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

Case No: CHG100827795

Sitting remotely using Microsoft Teams

Date: 27 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; cafe and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council 1976; subject rent; comparable properties; zone A rate; appeal allowed in part

Before:
MS A VERMA
MR SM HOOBERMAN

Between:

L'ANTIPASTO CITY LTD — **Appellant**

- and -

NICOLA JOHNSON (VALUATION OFFICER) — **Respondent**

Regarding:
GND F 2-4, BOTOLPH ALLEY, LONDON EC3R 8DR
(the "subject property")

Appearances:
Joe McCarthy from Aitchison Raffety, for the appellant
Geoff Emery, for the respondent

Hearing date: 29 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part. The Tribunal Panel found that the rateable value (RV) was excessive and confirmed a zone A rate of £550/m^2.

Introduction

2. This appeal has been brought in respect of the following: Gnd F 2-4 Botolph Alley, London EC3R 8DR which was entered in the 2017 Rating List as 'cafe and premises' at £41,750 RV effective from 1 April 2017.

3. A challenge was submitted on 13 July 2022 which disputed the determination of the RV. The RV was assessed based on a tone of £700/m^2 in terms of zone A. The appellant challenged this and requested a reduction to £450/m^2. Within the respondent's challenge decision the respondent proposed a reduction to £650/m^2 which reduces the RV to £38,750. The challenge decision was appealed to the Tribunal as the appellant considers £450/m^2 to be supported in line with the original proposal which results in a reduced RV to £25,000.

4. Both Mr Emery, for the respondent, and Mr McCarthy, for the appellant, appeared in a dual role of advocate and expert witness and confirmed that they accepted and understood that their overriding duty was to the Tribunal. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr McCarthy declared that he was not instructed under a conditional fee.

5. The hearing of this appeal was conducted via Microsoft Teams. The panel member, Mr Hooberman, had a technical issue with his microphone. He could hear everyone present and if he had any questions during the hearing, it was agreed he would contribute by communicating via the clerk. The parties agreed to this and the panel was satisfied that the hearing could proceed with a full panel and no issues arose throughout.

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

Issue & Relevant Law

7. The issue between the parties concerned the RV of the subject property, specifically, the Zone A rate per m^2 that should apply.

8. 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."

9. The antecedent valuation date (AVD) for 2017 list rating appeals is 1 April 2015. The material day was 1 April 2017, this being the date the subject property entered the 2017 rating list.

10. 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, namely:

'(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

Discussion

11. The subject property is a café/restaurant situated in a pedestrian alley between Lovat Lane and Botolph Lane. It comprises the ground floor of a four storey terraced building and measured 71.45m^2. It was valued on scheme 387575 which values shops situated across the City of London that are not located in a specific shopping area.

12. In deciding this appeal, bearing the six propositions derived from *Lotus* in mind, the panel acknowledged that the starting point was the actual rent passing on the subject property. There was a twenty year lease renewal agreed on 25 June 2019 for an annual rent of £31,000 with no rent free period. The appellant had analysed this rent to £523.91 per m^2 (in terms of zone A) and the respondent analysed it to £550.11/m^2, inclusive of fit out.

13. There was also a previous rent review. The appellant stated that it was in June 2014 for an agreed rent at £25,000 per annum which had been analysed to £422.51/m^2. The respondent submitted that there was no information about a 2014 rent, but it did hold a form of return showing a new letting for seven years from 13 April 2012 at £25,000 which it had analysed to £443.63/m^2 which was inclusive of fit out. The appellant had not provided evidence in relation to a 2014 June agreement, and the previous case worker had been asked for this by the respondent but, in any case, Mr McCarthy's submission was that if 2012 or 2014 it still was under current RV and there was no spike in the rental market at this time, the growth had been relatively slow. It was therefore submitted that as the rental market was not turbulent so the pre and post AVD rents demonstrated that the current RV was excessive.

