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

Case No: CHG101295929

Sitting remotely using
Microsoft Teams on
29 July 2026

Date: 20 August 2026

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 — Futures (London) Ltd v Stratford (VO) [2005] RA 75 — Land used for Storage and premises — main space price — appeal dismissed

Before:

MR WJ READ
MR G MCGILL

Between:

HODGES DEVELOPMENTS LTD **Appellant**

- and -

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

Regarding:

AREA 1 AT 82 HORNINGLOW STREET, BURTON ON TRENT DE14 1PJ
(the "subject property")

Mr Frank Smith for the **Appellant**
Mr Moses Adepoju for the **Respondent**

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed.

2. The Tribunal finds that the rateable value (RV) for the subject property was reasonable.

STATEMENT OF REASONS

Introduction

3. The appellant company had made a challenge against the accuracy of the compiled list assessment for the subject property in the 2023 Rating List, by way of a proposal that was served on the Valuation Officer (VO) on 28 November 2024. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded.

4. A Decision notice to this effect was served on the appellant company on 12 January 2026. The appellant company then appealed the VO's decision to the Tribunal on 25 February 2026, 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.

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

Background

6. The subject property was Land Used For Storage and Premises with an agreed total area of 1,524m². The RV was £12,000 and had been valued based on an unadjusted main space price of £10/m². Mr Smith was seeking a RV of £7,600 based on a main space price of £5/m^2.

7. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties' comparable assessments, skeleton arguments and external photographs of the subject property.

8. As Mr Smith appeared on behalf of the appellant as both 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) dated 3 August 2018.

9. He declared that he was employed by the appellant company. However, Mr Smith 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.

10. 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[1] and is allowable due to the Tribunal's rules on

[1] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No2269]

admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

11. Mr Adepoju confirmed that he was representing the VO as advocate and expert witness. He was not on a contingency fee and confirmed his first duty was to the Tribunal.

12. For 2023 rating list appeals the Antecedent Valuation Date (AVD) is 1 April 2021. The material date for the subject properties was 1 April 2023.

Relevant Law

13. 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

14. In the appeal under consideration, firstly, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141 dated 20 May 1976. 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.

15. However, it was accepted the subject property was rented through connected parties and therefore no weight could be applied to the rent.

16. Mr Smith had argued that the assessment had changed from £3.20/m^2 in the 2017 rating list to £8/m^2 for the 2023 rating list which was a 150% increase.

17. However, the clerk referred the parties to the Upper Tribunal judgment of *Flight Centre (UK) limited v Ricketts (VO)* [2021] UKUT 0315 (LC) dated 19 October 2021. Mr Higgin, the Upper Tribunal member stated at P.29

> *"I attach no weight to comparisons with previous Rating Lists or any significance to the fact that other parades nearby have declined in value since the 2010 List."*

18. Given the above, the panel applied little weight to Mr Smith's argument in respect to the changes to the RV in the different rating lists for the subject property.

19. To support his argument that the main space price was too high, he referred to a number of comparable properties such as Land at Wetmore Road, which had a main space price of £7/m^2, Tim Bates, Nicholson Way which included land at £4/m^2 and the site also comprised of buildings and, Land fronting J3/J4 Robian Way, Swadlincote which had been assessed at £4.50/m^2. He further argued that whilst Swadlincote was five miles away, a tenant coming fresh to the scene would also consider Swadlincote.

20. However, the panel could only apply limited weight to these comparable properties as they were further away. The VO had stated that all of the appellant's comparable properties were between 0.8 to 6.1 miles from the subject property/

21. Mr Smith also submitted that the hard surface had been broken up and it suffered from a number of disadvantages such as it had to be accessed from neighbouring land, it was unsuitable for HGVs and an adjourning area was accessed through the subject property and therefore it was not as secure as other comparable properties.

22. He also argued that some the VO's comparable properties were not truly comparable, such as East Staffordshire BC as it was used as a recycling centre, not land used for storage, and was more superior, some of them were also hard surfaced, Land R/O Briggs was used as a car park, they were fenced or were smaller.

23. In respect of Mr Smith's argument that the ratepayers would not submit proposals against the RV's as they were in receipt of Small Business Rate Relief and therefore, there was little point in challenging the RV when there was nothing to pay, the Clerk advised of the decision in *Pointer v Norwich Assessment Committee* (1922) 2 KB 471 where 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*"

24. This was supported by other judgments such *as Futures (London) Ltd v Stratford (VO)* [2006] RA 75. In particular P.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*"

25. Whilst Mr Smith agreed that a lack of challenges does result in the tone of the list, he stood by his argument that there was little point in one challenging the RV where there would be no benefit.

26. The panel applied significant weight to Mr Adepoju's contentions that the subject property had been valued at an unadjusted value of £10/m^2, but, due to the issues outline by the appellant, it was valued using an adjusted value of £8/m^2.

27. It also applied significant weight to the VO's comparable properties. They were significantly closer than the appellant's comparable properties, with them being less than 1 mile away. Most of them were valued with a base price of £10/m^2. Those that were significantly smaller such as Tower Brewery Yard, had been valued at £15/m^2 which suggested to the panel that there would be a quantum allowance for larger assessments, such as the subject property. Those that were larger, such as Land R/O Briggs which had an area of 10,521 was valued at £6/m^2 which would reflect a quantum allowance as that assessment was nearly 10 times larger.

28. These assessments demonstrated to the panel that an unadjusted value of £10/m^2 with an adjusted value of £8/m^2 for the subject property was reasonable.

Conclusion

29. In view of the above findings and conclusions, the Tribunal is satisfied that the RV was not unreasonable and it dismissed the appeal.

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 WJ Read, Presiding Senior Member
Mr G McGill, Senior Member
20 August 2026

Mr Richard Gath IRRV (Hons)
Clerk to the Tribunal
Date issued to the parties: 20 August 2026