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

Case No: CHG101273155

Sitting remotely using
Microsoft Teams on
20 April 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — rental evidence — comparable hereditaments — Lotus & Delta v Culverwell (VO)1976 RA141 — tone of the rating list — treatment of ancillary office accommodation – appeal allowed-in-part

Before:

MR HS DHAMI
MR PJ WARD
MS S BUKHARI

Between:

BURTON METAL RECYCLING **Appellant**

- and -

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

Regarding:

UNIT 6, FALCON CLOSE, BURTON ON TRENT DE14 1PT
(the "subject property")

Mr Frank Smith, for the Appellant
Mr Adepoju of the Valuation Office, for the Respondent

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is allowed-in-part.

2. The Tribunal alters the entry in the 2023 rating list for the subject hereditament by the removal of the uplift applied to the office accommodation, with effect from 1 April 2023. In all other respects the assessment is confirmed.

STATEMENT OF REASONS

Introduction

3. This appeal arose from a proposal made by the Appellant seeking a reduction in the rateable value of the subject hereditament with effect from 1 April 2023. The proposal contended that the assessment in the 2023 rating list was excessive, having regard to comparable evidence. In particular, the Appellant proposed that the base price be reduced from £73.00 per m^2 to £58.50 per m^2, which would result in a corresponding reduction in the rateable value from £16,750 to £13,000.

4. On 10 November 2025, the Respondent served a Challenge case decision notice, determining that the proposal was not well-founded.

5. Mr Smith appeared on behalf of the Appellant as advocate only. In accordance with the Upper Tribunal's judgment in *Gardiner & Theobold LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Smith declared that he understood and accepted that his overriding duty, when giving evidence, was to the Tribunal, and that he would comply with that duty and with the requirements of his professional body, irrespective of whether his evidence supported the Appellant's case.

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

Relevant Law

7. Section 41 of the Local Government Finance Act 1988 ("the Act") requires the Valuation Officer for a billing authority to compile and maintain a local non-domestic rating list for the authority's area. Pursuant to section 42 of the Act, that rating list must include each relevant non-domestic hereditament.

8. The term *"hereditament"* is defined by section 64(1) of the Act, by reference to section 115(1) of the General Rate Act 1967, as:

> "property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list."

9. Rateable value is defined in paragraph 2(1) of Schedule 6 of the Act, as amended by the Rating (Valuation) Act 1999, as:

> "… 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 the usual tenant's rates and taxes and bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state fit to command the rent mentioned above."

Discussion

10. The subject hereditament comprised a mid-terrace light industrial unit with a total significant area of 232.88m^2. The property was situated at Falcon Close, Hawkins Lane, Burton on Trent, and was occupied by the Appellant.

11. The Respondent submitted that, in determining the correct rateable value, regard must be had to the statutory definition. Under schedule 6 of the Act, rateable value is defined as the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on the statutory assumptions set out at paragraph 9 of this decision.

12. In support of the assessment, the Respondent relied upon a new letting of the subject property in April 2022, one year after the AVD, and which analysed to £73.35 per m^2. It was submitted that the transaction reflected the statutory assumptions, as the property was in reasonable repair and let on a full repairing and insuring basis. The Respondent also referred to a rent review agreed in March 2020, analysing to £72.41 per m^2.

13. The Respondent further relied upon the six key propositions set out in *Lotus & Delta v Culverwell (VO)*1976 RA141 namely that the passing rent is the starting point for valuation and that the weight to be attached to it depends upon the extent to which it accords with the statutory assumptions. On that basis, the Respondent argued that the analysed rents demonstrated that the adopted base price for the subject hereditament was reasonable.

14. Mr Smith, on behalf of the Appellant, argued that when the tenancy was entered into in 2022 the market remained in a "post-Covid" condition and could not be regarded as a "perfect market". He submitted that a shortage of warehouse accommodation existed at that time, driven by an increased demand for storage and distribution space, and that occupiers were compelled to secure whatever accommodation became available. Accordingly, the rent agreed in 2022 was said to reflect abnormal market pressure arising from limited supply.

15. The panel considered Mr Smith's submissions regarding the limited availability of accommodation following Covid. However, it also had regard to the rent review undertaken in March 2020, noting that the analysed rent arising from that review was closely aligned with the rent subsequently agreed in the 2022 letting. The panel found that this consistency demonstrated a sustained level of value for the subject hereditament, rather than a temporary market spike.

16. Turning to the third proposition in *Lotus & Delta,* namely that comparable rents should be considered where available, the panel noted that the Respondent had provided rental evidence for two properties of similar age to the subject hereditament, albeit larger in size: Units 14 and 13, Falcon Close, Hawkins Lane. Unit 14 was let on a new tenancy with effect from 1 September 2020, analysing to £89.09 per m^2. Unit 13 was subject to a rent review effective 1 November 2020, analysing to £67.09 per m^2.

17. The panel considered both comparables but attached greater weight to Unit 14, as it represented a new letting rather than a rent review constrained by existing lease terms. The panel found that this transaction provided a clearer indication of market value at or around the AVD.

18. Within their proposal, the Appellant had provided rental details for four properties. The closest to the subject hereditament were 169 Hawkins Lane, which was subject to a new letting effective 1 August 2019, analysing to £77.00 per m^2, and Unit 1, Eccleshall Business Park, which was subject to a lease renewal effective 23 May 2019, analysing to £56.31 per m^2.

19. The Appellant also relied upon Unit D1, Centrum Business Park, and Unit A, Nicholson Way. It was submitted that both occupied superior locations, benefitting from improved access to the A38.

