



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

Case No: CHG100920267

**Sitting remotely using
Microsoft Teams**

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating; 2017 Rating list appeal; Local Government Finance Act 1988; Day Nursery and premises; Lotus and Delta v Culverwell (VO) [1976] RA 141; Comparable assessments; End allowance; Revised Decision; Appeal allowed in part.

Before:

**MR A RAMSAY
PROF. I SOLANKE**

Between:

ACPH LTD

Appellant

- and -

THE VALUATION OFFICER

Respondent

Regarding:

**THE PAVILION 49A, GOLDSTONE VILLAS,
HOVE, EAST SUSSEX BN3 3RT**

**Mr Andrew Bacon of JMA Chartered Surveyors for the appellant,
Ms Nicola Harrison for the respondent.**

Hearing date: 27 MAY 2025

DECISION AND STATEMENT OF REASONS

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Decision

1. The appeal was allowed in part.
2. The Rateable Value (RV) of the appeal property was decided at £24,750 on a rate of £200/m² with effect from 1 April 2017.

Introduction

3. This 2017 rating list appeal had been brought in respect of the following: the appellant was the non-domestic ratepayer of the appeal property The Pavilion 49A, Goldstone Villas, Hove, East Sussex BN3 3RT.
4. The property had been entered in the 2017 rating list as Day Nursery and premises based on a rate of £250/m² giving an RV of £31,000 with effect from 1 April 2017.
5. A challenge proposal was submitted by the appellant's representative on 13 February 2023 to reduce the rate to £150/m² with a 10% end allowance to give an RV of £16,500.
6. The valuation officer (VO) issued a challenge decision notice on 29 September 2023 which stated that the rating list entry was unreasonable based on the evidence and information available but disagreed with the entry proposed in the submission.
7. The rating list entry was amended to show an RV of £27,750 based on a rate of £225/m² with effect from 1 April 2017.
8. The appeal property was a 1990's built brick / tile office converted to a day nursery with outside play. It was situated at the rear of Goldstone Villas on a bus route and was within a short walk to the train station.
9. The appellant was represented by Mr Andrew Bacon of JMA Chartered Surveyors who appeared as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC) he confirmed that he was instructed under a conditional fee arrangement. 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 the requirements of his professional body, regardless of whether or not the evidence supported the client's case.
10. 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).
11. The panel therefore considered the expert evidence and attached such weight to it as it saw fit.
12. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Relevant Law

13. Local Government Finance Act 1988.
14. *Lotus and Delta v Culverwell (VO)* [1976] RA 141.

Issue

15. The issue in dispute was the RV of the appeal property.

Discussion

16. The bundle comprised all of the documents exchanged between the parties as part of the challenge process including the appellant's challenge submission, initial response to the challenge and the VO's challenge case decision notice.
17. On 21 May 2025 the VO's representative emailed the tribunal and the appellant's representative with her revised valuation of the appeal property at £24,750 RV based on a rate of £200/m² advising that this was what she would be defending at the hearing. Although £24,750 was shown in the VO's Decision Notice as the new Rating list entry, this was a typo as the list entry had not actually been amended.
18. At the start of the hearing both parties confirmed that the RV to be evidenced was £24,750. This tribunal decision supersedes the tribunal's decision issued 25 June 2025.
19. The panel was aware that 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. The material day (the date by which physical factors have to be taken into account) in respect of this appeal was 1 April 2017.
20. The panel was also aware that the leading case law in non-domestic property valuation was *Lotus and Delta v Culverwell (VO)* [1976] RA 141 which sets out the manner by which a property should be valued. This judgment 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, however, the panel noted that the appeal property was occupied freehold and there was therefore no rental evidence to be considered.
21. In line with the *Lotus and Delta* case the panel was therefore required to consider rents as well as assessments on other comparable properties. All of the evidence could then be weighted.
22. The appellant's representative referred to the photograph of the front of the appeal property and stated that the access through an alleyway between two buildings was poor. Further, the space for parking was poor and for these reasons he felt that an end allowance of 10% was appropriate.
23. He then referred to three settlements in Hove on a rate of £150/m² at 209 Portland Road, 8 Westway and 9 Nizells Avenue submitting that they supported a reduction in the appeal property rate.
24. However, the VO's representative argued that these properties were not directly comparable to the appeal property as they were either of inferior construction or location and provided only day sessional care. 9 Nizells Avenue was a converted house and was a 16 minute walk from the station with no parking.

