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

Case No: CHG101295790

Sitting remotely using Microsoft Teams

Date: 26 November 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 rating list appeal; Local Government Finance Act 1988; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Barnard & Barnard v Walker (VO) LT [1975] RA 383; Lamb v Minards (VO) LT [1974] RA 153; £ per m^2 in dispute; End allowance for layout sought; Appeal allowed in part.

Before:
MRS M CHRISTOPHER
MR M ASLAM

Between:

OMAR PARK HOMES LTD — **Appellant**

- and -

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

Regarding:
227, LONDON ROAD, BRANDON, SUFFOLK IP27 0NE
(the “subject property”)

Appearances:
Mr S Penny of Ryan Property Tax Services UK Ltd, representing the Appellant
Mr C Cole, representing the Respondent

Hearing date: 29 October 2025

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is allowed in part.

2. The Tribunal finds that:

   (i) the unadjusted rate of £25 per m^2 is reasonable; and
   (ii) an allowance of 12.5% is allowed with effect from 1 April 2023 to reflect the layout of the subject property.

3. Accordingly, the rateable value (RV) of the subject property is altered to £430,000 with effect from 1 April 2023.

STATEMENT OF REASONS

Introduction and background

4. This decision and statement of reasons is not a contemporaneous or verbatim record of the proceedings.

5. The subject property is a mixed age industrial site located off London Road (the A1065) in Brandon, Suffolk covering an area of 17,890.37m^2. A Challenge was submitted to the Valuation Officer in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. The Appellant sought a revised RV of £320,000 which was based upon £18 per m^2 and an allowance of 12.5% to reflect layout issues.

6. The Appellant was represented by Mr S Penny of Ryan Property Tax Services UK Ltd and the Respondent was represented by Mr C Cole. Mr Penny appeared in the dual role of advocate and expert witness, declaring that he was representing the Appellant on a contingency fee basis. Mr Cole represented the Respondent as an advocate. Mr Penny acknowledged and accepted that when presenting evidence as an expert witness, that his duty was to the tribunal irrespective of whether his evidence supported his case. 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. Furthermore, it 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 of the issues before it.

Preliminary issue

7. On 28 October 2025, Mr Penny submitted an application to the Tribunal to accept additional evidence which related to Challenge decisions in respect of properties in the same valuation scheme. Mr Penny explained that whilst the additional evidence was not available on 23 May 2025 (when the appeal was submitted) it had subsequently come into his possession but overlooked. This had necessitated the late application. Mr Cole objected to the application, asserting that the application could have been made much sooner, adding that one of the cases in question had been dealt with by Mr Penny in August 2025.

8. The panel retired to consider the application from Mr Penny. It should be noted that the panel had not had sight of the additional evidence in question.

9. Mindful of the three stage test established in *Denton & Others v TH White and Others* [2014] EWCA Civ 906, the panel found that that the late submission from Mr Penny was a serious breach of the Standard Directions concerning the exchange of evidence. The panel was satisfied that the application could have been made much earlier than it had and the reason for the delay was not found to be satisfactory. In view of its findings, the panel decided to decline the application and the additional evidence in question was excluded.

Relevant Law

10. 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 (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). These 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 was 1 April 2021 and matters which affect the physical state or enjoyment of the property or the locality were to be taken at 1 April 2023 (the material date).

Discussion

11. There were two matters in dispute in this appeal. First, was the £ per m^2 to be applied in respect of the subject property. Mr Penny was seeking alteration to £18 per m^2, whilst Mr Cole was defending the current entry of £25 per m^2. Second was an allowance for layout, with Mr Penny seeking 12.5% (which had been the allowance in the 2017 rating list) whilst Mr Cole was defending the 5% which had been applied.

12. The leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 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 and so the panel did not consider it necessary to set them out in this decision and statement of reasons.

13. The starting point for consideration is the passing rent. This Appellant had occupied the subject property since 1974 and the latest rent was a renewal which was effective from May 2019 at £255,750 per annum. Mr Penny had analysed this rent to £16.93 per m^2 and he considered this to be the strongest evidence to support a revised adopted rate of £18 per m^2. Mr Cole had analysed the passing rent it to £16.89 per m^2 (inclusive of the 5% allowance that had been granted) and he argued that it should carry less weight because, although the rent was effective from May 2019, it had been agreed in May 2016 (for a term of fifteen years) and was the product of a lease renewal between connected and well established parties (and so it was not an open market transaction). Mr Cole added that the comparable evidence provided by the Respondent demonstrated that an adopted rate of £25 per m^2 was reasonable.

