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

Case No: CHG101282506

Sitting remotely using Microsoft Teams

Date: 5 December 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 — Warehouse and premises — main space price — appeal dismissed

Before:
MR AN BACKWAY
MR N DE FREITAS

Between:

TROY UK **Appellant**

- and -

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

Regarding:
UNIT 3, HILLCREST BUSINESS PARK, CINDER BANK, DUDLEY DY2 9AP
(the "subject property")

Michael Caldwell for **Ryan Property Tax Services** for the Appellant
Mr Johnathan Fox for the **Respondent**

Hearing date: 21 November 2025

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed.

2. The Tribunal finds that the rateable value was not unreasonable.

STATEMENT OF REASONS

Introduction

3. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2023 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 24 October 2024. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to this effect was served on the appellant on 24 March 2025. His representatives then appealed the VO's decision to the Tribunal on 28 May 2025, on the grounds that the current valuation for the hereditament was not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

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

Background

5. The subject property was a warehouse and premises, with an agreed total area of 1,405m². It was built in the 1950s.

6. Mr Caldwell appeared on behalf of the appellant as advocate and expert witness. The clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7. Mr Caldwell declared that he was instructed under a contingency fee arrangement in his role as expert witness. Mr Caldwell confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this, as well as the requirements of his professional body, regardless of whether or not the evidence supported the client's case.

8. 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 Procedure regulations 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).

9. Mr Fox confirmed that he was representing the VO as advocate and expert witness.

10. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Mr Caldwell sought a reduced entry of £36,250 RV from 1 April 2023 based on an unadjusted of value of £25/m².

11. However, Mr Fox defended the VO's assessment of £43,500 RV based on a tone of value of £30/m².

12. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties comparable assessments, skeleton arguments, location maps and internal and external photographs of the appeal property and comparable properties.

Preliminary issue

13. There was a preliminary issue in that Mr Fox provided additional evidence four weeks before the hearing. Whilst that is permitted within the regulations[1] and the appellant's representative did not object to the late evidence, Mr Caldwell responded to the additional evidence by providing rental evidence in respect of the assessments that were referred to within the VO's additional evidence to provide context to the agreed settlements as set out in the VO's evidence.

14. Mr Fox objected to the additional rental evidence as rental evidence should have been provided four weeks before the hearing and if the panel was to allow the rental evidence he would be prejudiced by this as he would not have been able to verify and analyse the rental evidence.

15. The panel considered the situation in light of the Upper Tribunal decision in *Simpsons Malt Ltd and Other v Jones (VO)* UKUT [2017] 460 and *Denton v TH White Ltd* [2014] 1 WLR 3926 which dealt with non-compliance. This laid out the three-stage test which the panel had to consider.

    Stage 1 – If the panel conclude that the breach is not serious or significant then relief from sanctions should usually be granted (para. 53).

    Stage 2 – Then the panel need to consider why the failure or default occurred. The burden is on the defaulting party to persuade the panel to grant relief. They must explain what happened and why. Illness or accidents are good reasons but overlooking a deadline is not (para. 54).

    Stage 3 – The panel must consider all the circumstances of the case including:

    a) the need for litigation to be conducted efficiently and at a proportionate cost;
    b) a failure to grant a sanction may leave an inaccuracy being uncorrected; and
    c) the need to enforce compliance with rules, directions and orders (para. 55); However, such matters must never be allowed to assume a greater importance than doing justice (para. 56).

16. The panel understood the reasons for Mr Fox objecting to the new evidence. However, it also understood that Mr Caldwell was assisting the Tribunal by providing rental evidence to put the settlement evidence, provided by Mr Fox, into context. The panel also concluded that Mr Fox did have a few days' notice of the additional evidence and therefore it concluded that there was only slight prejudice to Mr Fox as he had sufficient time to review the rental

[1] The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009

evidence as set out by Mr Caldwell. The panel therefore concluded that the breach of the Tribunal’s directions was not serious or significant and therefore allowed the late evidence.

Relevant Law

17. 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; and*
>
> *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

18. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

19. In terms of rental evidence, the passing rent for the appeal property was £64,170 which had been analysed to £30/m^2. The lease commenced on 18 May 2023 which was just over two years from the Antecedent Valuation Date (AVD) which both parties accepted was too far from the AVD to be reliable.

