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

Case No: CHG101254446

Sitting remotely using
Microsoft Teams

Date: 11 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rating appeal; 2023 Rating List; warehouse and premises; tone of value of main space; end allowance; appeal allowed in part

Before:
MS AG COLE ROBERTS

Between:

IRON DESIGNS LIMITED **Appellant**

- and -

ANDREW MOULAND
(VALUATION OFFICER) **Respondent**

Regarding:
8, CHURCH ROAD, PORTSLADE, BRIGHTON BN41 1LA
(the “subject property”)

Mr J Wyndham of Ryan Group for **The Appellant**
Mr R Das for the **Respondent**

Hearing date: 22 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. I determined the rateable value (RV) of the subject hereditament to be £95,500 with effect from 1 April 2023.

Introduction

3. The appeal process began with a challenge made by the appellant's representative on 1 August 2024 in respect of the Valuation Officer's (VO) compiled list entry of the subject hereditament at £120,000 RV with effect from 1 April 2023. The appellant's representative proposed a revised list entry of £85,000, based on a reduced tone of value for main space to £63/m^2 and an end allowance of 5% for low eaves height in the store.

4. The respondent issued a challenge case decision notice on 21 October 2024 which stated that, based on the evidence available, the existing rating list entry was not unreasonable. 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 the appellant on 22 November 2024, on the grounds that the valuation for the subject hereditament remained unreasonable.

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 provides 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, when appearing as expert witness, stated that he was 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.

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 brick built building, described as warehouse and premises and addressed as 8, Church Road, Portslade, Brighton, BN41 1LA in the rating list. It had been built circa 1954-1965 with low eaves of 2.8m. It was described as extremely dated and of poor quality build with shared access front and rear and had an area of 1303.55m^2.

11. The appellant's representative argued for a revised list entry of £85,000, based on a reduced tone of value for main space to £63/m^2 and end allowances of 5% for low eaves height. This is based on the rate of £70/m^2 adopted for the adjoining warehouse which is one third of the size of the subject property.

12. In the decision notice the respondent valuation officer argued that there is no rental evidence to support £63/m^2. He stated that there was rental evidence to show that the rental values which pertain in the area for similar sized properties support the current tone. He contended that the subject property is end of terrace, benefitting from both front and rear access and is also suitably located at a junction of two A roads (A259 and A293), the current assessment is, therefore, more than reasonable.

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. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), I had to determine the rateable value for the appeal 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 considered. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

16. I noted that the lease on the subject property had been agreed in 2010 for 15 years with RPI linked rent reviews, it was therefore suggested to be of little weighting as it was not an open market rent agreement. However, Mr Wyndham submitted that the actual rent of the property was £73,760 in March 2021, having started at £57,500 in March 2010. Mr Wyndham argued that this rent supported his argument for an RV of £85,000.

17. Furthermore, Mr Wyndham argued that the adjoining premises known as Unit 1 At 105 Wellington Road, which is in the same scheme as the subject property, has an open a market letting only six months prior to the AVD on 28 September 2020, for £36,000 with a rent free period of two months. Although it is relatively smaller than the subject, he argued that it would be reasonable to expect it to achieve a higher £/sqm in the open-market, given the standard effect of quantum. Mr Wyndham had analysed this rent to £70/m^2 and adjusted it by 11% to allow for quantum giving the value of £63/m^2 for the subject property.

18. I noted Mr Wyndam's comments regarding the increase of the rateable value of the subject property of 78% between the 2017 and 2023 rating lists. I noted that there had been no improvement to the subject property, and this increase seemed out of kilter with other properties referred to in the BN41 1** postcode area which ranged from an increase of 25% to 33.07% between the two lists.

19. Mr Wyndham also referred to assessment evidence, I found this evidence to be very helpful. I noted that all of the properties referred to in this evidence appeared to be superior to the subject property. In particular, I noted that 9-16, North Wharf, Bason Road North, was newer than the subject having been built in 1980 with higher eaves and a base rate of £68.03, and 18 North Street, Portslade, which was built circa 1965-1970 had an area of 1528.6m^2 and an eaves height of 5m and was situated 0.2 miles from the subject property, it had a base rate of £86.50/m^2.

20. With regard to the end allowance of 5% for lack of headroom in the store which had an eaves height of 2.25m, Mr Wyndham had provided evidence of one comparable property, Instrument Technology Ltd, Menzies Road, St Leonard's on Sea, this property had an end allowance of 5% adjustment for head room. Mr Das argued that there could be no reduction for a disability unless this was reflected in the rent.

21. Mr Das had referred to two rents to support the current tone, firstly, Unit 7b & 7c, Victoria Road Trading Estate, Victoria Road, Portslade, Brighton, BN41 1XQ. This property had an area of 1069.45m^2 and a rent agreed on 1 November 2022 for £120,000 it had a tone of £112/m^2 and an RV of £133,000. I noted that this property was located on an established industrial estate, having been constructed in 1981 with a 5.5m eaves height, it appeared to me to be of a superior quality to the subject property.

22. Secondly, he referred to Harcos Timber Limited, West Street, Portslade, Brighton, BN41 1DZ. I noted that this property was described as a 'retail warehouse' and was a builder's merchant in a different scheme. The rent referred to was from 1 April 2017, 4 years prior to AVD and I was therefore unable to attach significant weight to this evidence.

23. Having considered the full basket of evidence before me I found that the current RV was not reasonable. I was not persuaded by the evidence provided that an end allowance should be adopted for head room, however, I found that the tone should be reduced to £70/m^2 to reflect the age and condition of the subject property along with the low eaves' height throughout.

Ref	Floor	Description	Area m^2	Relativity	Adj Area	Adj £/m^2	RV £
1	Ground	Workshop	938.30	1.00	938.30	70.00	65,681
2	Ground	Office	97.80	1.20	117.36	84.00	9,858
3	Ground	Workshop	48.90	1.00	48.90	70.00	3,423
4	Ground	RH Store	218.55	1.00	207.62	70.00	14,533
			1303.55		1312.18		93,496
			Car park spaces				2,400
							95,896
						say	95,500

Determination

24. In view of the above findings and conclusions, the appeal was allowed in part.

25. The Tribunal Panel orders 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 amend the entry in the rating list to show a revised assessment of £95,500 RV for the appeal property, with effect from 1 April 2023.

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

27. 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) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Right of further appeal

28. 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.

29. 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

Mrs H Beresford
Clerk to the Tribunal
Date issued to the parties: 11 June 2025