

Appeal Number:	6920101260058/285NV23/2
Appellant:	Ryan UK Property Tax, agent for Orangebox Ltd (occupier)
Appeal Property:	Unit 2A, Parkway Pen-y-fan Industrial Estate Pen-y-fan NP11 3EF
Matter Appealed Against:	2023 Non-Domestic Rating List
Hearing Date:	22 nd April 2026
Appearances:	Mr A Sharkie (Ryan UK) Mr K Sloan (representing Valuation Office)
Decision and its date:	Appeal allowed in part – 6 th May 2026
Tribunal Members:	Mr H Pattrick (Chairperson) Mr S Hennah
Tribunal Clerk:	Mr C Richards

Introduction - Issues in Dispute

1. The appeal property was entered into the 2023 Rating List with a Rateable Value (RV) of £211,000 (£38.50/m²) effective from 1st April 2023. The appellant's representative appealed the Valuation Officer's (VO) valuation, contending that the unadjusted rate was unfairly over-assessed, and the RV should be reduced to £186,000 (£34/m²).
2. During the Challenge stage of negotiations prior to the Tribunal, the VO proposed a mid-point of £200,000 RV (£36.50/m²) and altered the Rating List entry accordingly.
3. The parties in attendance did not raise an objection to the Tribunal comprising of two members.
4. The following is a summary of the cases presented and is not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all the evidence was fully considered by the Tribunal when it arrived at its decision. Consequently, the absence of reference to any statement, or evidence, should not be construed as being overlooked.

Legislation and Case Law

- *The Local Government Finance Act 1988*
- *The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2023*
- *Lotus & Delta v Culverwell (VO) & Leicester City Council (1976)*

Evidence and Submissions

Appellant Submission.

5. Mr Sharkie explained that the appeal property was a warehouse built in 2020 of simple construction with a total area of 5,562/m², based in a large industrial estate to the north of Newport.
6. It was acknowledged that some progress had been made during negotiations prior to the Tribunal, however the key disagreement was the analysis of the subject rent.
7. The lease period commenced in September 2020 on a five-year term, with a three-year option for the tenant to break the lease without any penalty. Mr Sharkie explained that there was a stepped nature to the rent with a rent-free period at the start of the lease of six months. Key pages of the lease were included in the written submission.
8. Mr Sharkie contested that the rent should be analysed over the period of three years up to the break point rather than the full five-year term, as the tenant had deliberately negotiated a break, so that they had the flexibility to leave if they desired.
9. It was calculated by Mr Sharkie that should the rate be analysed at a test rate of 8%, it would devalue to £34.24/m².
10. Additionally, Mr Sharkie asked the Tribunal to take account of the full six-month rent-free period and provided photographs of the property's internal accommodation. He understood that the VO had applied a standard three-month allowance for fit-out; however, no fit-out had been undertaken and, following the tenant's vacation, there was no evidence of occupation remaining. In Mr Sharkie's submission, this demonstrated a lack of investment in the premises and therefore the full six-month rent-free period should be reflected as an incentive.
11. Mr Sharkie explained that the VO had negotiated an unadjusted rent (UAR) of £32/m² plus a 10% uplift due to the properties age, compared to older units in the area.
12. Unit 4 Parkway was introduced as a comparable property, which was located next to the appeal property. The property had an area of 4,866/m² and valued at £35/m² which was lower than the appeal property despite being smaller. To maintain the expected impact of quantum, Mr Sharkie contested that the appeal property's £/m² must be lower than the smaller comparable.

13. Mr Sharkie also presented Units 17-18 Willow Road within the industrial estate as a comparable. He explained that this property was of similar age, a little over 6,000/m² and valued at £33.50/m².
14. Using the above comparables, Mr Sharkie contested that the appeal property should be placed between £35/m² and £33.50/m². Therefore, a reduced uplift of 7.5% should be applied compared to 10%, to give a fairer figure of £34.40/m² for the appeal property.
15. On conclusion, Mr Sharkie requested the Tribunal to consider his proposed revised UAR of £34.40/m² and a rounded RV of £188,000, and differed from his previous revised assessment.
16. Mr Sloan questioned Mr Sharkie on his previous statement that there was a penalty-free break clause at the three-year period. Referring to the lease extract provided in the appellants written submission, he pointed the Tribunal and Mr Sharkie to a section titled 'break penalty' and a figure of £48,652.50 plus VAT and asked if this meant that there was a penalty? Mr Sharkie responded that he had not spotted this and was not informed previously.
17. Following on from the previous question, Mr Sloan asked Mr Sharkie would an occupier be less likely to action a break clause if they had to action approximately a quarter of the annual rent? Mr Sharkie agreed that any penalty is, by nature, intended to deter actioning a break but even so the tenants gave serious consideration of breaking the lease at the three-year period.

