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

Case No: CHG101256867

Sitting remotely using
Microsoft Teams on
12 October 2026

Date: 22 October 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 Rating list appeal; Factory and premises; Local Government Finance Act 1988; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Proposals seeking a lower £ per m^2 for all appeals; Appeal allowed in part.

Before:

MRS S CHAUHAN
MS A KALU

Between:

TRUSTSPAN TIMBER ENGINEERING LTD — **Appellant**

- and -

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

Regarding:

TRUSTSPAN, FRYORS CLOSE, MURTON YO19 5UF
(the "subject property")

Appearances:
Ms E Draycott of Ryan Property Tax Services Ltd, representing the Appellant
Mr C Kazembe, representing the Respondent

DECISION AND STATEMENT OF REASONS

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DECISION

1. The appeal is allowed in part.

2. The Tribunal found that the unadjusted rate is £40 per m^2. The rateable value (RV) is therefore altered to £76,000 (when rounded down) with effect from 1 April 2023.

STATEMENT OF REASONS

Introduction

3. This decision and statement of reasons is not a contemporaneous record of the proceedings.

4. The subject property is a factory and premises located along Fryors Close, Murton, York YO19 5UF on a relatively small rural estate. It was constructed in 1996 and covers 2,062.6m^2.It had entered the 2023 valuation list with a RV of £89,000 at an unadjusted rate of £47.50 per m^2. A Challenge was submitted to the Respondent in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 on the grounds the RV is unreasonable and should be reduced to £49,000 (with an unadjusted rate of £24.50 per m^2. The Respondent considered the Challenge and determined that it was not well-founded and a decision to this effect was issued. The Appellant subsequently submitted an appeal to the Tribunal.

5. Ms Draycott appeared on behalf of the Appellant as an advocate, explaining that she had assumed responsibility for this appeal following the retirement of a colleague. Ms Draycott declared that Ryan Property Tax Services Ltd were representing the Appellant on a contingency fee basis. Mr Kazembe declared that he was appearing on behalf of the Respondent as an advocate and expert witness. Both parties accepted that their duty was to the Tribunal irrespective of whether their evidence supported their respective arguments. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), the panel accepted the expert witness evidence on this basis as the appeal was not considered to be complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions - general) of the Procedure Regulations and was allowable due to the Tribunal's rules concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). It was therefore appropriate for the panel to consider the expert evidence and assess what weight, if any, to give it in the context

Relevant Law

6. The subject property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The assumptions are well known to the parties and so it is not considered necessary to set them out in this decision and statement of reasons. The date of the hypothetical rent is 1 April 2021 and matters which affect the physical state or enjoyment of the property or the locality is to be taken as 1 April 2023.

7. The leading judgment is the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 which set out the six propositions to have regard to, when considering the weighting of evidence and expert opinion. As with the aforementioned legislation, these propositions are well known to the parties representatives and so the panel did not consider it necessary to set them out in this decision and statement of reasons either.

Discussion

8. The only matter in dispute in this appeal was the unadjusted rate to be applied to the subject property from 1 April 2023. Mr Kazembe was defending £47.50 per m^2 (and an RV of £89,000), whilst Ms Draycot argued that £24.50 per m^2 (and an RV of £49,000) was reasonable.

9. The starting point is the passing rent in respect of the subject property, and was considered by Ms Draycott to be the best evidence to support an unadjusted rate of £24.50 per m^2. This was £48,000 per annum for a term of twenty five years from January 2021 with five yearly reviews. This had been analysed by Ms Draycott to £24.50 per m^2. Mr Kazembe argued that it carried less weight because the rent was based upon a lease renewal between established parties, given the establishment of a tenant/landlord relationship since 1996.

10. Ms Draycott also referred to an assessment known as Miller Food, Derwent Valley Trading Estate, Common Road, Dunnington, York, YO19 5PD, which had an adjusted rent of £102,184 per annum and had been analysed to £25 per m^2 against the tone of £43 per m^2. Mr Kazembe argued that the rent was effective from May 2018 (almost three years prior to the 1 April 2021), includes a peppercorn rent (a rent free period) and was a stepped rent.

