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

Case No: CHG100697492

Sitting remotely using Microsoft Teams

Date: 23 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING, Local Government Finance Act 1988, Office and premises; Compiled List Entry; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

Before:
MS SE GARGARO
DR T WEBB

Between:

VIRTUAL OFFICE GROUP	**Appellant**
- and -	
ANDREW RICKETTS (VALUATION OFFICER)	**Respondent**

Regarding:
1ST-3RD FLOORS,180 PICCADILLY,LONDON,W1J 9ER
(the “appeal property”)

Mr K Rabbette of Rabbette Chartered Surveyors (Representing the Appellant)
Mr N Green (Representing the Respondent)

Hearing date: 25 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel find that the entry in the 2017 rating list was reasonable and should remain at £685,000 rateable value with effect from 1 April 2017.

Introduction

3. Mr Green stated that he was appearing as an advocate for the respondent.

4. Mr Rabbette was appearing on behalf of the appellant as advocate and expert witness. In view of the Upper Tribunal's judgment in Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC), he confirmed that he was under a fixed fee as expert witness and on a conditional fee as advocate.

5. He declared 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.

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

Background

7. The appellant made a proposal on 28 May 2021 to challenge the entry in the 2017 rating list of £685,000 with effect from 1 April 2017. The proposal sought a reduction to £407,500 to reflect a reduced unadjusted rate from £725/m^2 to £433.30/m^2.

8. The Valuation Officer (VO) did not find the proposal to be well founded, and a Challenge decision was issued on 22 September 2022 maintaining the existing entry in the rating list. An appeal against that decision was received by the Tribunal on 11 October 2022.

9. The property comprised of an "L-Shaped" corner building of pre-cast concrete construction. It had a basement, ground and six upper floors which was built between 1960-1962. It was refurbished in the mid to late 2000s. The basement and ground floor consisted of retail accommodation with the remaining upper floors being office accommodation. The appeal property was the largest in the building, situated over three floors and measured 900.16/m^2. There was only one other hereditament in the building which occupied as a whole floor, the remainder were occupied as half floors.

10. The property was located on the south side of Piccadilly at the junction with Duke Street in the St James' area of Westminster. The nearest stations were Piccadilly Circus and Green Park.

11. The issue to be determined by the Tribunal was the correct price per square metre. It was currently in the list at £725/m^2 which Mr Rabbette argued was over-assessed and sought a reduced rate of £433.30/m^2.

Preliminary issue

12. Part way through the hearing, after Mr Rabbette had presented his case, Mr Green raised a preliminary issue regarding a piece of evidence that Mr Rabbette had submitted as part of his appeal application to the Tribunal on 11 October 2022. The evidence contained selected paragraphs from an email from a different VO that had been sent on 10 June 2022. Mr Green argued that this was a 'without prejudice' offer that had been made between the VO and the appellant's representative.

13. Mr Rabbette argued that it was not labelled as 'without prejudice' and held that it should be admitted. Furthermore, he argued that the VO was unable to challenge his evidence as he was out of time in accordance with the Consolidated Practice Statement which stated that any objection had to be made within four weeks of the receipt of the appeal. Mr Rabbette provided a full copy of the email to the panel and Mr Green which was considered as part of the preliminary application.

14. The clerk informed the parties that Mr Green was outside the time limit to make an application for evidence to be excluded, therefore the panel would need to consider his reasonings for making the request out of time. The panel asked Mr Green why he was only submitting the request for evidence to be excluded at the hearing and not any earlier. Mr Green explained that he had only just been appointed the caseworker for this case so it had only just come to light.

15. The panel retired to consider Mr Green's application. In doing so they had regard to Upper Tribunal decision in Simpsons Malt Ltd and Other v Jones (VO) UKUT [2017] 460 and had regard to Denton v TH White Ltd [2014] 1 WLR 3926 which dealt with the non-compliance to directions. This laid out the three stage test which the panel had to consider.

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

Stage 2 – If the breach is considered to be serious or significant, then the panel need to consider why the failure or default occurred. The burden is on the defaulting party to persuade the tribunal 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 - If it is considered there is no good reason for the breach then 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 held that Mr Green's application at the hearing for the evidence to be excluded was a serious breach. The VO had been in receipt of the appeal bundle containing this evidence since 10 June 2022, which was some time ago. Furthermore, this appeal had been listed to previous hearing dates of 2 February 2024 and 2 September 2024. Therefore, the panel held that the VO had ample time to raise this issue. It was not considered to be appropriate to wait until halfway through the hearing to then raise a preliminary issue seeking evidence to be excluded. The panel determined that the VO had not given satisfactory

reasons for the late application and the panel then went on to consider all the circumstances of the case. The panel was mindful of the need to enforce orders and decide cases in a timely and proportionate manner, and decided that, in this case, the late application to exclude the evidence should be dismissed.

17. The panel asked either party if they had any objection to the full email being included and as neither party had any objection, the panel had regard to this when coming to its decision.