14. In support of the Appellant's argument, Mr Penny provided rental evidence in respect of three other properties which were in the same valuation scheme:

- Cargo Secure Ltd, The Dock, Felixstowe IP11 3RD
  - Total area of 10,679.85m^2 / RV £342,500
  - A lease renewal effective from 1 February 2022 of £300,000 per annum, which analyses to £27.67 per m^2 against an adopted rate of £45 per m^2.
- Jardin Corrugated Cases, Elean Business Park, Ely Road, Sutton CB6 2QE
  - Total area of 12,454.37m^2 / RV £417,500
  - A lease renewal effective from 1 January 2022 of £336,688 per annum, which analyses to £22.31 per m^2 against an adopted rate of £30 per m^2.
- Potter & Moore Group Ltd, 1201 Lincoln Road, Peterborough PE4 6ND
  - Toal area of 10,487,78m^2 / RV £392,500
  - A lease renewal from 30 October 2019 at £350,000 per annum, which analyses to £21.18 per m^2 against an adopted rate of £30 per m^2

15. Mr Penny argued that an increase from £18 per m^2 in the 2017 list to £25 per m^2 in the 2023 rating list was not supported by the passing rent in respect of the subject property and the comparables in the locality.

16. In support of the Respondent's argument, Mr Cole provided rental evidence in respect of three other properties:

- East Anglia Freight Ltd, Parker Avenue, Felixstowe IP11 4HF
  - Total area of 15,104.91m^2 / RV £565,000
  - A lease renewal effective from 1 March 2021 at £576,888 per annum, which analyses to £36.74 per m^2 against an adopted rate of £36.50 per m^2.
- Block C & D1-5, Walton Avenue, Felixstowe IP11 3HE
  - Total area of 19,099.89m^2 / RV £620,000
  - A lease renewal effective from 1 February 2019 at £879,444 per annum, which analyses to £44.29 per m2 against an adopted rate of £35 per m^2.
- Doane Pet Care (UK) Ltd, Larkshall, Wretham IP24 1QY
  - Total area of 10,297.30m^2 / RV £445,000
  - A lease renewal effective from 1 April 2019 at £398,522 per annum, which analyses to £44.30 per m^2 against an adopted rate of £45 per m^2

17. Mr Cole argued that the rent in respect of the Valuation Officer's comparable properties had all increased upon the renewal of their leases which showed there had been growth. This, after allowing for an element of quantum, supported an increase from £18 per m^2 in the 2017 rating list to £25 per m^2 in the 2023 rating list, adding that the Appellant had not provided sufficient evidence to prove otherwise.

18. The panel concluded that it could not place any significant weight upon the passing rent in respect of the subject property due to its distance from the AVD and the fact it was the product of a lease renewal between long established parties and not an open market transaction. The subject property was the largest of the seven properties and, after considering the basket of rental evidence and quantum, the panel found that an adopted rate of £25 per m^2 was reasonable.

19. Turning to the matter of an allowance for layout, Mr Penny argued that an allowance of 12.5% had been made in respect of the subject property in the 2017 list and, as the subject property continued to suffer the same issues on 31 March 2023 and on 1 April 2023 (i.e. the last day of the 2017 list and the first day of the 2023 list), there was no reason to reduce it to 5%. In this regard, Mr Penny referred the panel to the Lands Tribunal cases of *Barnard & Barnard v Walker (VO)* LT [1975] RA 383 and *Lamb v Minards (VO)* LT [1974] RA 153 which established the presumption that differentials between rating lists are correct unless the Respondent demonstrates through rental evidence that the differential should not be carried forward. Mr Penny also provided a list of twenty one other properties where end allowances had been carried forward from the 2017 list to the 2023 list.

