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

Case No: CHG101233015

Sitting remotely using Microsoft Teams

Date: 4 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 Rating List Appeal: Local Government Finance Act 1988; Warehouse and premises; Correct main space rate to be applied; Appeal allowed in part.

Before:
MR A HUSSAIN
MR G MCGILL

Between:

CARGO SECURE LIMITED — **Appellant**

- and -

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

Regarding:
UNIT 4, PARKER AVENUE, FELIXSTOWE, IP11 4HF
(the "subject property")

Mr S Penny, from Ryan Property Tax Services Ltd representing the Appellant
Mrs N Awoyokun representing the Valuation Officer

Hearing date: 6 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel determined the appeal property's existing assessment of £410,000 Rateable Value (RV) was unreasonable and reduced it to £352,500 RV, with effect from 1 April 2023.

Introduction

3. This appeal had been brought in respect of the following: Unit 4, Parker Avenue, Felixstowe, IP11 4HF which was entered in the 2023 Rating List as Warehouse and Premises at £410,000 Rateable Value (RV), with effect from 1 April 2023.

4. The appellant’s challenge to the Valuation Officer (VO) was made on 13 September 2024. The appeal to this Tribunal was made on 27 January 2025, following the VO’s decision notice of 31 December 2024, that the subject property’s Rateable Value would remain unaltered. The material day in this appeal is 1 April 2023.

5. The subject property is a warehouse and premises situated on Parker Avenue, Felixstowe, with close links to the A14 and Felixstowe Docks, with the respondent more specifically stating it is a distribution warehouse and premises. The property was built in 1973, of steel portal frame construction, covering an area of 5,930m^2, with an eaves height of 9m and is partly served by heating and air conditioners.

6. Mrs Awoyokun stated that she was appearing in a dual role as both advocate and expert witness for the respondent.

7. Mr Penny was appearing on behalf of the appellant as 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 Mr Penny’s 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). He confirmed that he was representing the appellant at the hearing on a contingency fee basis, declaring that he understood and accepted that his duty was to the Tribunal in giving his evidence and would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client’s case.

8. The panel have 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.

9. The hearing was held remotely on Microsoft Teams.

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

Background

11. The appellant sought a reduction in the RV of the subject property to £275,000, on the basis that the unadjusted rate (UAR) of £67.50/m^2 was excessive and that it should be reduced to £45.00/m^2.

Preliminary issue

12. During the course of the challenge review, the subject property was inspected. The inspection showed that some elements of the survey details previously held by the Valuation Office Agency (VOA) were incorrect. As these details were not corrected during the check stage, the rateable value of the property would be increased with effect from 1 April 2023, while still adopting the UAR of £67.50/m^2. At the start of the hearing, the respondent's representative referred to the survey details of the subject property, which resulted in the original valuation of £405,000 being adjusted to an RV of £410,000. The amended valuation information was emailed to the clerk.

13. The appellant's representative raised no objections to this amended valuation, which the clerk forwarded to the panel. Neither party had been prejudiced by this information. The appeal was determined on the basis of the new valuation, taking into account the appropriate areas and relativities, which the parties, if they so wished, could comment about, in addition to the substantive issue in this appeal.

Relevant Law

14. 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.

15. 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

16. The issue for the panel to determine was if the current UAR applied to the subject property's assessment was unreasonable. Mrs Awoyokun supported the existing UAR of £67.50/m^2. Mr Penny sought a reduced UAR of £45/m^2 stating that the respondent has not taken a stand

back and look approach when determining the rateable value, with the assessment not in line with the totality of the available evidence, as it had not been recognised evidence of comparable property assessments and neither did the existing rateable value accurately take into account the economic climate affecting the appeal property as at the AVD.