11. Mr Kazembe argued that evidence drawn from assessments at Unit 11 Chessingham Park, Dunnington, York YO19 5SE and York 35, 2 Elvington Airfield, Elvington York YO41 4AU demonstrated that an unadjusted rate of £47.50 per m^2 was reasonable. Unit 11 was the subject of a lease renewal from 2016 which had been analysed by the Respondent at £59 per m^2. York 35 was the subject of a new lease from January 2022 which had been analysed by the Respondent to £72 per m^2. Mr Kazembe explained that, after toning of 9%, these rents equated to £54 per m^2 for Unit 11 and £67 per m^2 for York 35 and demonstrated that £47.50 per m^2 for the subject property is reasonable. Ms Draycott argued that several changes to this evidence had occurred during negotiations which meant it had become impossible to follow and unreliable for evidential purposes. Furthermore, Unit 11 and York 35 were in better locations; Unit 11 was located within a more developed industrial estate and York 35 was located close to an airfield where rents attract premiums.

Conclusion

12. Ms Draycott asserted that the passing rent was the best evidence in determining this appeal at £24.50 per m^2, arguing that the landlord held the upper hand during rental negotiations, which will push the rent in an upward direction because the tenant will not want the cost or the inconvenience of procuring new premises. Whilst there may be some force in this argument, the landlord will also be mindful that any breakdown in negotiations could result in the loss of long established tenant and the regular rental income that it brings. Also, the landlord will, no doubt, wish to avoid a period (maybe a significant period) of vacancy, which will incur liability for non-domestic rates from the local billing authority. Ultimately, the passing rent in respect of the subject property is a transaction between established parties, not an open market transaction between a landlord and a tenant who is fresh to the scene. In the circumstances, the panel did not find the passing rent to support £24.50 per m^2 for the subject property.

13. The panel was unable to conclude that the passing rent associated with the Miller Food assessment supported £24.50 per m^2 for the subject property either. Whilst it was in a more

agricultural setting, the rent was effective from May 2018 and somewhat remote from the statutory valuation date of 1 April 2021.

14. Unit 11 Chessingham Park and York 35, Elvington Airfield had been analysed by the Respondent (after toning of 9%) to £54 per m^2 and £67 per m^2 respectively. However, there is no legal basis for toning of 9% and the panel was not convinced that it was relevant here (even if it had been agreed between the respondent and other representatives from Ryan when considering other challenge cases). In addition, Unit 11 is located approximately 2.5 miles from the subject property in a different industrial estate and York 35 is located approximately 3.5 miles away. The panel acknowledged Ms Draycott's submission that York 35 was located close to an airfield which meant it attracted a rental premium, but no evidence had been placed before the panel to quantify any premium.

15. Overall, when considering the totality of the evidence before it, the panel concluded that an unadjusted rate of £24.50 per m^2 for the subject property was not accurate as the appellant was not a new tenant coming fresh to the scene. However, on the other hand, the panel concluded that £47.50 per m^2 was excessive, based on the Respondent's comparable properties. Taking a 'stand-back and look' approach, the panel concluded that an unadjusted rate of £40 per m^2 was reasonable.

16. The RV of the subject property is therefore altered to £76,000 with effect from 1 April 2023, as follows:

	m^2	**£ per m^2**	**Value (£)**
Ground floor workshop	1,493	38.02	56,765
Ground floor mess/staff room	23.8	44.00	1,047
Ground floor office	113.8	39.78	4,527
First floor office	137.6	43.76	6,021
Ground floor canopy	294.4	6.00	1,766
	2,062.6		70,127
Hard surfaced, fenced land	1,500	3.50	5,250
Plant and machinery			902
		Total:	**76,279**
		RV SAY:	**76,000**

Order

17. In accordance with regulations 38(4) and 38(9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the Valuation Tribunal for England orders the Respondent to alter the rating list entry in respect of the subject property to £76,000 with effect from 1 April 2023.

Right of further appeal

18. 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.

19. 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/.

Mrs S Chauhan, Senior Member and Chair
Ms A Kalu, Senior Member

Mr A Johnson
Clerk to the Tribunal

Date issued to the parties: 22 October 2026