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

Case No: CHG101244966

Sitting remotely using Microsoft Teams on 15 April 2026

Date: 6 May 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 Rating List Appeal: Local Government Finance Act 1988; accuracy of the rateable value in the list as at 1 April 2023; warehouse and premises; rental evidence; comparable assessments; appeal dismissed.

Before:

MR G MCGILL
MRS PK AHARK

Between:

W MCCLURE LTD — **Appellant**

- and -

AMANDA HITCHINGS (VALUATION OFFICER) — **Respondent**

Regarding:

W MCCLURE LTD, COLLEGE ROAD, WINDERMERE LA23 1BX
(the “subject property”)

Mr G Herron, for the **Appellant**
Mr S Hutchinson, for the **Respondent**

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed.

2. The assessment was confirmed at rateable value (RV) £94,000 with effect from 1 April 2023.

STATEMENT OF REASONS

Introduction

3. This appeal has been brought in respect of W McClure Ltd, College Road, Windermere LA23 1BX (the "subject property"), which was entered in the 2023 rating list as 'warehouse and premises' at RV £94,000, effective from 1 April 2023.

4. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal was made to the Valuation Tribunal for England (VTE). The appeal was made because the appellant did not agree with the Valuation Officer's decision not to reduce the RV in the 2023 rating list following the challenge. The appellant sought a reduction to RV £77,000 with effect from 1 April 2023.

5. The appellant's representative, Mr Herron, when appearing as expert witness, stated that he may be on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his client's case.

6. The panel accepted this expert witness evidence 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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 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).

7. It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

8. Mr Hutcinson, representing the respondent stated that he was appearing as advocate.

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

<u>*Background*</u>

10. The subject property is an industrial unit which comprises a fragmented predominantly industrial based site located towards the edge of Windermere, it is formed of a sales area, offices, stores, bays and workshops. It is situated in a predominantly residential area and is a wholesale warehouse, similar to a cash and carry store. It has an area of 2468.77m^2. It comprises two main elements one part having been built circa 1955-1964 and the other in 2010, there are five car parking spaces and a small yard.

11. The appeal to the VTE was made on the grounds that the valuation for the subject property was not reasonable.

12. The base level of value adopted for the subject property was not agreed. The old and the new elements of the subject property were valued at different rates. The Valuation Officer had adopted a base rate of £33.50/m^2 with a 43% addition for the more modern part of the building, increasing the base rate for that part to £47.91/m^2 and resulting in an RV of £94,000. In his valuation Mr Herron proposed a base rate of 29.50/m^2 with an uplift of 25% to £36.50/m^2 for the more modern part. This resulted in an RV of £77,000.

Relevant Law

13. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

"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".

Discussion

14. The panel had to determine the rateable value for the subject property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD), 1 April 2021. This common date was used to ensure that every property was treated in a consistent way.

15. 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. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted. In this appeal the subject property was freehold, so no rental evidence was available for it.

16. Mr Herron referred to comparable assessment evidence of other cash and carry stores in the same scheme, 642340, which were very similar in size to the subject property. He argued that there had been a much larger increase the base rate of the subject property between the 2017 and 2023 rating lists than the three comparable properties. The base rate on the subject property had risen from £27.50/m^2 to £34.00/m^2 an increase of 22% it had an RV of £94,000: Booker Belmont, Clay Flatts Trading Estate, Workington CA14 2TQ had increased from £18.50/m^2 to £20.00/m^2 an increase of 8.1% it had an RV of £51,500; Booker Cash &

Carry, Park Road, Barrow in Furness LA14 4RB had increased from £20.00/m^2 to £22.00/m^2 an increase of 10% it had an RV of £57,500; and Linford Cash & Carry, Marconi Road, Carlisle CA2 7NA, had risen from £19.50/m^2 to £22.00/m^2 an increase of 13% it had an RV of £53,500. Mr Heron argued that the base rate adopted for these comparable properties and their respective percentage increases between the lists supported his argument that the RV on the subject property and the base rate adopted were unreasonable.

17. The panel noted that this evidence included properties which, whilst in the same scheme, were located between 23 and over 50 miles away from the subject property, with a spread over Cumbria, therefore, it did not consider them to be in the same area. It also noted that no rents had been provided and that these were not evidence of settlements. The panel was aware that the 2023 rating list was a separate entity to the 2017 rating list and increases in RV's would reflect increases in rents in the specific areas that the four properties were situated in, i.e., Windermere, Workington, Barrow in Furness and Carlisle. In light of this, the panel attached only moderate weight to this evidence.

18. Mr Hutchinson referred to rental and settlement evidence for properties in the locality:

    - Grosvenor House Papers Westmorland Business Park, Kendal, Cumbria, LA9 6N is an agreed assessment situated only seven miles from the subject property, it has an area of 4796.85m^2. This property had been agreed a rate of £40.00/m^2 despite it being twice the size of the subject property.
    - Hawkshead Brewery, Mill Yard, Back Lane, Staveley, Kendal, Cumbria LA8 9LR was just four miles from the subject property has an area of 1840.53m^2. This was a rental review effective from 1 December 2020 with a rent of £84,000 which analysed to £50.39/m^2, a rate of £31.00/m^2 had been adopted for this property.
    - Unit 1, Mealbank Mill, Kendal, Cumbria LA8 SDL has an area of 3995.50m^2. This was a new open market letting effective from 1 November 2021 with a rent of £173,694 which had been analysed to £39.77/m^2, a rate of £32.00/m^2 had been adopted for this property.
    - Unit B, Main Line Industrial Estate, Milnthorpe, Cumbria LA7 TLR has an area of 2832.52m^2. This was a new open market letting effective from 1 November 2021 with a rent of £97,500 which had been analysed to £37.02/m^2, a rate of £32.00/m^2 had been adopted for this property.
    - Units 19–23, Lake District Business Park, Mint Bridge Road, Kendal LA9 6NH has an area of 1608.50m^2. This was a rent review effective from the AVD 1 April 2021 with a rent of £104,003 which had been analysed to £62.93/m^2, a rate of £44.00/m^2 had been adopted for this property.

19. The panel noted the questions raised by Mr Herron regarding this evidence, he believed that these properties were superior to the subject property and in better locations, however, it found this to be useful evidence of rental agreements in the area which were close to the AVD.

20. Having considered all the evidence and arguments before it, and the guidance in *Lotus and Delta* v *Culverwell* the panel found the evidence and arguments put forward by Mr Hutchinson to be the more persuasive.

21. The panel was aware that in cases of this nature the burden of proof is on the appellant to satisfy the Tribunal that the appeal should be allowed. In this case it found insufficient evidence had been put forward by the appellant's representative to persuade it that a

reduction in the assessment to RV £77,000 was warranted and therefore it determined that an RV of £94,000, with effect from 1 April 2023, was fair and reasonable.

Conclusion

22. In view of the above findings and conclusions, the appeal was dismissed.

Right of further appeal

23. 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.

24. 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 G McGill, Senior Member (Chair)
Mrs PK Ahark, Senior Member
6 May 2026

Mrs H Beresford
Clerk to the Tribunal
Date issued to the parties: 6 May 2026