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

Case No: CHG100916888

Sitting remotely using
Microsoft Teams

Date: 7 November 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating Appeal; 2017 Rating List Appeal; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; *Bank and premises; Value to apply to vault and staff room area; appeal allowed.*

Before:
MR P BLYTHE-BARTRAM
MS B KNIGHT
MR S WOOD

Between:

METRO BANK PLC — **Appellant**

- and -

(VALUATION OFFICER) — **Respondent**

Regarding:
BST & GND FLRS, 227 TOTTENHAM COURT ROAD, LONDON W1T 7QE
(the “subject property”)

Mr S Berkley from Knight Frank LLP for the Appellant
Mr A Ngwube for the Respondent

Hearing date: 13 October 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed.

2. The Tribunal panel found that the Rateable Value (RV) with regards to Bst & Gnd Flrs, 227 Tottenham Court Road, London W1T 7QE, (hereafter, known as the subject property) should be reduced to £347,500 RV with effect from 1 April 2017.

Introduction

3. A Challenge was made against the accuracy of the Complied List assessment in the 2017 Rating List, by way of a proposal that was served on the Valuation Officer (VO) on 9 February 2023. After considering the proposal and evidence submitted during the Challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was issued on 4 December 2023. An appeal was submitted against that decision to this Tribunal on 14 April 2024 on the grounds that the current valuation for the subject property was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

4. Both Mr Berkley for the Appellant and Mr Ngwube for the Respondent appeared in a dual role as Advocate and Expert Witness. Mr Berkley declared that he was instructed on a conditional fee basis. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Berkley understood and accepted that his duty was to the Tribunal in giving his evidence and that he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client’s case.

5. The panel 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 Procedure regulations 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).

6. As part of their induction training, a new tribunal clerk was observing proceedings. It was explained to the parties that it was the panel’s intention to invite the new clerk to accompany it to the retiring room. The parties were assured that the new clerk would simply observe as part of their training. The parties did not have any issues or objections to this.

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

<u>*Background*</u>

8. The subject property, which was valued as a bank and premises, occupied the basement and ground floor of the building. It was located on Tottenham Court Road, offering convenient access to Oxford Street, with Goodge Street Underground Station nearby.

9. Both parties agreed that the property should be valued as a ‘bank and premises’ and zoned back from Tottenham Court Road in 6.10 m intervals. The overall floor area was broadly similar: 895.22 m² according to the VOA and 878.25 m² according to the appellant. The discrepancy related to the vault; if the vault was valued separately, its walls would need to be

excluded from the measurement, which accounts for the difference in the figures provided by each party.

10. The parties disagreed on how to value the strongroom/vault, which was located within Zones A and B of the premises, as well as the staff room at the rear. Mr Berkley treated these areas as separate line entries and applied a discounted rate compared to the zoned retail space. In contrast, Mr Ngwube zoned through these areas without applying any discount.

Preliminary issue

11. The panel was advised that Mr Ngwube submitted late evidence on 6 October 2025, one week before the hearing. This evidence included details of the subject property from the 2010 Rating List and a settlement obtained by the agent Knight Frank. Mr Berkley objected, arguing that this evidence had been available during the Challenge stage. Mr Ngwube acknowledged that the evidence was available during earlier discussions but maintained that it related to material matters previously handled by the same agent in the 2010 Rating List.

12. During the hearing, it was revealed that Mr Berkley had sent an email in June 2024 containing settlement details of comparable properties to both the VO and the Tribunal. However, neither party had received it. Mr Berkley provided a copy during the hearing, showing the email had been sent as claimed. Mr Ngwube raised no objection to including this email in Mr Berkley's evidence.

13. As Mr Berkley had objected to the late evidence submitted by Mr Ngwube, the panel retired to consider this matter in light of the Upper Tribunal decision in *Simpsons Malt Ltd etc. v Jones* (VO) UKUT [2017] 460 and had regard to the test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926.

    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 – 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 may be good reasons but overlooking a deadline is not (para. 54).

    Stage 3 - 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;

    c. The need to enforce compliance with rules, directions and orders (para. 55). However, such matters are the handmaids and not the mistress of justice and must never be allowed to assume a greater importance than doing justice (para. 56).

14. The panel considered whether the breach was minor or significant. The VO had submitted late evidence that was available during the Challenge stage, and the panel regarded this as a serious breach. The evidence was provided only one week before the hearing. The VO acknowledged that he discovered the evidence while preparing for the case and believed it was relevant and should be taken into account by the panel when reaching its decision.

