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

Case Numbers:
CHG101253421 and
CHG101231974

Sitting remotely using
Microsoft Teams

Date: 11 June 2025

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:
MS AG COLE ROBERTS

Between:

CONSUMABLES SOLUTIONS LIMITED **Appellant**

- and -

LUCY FORMELA-OSBOURNE
(VALUATION OFFICER) **Respondent**

Regarding:
UNIT 4 IGNITION, FARADAY ROAD, SWINDON SN3 5HS
(the "subject property")

Ms I Gathercole of Ryan Group for the **Appellant**
Mr J Lees, for the **Respondent**

Hearing date: 22 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The assessment was confirmed at rateable value (RV) £139,000 with effect from 1 April 2023 and RV £142,000 with effect from 30 May 2024.

Introduction

3. This appeal has been brought in respect of Unit 4 Ignition, Faraday Road, Swindon SN3 5HS, (the “subject property”), which was entered in the 2023 rating list as ‘warehouse and premises’ at RV £139,000 with effect from 1 April 2023 and RV £142,000 with effect from 30 May 2024. The RV had increased with effect from 30 May 2024 due to the discovery that the area was incorrect and it was subsequently increased in the assessment.

4. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Ryan Group made an appeal to the Valuation Tribunal for England (VTE) on behalf of Consumables Solutions Limited. The appeal was made because the appellant did not agree with the Valuation Officer’s decision not to reduce the RV following the challenge. The appellant sought a reduction to RV £115,000 with effect from 1 April 2023 and RV £118,000 with effect from 30 May 2024.

5. The Tribunal Business Arrangements provide that a hearing will normally take place before a panel of two members of the Tribunal, including at least one Senior Member. However, paragraph 11 of those Arrangements also provide that a Senior Member may sit alone to avoid postponing the hearing where a second panel member is unable to sit for any reason. In respect of this hearing, a second panel member gave notice of unavailability within one working day of the hearing and a replacement could not be found. In accordance with Paragraph 11 of the Tribunal Business Arrangements, I am satisfied that I am authorised to hear and determine this appeal alone.

6. The appellant’s representative, Ms Gathercole, when appearing as expert witness, stated that she was on a conditional fee arrangement. However, she also stated that she understood and accepted that her first duty was to the VTE in giving her evidence, whether or not the evidence supported his client’s case.

7. I have 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).

8. It was therefore appropriate for me to consider the ‘expert’ evidence and assess what weight, if any, to give it in the context of the matters in issue before me.

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

Background

10. The subject property is a warehouse and premises situated within Ignition, an industrial park in Swindon. The subject property benefits from access to junction 15 of the M4 via the A419, which provides access to London and Bristol. It is also conveniently located for Oxford, near the A420. This is an established industrial location. The subject has 28 car parking spaces, an eaves height of 8 metres and also benefits from an office and a deep yard. It has an area of 2193.58m^2, in terms of main space (ITMS).

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 valuation officer had adopted £65/m^2, however, the appellant's representative sought a reduction to £55/m^2 in her analysis which resulted in rateable values of £115,000 with effect from 1 April 2023 and £118,000 with effect from 30 May 2024.

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. I 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 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.

16. I noted that there was an open market rent agreed on the subject property. This rent was a new letting from 1 January 2020 on a stepped rent arrangement. The lease is for a term of 15

years with 5 yearly rent reviews on fully repairing insuring basis. Ms Gathercole had analysed the rent to £59.99/m^2, whilst the Valuation Officer had analysed it to £64.74/m^2. I noted that Ms Gathercole had analysed this rent to the first rent review whereas Mr Lees had analysed it to the second, which he stated was the method outlined in practice note 1 of the rating manual for 2023 rating analysis. Ms Gathercole stated that this was not available at the time her analysis was carried out but agreed that it was correct to analyse to second review if available.

17. The parties referred to the comparable properties which had been discussed during the challenge stage:

- Unit 7 Ignition, Faraday Road, Swindon SN3 5HS, which has an area ITMS of 6481.85 m^2, was a new lease at £500,000 per annum with effect from 1 May 2021 for 15 years with a 6 months' rent free period and a £500,000 capital contribution paid by the landlord to the tenant in order to take on the unit. Ms Gathercole had adjusted this rent to £355,060 which analysed to £54.78/m^2. Mr Lees had adjusted this rent to £471,862, which analysed to £72.80/m^2.
- Unit 6 Ignition, Faraday Road, Swindon SN3 5HS, has an area of 8463.92m^2, this was a lease renewal effective 1 October 2019 for a term of 15 years at £486,387 per annum with 5 yearly rent reviews and a rent free period of 12 months, Ms Gathercole had analysed this rent to £57.47/m^2. She stated that there would be no fitting out costs due to the property being ready for use as a warehouse, and she had therefore taken all of the 6 months' rent free as an incentive. Mr Lees had adjusted this rent to £471,862, which analysed to £72.80/m^2
- Unit 1 Ignition, Faraday Road, Swindon SN3 5HS, which has an area of 3757.60m^2, was a new lease at £320,560 per annum with effect from 1 June 2021 for 10 years with a 1 year rent free period and 5 yearly rent reviews. Ms Gathercole had adjusted this rent to £237,935 which analysed to £62.94/m^2. Mr Lees had adjusted this rent to £254,398, which analysed to £66.55/m^2. Ms Gathercole did not believe that this was a clean open market rent as the tenant, DHL, already occupied Unit 6 and therefore would be considered a special purchaser who would be prepared to pay a premium rate to secure the unit. Mr Lees argued that DHL may have been given a reduced rate because they were considered a reliable tenant.
- Unit 3 Ignition, Faraday Road, Swindon SN3 5HS, which has an area of 1961.54m^2, this was a new letting and had a rent agreed on 1 July 2020 of £161,152, this was for a term of 12 years and 6 months with 5 yearly rent reviews. Ms Gathercole had adjusted this rent to £123,459 which analysed to £62.94/m^2, Mr Lees had adjusted this rent to £155,622, which analysed to £79.34/m^2.

18. Having considered the full basket of evidence and the arguments put forward I noted that the comparable properties relied on by Ms Gathercole, Units 7 and 6, Ignition, Faraday Road, were significantly larger than the subject property, this suggested that they would have a lower base rate allowing for quantum. I also noted that her analysis of the subject rent had only been made to the first review and in any event did not support £55/m^2 for the subject property.

19. I was aware that the comparable properties referred to by Mr Lees, Unit 1 and 3, Ignition, Faraday Road, were more similar in size to the subject property. I found no evidence to support either party's contention that the rent for Unit 1 was not an open market rent. I found this to be good evidence which supported £65/m^2 for the subject property. Similarly, the analysis of Unit 3 supported £65/m^2 for the subject property.

20. Having considered all of the evidence and arguments before me I found the evidence of comparable properties put forward by Mr Lees, which supported a base rate of £65/m^2 for the subject property, to be the more persuasive.

21. I 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 there was insufficient evidence put forward by the appellant's representative to persuade me that a reduction in the assessment to RV £115,000 with effect from 1 April 2023 and £118,000 with effect from 30 May 2024 was warranted and I found the RV £139,000 with effect from 1 April 2023 and RV £142,000 with effect from 30 May 2024, to be fair and reasonable.

Determination

22. In view of the above findings and conclusions, the appeals were 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) within **four weeks** of the date this decision and statement of reasons is 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/.

Ms AG Cole Roberts, Senior Member (Sitting alone)

11 June 2025

Clerk to the Tribunal
Date issued to the parties: 11 June 2025