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

Case No: CHG100738432

Sitting remotely using
Microsoft Teams

Date: 19 August 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141- rental evidence – shop and premises – tone of the rating list

Before:
MISS L MOSES
MS L DUBOW

Between:

POUNDLAND LIMITED **Appellant**

- and -

Karen Giles
(VALUATION OFFICER) **Respondent**

Regarding:
23 MARKET STREET, BARNSLEY, SOUTH YORKSHIRE S70 1SL
(the "subject property")

Mr S Hornby of Gerald Eve LLP, for the Appellant.
Mr P Duffield, for the Respondent

Hearing date: 30 July 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The Tribunal finds that the existing list entry is unreasonable and it should be reduced to £88,000 with effect from 1 April 2017.

Introduction

3. The appellant made a proposal to challenge the entry in the 2017 Rating List of £110,000 with effect from 1 April 2017. The proposal sought a reduction to £88,000. The Valuation Officer (VO) did not find the proposal to be well founded, and a Challenge decision was issued on 20 March 2023 upholding the existing valuation. An appeal against that decision was received by the Tribunal on 18 July 2023.

4. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Hornby declared that he was appearing for the appellant in a dual role as Advocate and Expert Witness. He confirmed that his firm was instructed under a fixed fee and there was no conditional or other success-based fee arrangement. Mr Duffield stated he was also appearing as Advocate and Expert Witness for the respondent.

5. During the hearing, Mr Hornby lost connection so the panel briefly adjourned proceedings while he reconnected. Mr Hornby was asked to recap his presentation, and the panel was satisfied that the brief loss of connectivity did not impact on his ability to participate in the hearing.

6. The subject hereditament is a retail unit located in a pedestrian area of Barnsley town centre. According to the VO's records, the property was built in the 1900s and comprises accommodation over four floors, including a small basement area. The Gross Internal Area of £2,205.80m^2 was not in dispute.

7. The issue before the Tribunal was the correct main space price for the valuation. The existing valuation was based on £50/m^2, and Mr Duffield defended this valuation. Mr Hornby sought a reduction to £40/m^2.

8. The material day on which to consider the property and its surroundings was 1 April 2017, as this was a challenge to the compiled list entry. The property must be valued as at the antecedent valuation date (AVD) of 1 April 2015.

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

Preliminary issue

10. Mr Duffield circulated some photographs of the subject property and comparable properties referenced by the parties. Mr Hornby confirmed he had no objection to these being admitted into evidence.

Relevant Law

11. The subject property must be valued by the statutory assumptions set out 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.”*

12. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141, mentioned by both parties, which provided guidance on the weight to be attached to different forms of evidence.

Discussion

13. In accordance with *Lotus & Delta*, the panel found that the starting point must be any rent passing on the subject property. In this case, the subject property was let for a five-year term from 25 March 2016 at a rent of £90,000. A twelve-month rent-free period was granted by the landlord as an incentive. The property was previously let from 30 June 2003 on a fifteen-year FRI lease and the open market rent under that letting was reviewed in June 2013 at £133,500.

14. The panel noted that the appellant’s rent was agreed just under a year after the AVD. Mr Hornby submitted that the previous occupant, the leaseholder from 2003, was 99p Stores. As a result, he contended that little to no fit out was needed when the appellant took over as they operate a very similar business model and the store merely needed re-branding. He therefore considered the twelve-month rent-free period should be treated as an incentive with no allowance for fit out. Mr Hornby analysed the rent for the second to fifth years over the five-year term and produced an adjusted rent of £72,000. He submitted this adjusted rent resulted in a unit price of £32.64/m^2, lower than the £40/m^2 sought in this case.

15. Mr Duffield contended that less weight should be given to rents agreed post AVD, as the hypothetical tenant would not be aware of those negotiations on the AVD. He submitted that the rent on the subject property from 2013 analysed to £62.04/m^2, comfortably above the £50/m^2 applied to the valuation. The panel noted that the rent from 2013 was almost two years before the AVD, whereas the appellant’s lease was agreed less than a year post AVD. Mr Duffield appeared to accept that the 2013 and 2016 rents on the subject property demonstrated a falling market in Barnsley, but he submitted the 2016 rent did not point to an absolute value for the subject property. The panel noted that Mr Hornby was not seeking a reduction to £32/m^2 in line with his analysis of the rent but a higher rate of £40/m^2 to reflect the AVD value. On balance the panel found that the 2016 rent was persuasive evidence, being a new letting close to the AVD on the subject property and it appeared to support a reduction.

16. Also referenced by the parties was another nearby shop occupied by Poundland at 10-12 Albert Street East, Barnsley S70 1RS. This shop was stated to be around fifty metres from the subject property but in a less valuable location. The prime retail area in Barnsley was submitted to be Cheapside, with Market Street being a secondary, but still desirable, location. Albert Street East, as evidenced by a map in the bundle, is a connecting street linking Market Street with Cheapside. Photographs were provided to show the different locations. The unit at 10-12 Albert Street East was valued at £32.50/m^2 to reflect its less valuable location.

17. Poundland has been in occupation of 10-12 Albert Street East since 1999 and the last rent review before the AVD was in 2014, when a nil increase was agreed. The panel concluded this meant that the unit's value then was no higher than the £75,000 agreed at the previous review in 2009. The lease was renewed post AVD on 25 March 2019 at £28,500. The panel concluded that the rent in 2019 was too far removed from the AVD to be of much assistance, but it did demonstrate the fall in the market for retail units in Barnsley.

