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

Case No: CHG101056629

Sitting remotely using Microsoft Teams

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating; Local Government Finance Act 1988; Offices and premises; Fragmentation; End allowance; Lotus and Delta v Culverwell (VO) [1976] RA 141; Comparable assessments; Appeal allowed in part.

Before:

MRS L BRYNING
MR A IQBAL

Between:

JOHN STEVENS FOR JOHNSON MATTHEY PLC — **Appellant**

- and -

THE VALUATION OFFICER — **Respondent**

Regarding:

JOHNSON MATTHEY SERVICES LTD, BLOUNTS COURT ROAD, PEPPARD COMMON, HENLEY-ON-THAMES, OXON RG4 9NH

Mr Matthew Webb of Colliers International for the appellant,
Mr Usman Javed for the respondent.

Hearing date: 23 April 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The Rateable Value (RV) of the appeal property is reduced to £515,000 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 Johnson Matthey Services Ltd, Blounts Court Road, Peppard Common, Henley-On-Thames, Oxon RG4 9NH.

4. The property had been entered in the 2017 rating list as Offices and premises based on a rate of £110.00/m^2 giving an RV of £635,000 with effect from 1 April 2017.

5. A challenge proposal was submitted by the appellant's representative on 27 April 2023 and the valuation officer (VO) issued a challenge decision notice on 30 January 2024 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.

6. The rating list entry was amended to show the RV of £575,000 based on a rate of £90/m^2 with effect from 1 April 2017 and this was now the basis of the appeal.

7. The appeal property was a research centre type property with buildings of mixed age, mainly of 1960's/1970's era but with substantial pre-1900's and 2013 parts. It mainly consisted of offices and laboratories in a semi-rural location.

8. The appellant was represented by Mr Matthew Webb of Colliers International 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.

9. 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).

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

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

Preliminary Issue

12. The VO's representative had submitted revised plans of the hereditament comparing floor areas to those of the appellant's and had stated that there was an additional 800m^2 that should be included. This would increase the RV by £72,000 based on a rate of £90/m^2.

13. The appellant's representative did not agree with the additional amount as the measurements were based only on scaled plans and, in any case, areas had been agreed in previous rating lists.

14. The panel adjourned the hearing at 10:22am to allow the VO's representative to email the revised plans to the appellant and the clerk who, in turn, forwarded them to the panel. The panel considered the new evidence and found that it was not in compliance with the requirements of the Standard Directions and therefore had regard to *Simpsons Malt & Others v Craig Jones (VO) & Others* [2017] UKUT 0460. In this case, the Upper Tribunal's guidance to tribunal panels was that the three stage test as outlined in *Denton v TH White Ltd* [2014] WLR 3926 should be undertaken before considering whether or not to impose a sanction.

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

    Stage 3 - The panel must consider all the circumstances of the case including:

    I. the need for litigation to be conducted efficiently and at a proportionate cost;
    II. a failure to grant a sanction may leave an inaccuracy being uncorrected;
    III. the need to enforce compliance with rules, directions and orders.

15. The panel retired to consider the matter and having returned stated that there had been a breach of the Standard Directions, it was significant and could cause prejudice to the appellant.

16. The panel found that the VO's representative had not given any good reasons as to why the evidence had not been submitted earlier. Further, that the measurements were taken from scaled plans. Although a representative of the VO had inspected the property they did not take measurements and the panel therefore found that they could not be relied upon.

17. The panel noted that the appellant's representative stated that Colliers International had measured the property three years ago but found no discrepancies.

18. The panel found that it was not in the interests of justice for the new evidence to be accepted and the hearing proceeded accordingly.

Relevant Law

19. Local Government Finance Act 1988.
20. Lotus and Delta v Culverwell (VO) [1976] RA 141.

Issue

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

Discussion

22. 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.

23. 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.

24. 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. However, of the properties submitted and discussed, all were owner occupied. The panel therefore considered the assessments of other comparable properties submitted by the parties.

25. The appellant's representative had clarified that the appeal covered the following three issues:

    1. The rate £/m^2 was excessive. He had submitted five comparable properties and sought a base rate of £80/m^2.

    2. The relativities for the first floor line entries 31 (340m^2), 34 (149.4m^2 and 47 (740.7m^2) of the valuation were excessive as they had originally been valued as hi tech accommodation at £119.13/m^2. This was then reduced by the VO to £108.01/m^2 but should be reduced further to £99.37/m^2 in line with the ground floor hi tech accommodation as they were of the same type.