14. The panel found that, as at starting point, the rental evidence available on the subject property both pre and post AVD did seem to suggest that the adopted rate of £650/m2 was excessive. The RV of £38,750 was higher than both rents and it found this evidence to be persuasive. However, whilst the subject rent is the starting point it is not necessarily the best evidence and, as there was no agreement on or closer to the AVD, the panel was not minded to place all weight on one rent and found the correct approach in this appeal was to examine the basket of evidence brought before it.

15. Although evidence had been provided for properties located further away, at the hearing, the appellant clarified that he would be focusing on those within the immediate locality and will not be relying on the properties put forward by his previous colleague, which were in a different locality.

16. In addition to the subject property's rents, the panel considered the three other rents provided for properties situated on Botolph Alley. The rents had effective dates ranging from 13 October 2013 to 2 December 2016 and analysed to figures ranging from £491.53 to £995.03.

17. It was the appellant's contention that 7 Botolph Alley and (inc Bst 7 & 9) Pt Gnd F & Bst 8, Botolph Alley, London EC3R 8DR were Kiosks so therefore not as comparable to the subject property and were paying for a presence on the street as opposed to retail space. It was submitted that in other localities kiosks would usually be treated differently and would not be zoned. The appellant stated that although the area of (inc Bst 7 & 9) Pt Gnd F & Bst 8, Botolph Alley, London EC3R 8DR was recorded as 66.92m^2 only 11m^2 was the main space (as evidenced by the analysis calculation). The panel placed less weight to the two rents as it found that they were more akin to a Kiosk. The panel found that they had skewed the basket of rents as, when analysing it to the small main space area, it was producing analysed rents of over £900/m^2.

18. The panel preferred Bst-Gnd Flr 2, Botolph Alley, London EC3R 8DR as this was more comparable as it was not a kiosk. The rent was agreed on 2 December 2016 for a rent of £18,000 which had been analysed to £491.53 (the respondent had analysed it to £516.11

inclusive of fit out). This was a rent review, as opposed to a new lease, but in the absence of new lettings for similar properties, weight was attributed to this rent.

19. In respect of the differences between each party's analysis of the rents, the respondent had included an uplift for fit out and referred to the *Upper Tribunal's judgments in Bunyan (VO) v Acenden Ltd* [2023] UKUT 17 (LC) and *Masala Zone Limited v Golding (VO)* [2016] UKUT 0328 in support. The agent had questioned this but there were no proper arguments or expenditure put before the panel. The panel accepted that there would be value to tenants' improvements to the incoming hypothetical tenant However, in such cases the panel would have preferred more detail as, for example, if it related to air conditioning units this is usually reflected separately in the valuation.

20. In conclusion, the panel found that the subject property was excessively valued. However, it was not persuaded that the rate should be reduced to £450/m^2. There were no rents available as at the AVD to support the £450/m^2 and there was a question mark over the subject rent at 2014 so in fact it was further removed from AVD (2012). However, the panel found there to be some merit in the argument that the rental market would not have risen and fallen between this and the AVD, which the respondent had agreed with during the cross examination. Having regard to the Bst-Gnd Flr 2, Botolph Alley, London EC3R 8DR rent which was closer to the AVD, together with the subject property's rents, the panel determined that a rate of £550/m^2 was reasonable.

21. Applying the Zone A rate of £550/m^2 results in an RV of £33,000 as set out below:

Floor	Description	Area m²/Unit	£ per m2/unit	Value (£)
Ground	Retail Zone A	46.89	550.00	25789.50
Ground	Retail Zone B	24.56	275.00	6754.00
	Air conditioning	71.45	7	500.15
			Valuation sub -total	33043.65
			Valuation (RV)	**33,000**

Determination

22. In view of the above findings and conclusions, the appeal is allowed in part.

23. Under the provisions of regulations 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list to show the following:

Gnd F 2-4 Botolph Alley, London EC3R 8DR
£33,000 RV effective from 1 April 2017

24. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

25. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Right of further appeal

26. 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.

27. 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 A Verma, Senior Member (Presiding)

Mr SM Hooberman, Member

27 June 2025

Mrs C McAvoy
Clerk to the Tribunal
Date issued to the parties: 27 June 2025