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

Case No: CHG101226956

Sitting remotely using Microsoft Teams

Date: 10 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

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

Before:
MR AMRAN HUSSAIN
MR I LONSDALE

Between:

BRAY PLASTICS LIMITED **Appellant**

- and -

KAREN GILES
(VALUATION OFFICER) **Respondent**

Regarding:
COLMAN HOUSE, CHERRYCOURT WAY, STANBRIDGE ROAD, LEIGHTON BUZZARD LU7 4UH
(the “subject property”)

Mr B Porter from Ryan Property Tax Services UK Limited (on behalf of the appellant as advocate and expert witness)
Ms K Cockhill (on behalf of the respondent as advocate and expert witness
Hearing date: 11 June 2025

DECISION AND STATEMENT OF REASONS

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Decision

1. The appeal is dismissed.

2. The Tribunal confirms the rateable value (RV) of £46,750 with effect from 1 April 2023

Introduction

3. This appeal had been brought in respect of Colman House, Cherrycourt Way. Stanbridge Road, Leighton Buzzard LU7 4UH (the subject property), which was entered in the 2023 Rating List as 'factory and premises' at an RV of £46,750 effective from 1 April 2023.

4. The appellant's Challenge was submitted by the appellant's representative on 5 June 2024 and sought a reduction in the RV to £40,750 with effect from 1 April 2023. The appeal to this Tribunal was made on 5 December 2024, following the Valuation Officer's (VO) Decision Notice of 3 October 2024 in respect of the subject property.

5. 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 is not reasonable. The appeal was received by the Tribunal on 5 December 2024.

6. The panel was aware that the VO had used the measurement of total significant area (TSA) and the appellant's agent had used property in terms of main space (ITMS). However the panel found that the results of the calculation of size were almost identical and they would not affect the analysis of the rent or the calculation of the RV. Neither party had raised the issue of the different types of measuring being significant in terms of the size of the subject property or the comparable properties. The panel therefore found that it was not a matter at issue and it was content to hear the case allowing both sides to use their chosen method of measurement.

7. The subject property is a purpose built detached single factory constructed in 1985. It has a TSA of $476.51m^2$ and an eaves height of 4m. It is over two floors being the ground and first floor and is situated in a major business centre in Leighton Buzzard on the east of the town providing good access to the M1 and A5. It is in the valuation scheme for industrial units in Leighton Buzzard built between 1971 and 1989.

8. Mr Porter 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 Porter 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.

9. 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.

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

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

Issue

12. The issue for the panel to make a finding on is the adopted value for the subject property which is presently £70/m^2 with a RV of £46,750. The appellant submits that the rate is too high and that an adopted value of £60/m^2 is reasonable giving an RV of £40,750.

Relevant Law

13. 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.

14. 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).

15. 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 the 2023 rating list.

Discussion

16. 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.

17. 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)).

18. The panel noted that the subject property was held under a lease between connected parties and £300 was paid to the owner who is affiliated with the appellant. This lease did not therefore conform with the second proposition in the case of *Lotus and Delta* as the circumstances of the agreement were not in accordance with the statutory requirements. It was not an open market rent and the panel was unable to put much weight on the lease.

19. 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.

20. The comparable properties put into evidence on behalf of the appellant were:

    (1) E7 Eden Way, Pages Industrial Park, Leighton Buzzard a new lease commenced on 17 May 2021 just over one month after the AVD. It had a headline rent of £12,000 per annum. Using the adjusted rent of £12,955 and an ITMS of 197.61m^2 this analysed to £65.56/m^2. This was previously in the 2023 rating list with an unadjusted rent of £80/m^2 which on settlement was reduced to £70/m^2 and an RV of £17,000. This, Mr Porter submitted was an increase of 0% from the 2017 list to the 2023 list and was in sharp contrast to the 55.56% increase on the subject property over the same period. Ms Cockhill stated it was not a settled Challenge and had never been £80/m^2 it had always been £87.50/m^2. It was also in a different valuation scheme to the subject property. The panel found that it was a newer smaller property with an adopted value of £87.50/m^2 and it did not support a reduction for the larger older subject property to £60/m^2.

    (2) Unit 1 Billington Road, Leighton Buzzard had an ITMS of 332.52m^2 and a lease renewal dated 14 February 2022 for a rent of £19,000. This analysed to £57.13/m^2 and an RV of £23,250. The panel noted that this property is in the same valuation scheme as the subject property. This was however a lease renewal for a term of five years with a four month rent free period and was adjusted for FRI terms and analysed to £71.25/m^2. The

panel found that as a lease renewal it was not as strong evidentially, the date was too far removed from the AVD and it required several adjustments. The panel therefore could put little weight on this evidence.

(3) Unit 1 Eden Way, Pages Industrial Estate a new letting commencing 21 October 2019 with a rent of £19,000 and an ITMS of 338.17m^2. It analysed to £58.18/m^2 and an RV of £23,500. The panel found that this property was a significant distance from the subject property with a commencement date which was over 17 months prior to the AVD. This as the appellant's agent conceded made it weaker evidentially and the panel did not put much weight on this evidence.

