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

Case No: CHG101250152

Sitting remotely using Microsoft Teams on 7 April 2026

Date: 5 May 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 — warehouse and premises — main space price — appeal allowed in part

Before:

MR S LEVY
MR SM HOOBERMAN

Between:

HAMELIN BRANDS LIMITED — **Appellant**

- and -

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

Regarding:

UNIT 1, KINGS WARREN BUSINESS PARK, MANNOR WOOD ROAD, BURY ST EDMUNDS IP28 8WG
(the "subject property")

Mr Simon Penny for **Ryan Property Tax services** for the Appellant
Ms Abby Przyborski for the **Respondent**

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is allowed-in-part.

2. The Tribunal finds the unadjusted main space price should be reduced to £40/m^2. The resultant rateable value (RV) was £495,000.

STATEMENT OF REASONS

Introduction

3. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2023 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 23 July 2024. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to this effect was served on the appellant on 13 October 2025. His representatives then appealed the VO's decision to the Tribunal on 4 November 2025, on the grounds that the current valuation for the hereditament was not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

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

Background

5. The appeal property was a Warehouse and Premises with an agreed total area of 11,420.90m², built in 2008. The building comprised of retail units on the ground floor with offices on the upper levels. It was owned by the appellant company. A 2.5% allowance had already been granted due to the lack of access.

6. As Mr Penny appeared on behalf of the appellant as both advocate and expert witness, the clerk asked 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) dated 3 August 2018.

7. He declared that he was instructed under a contingency fee arrangement in his role as both advocate and expert witness. Mr Penny confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and he 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 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 Procedure regulations[1] 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).

9. Ms Przyborski confirmed that she was representing the VO as advocate and expert witness.

[1] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No2269]

10. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Mr Penny sought a reduced entry of £475,000 RV from 1 April 2023 based on an unadjusted value of £38.40/m².

11. However, Ms Przyborski defended the VO's assessment of £555,000 RV based on a tone of value of £45/m².

12. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties' comparable assessments, skeleton arguments, external photographs of the subject property and Mr Penny's comparable properties.

13. For 2023 rating list appeals the Antecedent Valuation Date (AVD) is 1 April 2021. The material date for the subject properties was 1 April 2023.

Relevant Law

14. 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; and*
>
> *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

15. In the appeal under consideration, firstly, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141 dated 20 May 1976. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

16. However, as the subject property was owned freehold by the appellant company, there was no rental evidence for the appellant.

17. In the absence of any rental evidence for the subject property, Mr Penny had referred to the rent for four other properties. They ranged in size from 11,107.81m^2 to 15,261m^2. He had analysed the rents to between £25.49/m^2 to £36/m^2. The panel applied less weight to the rents for Anson Packaging and 38 Barnard Road as these two properties were larger at 14,965m^2 and 15,261m^2, due to the difference in size they may benefit from a quantum allowance. Furthermore, the VO had noted that 38 Barnard Road was held on a 60 year lease renewal and therefore the panel concluded that a landlord would negotiate a lower rent for a substantially long lease. The panel was mindful that a 60 year lease does not fulfil the rating hypothesis for a "*rent at which it is estimated the hereditament might reasonably be expected to let from year to year"*. Also, 38 Barnard Road was located 40 miles away from the subject property.

18. The panel applied significant weight to the rent for JDR cable systems. Although it was located 14 miles away from the subject property, it was the closest of the comparable properties, and it had been valued with a main space price of £40/m^2, although the parties had analysed the rents at £29.60/m^2 and £33.04/m^2 respectively. It was also a new letting effective from 13 October 2020 which was very close to the AVD. However, it did have a lower eaves height than the subject property which would not make it as valuable.

