IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2017 RATING LIST APPEAL

Case No: CHG100095546

Sitting remotely using Microsoft Teams on 30 June 2026

Date: 14 July 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal: Local Government Finance Act 1988; office and premises; assessment evidence; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council 1976; more weight to properties similar in character; appeal dismissed

Before:

MRS OO ROBSON
MRS V TUNNICLIFFE

Between:

HYPERION SERVICES LIMITED **Appellant**

- and -

NICOLA JOHNSON
(VALUATION OFFICER) **Respondent**

Regarding:

WHITTINGTON HOUSE, 1-7 WHITTINGTON AVENUE, LONDON EC3V 1LE
(the "subject property")

Appearances:
Alex Cottingham of Savills, for the Appellant
Andrew McKillop for the Respondent

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed. The Tribunal finds that the current rateable value (RV) is reasonable.

STATEMENT OF REASONS

Introduction

2. The subject property was shown in the 2017 Rating List as ‘offices and premises’ at £1,660,000 RV effective from 1 April 2017.

3. A challenge was submitted on 10 May 2019 which disputed the determination of the RV. The current RV was based on a rate of £475/m^2. The challenge proposed a reduction to £346/m^2 which produced a reduced RV of £1,210,000.

4. The challenge decision upheld the current RV, and the decision was subsequently appealed to this Tribunal. At the time of the hearing, the appellant confirmed that its current position was seeking a reduction to £380/m^2.

5. Both Mr McKillop, for the respondent and Mr Cottingham, for the appellant, appeared in a dual role of advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr Cottingham declared that he was instructed under a conditional fee. He declared that he accepted and understood that his overriding duty was to the Tribunal.

6. 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 and was allowable due to the Tribunals’ 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). The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

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

Preliminary issue

8. The appellant submitted a handout on the evening prior to the hearing. On the morning of the hearing, the respondent confirmed that they objected to its inclusion.

9. The panel noted that, under its directions, any request to include additional evidence should be submitted no later than four weeks prior to the hearing. The late submission therefore represents a clear departure from procedural requirements. In considering whether the evidence should be admitted, the panel had regard to Regulation 17A of the Valuation Tribunal for England (Procedure) Regulations, which governs the admission of new evidence in non-domestic rating appeals.

10. Regulation 17A provides that new evidence may only be admitted where it was not known to the party and could not reasonably have been obtained before the proposal was determined,

or where all parties agree to its admission. In this case, the respondent did not agree to the inclusion of the evidence.

11. The appellant submitted that the material was not previously available as it relied, in part, on analysis derived from the 2023 Rating List. However, the Panel noted that the 2023 Rating List has been in force for a considerable period, and no adequate explanation was provided as to why this analysis could not reasonably have been prepared and exchanged sooner.

12. The panel also had regard to the guidance in *Simpsons Malt & Others v Jones (VO)* and applied the three-stage test set out in *Denton v TH White Ltd*. At the first stage, the Panel found that the breach is both serious and significant, given that the evidence was served the night before the hearing, leaving the respondent with no proper opportunity to consider or respond.

13. At the second stage, the panel found that no good reason has been provided for the late service. While the appellant suggested that some elements of the analysis related to more recent information, this does not explain why the material was only produced immediately prior to the hearing.

14. At the third stage, having regard to all the circumstances, the panel considered that admitting the evidence would be contrary to the efficient and fair conduct of proceedings. It would prejudice the respondent and undermine compliance with the Tribunal’s directions.

15. The appellant asked whether a revised version of the material, excluding reliance on more recent data, could be relied upon as he considered that this would assist the Tribunal. The respondent maintained its objection, and the panel considered that it is for the appellant to present its case in accordance with the Tribunal’s directions.

16. In all the circumstances, the panel determined that the late evidence should not be admitted, and the appeal proceeded on the basis of the evidence properly before the Tribunal.

17. It was noted that the panel and the parties were working from different versions of the evidence bundle. The Tribunal held a more extensive bundle submitted at the time the appeal was lodged, whereas the appellant had prepared a condensed bundle. Although this had been sent to both the respondent and the Tribunal, it had not been received due to its size.