    3. An end allowance should be applied to reflect the fragmented nature of the hereditament as it consisted of six separate buildings. The property currently had 5% but should be getting 15%.

26. This would result in an RV of £420,000 with effect from 1 April 2017.

27. The appellant's representative had stated that that the appeal property was nearly five miles from Henley along country lanes and was in a very rural location with no amenities. The VO's representative had submitted four properties as comparable.

28. The BBC building was In a far superior location and was an impressive, listed building on an estate and assessed at £94.11/m^2. It had a 10% end allowance but was not as fragmented as the appeal property. The Institute of Hydrology was within walking distance of Wallingford town centre, was more modern and valued at £86.84/m^2. The University of Oxford was located in central Oxford and of a similar age to the appeal property and valued at £84/m^2. This property had an end allowance of 27.5%. The appellant's representative felt that these properties were not very comparable to the appeal property.

29. However, Chiltern House was very similar to the appeal property in age and in a rural location being 5 miles from High Wycombe. As this was valued at £58.82/m^2, £80/m^2 for the appeal property was not unreasonable. Further, it had an end allowance of 5% for layout.

30. In his opinion, the appeal property was very fragmented as there were six buildings in total that had been built separately over time and this therefore increased the repair liability and reduced overall efficiency. Ideally, a hypothetical tenant would prefer one building totalling the area of the combined sections. He submitted cases that showed that where there were two buildings on a site the end allowance for layout was 5%, for three buildings 7.5% and for four 10%. The appeal property was more fragmented being of six buildings and therefore 15% was reasonable.

31. The VO's representative stated that the appellant's representatives comparable properties were industrial warehouses and therefore not comparable as fragmentation would cause far greater disability than for the appeal property due to the movement of goods within them.

32. In his opinion, the most similar property to the appeal property in terms of fragmentation was A-G Connection in Newbury which had an end allowance of 10% but was much more fragmented that the appeal property. 5% for the appeal property was therefore reasonable.

33. He had stated that the Hydrology Institute building was most similar to the appeal property in terms of shape, layout and location. It was valued at £86.84/m^2 and was twice the size of the appeal property meaning that the appeal property should be valued at a higher rate. Both this and the appeal property were in rural locations on the edge of a town and were of mixed use offices and laboratories. The University of Oxford had similar characteristics.

34. For these reasons, he stated that the rate of £90/m^2 was reasonable for the appeal property giving an RV of £575,000.

35. In terms of the relativities for lines 31, 34 and 47 the panel found that the ground floor hi tech accommodation was of lesser quality and of lower specification than that of the first floor and had not been presented with sufficient evidence to suggest that both areas should be valued the same. This part of the appeal was therefore dismissed.

36. The panel found that The Institute of Hydrology was most comparable to the appeal property as it was a research facility comprised of offices and laboratories but was twice the size of the appeal property. It was rated at £86.84/m^2 compared to the appeal property at £90/m^2 which the panel found was reasonable.

37. The panel then referred to the BBC building that had an end allowance of 10% for mixed age and access and found that as the appeal property was also of mixed age, had access difficulties but was considerably more fragmented, a 15% end allowance was reasonable.

Decision

38. 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 such evidence had not been provided in terms of the base rate and the relativities for the three hi tech line entries.

39. However, the panel found that evidence had been submitted to show that it was reasonable to increase the appeal property's end allowance from 5% to 15%. This reduced the RV of the appeal property to £515,000.

Offices Floor areas	**Value**
6,634.82	£574,041
Less 10%	£57,404.10
Sub-total	£516,636.90
Additional details	£1,734
Total	£518,370.90
Rateable Value (Rounded down)	**£515,000**

40. The appeal was therefore allowed in part.

Order

41. 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 Johnson Matthey Services Ltd, Blounts Court Road, Peppard Common, Henley-on-Thames, Oxon RG4 9NH to an RV of £515,000 with effect from 1 April 2017.

42. 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

43. 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.

44. 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 L Bryning, Senior Member (Presiding)

Mr A Iqbal, Senior Member

20 May 2025

Clerk to the Tribunal
Date issued to the parties: 20 May 2025