15. The panel noted that the evidence concerned material matters relating to the subject property during the 2010 Rating List and had been handled by the same agent. Mr Berkley advised the panel that the matter had previously been dealt with by a colleague at Knight Frank. However, because the evidence was submitted just one week before the hearing, he had not had sufficient time to respond to its details.

16. The panel noted that it had discretion to exclude the late evidence. However, it referred to Stage 3(b), which states: *"the failure to grant a sanction may leave an inaccuracy being uncorrected."* As the evidence related to the subject property, even though it concerned an earlier Rating List and involved material matters previously addressed by the same agent, which resulted in a reduction in RV for the property in the 2010 Rating List, the panel decided to admit the late documents into Mr Ngwube's evidence pack.

17. The newly submitted evidence concerned an agreement between the agent and the VO regarding the 2010 Rating List, which led to a reduction in RV. The agreed total area was 882.61 m², with an ITMS area of 199.57 m². The panel noted that this agreement was reached on 18 March 2011. Mr Berkley informed the panel that the appellant installed the vault sometime in 2011, though the exact date was unknown. The panel reviewed the survey sheet included in the new evidence, which recorded details of the premises on 20 April 2011. The survey made no reference to a vault or a staff room. Therefore, these details did not assist the panel in reaching its decision.

Relevant Law

18. The term 'rateable value' is 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 various assumptions.

19. 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).

20. 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 day was 1 April 2017.

21. The case law on *Scottish and Newcastle Retail and Another v Williams* (VO) LT [2000] RA119 CA [2001] RA 41 had been quoted, where 'rebus sic stantibus' was discussed.

Discussion

22. The panel noted Mr Ngwube's argument that introducing a separate line entry would reduce the already low RV of the subject property. He highlighted that the passing rent of £425,000 effective from November 2010 and unchanged throughout the 15-year lease term, suggested that a further reduction would be unjustified.

23. Mr Berkley informed the panel that a rent review took place in 2015, intended as a standard upwards-only review. However, the rent remained unchanged, as it was accepted that rental values had declined at that time. He added that many High Street banks in Reading had closed branches during this period. The panel noted, however, that no supporting evidence was provided with regards to this statement.

24. The panel concluded that, although rental details were provided for the subject property, the key issue concerned the vault's floor area and the staff room area, as well as the appropriate valuation approach. The rental information did not assist in resolving this matter, and therefore the panel placed limited weight on those details.

25. The panel was informed that the appellant had initially intended to install a vault at the rear of the building. However, due to structural constraints, such as the presence of pillars or beams, the vault was instead positioned at the front of the premises. Mr Berkley stated that the steel strong room was a structural alteration to the property which cannot be ignored.

26. When valuing a property, the VO must consider the optimal rental value that a landlord could reasonably expect to achieve, based on the property's physical characteristics and its potential use in the open market. Mr Ngwube stated, that although the property was described as a bank and premises, the VO adopted a retail valuation approach, applying zoning methodology to assess the floor space and as the vault had been placed in prominent position at the front of the unit, between Zone A and Zone B, Mr Ngwube was of the opinion that a lower value should not apply. The VO justified this by referencing the lease agreement, which indicated that the vault was not an essential feature. Therefore, it was assumed that upon termination of the tenancy, the space would revert to its original condition prior to occupation.

27. The panel first examined the rationale behind the appellant's decision to install the vault at the front of the property rather than at the rear. It accepted the explanation that structural constraints, such as the presence of beams or pillars, made the rear location impractical, and found this reasoning to be credible.

28. Mr Berkley informed the panel that the vault constituted a structural alteration to the property, constructed from steel panels with concrete infill. He referred to the Valuation Office Agency's (VOA) Rating Manual, which stated that strongrooms should be separately identified within a valuation assessment.

29. In addition, he referenced case law from *Scottish and Newcastle Retail and Another v Williams (VO) LT [2000] RA 119; CA [2001] RA 41*, which established that a property should be valued 'rebus sic stantibus', as it stands. On this basis, he argued that staff room and the vault should be separately identified and valued.