Relevant Law

18. The subject property must be valued by the statutory assumptions set out in in Schedule 6 to the Local Government Finance Act 1988 as follows:

"(1) 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."

19. The material date on which to consider the physical state of the hereditament and its locality was 1 April 2017, when the entry was made in the rating list. The valuation date for the 2017 rating list is 1 April 2015, the antecedent valuation date (AVD).

Discussion

20. Mr Rabbette stated that there were two leases on the appeal property which he had combined to a devalued rent of £431,926.80 per annum.

a) The lease for the First, Second and Third Floor West commenced on 24 June 2013 and expires on 28 September 2022. It was a stepped rent which in the first year was £292,000 per annum. In the second, third and four years the rent increased to £330,000 and in the four year it was £420,000 per annum. There was an upwards only open market rent review on the fifth anniversary of the term. There was no rent free period granted or premium paid. The lease was on a full repairing and insuring basis, by way of a service charge and insurance rent. The rent had been devalued to £452.77/m^2.

b) The lease on the Third Floor East commenced on 19 February 2014 until 28 September 2022. It was agreed at £125,940 per annum and a 15 months' rent free period was agreed from the lease commencement. The rent had been devalued to £463.58/m^2.

21. Mr Rabbette argued that he had attached a significant amount to these two rents. He noted that there was a difference of £10.81/m^2 which in his opinion reflected the difference in size between the two hereditaments.

22. He argued that the VO were not aware of the second lease on the appeal property and therefore erroneously disregarded the rental evidence in their valuation. He stated that the appeal property had been valued over 35% higher than the rent.

23. Mr Rabbette had carefully analysed rental evidence from every hereditament within the building and concluded that the force of quantum does exist in the building. He argued that an adjustment was required to reflect the difference in size for the appeal property given that it was situated over three floors, measuring 900.16/m^2.

24. Both Mr Rabbette and Mr Green had looked at rental evidence within the building as follows;

Address	Representative's comments	VO's comments
Fourth Floor East Size – 182.17/m^2 A New Letting Commenced on 23 February 2015	Devalued to £700.13/m^2 Having inspected the Forms of Return, Mr Rabbette found the evidence to be unreliable. He argued that much of the form had been left blank and was purported to have been completed by "Taner [sic] Rose" – which was a Different spelling to Tanner Rose. Mr Rabbette confirms he had spoken with the director of the firm who confirmed they had not been instructed by either landlord or tenant.	Devalued to £733.05/m^2 Whilst Mr Rabbette had argued that this rent was suspicious, Mr Green confirmed that a full copy of the lease had been obtained from Land Registry which confirmed the details within the Form of Return to be correct. Mr Green argued that greater weight should be attached to this rent as it was a new open market letting within close proximity to the AVD.
Fourth Floor West Size – 143.99/m^2 A New Letting Commenced on 23 February 2015	Devalued to £727.67/m^2 Having reviewed the accounts registered on Companies House, Mr Rabbette argued that the company was of inadequate covenant strength to normally be able to secure a lease on a property like this. The company's turnover was £144,688 for the financial year	Devalued to £811.80/m^2 A new open market letting close to the AVD. The VO argued strong weight should be attached to this rent.

	leading up to 31 December 2014. The headline rent was £126,630 per annum leaving the company just £18,058 in funds.	
Fifth Floor East Size – 190.34/m^2 A New Letting Commenced on 1 August 2014	Devalued to £688.07/m^2	Devalued to £694.93/m^2 Toned to the AVD at £760.53/m^2
Fifth Floor West Size – 127.24/m^2 A Lease Renewal Commenced on 1 February 2014	Devalued to £529.92/m^2	Devalued to £507.12/m^2 Toned to the AVD at £593.07/m^2.
Sixth Floor Size – 318.69/m^2 A Lease Renewal Commenced on 1 February 2014	Devalued to £463.48/m^2 Lease agreed on same date as Fifth Floor West, only difference being larger in size.	It devalued to £463.67/m^2 Toned to the AVD at £542.46/m^2.

25. Mr Rabbette argued that the rent on the Fourth Floor West should be treated with extreme suspicion due to a rent that had been agreed with a tenant of very poor financial standing at the date of letting. The rent on the Fourth Floor East was also suspicious given the lack of information on the Form of Return. Having regard to the other rents, Mr Rabbette stated in his opinion that a reasonable unadjusted rate for the smaller units would be £600/m^2. The Sixth Floor was the only property that had a full floor that devalued to £463.48/m^2. Having regard to the rent on the appeal property at £452.77/m^2, Mr Rabbette applied a 4.5% adjustment to allow for quantum equating to a revised rate of £433.30/m^2.