18. The parties confirmed that they were content to proceed in those circumstances. The panel took care to identify and direct all parties to the corresponding pages within its bundle to ensure that everyone was referring to the same material throughout the hearing.

19. The panel records its appreciation of the professionalism and cooperation of both parties in resolving this issue, which enabled the hearing to proceed efficiently despite the difficulties encountered.

20. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Relevant Law

21. The issue between the parties concerned the RV of the subject property, specifically, the base rate per m² that should apply.

22. The term ‘rateable value’ as defined in paragraph 2(1), 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;
>
> 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.”

23. The antecedent valuation date (AVD) for 2017 list rating appeals is 1 April 2015. The material day was 1 April 2017.

24. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta v Culverwell and Leicester City Council (*LVC/376/1975). This case had established six propositions, which gave clear guidance to be followed when assessing rateable value.

Discussion

25. The subject property was a mixed-use building of steel frame construction with a masonry finish arranged over seven floors. It was built in 1991 and comprehensively refurbished to a high, modern standard in 2009. It benefits from air conditioning and raised flooring and has a recorded area of 3766.45m^2.

26. Applying *Lotus & Delta* the panel noted that the subject property was let for a term of 10 years from September 2009. It was agreed at a rent of £1,449,645 per annum and included a rent-free period of 30 months. This was too far removed from the AVD to offer much assistance. There was a rent review on 8 September 2014 which confirmed nil increase. The appellant submitted that, as the review was upward-only, the absence of any increase provided a useful indication of the upper limit of rental value. Whilst the panel accepted that this evidence provides a starting point, it remained a rent review rather than an open market transaction and was therefore not afforded substantial weight. The panel therefore considered the wider evidence available to it.

27. It was the appellant’s contention that the £475/m^2 adopted by the respondent was excessive and that greater weight should be attached to evidence from properties within the immediate "micro-location" surrounding the subject. The appellant argued that a rate of £380/m^2 more accurately reflected the tone of the list.

28. He submitted that strong weight should be placed on 4-12 Whitting Avenue which was assessed at £324/m². The appellant accepted that quantum considerations were relevant given the size of the assessment but submitted that the property was superior in certain respects, including the presence of an atrium reception area, better natural light and a less constrained setting than the subject. The appellant further noted that both the subject property and 4–12 Whittington Avenue had been assessed at £325/m² in the 2010 Rating List. In the 2017 List, the assessment of 4–12 Whittington Avenue reflected a main space rate of £324/m². The appellant analysed the valuation approach adopted between the two rating lists and suggested that, after allowing for quantum adjustments, the valuation evidence indicated only a modest uplift in rental levels and supported a figure substantially below £475/m².

29. The panel found that whilst 4–12 Whittington Avenue was relevant for its location, the building dated from 1998 and had subsequently been demolished. Although the Tribunal is required to consider the property as it existed at the material date, the fact that the building was ultimately demolished suggested that it was approaching the end of its economic life. No evidence was produced to show that it had undergone refurbishment or upgrading comparable to the subject property's extensive 2009 refurbishment. Consequently, the panel considered it to be of limited assistance in determining the value of a modernised office building of the subject's quality.

30. Lloyds 1986 Bldg 1, Lime Steet was also relied on. This was assessed at £420/m² in the 2017 Rating List. Again, it was submitted that this property was assessed at the same rate as the subject in the 2010 rating list (£325/m²) with no clear justification as to the divergence between assessments. This property is located next door to the subject property so is very comparable in terms of location, however, it is a Grade I listed building with distinctive characteristics not shared by the subject. The panel therefore considered that care must be exercised when drawing direct valuation comparisons.

31. The appellant submitted that a rate of £380/m² represented a reasonable position between the assessments of 4–12 Whittington Avenue and Lloyd's Building, both of which are situated near the subject.

