



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

Case No: CHG101054440

**Sitting remotely using
Microsoft Teams**

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

***Non-Domestic Rating; Local Government Finance Act 1988; Day Nursery and premises;
Lotus and Delta v Culverwell (VO) [1976] RA 141; Comparable assessments; Appeal
dismissed.***

Before:

**MR A RAMSAY
PROF. I SOLANKE**

Between:

ACPH LTD

Appellant

- and -

THE VALUATION OFFICER

Respondent

Regarding:

**HOPSCOTCH NURSERIES, THE OLD SCHOOL, CHURCH STREET,
SEAFORD, EAST SUSSEX BN25 1HH**

**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 dismissed.
2. The Rateable Value (RV) of the appeal property remains at £36,250 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 Hopscotch Nurseries, The Old School, Church Street, Seaford, East Sussex BN25 1HH.
4. The property had been entered in the 2017 rating list as Day Nursery and premises based on a rate of £140.00/m² giving an RV of £40,750 with effect from 1 April 2017.
5. A challenge proposal was submitted by the appellant's representative on 21 April 2023 to reduce the rate to £90/m².
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 £36,250 based on a rate of £125/m² with effect from 1 April 2017 and this was now the basis of the appeal.
8. The appeal property was a day nursery converted from a former school of brick, stone and slate construction. It was a secure site within the town centre with a two minute walk from the train station. There was a large outside all weather play area and two hour restricted parking. The nursery provided full day care between 7:30am to 5:30 pm for 51 weeks of the year.
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. 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.
18. The panel was 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 but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.
19. The appellant's representative stated that the demand for Day Nurseries was based on location and families, however, Seaford was a retirement town where a third of its residents were over 65 years of age.
20. Many of the Day Nurseries were owner occupied and there was little rental evidence. He submitted that the VO had based its original valuation of £140/m² as being the tone of value for Victorian day nurseries in Eastbourne and the surrounding area but, in fact, the tone ranged from £105/m² to £140/m². The most common rate was £120/m² as evidenced by the VO's comparable property summary of nurseries on the coast in the area and excluding large towns.
21. He stated that the rate on Victorian rented nurseries had been agreed based on their rents and referred to 93 Enys Road let on a lease from July 2014 of £18,000 p.a. with an area of 179.22m² which devalued to £100/m². The rate was agreed at £105/m² and, in his opinion, the appeal property should not be valued at a higher rate. Similarly, Gray's Nursery was valued at £125/m², however, it was in a better location than the appeal property and offered car parking which the appeal property did not.
22. For these reasons he felt that the appeal property should be valued on a rate of £90/m² giving an RV of £26,000 with effect from 1 April 2017.
23. The VO's representative stated that she had inspected the appeal property on 3 May 2024. It was a two minute walk from the train station, had a well-equipped play area and had been valued as a Day 2 Day Nursery Conversion on a rate of between £120 to £160/m² in this

location of Sussex coastal towns excluding Worthing, Brighton and Hove. It was not rented and there was no comparable rental evidence specific to Seaford. She referred to the extract from the Nurseries website marketing the appeal property as being in a convenient location and offering full nursery day care as well as flexible attendance patterns.

24. She referred to two properties in Seaford, the Micklefield Nursery School valued at £100/m² and St Johns Church Hall valued at £125/m². Neither of these valuations had been challenged and she felt that the appeal property being in a town centre location with excellent transport links close to the train station should not be valued lower than £125/m².
25. She also referred to Nurseries in Eastbourne with examples such as Gray's Nursery Annexe valued at £125/m² as well as 22 Saffrons Road valued at £140/m² and 12 The Avenue at £120.00/m². There was a range of values from £105 to £140/m².
26. For these reasons, £125/m² was reasonable for the appeal property.
27. The panel found that the appellant had not submitted any evidence that the appeal property should be valued at £90/m². The panel noted that the lowest rate submitted was that of the property at 93 Enys Road where the rent devalued to £100/m² with the valuation being £105/m². This was some way off the appellant's value of £90/m² and the panel found that nothing had been presented to support the appeal property warranting a lower valuation.
28. The range of valuations in Eastbourne was from £105 to £160/m² and the panel found that there was no unequivocal evidence that Seaford nurseries should always be valued in a lower range. Indeed, St Johns Church Hall was valued at £125/m², a higher rate than half of the Eastbourne properties. The panel found that as the two nurseries in Seaford had never been challenged and that this supported their valuation and that of the appeal property.
29. The panel also noted that the appeal property was in the best location of the Seaford nurseries. Micklefield Nursery School offered care between 9am to 3pm and was therefore valued lower than the appeal property due to such restrictions but also because it was of inferior construction. St Johns Hall catered for full day care but was further away from the train station and the panel found that this did not support a reduction in the appeal property's valuation.
30. The panel also found that with 19 of the 24 current live assessments in the same valuation scheme as the appeal property having not been challenged this supported the valuation of the appeal property.
31. The panel noted the appellant representatives' comments that there may have been charitable rates relief for Micklefield School or covid relief for other properties, however, the panel found that no evidence had been provided to support any of these statements.
32. The panel also noted that the appellant's representative agreed that the value of nurseries is affected by their location and the panel found that the VO's representative had made good account of this fact and the differences between the nurseries including their proximity to good transport links, in particular, for the appeal property.

Decision

33. In cases such as this the onus is on the appellant to provide sufficient evidence to support his case that the valuation of the appeal property was unreasonable, however, the panel found that no such evidence had been provided.
34. The appeal was therefore dismissed.

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/.

Mr A Ramsay, Senior Member (Presiding)
Prof. I Solanke, Senior Member
25 June 2025

Mr D Adamson
Clerk to the Tribunal

Date issued to the parties: 25 June 2025