18. Mr Duffield submitted that the current list entry for the subject property, £110,000, is lower than the 2010 list entry by 10.57% and 17.60% lower than the actual rent agreed on the property in 2013. He also highlighted that in the case of the Albert Street East shop the 2017 list entry is 13.57% below the 2010 list entry and 19.34% below the rent agreed on that unit in 2014. Mr Duffield stated that in his opinion it was not reasonable to draw comparisons between large shops and smaller zoned shops, due to the difference in size, occupation, trade, and availability in the marketplace. However, he went on to illustrate the lower value location in Albert Street East with reference to the Zone A price applied to shops there (£190/m^2) compared to those in Market Place (£375/m^2).

19. The panel accepted there is a value difference between retail space in Market Place and Albert Street East, and this was reflected in the valuations of the two Poundland stores. 10-12 Albert Street East being valued at £32.50/m^2 and the subject property at £50/m^2. The dispute was whether there was that much of a difference between the locations.

20. The VO's evidence contained reference to similar sized shops in Sheffield and Rotherham, valued at £50/m^2 and £65/m^2. However, the panel did not find these to be of much assistance when their rents would reflect the local market in those towns and not Barnsley. It found that the best evidence would be drawn from the same locality as the subject property. Therefore, little weight was given to the Sheffield and Rotherham examples.

21. Mr Hornby provided a table showing the reduction in rateable value between the 2010 and 2017 rating list for ten shops, seven in Market Street (including the subject property) and three in Albert Street East. Generally, the Tribunal gives little weight to comparisons between lists, as each property should be valued afresh for each list on the relevant AVD. However, Mr Hornby highlighted that there was a fairly consistent reduction between lists for shops in these locations ranging from 25% to 28%. The subject property's valuation in the 2017 list was 10.57% below that in the 2010 list. This added weight to the appellant's contention that the current valuation was unreasonable as the subject property appeared out of kilter with other shops.

22. Mr Hornby's evidence included an extract from the VO's rating manual as follows:

"The RV is the rent reasonably to be expected on 1 April 2015. But it would be too narrow a construction to base this only on evidence available up to that date. Rather, the RV is not necessarily what a valuer would have valued a property at if asked for his or her opinion on 1 April whilst using a basis the evidence then available to the valuer. The RV is what the

market would have paid on that day and it is reasonable to look at rents both before and after the AVD to establish what the market would actually have paid on 1 April, giving appropriate weight to those rents in terms of their proximity to the date and their degree of comparability. This is not a matter of using hindsight but of taking a 360-degree perspective. The task is not to decide what valuers on the day of the AVD would have valued a property at had they had the benefit of later rental evidence but to decide, using all the rental evidence now available, what rental level would have been achieved in the market at the AVD.

The date of a rent may differ from the AVD by not just a few months but a matter of years. Are these rents of any use? The hypothesis requires the valuer to determine the rent that might reasonably be expected to be paid at the AVD assuming physical factors at the material day. Rents agreed well before AVD may be good pointers if valuers are confident the market is relatively stable. In a rising or falling market they will not point to the absolute level but may serve to indicate the general movement in the market and suggests whether a higher or lower figure might be applicable at the AVD. The difficulty lies in having a reliable means of adjusting these later rents back to the AVD, which ultimately depends on judgment rather than more mechanical approaches such as indexing."

23. The panel concluded from this that there was an acceptance that post AVD rents may have value, and the less adjustment required to reflect the AVD, the more weight should be applied to the rent. In this appeal, there were two rents on the subject property, one in 2013 and one in 2016. These rents demonstrate the fall in the market and the panel found that most weight should be placed on the new letting from 2016. The 2013 rent review involved negotiations with an existing tenant but the 2016 rent was a new letting and therefore more reflective of the market at that time. While accepting it is almost a year after the AVD, the panel considered it required less adjustment than the 2013 rent and was a new letting, rather than a rent review, so it was more helpful in establishing the likely value on 1 April 2015.

24. After considering the evidence, the panel found that the existing entry in the 2017 list was unreasonable. The VO's own analysis of the subject property's 2016 rent produced £34.68/m^2, based on adjusting for a fit out period. This did not match Mr Hornby's analysis due to the different approaches to the rent-free period, but it was still significantly lower than the £50/m^2 applied to the existing valuation. The panel found that it was reasonable to consider the rent-free period to be all incentive as there would have been little fit out required in this case. Mr Hornby was not asking for £32/m^2 but £40/m^2 to reflect the higher market conditions at the AVD.

25. There was not a large basket of rental evidence for Barnsley and the VO seemed to have largely disregarded the subject property's 2016 rent because it was agreed post AVD. The panel found that it was the closest rent to the AVD and was a new letting on the subject property, so it carried most weight. Analysis by both parties produced a main space price well below the £50/m^2 applied to the existing valuation and the panel was not persuaded that the difference in the market between the AVD and the March 2016 letting would have been so significant. The appellant sought a figure higher than the analysis of the 2016 rent to account for the falling market from the AVD and the panel considered this reasonable. The appeal was therefore allowed.

Determination

26. In view of the above findings and conclusions, the Tribunal is satisfied that the current list entry is unreasonable and should be reduced.

27. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to amend the entry for 23 Market Street, Barnsley, South Yorkshire S70 1SL in the 2017 Rating List to £88,000 effective from 1 April 2017.

28. The Valuation Officer must comply with this Order within two weeks of its making.

Description	Size (m^2)	£/m^2	Value (£)
Ground Floor	934.60	40.00	37,384
First Floor	832.40	40.00	33,296
Second Floor	363.60	40.00	14,544
Basement	75.20	40.00	3,008
		Sub-total	88,232
		RV	88,000

Right of further appeal

29. 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.

30. 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/.

Miss L Moses, Vice President (Presiding)

Ms L Dubow, Senior Member

19 August 2025

Mrs A Sloan
Clerk to the Tribunal
Date issued to the parties: 19 August 2025