32. The appellant also referred to 25 Fenchurch Avenue (1368m²), 36-38 Leadenhall Street (123.18m²), The Willis, Lime Street (1659.90m²) and 12th flr Aviva building, St Helens (1008.60m²). These were assessed at values ranging from £440/m² to £515/m². The appellant analysed the relationship between the assessments appearing in the 2010 and 2017 Rating Lists and argued that the average movement supported a figure in the region of £380/m². The panel noted, however, that all these properties were materially smaller than the subject. Accordingly, size and quantum considerations limited the extent to which they could be used as direct indicators of value.

33. Taking the evidence as a whole, the appellant submitted that the proposed rate of £380/m² was supported by the assessments of neighbouring properties, the historic assessment relationships evident in the 2010 and 2017 Rating Lists, and the benchmark provided by the subject property's rent review. The appellant argued that, viewed collectively and in the absence of more direct rental evidence, these matters demonstrated that the current assessment was excessive.

34. The respondent's position was that the market had experienced rental growth and that little weight should be attached to the subject's 2014 rent review. The respondent relied upon a

number of offices which it considered comparable in terms of age, quality, character and location. These included:

- 145–146 Leadenhall Street, a ten-storey office building constructed in 1992 and situated directly opposite the Lloyd's Building. The property was considered to be of similar quality and character to the subject and had been agreed in the 2017 Rating List at £475/m².
- 80–84 Leadenhall Street, constructed in 1990 and refurbished in 2008/09, assessed at £450/m² on the basis of rental evidence within the building.
- 63 St Mary Axe, a seven-storey mixed-use building constructed in 1992 and refurbished in 2004, agreed at £475/m².
- 155 Fenchurch Street, originally built in 1986 and refurbished in 2011, which had been determined at £440/m² following a challenge.
- 5 Lloyd's Avenue, a building constructed in 1988 of steel-frame construction providing office accommodation above retail space, which the respondent considered to be of similar character and quality to the subject.

35. The respondent submitted that these properties established a tone of value in the range of £440/m² to £475/m² and supported the adopted assessment of the subject.

36. In reaching its decision, the panel considered the appellant’s analysis of percentage movements between the 2010 and 2017 rating lists. Whilst this provides some contextual assistance in assessing the consistency of assessments over time, the panel attached limited weight to it. The assessments relate to different antecedent valuation dates, and the panel therefore based its determination primarily upon the subject evidence and the comparable assessment evidence available for the 2017 Rating List

37. The panel placed less weight on the appellant’s key comparables. Although they were situated in the immediate locality, 4–12 Whittington Avenue appeared to be of an inferior standard and was subsequently demolished, suggesting that it was nearing the end of its economic life. The Lloyd's Building is a unique Grade I listed property. In addition, 25 Fenchurch Avenue comprises a mixed-use building incorporating a public house at ground floor level, whilst the Willis Building is a tower building of a different character and scale from the subject.

38. Greater weight was attached to the respondent's comparisons, which were generally more closely aligned with the subject in terms of age, construction, specification and overall character. These properties demonstrated a tone of value ranging from £440/m² to £475/m². Whilst the subject sat at the upper end of that range, the panel considered that its extensive refurbishment in 2009 was a significant factor. The panel accepted the respondent's submission that the refurbishment may not have been fully reflected in the 2010 Rating List assessment and that this provided a reasonable explanation for some of the differences identified by the appellant.

39. Having considered all of the evidence before it, the panel was not satisfied that the appellant had discharged the burden of proof that the existing assessment was excessive. Whilst the appellant provided a detailed case, the panel found that the weight of the comparable

evidence supported the respondent's valuation approach and the current adopted rate of £475/m².

Conclusion

40. In view of the above findings and conclusions, the Tribunal is satisfied that the rateable value shown in the 2017 Rating List is reasonable. The appeal is therefore dismissed.

Right of further appeal

41. 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.

42. 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 OO Robson, Senior Member (Chair)
Mrs V Tunnicliffe, Member
14 July 2026

Mrs C McAvoy
Clerk to the Tribunal
Date issued to the parties: 14 July 2026