20. Mr Cole argued that an allowance of this nature is applied to the valuation of a property in order to take into account a disadvantage which affects a property's rental value. Mr Cole highlighted the fact the Appellant had constructed a new warehouse in 2016 (after the material day for the 2017 list) and he argued that it would not have been built in such a way as to hinder the overall operational efficiency of the subject property and, if anything, it would have improved it. Referring to *J Rosenthal & Son Ltd v Rushall (VO) - 237210269817*/126N05, it was argued that the agent must show that the justification for the allowances on his comparable properties is mirrored by the circumstances of the subject property. The Respondent also referred to *The Occupier v Stauder (VO)*, 232017696805/125N10, in which it was found that the granting of end allowances will always depend on the particular facts affecting the subject property as it is unreasonable to assume that simply because one property has an assessment incorporating an end allowance, that another should automatically be entitled to the same allowance. It was also stated that the end allowance had been reduced to 5% in line with the layout allowances adopted for comparable assessments, such as Doane Pet Care (UK) Ltd referred to above.

21. The panel placed little weight upon the list of properties which showed that other properties were benefiting from allowances which were the same in the 2017 and 2023 lists. This only served to confirm what the panel already knew; that allowances were made by the Respondent to reflect disadvantages that negatively impact a rental bid and no compelling evidence had been provided to show that any of the allowances showed that the disadvantages at the other properties mirrored the disadvantages at the subject property, especially as some had clearly been granted for different reasons (such as a divided or split unit or a planning restriction). However, the panel was persuaded by Mr Penny's argument that no evidence had been provided to show that the allowance made in the 2017 list should not be carried forward into the 2023 list as per *Barnard & Barnard v Walker* and *Lamb v Minards*. The Respondent appears to have taken an arbitrary decision to reduce the allowance for layout as no compelling evidence had been submitted to support the reduction to 5% and explain why this was appropriate or proportionate. The panel understood Mr Cole's submission that the 2016 warehouse was more likely to have improved the layout than not but, and with due respect to Mr Cole, this was supposition and was not supported with any compelling evidence. In the circumstances, the panel decided that an allowance of 12.5% should be made.

Conclusion

22. In view of the panels finding, this appeal is allowed in part.

23. The RV of the subject property is altered to £430,000 with effect from 1 April 2023 as set out below.

	m²	£ per m²	Value
Ground floor area under supported floor	742.88	17.50	13,000
Ground floor store	30.33	23.75	720
Ground floor office	18.27	27.50	502
Ground floor production area	9,589.12	25.00	239,728
Ground floor store	192.06	22.58	4,337
Ground floor workshop	607.25	25.00	15,181
First floor office	305	30.00	9,150
Ground floor office	128.77	30.25	3,895
Mezzanine floor office	199.18	24.82	4,944
Ground floor store	21.53	25.00	538
Mezzanine floor internal storage	543.7	12.50	6,796
Ground floor loading bay	235.53	25.00	5,888
Ground floor works office	26.03	25.00	651
Ground floor portable building	66.14	18.75	1,240
Ground floor office	324.74	30.00	9,742
Mezzanine floor store	168.39	12.50	2,105
Ground floor store	582.75	20.91	12,187
Ground floor office	40	27.50	1,100
Ground floor plant room	13.23	25.00	331
Ground floor workshop	649.23	23.16	15,038
Ground floor portable building	224.53	19.69	4,420
Ground floor area under supported floor	168.39	17.50	2,947
Ground floor workshop	243.84	23.75	5,791
Ground floor workshop	2,649.58	34.13	90,417
Ground floor workshop	112.1	23.75	2,662
Ground floor portable building	7.8	18.75	146
	17,890.37		**453,458**
Bike shed	33.68	6.00	202
Canopy	34.61	6.00	208
Hard surfaced, fenced land	1,106	4.00	4,424
Storage container	8	80.00	640
Rough surfaced, fenced land	6,855	3.00	20,565
Canopy	78.49	6.00	471
Miscellaneous addition	626.25	12.50	7,828
Miscellaneous addition	306.76	7.50	2,301
Canopy	226.5	6.00	1,359
Canopy	67.95	6.00	408
Shed	44.44	10.00	444
Storage container	5	119.00	595
			39,445
Add: Plant and machinery			2,852
			495,755
Subtract: 12.5% for layout			61,969
			433,785
		RV SAY:	**430,000**

24. 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 Valuation Officer to alter the rating list entry in respect of the subject property to £430,000 with effect from 1 April 2023.

Right of further appeal

25. 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.

26. 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 M Christopher, Senior Member (Chair)
Mr M Aslam, Senior Member

Mr A Johnson
Clerk to the Tribunal

Date issued to the parties: 26 November 2025