30. The panel considered the judgment of *Scottish and Newcastle* and found that this judgment applied with regards to this case. The panel was aware that there were two limbs to the rebus sic stantibus rule, which must be treated separately. The first rule being that the physical state of the property had to be regarded as at the material day (1 April 2017). The only alterations permitted were minor alterations of a non-structural character. On this point, the panel had not been presented with any evidence to suggest there had been any major physical changes to the subject hereditament. It was confirmed that the subject hereditament had the addition of a vault and a staff room. As the walls around the vault were considered to be of a non permanent nature, any alterations made would have been minor in nature and would not offend the rebus rule.

31. The second limb of the rebus sic stantibus rule was that it had to be assumed that the hereditament could only be occupied for a purpose within the same mode or category of purpose as that for which it was being occupied on the material day. Any prospective change of use outside that mode or category should be ignored. The panel found that the changes made, which was the inclusion of the vault and staff room, was not outside the mode and category of use. As such, the question to be addressed was in what mode or category of use did the subject property's actual use place it on the material day. The panel found that as of the material day of 1 April 2017, the vault had already been installed. Therefore, the subject property had been used and was used as a bank.

32. Mr Berkley proposed applying 15% of the Zone A rate to the vault area and 10% of the Zone A rate to the staff room area within the subject property's assessment. He referred the panel to comparable properties of other Metro Banks, where vault areas and staff rooms were valued separately. The comparable properties cited were The Chiswick Bank, Southampton Bank, and Reading Bank. Mr Ngwube then provided comments on each of these comparables.

    (a) The Chiswick Bank. The floor plan indicates that the vault is integrated into the main floor space, suggesting a purpose-built bank. The separate value applied to this property for the vault was 70% of the Zone A value. This would warrant a different valuation approach compared to the subject property, as this property was a purpose-built bank. The panel noted, that while the subject property was not purpose-built, it had been fitted out as a bank and included a vault on the ground floor. This comparable property did not have a staff room included within its assessment.

    (b) Southampton Bank. The floor plan shows the vault incorporated within a structural wall. When vacant and available to let, the property was valued as retail space with permanent ground-floor storage. Although the property was valued as a retail unit, it was agreed that the vault should be separately assessed. The vault was assessed at £142.50 per m², representing 10% of the Zone A rate of £1,500 per m². Additionally, the staff room, located on the first floor, was assessed as a separate line entry at 5% of the Zone A rate.

    (c) Reading Bank. The floor plan indicates that the vault is a prominent feature of the unit and would remain after the tenancy ended. Although the property was valued as a retail unit, it was agreed that the vault should be separately assessed. The vault was valued at £142.50 per m², representing 15% of the Zone A rate of £950 per m². The staff room was also treated as a separate line entry and assessed at 5% of the Zone A rate.

33. The panel noted that the subject property included a basement storage area and a computer room, both of which could serve various purposes if the property were marketed as vacant and to let. Similar to Reading Bank, which was valued as a retail unit, the panel considered the vault to be a significant feature of the unit. Both the staff rooms for Southampton Bank and Reading Bank were situated on the first floor of their buildings, both with 5% of the Zone A rate applied for these areas.

34. Mr Berkley also provided settlement details of comparable properties where the values of the vaults and staff rooms had been agreed to be lower values. The comparable properties were 75 Piccadilly, London W1J 8HU; 7 London Wall, London, EC2M 5ET and 38 Hugh Street,

Chelmsford, CM1 1BE. These challenges were agreed / determined between January and May 2024, which was after the Challenge decision with regards to the subject property.

35. The panel gave particular consideration to a comparable property located in Piccadilly, London, given its proximity within the West End. In that case, it had been accepted that the vault installed at the rear of the property should be valued at a reduced rate. Based on this precedent, the panel concluded that the vault area within the subject hereditament should similarly be assessed at a lower value. No material differences were identified between the two properties, aside from the specific location of each vault within the respective buildings.

Determination

36. Based on its findings and conclusions, the Tribunal panel determined that Mr Berkley had provided sufficient evidence to justify valuing the vault and staff room as separate entries within the subject property's assessment. The panel considered his proposed figures, referencing the comparable properties assessments, to be fair and reasonable. Accordingly, the appeal was allowed.

Order

37. 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 alter the list entry for the subject property to £347,500 RV with effect from 1 April 2017. The Valuation Officer must comply with this Order within 2 weeks of its making.

Refund of appeal fee

38. The Appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Right of further appeal

39. 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.

40. 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 P Blythe-Bartram, Senior Member (Presiding)
Ms B Knight, Senior Member
Mr SP Wood, Senior Member

7 November 2025

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 7 November 2025