficult to reject the evidence of the actual rent.

26. The panel was aware that the VO had included details of a further five comparable properties on the same retail park and of a similar size to the subject property which all had a UAR of £220/m^2. This the panel found demonstrated that a tone had been established which meant that if the UAR of the subject property was lowered, as proposed by the appellant, it would leave the property as the only property out of kilter with that tone.

27. In appeals of this nature the burden of proof was on the appellant to provide evidence to demonstrate that the RV of the subject property was unreasonable and not for the VO to prove the present RV is correct. The panel found that the appellant had failed to discharge

this burden. The evidence put in by the appellant’s agent was of a comparable property with rental evidence from a lease renewal not from an open market transaction and which was agreed over a year pre AVD. The panel was therefore satisfied that the current assessment for the subject property was reasonable.

Conclusion

28. In view of the above findings and conclusions, the Tribunal is satisfied that the RV on the subject property of £106,000 with effect from 1 April 2023 and 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 SW Chappell, Senior Member (Chair)
Mr AN Backway, Senior Member
Mrs V Lloyd, Member
20 July 2026

Miss F Willson
Clerk to the Tribunal
Date issued to the parties: 20 July 2026