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

Case No: CHG100893870

Sitting remotely using Microsoft Teams

Date: 13 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal: challenge against compiled list entry; offices and premises; base rate in dispute; accuracy of rateable value; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed

Before:

MR D HOGG
MR A ASANTE

Between:

FUNERAL PARTNERS LIMITED **Appellant**

- and -

Nicola Johnson
(VALUATION OFFICER) **Respondent**

Regarding:
971 -973, GARRATT LANE, LONDON SW17 0LW
(the "subject property")

Mr M Parvin of Ryan UK Property Tax Ltd (on behalf of the appellant as advocate and expert witness)
Miss S Chan (on behalf of the Respondent as advocate and expert witness)

Hearing date: 16 May 2025

DECISION AND STATEMENT OF REASONS

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Decision

1. The appeal is dismissed.

2. The Tribunal confirms the rateable value (RV) of £37,750 with effect from 1 April 2017.

Introduction

3. This appeal had been brought in respect of the subject property, which was entered in the 2017 Rating List as 'office and premises' at an RV of £37,750 effective from 1 April 2017.

4. The appellant's Challenge was submitted by Ryan UK Property Tax Ltd on behalf of the appellant on 10 January 2023 and sought a reduction in the RV to £30,250 with effect from 1 April 2017. The appeal to this Tribunal was made on 6 March 2024, following the (valuation officer's) VO's Decision Notice of 12 January 2024 in respect of the subject property

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable.

6. The subject property is a three storey masonry constructed property with office and workshop space of 343.19m^2 with an area in terms of main space (ITMS) of 294.54m^2. The appellant uses the subject property to provide the necessary preparation for a funeral and includes office and workshop space used for preparation of the bodies of the deceased, chapels of rest and rooms for wakes. It is situated at the intersection of Kharma Road and Garratt Lane in London approximately 0.2 miles from Tooting Broadway Underground Station. The VO submitted that the location of the subject property was close to places where religious funerals for Christians, Muslims, Ghanaians, Muslims, Sikhs, Jews and Buddhists take place and are within the same location.

7. Mr Parvin was appearing on behalf of the appellant as advocate and expert witness. Therefore, it was important to ascertain if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

8. Mr Parvin had confirmed that he was representing the appellant on a contingency fee basis and he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as his professional body, regardless of whether or not the evidence supported his client's case.

9. The panel accepted this expert witness evidence on the above basis as the appeal was not 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 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).

10. The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

Issue

12. The issue for the panel to decide was a finding on the main space rate for the subject property. The VO maintained that the main space rate of £125/m^2 giving an RV of £37,750 was reasonable. The appellant proposed a rate of £100/m^2 which would reduce the RV of the subject property to £30,250 with effect from 1 April 2017.

Relevant Law

13. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(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;
>
> 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.

14. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

15. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material date is 1 April 2017.

16. Where rental evidence is available, the weight to be attached should be considered in light of the six propositions set down in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

Discussion

17. The panel, in accordance with the first proposition in the case of *Lotus and Delta* "where the hereditament which is the subject of consideration is actually let, that rent should be taken as the starting basis" first turned to the rental evidence on the subject property. The subject property was held on a twenty year lease from 13 December 2010 with no rent free period at a headline rent of £27,000 per annum. Mr Parvin submitted that there was a rent review on 13 December 2015 and the rent was increased to £30,200 per annum. The following rent review on 13 December 2020 led to a nil increase in the rent. Mr Parvin submitted that the rent of £30,200 did not support a main space rate of £125/m^2 as the analysed rent was £102.53/m^2 suggesting a rate of £100/m^2 was more reasonable.

18. The panel noted the submissions from Mr Parvin that the rent review was an open market rent review, it was the closest rental evidence presented to the AVD, and was on the subject property itself. The panel was also aware that as submitted by the VO the only evidence to support the 2015 rent review was a signed memo dated 25 September 2020 when the next rent review took place. That memo does not make reference to the 2015 rent review and is only signed by the tenant and not the landlord. There was also the front sheet of the lease included in the evidence bundle signed on 13 December 2010 but this does not include reference to the details of if there should be rent reviews or what should be taken into account if a rent review was to take place. The panel therefore found that there was no robust evidence of the rent review and its outcome. The panel was also aware that the rental evidence on the subject property was only the 'starting basis' and other rental evidence on comparable properties must also be included in the basket of evidence to determine what the correct main space rate should be.

19. In his bundle the appellant's representative stated there were ten assessments, including the subject property, in the same scheme which all had a main space rate of £125/m^2. However, the subject property was the only one which had rental evidence close to the AVD. This the panel found demonstrated that a tone for the properties in the same scheme, in the locality of the subject property, had been established at £125/m^2. The panel found there was insufficient evidence to form the basis to change the main space rate only on the subject property and to take it out of line with the other nine properties in the same scheme.

20. The panel was aware as submitted by the VO that the appellant, Funeral Partners Limited, took over the funeral services business of JE Gillman & Son Ltd in 2010 and traded as Gillman Funeral Service and still does. This was the same brand name used by JE Gillman & Son Ltd. The landlord is the Trustees of the Late Mr VE & Mr Roger Gillman. The appellant also rented at least three other properties in Battersea, Carshalton and Norbury from the same landlord and they all operated as Gillman Funeral Service and provided the same services relating to the preparation of deceased persons for their funeral. The appellant had therefore been in essence occupying the subject property since December 2010 with a lease of twenty years.

