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

Case No: CHG100963779

Sitting remotely using Microsoft Teams

Date: 8 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — warehouse unit; price per m^2 in dispute; rental evidence; comparable assessments; appeal allowed

Before:
MRS A FIELDER
MR A HUSSAIN

Between:

THE STOCKROOM (KENT) LIMITED — **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) — **Respondent**

Regarding:
10 SARACEN CLOSE, GILLINGHAM BUSINESS PARK, GILLINGHAM, ME8 0PY
(the "subject property")

Mr J Fitzsimmons from Ryan, representing the Appellant
Mr R Das for the Respondent

Hearing date: 18 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The panel determined a rateable value (RV) of £53,500, based upon £60 per m^2, with effect from 3 August 2018.

Introduction

3. This is a 2017 rating list appeal. 10 Saracen Close, Gillingham Business Park, Gillingham, ME8 0PY (the ‘subject property’) had been entered in the 2017 rating list as ‘offices and premises’ at £58,000 RV with effect from 3 August 2018, based upon £65 per m^2.

4. A challenge proposal was submitted by Altus Group (now Ryan) on behalf of The Stockroom (Kent) Limited, made on the grounds that the RV was inaccurate. A revised RV of £53,500 was proposed, based upon £60 per m^2.

5. The Valuation Officer issued a challenge case decision notice on 13 September 2023, which stated that, based upon the evidence and information available, the rating list entry was reasonable and there would be no change.

6. 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. The appeal was received by the Tribunal on 17 October 2023.

7. Mr Fitzsimmons appeared on behalf of the appellant 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 declared that he was instructed on a contingency based fee, and 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.

8. 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).

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

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

Preliminary issue

11. Mr Fitzsimmons stated that the rateable value of one of the comparable properties cited in the Valuation Officer's rental schedule had changed: 4 Saracen Close, Gillingham, ME8 0PY, had been well founded at £60 per m^2.

12. In response, Mr Das confirmed that he was aware of the agreement.

Relevant Law

13. Rateable value is to be determined in accordance with paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988, which provides:

    (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.

    (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.

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 day is 3 August 2018.

Discussion

16. The subject property is a modern industrial/warehouse unit located on Gillingham Business Park. The total area of the property is $901.53m^2$, or $895.05m^2$ in terms of main space (ITMS).

17. On behalf of the appellant, Mr Fitzsimmons sought a reduction from £65 to £60 per m^2, based upon rental and settlement evidence. For the Valuation Officer, Mr Das defended the present £65 per m^2 with reference to rental evidence.

18. Both parties referred to the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This case set out the

six propositions to have regard to when considering the weighting of evidence and expert opinion. These are:

(i) Where the property which is the subject of consideration is actually let, that rent should be taken as the starting point.

(ii) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements, the more weight should be attached to it.

(iii) 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 appeal property.

(iv) 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.

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

(vi) 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.

19. The subject rent commenced on 3 August 2018. Mr Fitzsimmons submitted that it was too far removed from the AVD to be considered reliable evidence. While the distance from the AVD was acknowledged, Mr Das highlighted that the subject passing rent of £72,000 did not support a reduction for the subject property assessed at £58,000 RV.

20. Mr Fitzsimmons submitted that the most compelling evidence in support of £60 per m^2 for the subject property, related to the rental analysis and settlement in respect of 4 Saracen Close. He highlighted that the Valuation Officer's analysis of the rent at £65.45 per m^2 had been based on incorrect lease terms. Mr Fitzsimmons analysed the rent effective from 18 October 2015 at £57.66 per m^2.

21. In consideration of the fact that the Valuation Officer had agreed a reduction from £65 to £60 per m^2 for 4 Saracen Close, Mr Fitzsimmons contended that the same price should apply to the subject property: both were identical in terms of age and location and had been valued at the same price per m^2 in the 2017 and 2023 rating lists.

22. In further support of £60 per m^2, Mr Fitzsimmons referred to the following rental evidence:

Unit 6 Chieftain Close

A unit of 750.89m^2 (618.42m^2 ITMS), the rent effective from 30 June 2014 analysed at £57.34 per m^2.