20. Although Mr Caldwell argued that the VO’s comparable properties at Hillcrest Business Park were too small to be comparable as they ranged from 21.5m^2 to 528.30m^2 which the panel agreed were substantially smaller than the appeal property. However, the panel noted that the smaller units were valued at £60/m^2 for those units that were less than 100m^2, Unit 12 had an area of 258.7m^2 and had been valued at £37/m^2 and Unit 13 had an area of 528.3 and had been valued at £32/m^2. The panel was aware that larger units would benefit from a quantum allowance and therefore it applied little weight to Mr Caldwell’s argument as they did not suggest that the subject property was incorrectly valued at £30/m^2.

21. To support his argument that the main space price of £30/m^2 was incorrect, Mr Caldwell had produced a number of units that ranged in size from 989m^2 to 5,526m^2. He argued that the

VO's comparable properties were not reliable as they were substantially smaller than the subject property, however, most of his comparable properties were between 600m^2 to 4,000 m^2 larger than the subject property. He had analysed the rents to between £19.68/m^2 to £27/m^2.

22. Mr Caldwell also argued that the unadjusted main space price for some units such as Unit 32 Dawley Trading Estate had only increased by £2/m^2 from the 2017 rating list whereas the unadjusted main space price for the subject property had increased by £7/m^2. However, the panel was aware that the value of properties from one rating list will change depending on that locality and the panel could not apply any weight to that argument, especially as Unit 32 was located nearly four miles away from the subject property.

23. The panel noted that Vanguard Foundry had an area of 2,299m^2 and Stainless Fittings had an area of 2,069m^2 which were the closest in size to the subject property. Mr Caldwell had analysed the rents to £27.98/m^2 and £22.16/m^2 respectively. The rents for these two units had been agreed in 2018 and 2019, which the panel conclude were too far from the AVD to be reliable. However, for the 2023 rating list, the RV for these two units had been based on a value at £30/m^2. The panel understood, through questioning, that the RV for Stainless Fittings had not been challenged.

24. Ratepayers have had since 1 April 2023 to submit challenges. In *Pointer v Norwich Assessment Committee* (1922) 2 KB 471 it was held that

> *"a settled tone over a period of time by agreement with, or a lack of challenge against the Valuation Officer's tone".*

25. This was supported by other judgments such as *Futures (London) Ltd v Stratford (VO)* [2006] RA 75. In particular paragraph 25, the Lands Tribunal member referred to the stages leading to the establishment of a 'tone of the list':

> *"At first when a new rating list is put on deposit assessments will carry relatively little weight: they are opinions of value by the valuation officer as yet unchallenged and agreed or determined by a Valuation Tribunal or this Tribunal or accepted by lack of challenge. Finally, a stage will be reached when enough assessments have been agreed or determined or are unchallenged to establish a pattern of values, a tone of the list"*

26. Although the panel accepted that there was still six months until the start of the 2026 rating list and, that there is still six months for challenges and appeals to be submitted against these assessments. But, ultimately there was a lack of challenges, which the panel concluded suggested that a tone at £30/m^2 had been established.

27. Mr Fox had contended that the most reliable evidence were the units within Hillcrest Business Park. Although he accepted that the majority of the units were smaller, the panel applied significant weight to Units 12 and 13 which had areas of 258.7m^2 and 528.3m^2 respectively and were valued using a main space price of £37/m^2 and £32/m^2 respectively. These suggested that a main space price of £30/m^2 for the subject property was reasonable given that it would benefit from a quantum allowance.

28. The panel also applied significant weight to his comparable properties which had been settled between the parties. C&S Steels Ltd which had been settled using an unadjusted main space price of £24.50/m^2. It was substantially larger at 7,500m^2 and would therefore

benefit from a quantum allowance. 30 Mushroom Green had been agreed using an unadjusted main space price of £30/m^2 and was also built in the 1950s. Unit 4 Albion Works which had an area of 1,293m^2 and was very similar in size to the subject property had also been agreed using an unadjusted main space price of £30/m. The panel concluded that these settled assessments further supported the subject property being valued at £30/m^2.

Conclusion

29. In view of the above findings and conclusions, the Tribunal is satisfied that satisfied that the unadjusted main space price of £30/m^2 and the resultant RV was reasonable as the subject property was valued in line with other similar units in the locality. The appeal is therefore dismissed.

Right of further appeal

30. 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.

31. 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 AN Backway, Senior Member (Chair)
Mr N De Freitas, Senior Member
5 December 2025

Mr R Gath IRRV (Hons)
Clerk to the Tribunal
Date issued to the parties: 5 December 2025