17. The rateable value applied to the subject property for the 2017 Rating List was £239,000 based on a price per square metre of £38.50/m^2. Mr Penny stated that the increase between the rating lists was unjustified when considering the subject property rent and the comparable property rents within the locality. The price tone has increased by over 75%, which he stated was not supported by the market in the locality, which in turn indicates nearly a 70% increase in rateable value between the 2017 and 2023 Rating Lists.

18. 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.

19. In considering whether the current RV was reasonable, the panel turned to the rent passing on the subject property. According to the appellant's representative, the lease held by Cargo Secure Limited, was effective from 1 February 2022 at a monthly rent of £25,000 which analysed to £50.59/m^2, significantly lower than the current adopted tone of £67.50/m^2. As this rent pertains to the subject property itself and is effective from only ten months after the AVD, Mr Penny stated that it should be considered as the best and most primary evidence in the determination of a suitable value for the subject.

20. However, according to the representative for the respondent, the rent on the subject property is £366,296 per annum, including rent on both the warehouse and premises as well as the land at the rear. She stated the analysed rent to be £63/m^2, with the analysed rent stated in the challenge document as incorrect as it was not calculated properly. Furthermore, Mrs Awoyokun stated this rent is a new lease albeit it between connected parties, adding that no copy of the lease had been provided to the VO, despite it being requested by them.

21. Both parties, in support of their cases, referred to the rent of comparable properties. The panel noted that the subject property sits within valuation scheme 643619 which is applicable to "industrial property in Suffolk over 3,000m^2 but below 10,000m^2 . This scheme relates mainly to property built between 1971 and 1999." The panel noted the subject property fell within this scheme in terms of location, size and age of buildings.

22. The appellant referred to three properties in support of the appeal. Block A, Walton Avenue, Felixstowe is held on a lease effective from 28 August 2019 at a passing rent of £388,200 per annum. Reflecting a three month rent-free period, Mr Penny stated this rent analysed to a revised rate of £39.53/m^2. He accepted that this letting is effective from 19 months prior to the AVD however stated it provides a good indication of value in line with the propositions of Lotus & Delta, suggesting that the current tone is over assessed and supports the rent on the subject property. The respondent stated despite being 64% larger than the subject property, based on the information contained in the Form of Return, the rent for this property based on a new lease with a fifteen year term effective from 1 December 2019 analysed at £52.97/m^2,

adding that it has an eaves height of 6.10m, no central heating nor air conditioners. She stated that it is reasonable to expect a property with higher eaves to command a higher rent than one with comparatively lower eaves height adding that there would be an expectation that a smaller property would have a higher per square metre rent, to reflect quantum.

23. Mr Penny also relied on the property known as Part Of Shed 91, Dyke Road, The Docks, Felixstowe, held on a lease effective from 1 June 2021 at a passing rent of £270,000 per annum. which he stated analysed to a revised rate of £38.73/m^2. As the analysed rent on the subject property is post-AVD, he stated the rental information at Part Of Shed 91, Dyke Road as the closest to AVD, being set only 2 months after the AVD gives a good indication of value as at 1 April 2021. Mrs Awoyokun stated this property, 9.4% larger than the subject, is inferior to the subject property. She stated it had an eaves height of 4m, less than half of the subject property, which she stated for distribution warehouses held a particular value. In addition, it lacked insulation, central heating and air conditioners. According to her calculations, based on a new lease of a term of four years, the analysed rent for this property was £48.94/m^2. She contended it was therefore reasonable to expect the subject property to command a higher rent, stating that the rent on the subject property supported the UAR of £67.50/m^2.

24. In the same valuation scheme as the subject property, Block A, Walton Avenue, and Part Of Shed 91, Dyke Road, was Actaris, Langer Road, Felixstowe, which is held on a lease effective from 1 October 2021, only 6 months post-AVD, at a passing rent of £245,000 per annum. The appellant stated this property's rent analysed to £36.76/m^2. The respondent mentioned this property is a factory with an eaves height of 5m, having partial heating and no air conditioners. Mrs Awoyokun stated the rent for this property analysed to £38.42/m^2, based on the information provided in the challenge submission. The respondent had remarked that the rental evidence of Actaris was not considered wholly relevant to this challenge as it is not a distribution warehouse but a factory.

