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

Case No: CHG100935037

Sitting remotely using Microsoft Teams

Date: 10 September 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal: Local Government Finance Act 1988; Café and Premises; Correct main space rate to be applied; Allowance Request; Appeal dismissed.

Before:
MR SP WOOD
MRS AE FIELDER

Between:

BOSWELLS COFFEE CO LTD **Appellant**

- and -

(VALUATION OFFICER) **Respondent**

Regarding:
BOSWELLS CAFE, 50 THE KENNET CENTRE, NEWBURY, RG14 5EN
(the "subject property")

Mr D Bullimore, from Lambert, Smith, Hampton representing the Appellant
Mr U Javed, representing the Respondent

Hearing date: 14 August 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel decided that the existing assessment for the subject property in the 2017 Rating List of £75,000 Rateable Value (RV) with effect from 1 April 2017 was not unreasonable.

Introduction

3. This appeal had been brought in respect of the following: Boswells Café, 50 Kennett Centre, Newbury RG14 5EN, which was entered in the 2017 Rating List as Café and Premises at £75,000 Rateable Value (RV), with effect from 1 April 2017.

4. The appellant's challenge to the Valuation Officer (VO) was made on 1 March 2023. The appeal to this Tribunal was made on 1 December 2023, following the VO's decision notice of 4 August 2023, that the subject property's Rateable Value would remain unaltered. The material day in this appeal is 1 April 2017.

5. Mr Bullimore 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 Mr Bullimore's 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). He confirmed that he was representing the appellant at the hearing on a contingency fee basis, declaring that he understood and accepted that his duty was to the Tribunal in giving his evidence and 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.

6. The panel have accepted this 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Background

8. The subject property is a café and premises situated in the Kennet Shopping Centre, Newbury, with two separate entrances for access. According to the respondent, it was constructed in 1985, with a total area measurement of 349.19m^2. The two storey subject property comprises sales and seating areas predominantly on the ground floor, with the first floor used for storage.

9. The appellant stated that the subject property had been impacted by the opening of the Parkway Shopping Centre in Newbury, which opened in October 2011, such that the Kennett Shopping Centre as a result of reduced demand and footfall had a number of vacant and void properties, properties let on short term leases, with rateable values having reduced substantially. No evidence in respect of these matters was submitted.

10. The subject property first entered the 2017 Rating List at £81,000 RV. At the check stage of this dispute, it had been reduced to £75,000.

11. The appellant sought a reduction in the RV of the subject property from £75,000 to £44,000, on the basis of the following two issues:
    - that the unadjusted rate (UAR), also referred to as the ‘main space rate’, of £275/m^2 was excessive and that it should be reduced to £200/m^2.
    - that an allowance of 20% be awarded in respect of size and layout issues that affected the subject property.

Relevant Law

12. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

13. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015, the Antecedent Valuation Date (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.

Discussion

14. In arriving at its decision, the panel first turned to the issue of whether the current UAR applied to the appeal property’s assessment was unreasonable. Mr Javed supported the existing UAR of £275/m^2. Mr Bullimore sought a reduced UAR of £200/m^2 stating that the rateable value did not fully or accurately take into account the evidence of comparable property assessments, with the appeal property having been subject to an increase of 48% between the 2010 and 2017 Rating Lists, whereas in the same shopping centre. retail assessments had seen a reduction of between 23 to 42%. He added that it was not credible that within the same shopping centre there was this substantial fall in the assessments of shops yet values of cafes and restaurants had seen a substantial increase. He contended the rental evidence within the shopping centre, at best, showed a flat market.

15. Mr Bullimore provided information about twenty five other properties in the Kennett Shopping Centre detailing their respective 2010 and 2017 Rating Lists assessments, as well as that of the subject property which had an RV of £50,500 in the 2010 Rating List. Of the numerous

properties provided by the appellant, apart from three, all the others were shops rather than cafes or restaurants, with one of these three not having an entry in the 2010 Rating List.

16. The panel was aware that the Lands Tribunal judgment in Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. This case had established six propositions that gave clear guidance to be followed when assessing rateable value. Bearing these six propositions in mind, the panel acknowledged that the rent on the subject property, where available, was considered to be the correct starting point and consideration to how that rent compared to the statutory definition of rateable value. The rents on similar properties were also considered and assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

17. In considering whether the current RV was reasonable, the panel turned to the rent passing on the subject property. The respondent's submission stated that the subject property is occupied on a 25 year lease, commencing from December 2004, adding that there was a rent review in March 2010 when a rent of £75,000 was agreed, with a rent review due in March 2015, which was not undertaken and as such the passing rent remained £75,000 per annum. The VO analysed this rent to £279.66/m^2. Furthermore, the respondent's records showed that this rental figure was stated to reflect 80% of the open market value.

