IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2017 RATING LIST APPEAL APPEAL

Case No: CHG101271287

Sitting remotely using Microsoft Teams

Date: 27 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING, Local Government Finance Act 1988, Factory and premises; Compiled List Entry; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed in part.

Before:
MRS WJ BRIGGS
MS S BAINS

Between:

THE PORTLAND DYEING COMPANY LIMITED — **Appellant**

- and -

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

Regarding:
UNIT 2A, CHURNET WORKS, JAMES BRINDLEY ROAD, LEEK ST13 8YH
(the “appeal property”)

Mr M Iles of Ryan on behalf of the Appellant
Mr K Ng on behalf of the Respondent

Hearing date: 6 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The panel find that the entry in the 2017 rating list is unreasonable and should be reduced to £54,500 rateable value.

Introduction

3. Mr Ng stated that he was appearing as Advocate and Expert Witness for the respondent.

4. In view of the Upper Tribunal's judgment in Gardiner & Theobold LLP v Jackson (VO) [2018] UKUT 0253 (LC), Mr Iles declared that he was also appearing for the appellant as Advocate and Expert Witness. He confirmed that his firm was instructed under a conditional or other success-based fee arrangement and that he understood his duty was to the Tribunal, regardless of whether the evidence supported his client's case.

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

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

Background

7. The appellant made a proposal on 13 September 2024 to challenge the entry in the 2017 rating list of £73,000 with effect from 1 April 2017. The proposal sought a reduction to £45,500 to reflect a reduced unadjusted rate from £40/m^2 to £25/m^2.

8. The Valuation Officer (VO) did not find the proposal to be well founded, and a Challenge decision was issued on 9 December 2024 maintaining the existing entry in the rating list. An appeal against that decision was received by the Tribunal on 16 December 2024.

9. The appeal property is a workshop with a total area of 1,834.97/m^2 which was built in 2012. It was located on Churnet Works In Leek which was a mixed use development by Sainsburys in 2011/2012, cantering around a new Sainsburys superstore. The site was cleared and construction of the superstore, residential units, commercial units and a petrol station was carried out.

10. The issue to be determined by the Tribunal was the correct price per square metre. It was currently in the list at £40/m^2 which Mr Iles argued was over-assessed and sought a reduced rate of £25/m^2.

Relevant Law

11. The subject property must be valued by the statutory assumptions set out in in Schedule 6 to the Local Government Finance Act 1988 as follows:

"(1) 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."

12. The material date on which to consider the physical state of the hereditament and its locality was 1 April 2017, when the entry was made in the rating list. The valuation date for the 2017 rating list is 1 April 2015, the antecedent valuation date (AVD).

Discussion

13. Mr Iles argued that the development was set up around the operation of the superstore and as a consequence the commercial units were of a poorer quality than the rest of the industrial market in Leek. The mixed use of the site included some residential units meaning that noise levels for the commercial units were restricted as was the operating hours. Planning permission was only granted for use classes B1 and B only and not B8 meaning the use was only manufacturing and not warehousing use.

14. Mr Iles turned to an agreement which had occurred in Churnet Works which the VO had relied heavily on. The first was Unit 3G Churnet Works where £42.50/m^2 was agreed for its size of 1,141.16m^2 based on £43.21/m^2 for Unit 16 Brooklands Way, which was situated on its own estate with no shared yard and had full industrial planning. Following this agreement the appeal property was reduced to £40/m^2.

15. Mr Iles argued that the agreement had dismissed the 2012 rents in Churnet Works in favour of other rents in the locality and had failed to investigate why the rents in Churnet Works were showing at a far lower analysis to the rest of the locality. This meant that the appeal property and the rest of Churnet Works had been agreed in accordance with the rest of the industrial market in Leek which was incorrect as Unit 16 Brooklands way in September 2012 had a value of £43.21/m^2 in comparison to £25/m^2 at Churnet Works also in September 2012.

16. Mr Iles referred to units of various sizes that had let in Churnet Works in September 2012 consistently for £25/m^2. These were

i. Unit 2A at £26.45/m^2 on 4 September 2012 (appeal property)
ii. Unit 1A at £26.45/m^2 on 4 September 2012
iii. Unit 3D at £32.67/m^2 on 2 September 2012
iv. Unit 3E at £24.49/m^2 on 3 September 2012
v. Unit 2C at £24.09/m^2 on 3 September 2012
vi. Unit 3F at £25.45/m^2 on 1 September 2015
vii. Unit 3B at £47.80/m^2 on 31 May 2018
viii. Unit 3G at £40.82/m^2 on 29 June 2018

17. He argued that the rents demonstrated that the market was flat from September 2012 to the AVD and this was due to the restrictions on use which lowered the demand in comparison to the other units in the locality.

18. The appeal property had been let on a ten year term from 4 November 2012 with stepped rents which had been analysed by the VO to 22.84/m^2. The VO argued that this rent was too far removed from the AVD and had referred to the following comparable properties:

i. The Coach Travel at £47.99/m^2 on 15 October 2015
ii. Unit 9 Prospect Way at £62.45/m^2 on 23 December 2014
iii. Units F&M Forge Way at £44.60/m^2 on 9 July 2013
iv. Unit 16 Brooklands Way at £42.21/m^2 on 9 September 2012.

19. The VO applied lesser weight to the representatives seven comparable properties on the grounds that the rent was agreed too far from the AVD. He considered the best evidence was the agreement on Unit 1A to reduce from rate from £55/m^2 to £42.50/m^2 based on the comparable properties provided. The VO stated that rents in 2012 were at £24.09/m^2, and £58.25/m^2 in 2018. Therefore, plotting growth on a chart to tone to the AVD, £40/m^2 was considered fair and reasonable.

20. Having heard all the evidence presented from the parties, the panel determined that the adopted rate that should apply was £30/m^2. It was clear to the panel that the restrictions, such as the reduced hours, the limited planning permission and lack of private yard had a negative impact on the units at Churnet Park in comparison to other industrial units in the locality. The agreement on Unit 1A which was reduced based on the VO's comparable properties in the locality outside of Churnet Park did not take these restrictions into consideration. It was clear from the comparable properties provided by the appellant's representative that values were much lower. However, the panel did not agree with £25/m^2 as this was the value in 2012 and needing toning to the AVD. Having considered the graphs provided by the parties, the panel concluded that £30/m^2 was fair.

Determination

21. In view of the above findings and conclusions, the Tribunal finds that the price per square metre should be reduced from £40/m^2 to £30/m^2 equating to a revised rateable value of £54,500 with effect from 1 April 2017.

Description	Area m^2/unit	£ per m^2/unit	Value
Ground floor workshop	1,628.60	£30.00	£48,858
Ground floor office	103	£36.00	£3,708
Mezzanine floor internal storage	53.27	£15.00	£799
Mezzanine floor office	50.1	£30.00	£1,503
Total	**1,834.97**		**£54,868**
Valuation			
Total value			**£54,500**
Rateable value (rounded down)	**£73,000**		**£54,500**

22. Accordingly, we order in accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer to amend the entry for the appeal property in the 2017 Rating List to £54,500 effective from 1 April 2017.

23. The Valuation Officer must comply with this Order within two weeks of its making.

Right of further appeal

24. 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.

25. 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 WJ Briggs, Senior Member (Presiding)

Ms S Bains, Senior Member

27 May 2025

Miss K Hendry
Clerk to the Tribunal
Date issued to the parties: 27 May 2025