Units 2 - 5 Chieftain Close

The separate rents effective from 1 March 2014 (Unit 2) and 1 June 2014 (Unit 3, Unit 4 and Unit 5) analysed at £59.59 per m^2. The total area of the units was 2,527.39m^2.

7 Matilda Close

A unit of 503.22m^2 (338.04m^2 ITMS), the rent effective from 9 November 2015 analysed at £62.70 per m^2.

23. Mr Fitzsimmons contended that there was clear evidence to show that each level of quantum applied to properties within the scheme had been over assessed. In addition to the settlement for 4 Saracen Close, Phase 29 and Phase 32 Wozair Ltd, Grosvenor Road had been reduced from £55 to £50 per m^2.

24. In response to the Valuation Officer’s rental evidence, Mr Fitzsimmons submitted that 1 Saracen Close was subject to a five year lease with no incentives, and was out of kilter with the basket of evidence. Mr Fitzsimmons attached little weight to 2 Saracen Close, as this was an open ended agreement which did not fulfil the statutory requirements.

25. In defence of the present £65 per m^2, Mr Das referred to the rental evidence scheduled in the challenge decision:

1 Saracen Close

A unit of 813.85m^2 (827.82m^2 ITMS), the rent effective from 1 September 2014 analysed at £68.54 per m^2.

2 Saracen Close

A unit of 817.59m^2 (800.11m^2 ITMS), the rent effective from1 September 2015 analysed at £76.86 per m^2.

4 Saracen Close

A unit of 695.2m^2 (712.76m^2 ITMS), the rent effective from 16 October 2015 analysed at £65.45 per m^2

26. The appellant’s rental evidence had been disputed in the challenge decision as the majority was from 2014; Units 2-5 Chieftain Close were in the same occupation and therefore a beneficial rent may have applied; Unit 7 Matilda Close may also have been subject to a beneficial rent; the Wozair units were not considered to be relevant for comparison as they were significantly larger than the subject.

27. In consideration of the parties’ evidence and submissions, the panel found that the agreement in respect of 4 Saracen Close provided the most persuasive evidence. Although Mr Das sought to distinguish 4 Saracen Close from the subject property (as an older property with lower eaves height, and only one roller shutter door), it was significant to the panel that 4 Saracen Close had been scheduled as a comparable

property by the Valuation Officer in support of £65 per m^2. The panel heard from Mr Fitzsimmons that the subject property and 4 Saracen Close had been assessed at the same price per m^2 in the 2017 list (prior to 3 August 2018) and for the 2023 list. As such, the panel considered that the agreement to reduce the assessment of 4 Saracen Close provided support for the subject property at £60 per m^2.

28. The panel found further support for £60 per m^2 for the subject property with reference to the rental analysis of Unit 6 Chieftain Close at £57.34 per m^2. No specific rebuttal had been provided by the Valuation Officer, other than this was a 2014 rent. The panel noted that the Valuation Officer had also scheduled a 2014 rent, 1 Saracen Close, which was submitted to be "the best evidence". The panel decided to attach less weight to 1 Saracen Close as Mr Fitzsimmons had highlighted that, as a five year lease with no incentives, this rent appeared to be out of kilter with the basket of evidence.

29. The panel was not persuaded by the Valuation Officer's reliance on 2 Saracen Close in support of £65 per m^2, as it was clear that as an open ended agreement, the rental transaction did not conform to the statutory requirements.

30. The panel concluded that the weight of the evidence supported the appellant's case for a reduction to £60 per m^2.

Determination

31. In view of the above findings and conclusions, the panel is satisfied that the appellant's representative has demonstrated that the present RV of £58,000 is not reasonable, and therefore the appeal is allowed.

32. Under the provisions of regulation 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 alter the entry in the rating list to rateable value £53,500 with effect from 3 August 2018.

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

34. A refund of the paid fee will now be arranged provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Right of further appeal

35. 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.

36. 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/.

Mrs A Fielder, Senior Member (Presiding)

Mr Amran Hussain, Senior Member

8 July 2025

Mrs L Horne
Clerk to the Tribunal
Date issued to the parties: 8 July 2025