26. Mr Rabbette also referred to 1st Floor South, 33 Jermyn Street in London which was situated less than 200m east of the appeal property. It was developed in 2007 and comprised a mixture of Grade A office and retail accommodation over eight storeys. It was originally assessed with an unadjusted rate of £850/m^2 but had been reduced by way of an agreement to £766/m^2. Also, Eagle House at 108-110 Jermyn Street, London which was reconstructed in mid-1990's and was situated approximately 250 metres away. It comprised of a basement ground and six upper floors. This property was subject to a well-founded proposal which reduced the unadjusted rate from £950/m^2 to £700/m^2.

27. In response Mr Green explained that the rent on the appeal property for First, Second and Third Floor West had been analysed to £420.56/m^2 (compared to the representative's

analysis of £452.77/m^2). However, this rent was some distance from the AVD and required toning to reflect growth. He had used a CoStar rental growth chart which showed that rents within the St James's submarket increased by 25.40% between Q2 2013 and Q2 2015. This equated to a toned rent of £527.38/m^2. Third Floor East was a new letting effective from 19 February 2014. He had devalued it to £464.21/m^2 (compared to representative at £463.58/m^2) and then toned it to the AVD at £542.89/m^2.

28. Mr Green stated that little weight should be applied to this rent as the Form of Return stated that a premium of £31,250 was paid by the landlord to the tenant at the start of the lease. It is unknown what the premium was for. The Form of Return also stated that the rent was 'concessionary'.

29. Mr Green argued that less weight should be attached to the appeal property rent and regard to rental evidence within the building should be considered and weighted.

30. The VO argued that minimal weight should be applied to the representative's comparable properties in Jermyn Street as they were unchallenged assessments of a different age, size and character. He referred to 50 Jermy Street which adjoined the appeal property and had been valued at £800/m^2. It was of a similar age and character to the appeal property; however, it had been refurbished to a higher specification.

31. Mr Green disagreed that an office of slightly less than 1000/m^2 would attract a level of quantum at 48% nor that the rents within the building supported quantum being applied for the appeal property. The two rents on the appeal property analysed to a similar price despite the size difference of 744.29m^2 and 204.77/m^2. The Fourth Floor East (182.17/m^2) was a similar size to the Third Floor East (204.77/m^2) however the rents analysed to £733.05/m^2 and £464.21/m^2.

32. Mr Green explained that the VO had a standard application of quantum. In the 2017 list, a rate of 1% was applied to pre 1970's offices sized between 2000/m^2 and 2999/m^2. In further support he referred to eight settled challenges of similar sized offices, ranging between 754.20/m^2 to 1152.71/m^2 where no quantum had been applied. Furthermore, the representative had dealt with an appeal on the 2010 rating list which was reduced from £550/m^2 to £520/m^2 and no quantum was applied.

33. Having heard all the evidence presented from the parties, the panel determined that the current adopted rate was not unreasonable. The panel applied little weight to the rents on the appeal property as they were too far from the AVD.

34. The panel held that the best evidence was rental evidence on new lettings. The panel placed lesser weight on Fifth Floor East as it had commenced too far from the AVD on 1 August 2014.

35. The panel considered this rent in conjunction with the other two new lettings of Forth Floor East and Fourth Floor West. Fourth Floor East which had been devalued by the representative to £700.13/m^2 and to £733.05/m^2 by the VO. Fourth Floor West had been devalued to £727.67/m^2 by the representative and £811.80/m^2 by the VO. As both of these rents were from 23 February 2015, only two months prior to the AVD, the panel held that these rents were a good indication of the rental market at that time as they did not need toning to the AVD. The rents indicated that the market in the locality had increased from 1 August 2014 to the AVD, further supporting that £725/m^2 was not unreasonable for the

appeal property. Little weight was placed on the CoStar trends as the panel held the information to be too general.

36. Whilst the appellant's representative held these rents to be suspicious, the panel accepted that the VO had obtained a full copy of the lease from Land Registry that had confirmed the details contained within the Form of Return.

37. The panel placed lesser weight on the rental evidence for the Fifth Floor West and the Sixth Floor as these were lease renewals which had commenced on 1 February 2014, too far from the AVD.

38. The panel considered the comparable properties provided by the parties on Jermyn Street and held these to be of a different character and age. They had been valued at a higher rate than the appeal property and did not support a reduction on the appeal property. The property next door adjoining the appeal property had been valued at £800/m^2, higher than the appeal property to reflect difference in specification between the two buildings.

39. Next the panel considered if an adjustment for quantum should apply, and held that there was no evidence to support a reduction. The VO had provided settlement evidence on eight properties both smaller and larger than the appeal property that had been agreed and no quantum had been applied. Furthermore, whilst the panel were aware that each rating list should be considered on its own merits, the representative had been successful in obtaining a reduction in the 2010 rating list, but quantum had not been applied.

Determination

40. In view of the above findings and conclusions, the Tribunal finds that the price per square metre should remain at £725/m^2. The appeal was 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) within **four weeks** of the date this decision and statement of reasons is 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/.

Ms SE Gargaro, Senior Member (Presiding)

Dr T Webb, Senior Member

23 July 2025

Miss K Hendry
Clerk to the Tribunal
Date issued to the parties: 23 July 2025