20. Unit D1, Centrum Business Park, was let at an annual rent of £25,750 effective 1 June 2022, which analysed to £68.75 per m^2. The Appellant noted that this rent was 37.3% higher than the 2023 rateable value of the property, notwithstanding that its rateable value was only £2,000 greater than that of the subject hereditament. Unit A, Nicholson Way, was the subject of a new letting effective 1 January 2022, which analysed to £69.14 per m^2. The Appellant submitted that this unit had a workshop area of broadly similar size to the subject hereditament, yet had a rateable value of only £10,750.

21. In addressing the rent details provided, the Appellant had emphasised that the exercise between the parties was not a negotiation of market rent, but a valuation for rating purposes. It was submitted that, while passing rents on comparable properties may provide guidance, regard must also be had to the rateable values of those comparables, since it is rateable values which are being compared. It was observed that, if the principles in *Lotus & Delta* were to be determinative, the differences between rents and rateable values of the comparables would require explanation.

22. The rents detailed by the Appellant were agreed either side of the AVD, some up to nearly two years before and others more than a year after. While these rents were not ideal evidence on their own, the Appellant contended that they could still provide useful guidance.

23. It was further submitted that, under the statutory rating hypothesis, the hypothetical tenant and landlord are assumed to have full knowledge of the market and of alternative properties available. In such circumstances, any agreement reached would reflect the position of the property within its peer group. In those circumstances, the Appellant contended that it was inconsistent for similarly sized properties, particularly those in superior locations, to be assessed at materially lower rateable values.

24. The panel considered the rental evidence relied upon by the Appellant but concluded that it attracted limited weight. The properties at 169 Hawkins Lane and Unit 1, Eccleshall Business Park were within the wider locality of the subject hereditament; however, both transactions

occurred in 2019, significantly prior to the AVD, and therefore reflected market conditions of reduced relevance to the valuation date.

25. The panel also considered Unit D1, Centrum Business Park, and Unit A, Nicholson Way, but accepted the Respondent's submission that these properties were not within the locality of the subject hereditament, and were valued under different schemes. Accordingly, the panel considered that they did not provide a sound basis for direct comparison with the subject hereditament.

26. While the panel acknowledged the Appellant's submission that rating is concerned with rateable values rather than the negotiation of market rent, it was not persuaded that the evidence demonstrated any inconsistency within the relevant valuation scheme or locality.

27. The Respondent also referred to other assessments in the rating list. A schedule of eight properties, all located on Falcon Close and of similar age to the subject hereditament, was provided. The adopted prices for these assessments ranged from £70.00 per m^2 to £82.88 per m^2. The entries had not been challenged, and the Respondent submitted that, as the list had now closed and the 2023 tone had settled, the rating list should be regarded as increasingly reliable.

28. The panel accepted that this range demonstrated a consistent tone of value within the locality and supported the Respondent's adopted base price of £73.00 per m^2.

29. The panel then addressed a separate issue of an uplift applied to the ground floor and mezzanine office accommodation. Mr Smith submitted that the mezzanine was unsuitable for office use due to its limited headroom, poor lighting, basic finishes, and construction comprising painted blockwork and insulated cladding. The ground floor office was described as a rudimentary works office, with painted blockwork walls and no fixed heating.

30. Mr Adepoju, for the Respondent, submitted that the uplift applied reflected the superior quality of the office areas relative to the remainder of the industrial accommodation. He referred to the presence of carpets, painted walls and trunking, and argued that these features rendered the space more valuable.

31. Having considered the descriptions given and having viewed the photographs provided, the panel did not accept that either the ground floor office or the mezzanine constituted accommodation of a superior quality. In its view, the areas lacked features normally associated with conventional office accommodation, including fixed heating, plastered walls and enhanced finishes. The panel concluded that the space was suitable only for limited ancillary use and did not possess the quality or specification required to justify the uplift applied.

Conclusion

32. Drawing the evidence together, the panel was satisfied that the Respondent's adopted base price was supported by both direct rental evidence and the established tone of the locality. The subject hereditament formed part of a consistent scheme of valuation and, aside from the disputed office uplift, no compelling evidence was presented to demonstrate that it was inferior in quality, specification or location to other hereditaments assessed within the same range. The panel considered that a reduction to the base price would result in the subject hereditament falling outside the prevailing valuation tone and becoming an exception within its peer group.

33. However, for the reasons set out above, and having regard to the physical characteristics of the office accommodation as demonstrated by the evidence and photographs provided, the panel concluded that the 10% uplift applied to the ground floor and mezzanine office areas was not justified.

34. Accordingly, the appeal was allowed in part to the extent that the relativity of the office space was reduced in line with that of the workshop component. In all other respects, the assessment was confirmed. The revised assessment for the subject hereditament's compiled 2023 rating list entry from 1 April 2023 was therefore:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
Ground	Workshop	179.82	71.18	12,800
Ground	Office	12.04	71.18	857
Ground	Workshop Kitchen	4.94	71.18	352
Ground	Staff Toilets	4.84	71.18	345
First	Office	31.24	71.18	2224
			Valuation sub-total	16578
			Say RV	16500

35. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Respondent is ordered to alter the subject hereditament's entry in the rating list to £16,500 with effect from 1 April 2023. The Respondent must comply with this order within two weeks of its making.

36. Any fee paid will be refunded in full in accordance with Regulation 13E of the above Regulations.

Right of further appeal

37. 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.

38. 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 HS Dhami, Senior Member (Presiding)
Mr PJ Ward, Senior Member
Ms S Bukhari, Member
28 April 2026

Miss S Brown, Clerk to the Tribunal
Date issued to the parties: 28 April 2026