18. References to rent of comparable properties listed as restaurants or cafes in the Kennett Shopping Centre was limited to the subject property itself, and Unit V4, which had a rent effective from June 2012, which analysed at £277.15/m^2, with a main space rate of £275/m^2. The respondent had referred to properties at 17, 16-18, and 32 Market Place, with all three properties with rents that analysed above £275/m^2, with main space rates at £300/m^2 or £325/m^2. Of the Market Place properties, the rents closest to the AVD were those for numbers 16-18, a rent review in August 2014, and a rent review for number 17, effective from March 2015. The appellant made reference to 30-32 Kennett Centre, which was a shop and premises valued on a retail zoned basis, at a zoned rate of £250/m^2.

19. With limited rental evidence available along with the appellant's view that the changes between the 2010 and 2017 Rating List had not been reflected appropriately in the values of restaurants and cafes in the shopping centre, the submission included evidence of assessments of several properties in the Kennett Shopping Centre and close to the subject property, to support the proposal that the unadjusted rate should be reduced to 200/m^2.

20. The panel considered the assessments of these comparable properties, paying particular regard to the properties highlighted during Mr Bullimore's oral evidence, of 20 Kennett Centre, Unit V3, Kennett Centre, and 58 Cheap Street, all with entries as 'restaurants and premises.' The first of these was assessed with a main space rate of £220/m^2, with the other two properties at £200/m^2. The panel was advised that 58 Cheap Street was first entered into the 2017 Rating List at £275/m^2, the same as the subject property and if these two properties were deemed to have the same value when entered into the 2017 Rating List, then it should follow that the subject property should also be assessed at £200/m^2.

21. Mr Javed commented that the assessments at V4 The Kennett Centre, 16-18, and 19 Market Place, with main space rates between £275/m^2 to £325/m^2, were more comparable to the subject property, referring to a plan to show that the subject property was situated closer to these properties than those valued at £200/m^2. He stated the properties relied upon by the respondent should be attached more weight than those referred to by the appellant, stating that 58 Cheap Street was looked at in more detail by the VO, finding it to be situated on a

quieter street where values fell away, hence its rate value being £200/m^2. As the subject property was superior to this property, he asserted that it should be valued with a rate in excess of £200/m^2.

22. The panel then turned to the appellant's request for an end allowance of 20% for issues of size and layout. There was an absence of evidence within the submissions to demonstrate that the subject property was disadvantaged to an extent in comparison to other similar properties, such that it necessitated an end allowance. During his oral submissions, Mr Bullimore stated that the request for an allowance of 20% was more of a value judgment, based on his experience, with the amount requested such that it would result in the rateable value of the subject property falling in line with the general tone of comparable properties in the locality.

23. In arriving at a decision, taking into account the documentary and oral evidence presented by both parties, the panel was not persuaded by the appellant that the rateable value of the subject property required amendment. The evidence presented, including the fact that the subject property's rent was stated to reflect 80% of the open market value, did not convince the panel that the current rate of £275/m^2 was excessive. Having regard to the propositions in Lotus and Delta v Culverwell (VO) and Leicester City Council [1976], the basket of evidence, from the starting point of the subject property's rent, along with the aforementioned comparable rent and assessment evidence, did not signify a rate reduction was warranted. Moreover, the panel looked to the appellant to evidentially demonstrate that the subject property was disadvantaged to an extent in comparison to other similar properties, such that it necessitated an end allowance. Sufficient evidence had not been presented to show this, with the panel deciding there to be insufficient evidence to justify an allowance be awarded.

Determination

24. In view of the above findings and conclusions, the panel was satisfied that the subject property's current assessment at a Rateable Value of £75,000 was not unreasonable. Accordingly, the appeal was dismissed.

Right of further appeal

25. 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.

26. 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 SP Wood, Senior Member (Presiding)
Mrs AE Fielder, Senior Member
10 September 2025

Mr R Patel
Clerk to the Tribunal
Date issued to the parties: 10 September 2025