(4) 5-6 Eden Court was newer than the subject property and was let on 3 December 2021 with a passing rent of £28,870. The rent analysed to £52.93/m^2 with an unadjusted rate of £72.50/m^2. Ms Cockhill explained it had a TSA of 394.26m^2. The new lease was for five years on FRI terms with fit out costs of £133,491.42 paid upfront. Analysing the rent without the works she submitted that it analysed to £100.59/m^2 and the adopted value was £72.50/m^2. The panel noted that it was a newer property and so was not a 'like for like' comparison with the subject property. The panel also noted that the rent required various adjustments and so it was not a clean rent. The panel found it could therefore not put much weight on this evidence.

(5) Unit B, Chiltern Trading Estate, Pages Industrial Park had a lease renewal for five years on 30 July 2022 with an effective rent of £50,250 and an ITMS of 812.62m^2 . This analysed to £61.56/m^2 and had a unadjusted rate of £70/m^2 and an RV of £56,500. The panel found that this property was significantly larger than the subject property and it was a lease renewal nearly four months post AVD and therefore placed little weight on this evidence.

21. The panel then turned to the comparable properties put into evidence by the VO. Ms Cockhill referred the panel to six comparable properties which had a TSA of between 339m^2 and 448.42m^2. They were all workshops and had rental evidence with a commencement date of between 1 December 2020 and 1 February 2022. They were also all either new lettings or lease renewals and all had an adopted value of £70/m^2 the same as the subject property. The panel put weight on this evidence as they were of a similar size to the subject property and commenced close to the AVD.

22. She also referred the panel to seven comparable properties on Cherrycourt Way, the same industrial estate as the subject property of which seven out of ten were new leases and the rest were lease renewals. They commenced between 1 February 2020 to 1 October 2021 which was close to the AVD. They all had an unadjusted rate of £70/m^2 and had a TSA of between 441.26m^2 and 998.86m^2. On the basis of these similarities between the subject property and the comparable properties the panel put weight on these comparable properties. Ms Cockhill drew the panel's attention in particular to the Unit Q2 which was a similar size to the subject property and was a new letting close to the AVD with an analysed rent of £71.61/m^2 and Unit O1 was a larger unit being 850m^2 and had a lease renewal which analysed to £74.72/m^2. The panel found the rent on leases and lease renewals on Cherrycourt, the same industrial estate as the subject property, close to the AVD was persuasive evidence that the unadjusted rate of £70/m^2 was reasonable.

23. Mr Porter submitted that the evidence from Cherrycourt Way Unit K7 and Unit K6 had rents that analysed to £34.33/m^2 and £54.77/m^2 respectively which supported a lower rate on the subject premises. He drew the panel's attention to the fact that some of the lease renewals on these comparable properties showed a nil increase on them which suggested the rate on the subject property should be reduced. He also explained that some of the comparable properties although on the same estate were not on the same road as the appeal property and so should be treated with caution. The smaller comparable properties had received a reduction in the unadjusted rate in line with their previous unadjusted rates but the larger units like the subject property had not. He submitted that this difference was never made in previous rating periods and should not be applied now. The panel was aware that each new rating list was separate and distinct and had its own AVD and therefore rental evidence at the AVD was the evidence that carried most weight and so was unable to put much weight on any comparison between the lists.

24. The panel then turned to the appellant's agents submission that the trends in the locality also had to be taken into account. He gave evidence that Dunstable and Houghton Regis are better locations for industrial properties and fetch a higher rental yield than that of Leighton Buzzard as they are closer to the main transport routes. He submitted that the unadjusted rates in the different areas of Dunstable, Luton and Houghton Regis all had a higher rental yield than that in Leighton Buzzard and this should be reflected in the unadjusted rate applied to them. The panel found that the evidence of comparable properties as they physically existed at the material date in the market conditions and economic climate present at the same locality as the subject property close to the AVD held the most weight. The panel therefore put little weight on this evidence.

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 found the totality of evidence submitted by the VO was more persuasive. The panel put weight on the comparable properties on Cherrycourt Way which were similar in size and were either new leases or lease renewals close to the AVD. Therefore, in line with the fifth and sixth propositions in *Lotus and Delta* the panel found the basket of evidence supported the unadjusted rate of £70/m^2

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. The panel found that the appellant had failed to discharge this burden. The evidence put in by the appellant's agent was of comparable properties which were too far away or too different in size to the subject property to be given weight in the basket of evidence. The panel was therefore satisfied that the current assessment for the subject property was reasonable.

Determination

28. In view of the above findings and conclusions, the Tribunal is satisfied that the current RV of £46,750 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) within **four weeks** of the date this decision and statement of reasons is 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 Amran Hussain, Senior Member (Presiding)

Mr I Lonsdale, Senior Member

10 July 2025

Miss F Willson
Clerk to the Tribunal
Date issued to the parties: 10 July 2025