19. Turning to 7 Martin Avenue, although it was located 32 miles away from the subject property and was just over 300m^2 smaller, Mr Penny argued that it was the best comparable property. It was in the same valuation scheme as the subject property, with a rent that commenced just over one month after the AVD. *Flight Centre (UK) limited v Ricketts (VO)* [2021] UKUT 0315 (LC) dated 19 October 2021, Mr Higgin, the Upper Tribunal member, applied less weight to rents after the AVD. However, as noted in *Martin Lamb and Go Outdoors Ltd* [2015] UKUT 0366 (LC) dated 16 July 2015 p41:

> *"at the AVD, the agreement for lease had not been completed, but negotiations had commenced"*

20. It was abundantly clear to the panel that negotiations for the lease for 7 Martin Avenue would have commenced before the AVD and therefore the panel concluded that the rent would be as close to the AVD as one could get.

21. Ms Przyborski had confirmed that there had not been any challenges made in respect of this assessment. The clerk advised the Tribunal that in *Pointer v Norwich Assessment Committee* (1922) 2 KB 471 it was held that "a settled tone over a period of time by agreement with, or a lack of challenge against the Valuation Officer's tone". This was supported by other judgments such as *Futures (London) Ltd v Stratford (VO)* [2005] RA 75 dated 2 December 2005. In particular paragraph 25, the Lands Tribunal member referred to the stages leading to the establishment of a 'tone of the list':

> "At first when a new rating list is put on deposit assessments will carry relatively little weight: they are opinions of value by the valuation officer as yet unchallenged and agreed or determined by a Valuation Tribunal or this Tribunal or accepted by lack of challenge. Finally, a stage will be reached when enough assessments have been agreed or determined or are unchallenged to establish a pattern of values, a tone of the list"

22. Given the above, the panel was satisfied that the settled main space price of 7 Martin Avenue was £36/m^2 which had also been analysed by Mr Penny at that amount.

23. However, the panel applied significant weight to Ms Przyborski's argument that 7 Martin Avenue was located in a retail area with roads that were shared with deliveries for the retail park, and was therefore a less favourable location than the subject property which was accessed by a private road which was only shared by a school.

24. Unfortunately, Ms Przyborski was unable to be any more specific as to the value that could be attributed to the disadvantages for the inferior location for 7 Martin Avenue, and neither were there any photographs provided to demonstrate to the panel how poorer the location was.

25. Given the above, whilst the panel understood that 7 Martin Avenue had difficulties with access, the panel noted that this would have been reflected in the rent that had been negotiated for that property. However, as there was no evidence presented to the panel apart from Ms Przyborski's verbal argument, the panel were unable to confirm that the access issues would make a difference to the main space price of £9/m^2. Given that the rent for JDR cable system had been analysed at £29.60/m^2 and £33.04/m^2 respectively, but, had been placed in the rating list at a main space price of £40/m^2, the panel concluded that the main space price for the subject property should also be £40/m^2 as that property was also similar in size to the subject property, albeit with lower eaves height, but reflected the access for the subject property being superior than 7 Martin Avenue.

Conclusion

26. In view of the above findings and conclusions, the Tribunal is satisfied that the main space price for the subject property should be £40/m^2 with the resultant RV of £495,000 rounded down. The appeal was therefore allowed in part.

27. The Valuation is as follows:

Floor	Description	Area	Rate/£	Value
Ground	Warehouse	9,931.50	41.92	416,929
Ground	Goods in Bay	492.80	39.00	19,219
Ground	Offices	479.50	48.00	23,016
Ground	Server Room	16.70	52.80	882
First	Offices	500.40	48.00	24,019
	Trailer parking spaces	4	300	1,400
	Plant and Machinery			24,058
			Sub total	509,523
	Less allowance for remote access		2.50%	12,738
			total	496,785
			Rateable value say	495,000

Order

28. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list to rateable value £495,000 with effect from 1 April 2023.

29. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Right of further appeal

30. 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.

31. 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 S Levy, Senior Member
Mr SM Hooberman, Member
5 May 2026

Richard Gath IRRV (Hons)
Clerk to the Tribunal
Date issued to the parties: 5 May 2026