21. Under the second proposition the panel was aware that "the more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in section 19(6) of the General Rate Act 1967 the more weight should be attached to it." The panel noted that the rent review on the subject property was close in time to the AVD but it could not determine how close it was in subject matter and conditions, as no evidence of that rent review was

provided. The panel therefore considered that on the basis that the lease was between connected parties and there was no evidence concerning the rent review it had to be cautious in how much weight it applied to this evidence

22. The panel assumed that the appellant would have been able to achieve a lower rent due to the landlord receiving security from the length of the lease. The rent would also have been affected due to the fact that the same landlord and tenant were party to three other leases which were again between connected parties. The panel attached weight to the fact that the other properties were also trading as Gillman Funeral Service and were funeral parlours. The panel therefore found that for these reasons it had to treat this rent review evidence with caution.

23. The panel the turned to the rental evidence of the VO on other properties she submitted were comparable with the subject property. This was in line with the third proposition in *Lotus and Delta* that "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". The panel was aware that the rental evidence of the subject property is only a 'starting basis'. Miss Chan on behalf of the VO referred the panel to the following comparable properties:

    a. Gnd Flr, 107 Trinity Road, had an ITMS of 117.18m^2. The rent was agreed on 24 July 2013 at £17,000 at a rent review which was analysed by the VO to £145.08/m^2. The liable party first occupied this property on 24 July 2009 under a ten year lease which had a rent review every five years. The main space rate applied was £175/m^2 giving an RV of £20,500.

    b. 1st Flr 14-16 Mitcham Road had an ITMS of 158.80m^2. It had a rent agreed at a rent review on 29 September 2013 at £25,000, which the VO analysed to £151.92/m^2. This comparable property operated as a solicitors practice and was first occupied on 1 March 2003 under a seven-year lease. The main space rate applied £155/m^2 and that resulted in an RV of £24,500. At the rent review on 1 September 2016 the rent was agreed at £28,500 which the VO analysed to £170.50/m^2.

    c. Bst & Gnd Flr Rear 182 Mitcham Road had an ITMS of 62.32m^2. It was a new three-year lease dated 24 September 2014 which had a rent of £7,800 which the VO analysed to £125.16/m^2. It had a main space rate of £125/m^2 which gave an RV of £7,700.

24. The panel found that Gnd Flr, 107 Trinity Road and 1st Flr, 14-16 Mitcham Road were both up to a mile away from the subject property in a different location. The property at 1st Flr 14-16 Mitcham Road was next to Tooting Broadway Station, which was a far better locality than that of the subject property. The panel found that both the rents were based on rent reviews, not new open market rental agreements, and the 29 September 2013 rent review on 1st Flr 14-16 Mitcham Road was too far removed from the AVD to put any real weight on. In connection with Bst & Gnd Flr Rear 182 Mitcham Road the panel found that although this evidence was connected with a new lease close to the AVD the ITMS was 232.21m^2 smaller than that of the subject property. The panel found that as all the comparable properties were substantially smaller than the subject property and it could therefore put little weight on them as comparators for the subject property.

25. The panel also noted the different mode and category of occupation of the comparable properties to the subject property. The comparable properties were a clinic, a solicitors practice and a beauty salon. The subject property was a funeral parlour offering all the necessary aspects required to be carried out prior to a funeral for a deceased person. It had all the necessary equipment and spaces required to be a funeral parlour which were completely different to the other use of the comparable properties The panel noted that in the fourth proposition from *Lotus and Delta* that “assessments of other comparable properties are relevant”. The substantially different modes and category of occupation of the comparable properties led the panel to view them as not being comparable to that of the subject property.

26. The panel found that the VO had failed to provide any comparable properties which were funeral parlours like the subject property, which the panel found unhelpful. Further the panel found that the comparable properties provided were in different locations, had different sizes, and were in a different mode and category of occupation to the subject property. The panel could put little weight on these properties as there was little “degree of comparability found in other properties” as stated in the fifth proposition from *Lotus and Delta* was very low.

27. The panel noted the sixth proposition from the case of *Lotus and Delta:* “it would be difficult to reject the evidence of the actual rent.” The panel was aware that the appellant’s agent had submitted that there was a rent passing close to the AVD under the rent review in 2015. However that rent was between connected parties, with no evidence presented of the review or its outcome. Further the same company had leases with the same landlord and for the same business of providing funeral parlours under the same trading name. There was no evidence of the rent review, only a memo dated five years later relating to the 2020 rent review and not the 2015 review. The rental evidence on the subject property was only the ‘starting basis’ in any event as found in the case of *Lotus and Delta* and was not to be relied on in isolation but only as part of the basket of evidence. The rental evidence on comparable properties must also be included when determining the correct “level of value” for the subject property.

Determination

28. The panel was aware that in appeals of this nature the burden of proof is on the appellant to prove their case and not the respondent. The panel found that the evidence presented by the appellant was insufficient and had limited weight due to it concerning connected parties. The appellant had not submitted any supporting comparable properties. The panel found that the appellant had therefore failed to prove their case. The panel found that the VO had also failed to provide any robust evidence supporting the present main space rate of £125/m^2. The panel was aware that the burden of proof rested with the appellant and the panel was not satisfied from the appellant’s evidence that the current RV was unreasonable and dismissed the appeal.

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/.

Mr D Hogg, Presiding Senior Member

Mr A Asante, Member

13 June 2025

Clerk to the Tribunal
Date issued to the parties: 13 June 2025