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

Case No: CHG100720946

Sitting remotely using Microsoft Teams

Date: 27 May 2025

**SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988**

*2017 Rating List Appeal: Local Government Finance Act 1988; accuracy of the rateable value in the list as at 1 April 2023; office and premises; rental evidence; comparable assessments; appeal dismissed*

**Before:**
**Ms AG Cole Roberts**
**Dr S Penni**

**Between:**

**Druganalyst Limited** **Appellant**

**- and -**

**MS L DYER** **Respondent**

**Regarding:**
**5th Floor 172-174, Tottenham Court Road, London, W1T 7NX**
(the "subject property")

**Mr J Fitzsimmons of Ryan Group,** representing the **Appellant**
**Mr J Bean** for the **Respondent**

Hearing date: 30 April 2025

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**DECISION AND STATEMENT OF REASONS**

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## Decision

1. The appeal is dismissed.

2. The assessment was confirmed at rateable value (RV) £80,500 with effect from 1 April 2017.

## Introduction

3. This appeal has been brought in respect of 5th Floor 172-174, Tottenham Court Road, London, W1T 7NX (the “subject property”), which was entered in the 2017 rating list as ‘office and premises’ at RV £80,500, effective from 1 April 2017

4. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Ryan Group made an appeal to the Valuation Tribunal for England (VTE) on behalf of Druganalyst Limited. The appeal was made because the appellant did not agree with the Valuation Officer’s decision not to reduce the RV in the 2017 rating list following the challenge. The appellant sought a reduction to RV £65,000 with effect from 1 April 2017.

5. The appellant’s representative, when appearing as expert witness, stated that he was on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his client’s case.

6. The panel has 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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is allowable due to the Tribunal’s rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

7. It was therefore appropriate for the panel hearing the evidence to consider the ‘expert’ evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

8. Mr Bean stated that he was appearing as advocate only.

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

*<u>Background</u>*

10. The subject property is located on the fifth floor of the seven storey mixed use building. The building provides retail and public house space on ground floor and office accommodation above. The property is located on the west side of the Tottenham Court Road at the junction of Capper Street.

11. The appeal to the VTE was made on the grounds that the valuation for the subject property was not reasonable.

12. The base level of value adopted for the subject property was not agreed. The valuation officer had adopted £525.00/m$^2$, however, the appellant's representative sought a reduction to £425.00/m$^2$ in his analysis which resulted in a rateable value of £65,000.

**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;

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. The panel had to determine the rateable value for the subject property, which represented a rent that a hypothetical landlord and tenant would agree, as at the AVD, 1 April 2021. This common date was used to ensure that every property was treated in a consistent way.

15. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell (VO) and Leicester City Council* [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted. The panel noted that in this appeal there was a 5 year lease renewal effective 4 March 2018 when a rent of £95,046 per annum was agreed. The lease also allowed for a break option in the 3rd year. This rent analyses to £622.19/m$^2$ but as it was a lease renewal agreed three years after AVD, the parties agreed that little weight should be attached to it. The Valuation Officer had referred to a rent agreed effective from March 2013 of £65,153 per annum, however, this conflicted with the information included in their comparable rental evidence table. In the table the Valuation Officer stated that the rent was £85,815 per annum. The panel did not attach any significant weight to this rental evidence.

16. Mr Fitzsimmons did not consider that there was any reliable rental evidence available and referred to settlement evidence for comparable properties in his submission which he contended supported his argument that a base rate of £425.00/m$^2$ and RV of £65,000 were fair and reasonable.

- 175-176, Tottenham Court Road, London W1T 7NX, this property had a base rate of £425/$m^2$ and was adjacent to the subject property,
- 3rd Floor 237-247, Tottenham Court Road, London, and 4th Floor 237-247, Tottenham Court Road, London, these properties had been reduced from £525/$m^2$ to £425/$m^2$ at the challenge stage.
- 3rd Floor Ridgmore Street, London, and 4th Floor Ridgmore Street, London, these properties had been reduced from £575/$m^2$ to £475/$m^2$ a partial agreement at the check stage.
- 8th Floor Rear Lynton House 7-12, Tavistock Square, London, this property was 0.2 miles from the subject property and of better quality in Mr Fitzsimmons opinion, it had been reduced from £575/$m^2$ to £475/$m^2$
- 3rd Floor 60, Charlotte Street, London, this property had been reduced from £600/$m^2$ to £575/$m^2$, in Mr Fitzsimmons opinion this was a superior building valued in line with the subject property
- 5$^{th}$, 6$^{th}$ and 3rd Floors 76-80, Whitfield Street, London, these properties had been reduced from £525/$m^2$ to £475/$m^2$ and were very similar to the subject property in terms of age, build, and location.

17. Mr Fitzsimmons argued that these settlements of comparable properties illustrated that there have been numerous reductions in and around Tottenham Court Road. In particular he referred to the neighbouring property 175-176, Tottenham Court Road, London, which he believed was very similar to the subject but rated £100/$m^2$ lower.

18. Mr Bean referred to 5$^{th}$, 6$^{th}$ and 3rd Floors 76-80, Whitfield Street, which had been demolished, it was his opinion that this was an inferior location to that of the subject property, he questioned whether the landlord would have refurbished the property knowing it was going to be demolished. Mr Bean also argued that the locality of Lynton House 7-12, Tavistock Square, did not compare to that of Tottenham Court Road, he also stated that this comparable property was an inner terrace whilst the subject property was a corner unit. With respect to Ridgemount Street, again Mr Bean did not consider this to be a comparable location.

19. In respect of Charlotte Street, Mr Bean argued that this was an inferior location two streets away from the subject property. He stated that in London base rates can vary quite considerably between prestigious Streets and less popular streets within walking distance.

20. With respect to 175-176, Tottenham Court Road Mr Bean contended that this property which had since been demolished was outdated and in need of refurbishment, it did not appear to have secondary glazing, and there was no suspended ceiling. Access to this property was off a side street there was no access from Tottenham Court Road. This property also had a much smaller floor plate of 107.30$m^2$ as compared to 237.83$m^2$ for the subject property.

21. On questioning Mr Bean stated that the Valuation Officer was relying on the 2013 rent of £65,153 per annum which had been used as a basis for the valuation. Mr Fitzsimmons argued that this rent was too far removed from the AVD to be relevant.

22. The panel was aware that in appeals of this nature the legal burden of proof was on the appellant to show that the RV was not fair and reasonable. It considered the basket of evidence before it and determined that Mr Fitzsimmons had demonstrated that several settlements had been reached in the locality of the subject property and RVs had been reduced, however, these were properties in different locations, and of different age and build,

and the panel was not persuaded that these reductions supported a reduction for the subject property. With respect to 175-176, Tottenham Court Road, which was in a similar location, the panel did not find this property to be comparable to the subject property as it was not of the same quality and had since been demolished, it was of the opinion that a hypothetical tenant coming fresh to the scene would have been prepared to pay a higher rent for the subject property. The panel therefore found that the RV of £80,500 with effect from 1 April 2017 was fair and reasonable.

**Determination**

23. In view of the above findings and conclusions, the appeal was dismissed.

**Right of further appeal**

24. 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.

25. 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 AG Cole Roberts, Senior Member (Presiding)

Dr S Penni, Senior Member

27 May 2025

Mrs H Beresford
Clerk to the Tribunal
**Date issued to the parties:** 27 May 2025