VO Submission

18. Mr Sloan outlined the procedural history of the appeal. A Check was submitted in June 2024; no factual changes were identified and the RV remained unaltered. A Challenge followed in August 2024, seeking to reduce the then UAR from £38.50/m² to £34/m² for the warehouse premises. Following review of the evidence and discussions with the appellant, the VO reduced the UAR to £36.50/m². As agreement could not be reached, an appeal was lodged in November 2025.
19. Having further reviewed the contentions and available evidence since the appeal was made, Mr Sloan confirmed to the Tribunal that he would be seeking a RV of £193,000 with a UAR of £35.20/m².
20. In his written submission, Mr Sloan referenced the Lands Tribunal case of *Lotus & Delta v Culverwell (VO) & Leicester City Council (1976)* and stated that the Valuation Office considers each of the six principles set out before making a final decision.
21. Mr Sloan confirmed that the lease began seven months prior to the antecedent valuation date (AVD) of 1st April 2021 and there was a stepped rent, that he analysed over the five-year lease term. This was analysed beyond the three-year break-point due to the identified break penalty, that he believed would act as a significant deterrent to the occupier ending the lease early. Over the full five-year period he analysed the rent at £38.45/m², which was close to the initial UAR of £38.50/m².

22. Mr Sloan presented comparable rental evidence using the following properties:

- a. Unit D2, Carlton Drive, NP11 4EA – A new five-year lease on a full repair and insurance basis, agreed two months after the AVD. The rent was stepped, similar to the appeal property, and analysis produced a UAR of £26.30/m², which was a low unadjusted rate. Nonetheless, it is considered comparable as it is located on the same industrial estate as the appeal property. The unit was valued in line with similar-age industrial properties at £32/m², reflecting its 1979 construction.
- b. Units A-C & E, Carlton Drive, NP11 4EA – A new 5-year lease very close to the AVD (1st May 2021). It was on internal repairs only, which meant it only required minimal adjustments and there was no stepped rent. It was not valued on the same scheme as the appeal property, yet the unadjusted rate of £41.23/m² was much higher. That had also been valued in the list at £32/m², being of a 1979 construction.
- c. Units 6A, 6B & 6D, Hawtin Park, NP12 2EU – A new 10-year lease, two months after the AVD. It was repairs only, but on a stepped rent arrangement. The UAR was low, at £30.22/m², but it had been valued in line with all the stock, as it was constructed in 1994, and valued at £32/m².

23. Responding to Mr Sharkie's comparable property at Unit 4 Parkway, it was valued on a different scheme for industrials less than 5,000 square metres in south Wales, whereas the appeal property had been valued for industrials between 5,000 and 10,000 square metres. Unit 4 had a higher base rate than other comparables due to its size, being below the 5,000-metre threshold at the time of evaluation.

24. Mr Sloan explained that the basket of evidence supported a higher valuation than that proposed in the challenge, although he agreed that £38.50/m² was excessive. He had proposed a calculation of £32/m² plus a 10% age uplift, then found a midpoint between this and the initial analysed rent. However, finding this excessive in its complexity, retreated to £32/m² plus a 10% uplift.

25. Mr Sloan asked the Tribunal to confirm a UAR of £35.20/m² and a RV of £193,000, with effect from 1st April 2021.

26. During questioning, Mr Sharkie queried why the comparable properties attracted a 5% uplift whereas the appeal property was afforded a 10% uplift, submitting that construction styles had not materially changed between 2013 and 2020. Mr Sloan responded that the application of a 10% uplift reflected the availability of comparable rental evidence in addition to the subject rent, and that the subject rent itself had the effect of supporting and enhancing the assessed rental value.

Decision and Reason

27. In arriving at its decision, the Tribunal had regard to legislation contained within The Local Government Finance Act 1988 and The Non-Domestic Rating

(Alteration of Lists and Appeals) (Wales) Regulations 2023, which stipulates that the appeal hereditament must be valued having regard to values achieved as at the AVD, the 1st April 2021, whilst looking at the physical circumstances of the assessment as at the Material Day, the Compiled List entry date of the 1 April 2023.

28. It was also aware that case law provided judicial precedent with regard to rating. In accordance with the principles outlined in *Lotus and Delta v Culverwell (VO) & Leicester City Council*, the passing rent on the appeal hereditament should ordinarily serve as the starting point for determining the RV.
29. The Tribunal noted that the existence of a penalty break clause was not identified during discussions between the parties and was instead incorrectly treated as a penalty-free break clause until the matter was clarified at the hearing.
30. In light of the above, the Tribunal found that it was reasonable for the VO to analyse the rent over the full five-year term of the lease. It was satisfied that the substantial break penalty contained within the lease constituted a significant disincentive to the tenant seeking to exercise the break option at the end of the third year.
31. On this basis, the Tribunal accepted the VO's devalued rental assessment of £38.45/m², having disregarded the six-month rent-free period.
32. The Tribunal carefully considered the comparable rental evidence. While it understood the appellant's submission that a 7.5% uplift should be applied on the basis that this represented the mid-point, it was not satisfied that there was sufficient evidence to justify this figure, noting that the burden of proof rested with the appellant. The Tribunal concluded that a 10% uplift to the appeal property was reasonable, having regard to the fact that it was a more modern building, constructed in 2020, compared with the other newest comparable premises relied upon, which had attracted a 5% uplift and were constructed in 2013 and 2000 respectively.
33. Accordingly, the Tribunal attached greatest weight to the VO's analysis of the actual rent over the full five-year period. It found the VO's revised proposal, together with his supporting calculation of £32/m² plus a 10% uplift, to be reasonable.
34. The Tribunal ordered that the rating list entry for Unit 2A, Parkway, Pen-y-fan Industrial Estate, Pen-y-fan, NP11 3EF be altered to a RV of £193,000 with effect from 1st April 2023.