25. The panel was informed by Mrs Awoyokun, that in accordance with guidance from the VOA's Rating Manual, distribution warehouses have a different market within the industrial real estate space and rental evidence should be from other distribution warehouses, not just other industrial rents. The following excerpt from the Rating Manual regarding distribution warehouses stated "Primary value determinants will be size, eaves heights, loading facilities and location. Access to the motorway network and major arterial roads is key to what rent might be achieved." She stated that in this instance the subject property's specification and location showed its rent should be significantly different from the rents of the three aforementioned comparable property rents, which were within the same Valuation Scheme.

26. In addition to the rental information about the three aforementioned comparable properties, the panel noted that the UAR values on which their RV's was £55.00/m^2, £48.00/m^2, and £57.50/m^2 for Block A, Walton Avenue, Part Of Shed 91, Dyke Road, and Actaris, Langer Road, respectively.

27. In reaching a decision, the panel found the most compelling evidence to be the rent of the subject property, with the respondent's analysed figure of £63.00/m^2 deemed more reliable. Notwithstanding, the panel did not consider that the increase in the UAR values of 75% between in 2017 and 2023 Rating Lists was justified, with the evidence available not supporting the level of increase. Having regard to the information about the comparable properties, the panel was not convinced that the property at Part Of Shed 91, Dyke Road, which it regarded as inferior to the subject, was a good property to compare the subject property to. Of the comparable properties, the panel attached most weight to Block A, Walton

Avenue. Taking these factors into consideration, the panel determined it best to adopt a 'stand back and look approach' in deciding this appeal, deciding that a UAR of £57.50/m^2 was more appropriate and more fairly reflected the attributes of the subject property.

Determination

28. In view of the above findings and conclusions, the panel was satisfied that the current assessment was unreasonable. The panel determined that an assessment of £352,500 RV more accurately reflected the appeal property, and the panel calculated a revised valuation, as shown below:

Floor	Description	Area m^2	£/m^2	Relativity	Price Adopted	Value (£)
Ground	Warehouse	4515.90	57.50	1.0238	58.87	265,851.03
Ground	Office	27.30	57.50	1.07250	61.67	1,683.59
Ground	Store	204.60	57.50	0.9750	56.06	11,469.886
Ground	Office	67.22	57.50	1.3200	75.9	5,101.99
Ground	Reception/Entrance	7.90	57.50	1.1700	67.275	531.47
Ground	Loading Bay	711.40	57.50	0.5000	28.75	20,452.75
Ground	Office	176.19	57.50	1.3200	75.9	13,372.82
Ground	Kitchen	6.77	57.50	1.200	69.0	467.13
First	Office	108.00	57.50	1.320	75.9	8,197.20
Ground	Staff Toilets	26.42	57.50	1.000	57.5	1,519.15
Ground	Plant Room	9.79	57.50	0.9750	56.06	548.827
Ground	Workshop	66.77	57.50	1.3200	75.9	5067.84
						334,263.68
	Additional features of property included in the valuation					
Hard Surfaced, Fenced Land		1750.00	7.50			13,125
Surfaced Open Spaces		29	150.00	1.000		4,350
Storage Container (20ft)		1.00	80.00	1.000		80.00
Storage Container (40ft)		6.00	119	1.000		714.00
				Valuation sub-total		**352,532.68**
Say £352,500 Rateable Value, with effect from 1 April 2023						

29. Accordingly, the Tribunal Panel order the Valuation Officer to reduce the 2023 Rating List entry to £352,500 RV, with effect from 1 April 2023, within two weeks of the date of this Order.

30. 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

31. 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.

32. 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 G McGill, Senior Member

4 July 2025

Mr R Patel
Clerk to the Tribunal
Date issued to the parties: 4 July 2025