25. The panel found that the submitted assessment summary showed that converted nurseries in Hove providing full day care were generally valued between £225 and £275/m². The three settlement properties were valued at the lower rate as they were not as good conversions and did not have as good transport links. The panel therefore found that they did not support a reduction in rate for the appeal property to £150/m².
26. The appellant's representative had submitted comments on the VO's schedule of comparable rental evidence but he had disregarded most of them because, as examples, the lease included "goodwill" or included a 6 year rent free period or incorrectly included fit out costs.
27. In his opinion, only the rental evidence in respect of 126 & 128 New Church Road were significant. This was because this was let on a new ten year Full Repairs and Insurance (FRI) basis from 2010. The rent analysed to £147.23/m² and he felt that this supported a reduction on the appeal property rate to £150/m².
28. However, the panel adjourned the Hearing at this point at 13:20pm as it became clear that the appellant's representative was submitting different details for the properties on the schedule to the VO's representative. For example, in respect of 44 Cromwell Road he had stated that there had been a rent free period whereas the VO's representative advised that this was not stated on the Form of Return (FOR).
29. The panel returned at 13:27pm and, upon questioning, the appellant's representative stated that he had not seen the FOR's for the properties listed. The panel found that it was difficult to rely on some of the evidence he had submitted.
30. The panel found that the FOR information given by the VO's representative varied, however, the majority were leases set at the open market value (OMV) and therefore provided good evidence of the prevailing rate for properties of this type in this locality. The panel noted that some leases did include fit outs or the landlord was responsible for insurance for the first six months, however, the panel found that it constituted a good basket of evidence and considered it in the context of the conditions attached. The panel also took into consideration the effective dates of the rents as, at the AVD, some were rent reviews and not new market lettings.
31. The VO's representative submitted that the rental evidence in respect of 44 and 46 Cromwell Road was useful evidence. The rents devalued to £183.80 and £182.54/m² respectively, however, both properties were further away from the station, larger and on two floors, aspects she felt would demand a lower rental value. Similarly, 126 & 128 New Church Road were both much larger and further away from the station and also therefore of lesser value.
32. The panel found that the rents for all of these properties analysed between £147.23/m² to £288.14/m² and that the rate for the appeal property at £200/m² was therefore reasonable.
33. The VO's representative had inspected the appeal property on 3 May 2024 and submitted that access was via a double gate which was wide enough to accommodate traffic. She stated that the request for the 10% end allowance had only been raised at the rebuttal stage and, in any case, no evidence had been provided to support the request. In respect of the car parking, she had been advised by the occupants of the adjacent property that no-one was allowed to park in the access to the appeal property from the road.
34. The panel found that there was little evidence to support an end allowance for access.

35. The VO's representative also submitted that whilst the appeal property was situated behind two houses this was not a negative factor as it made it more private and safer. It was located on the ground and first floors only and this would support a higher value than properties covering, say, four floors.
36. Further, the appeal property offered earlier opening and later closing times than the two properties submitted by the appellant's representative at 9 Nizells Avenue and 209 Portland Road and this would make it a more attractive nursery for commuters.
37. The panel found that it was clear that location, layout and hours of opening were important and that the appeal property was clearly superior in these aspects to many other similar properties nearby.
38. The panel found that the VO's representative had provided good rental and comparable assessment evidence in support of the rate of £200/m² for the appeal property. The panel also found that no evidence had been submitted that supported a reduced rate or an end allowance for access.

Decision

39. The panel therefore found that the rate of £200/m² and RV of £24,750 for the appeal property was supported by comparable rental evidence and the appeal was therefore allowed in part.

Description	Area m ²	£/m ²	Value (£)
Ground floor reception / entrance	9.92	£200.00	£1,984
Ground floor nursery	9.95	£200.00	£1,990
Ground floor nursery	25.42	£200.00	£5,084
Ground floor kitchen	5.12	£150.00	£768
Ground floor staff toilets	0		
Ground floor nursery	32.08	£200.00	£6,416
First floor nursery	12.54	£180.00	£2,257
First floor nursery	12.49	£180.00	£2,248
First floor nursery	23	£180.00	£4,140
First floor staff toilets	0		
Total	130.52		£24,887

RV (rounded down) with effect from 1 April 2017 £24,750

Order

40. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, that the Valuation Officer, within two weeks of the date of this order, shall reduce the rateable value in the 2017 list in respect of The Pavilion 49A, Goldstone Villas, Hove, East Sussex BN3 3RT to an RV of £24,750 with effect from 1 April 2017.

41. A refund of the paid fee will now be arranged (Regulation 13E of the Non-Domestic Rating (Alteration of Lists & Appeals) (England) Regulations 2009. Provided there is no review of the Tribunal's decision the refund will take around six weeks to process.

Right of further appeal

42. 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.
43. 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 A Ramsay, Senior Member (Presiding)
Prof. I Solanke, Senior Member
15 July 2025

Mr D Adamson
Clerk to the Tribunal

Date issued to the parties: 15 July 2025