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

Case No: CHG101071926

Sitting remotely using Microsoft Teams

Date: 9 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal: challenge against compiled list entry; business unit and premises; accuracy of rateable value; Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA 141*; appeal dismissed.*

Before:
MR A HUSSAIN
MR I LONSDALE

Between:

BOND AND COYNE ASSOCIATES LIMITED **Appellant**

- and -

NICOLA JOHNSON
(VALUATION OFFICER) **Respondent**

Regarding:
STUDIO G.03, CHESTER HOUSE, 1-3, BRIXTON ROAD, LONDON SW9 6DE
(the "subject property")

Mr M Parkin from Ryan Property Tax Services UK Limited (on behalf of the Appellant as advocate and expert witness)
Ms L Roberts (on behalf of the Respondent as advocate and expert witness)

Hearing date: 11 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal confirms the rateable value (RV) of £42,500 with effect from 24 April 2017.

Introduction

3. This appeal had been brought in respect of Studio G 03, Chester House, 1-3 Brixton Road London SW9 6DE (the subject property), which was entered in the 2017 Rating List as 'business unit and premises' at an RV of £42,500 effective from 24 April 2017.

4. The appellant's Challenge was submitted by the appellant's representative on 9 June 2023 and sought a reduction in the RV to £27,250 with effect from 24 April 2017. The appeal to this Tribunal was made on 4 December 2024, following the Valuation Officer's (VO) Decision Notice of 24 September 2024 in respect of the subject property.

5. 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 4 December 2024.

6. The subject property forms part of a traditional estate located on Kennington Park Business Centre and was built circa 1888. It is on the ground floor and is part of the original building which was converted in 2011 and has air conditioning. It is located off the intersection of the A23 and A202 and is close to the train stations. It has a total floor area of 105.09m^2.

7. Mr Parkin appeared on behalf of the appellant as both 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 his 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). Mr Parkin confirmed that he was instructed under a contingency fee and 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 his 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.

Issue

11. The issue for the panel to make a finding on is the unadjusted rate for the subject property which is presently £404.42/m^2. The appellant submits that the rate is too high and that an unadjusted rate of £260/m^2 is reasonable giving an RV of £27,250.

Relevant Law

12. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(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.

13. 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).

14. 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 date is 24 April 2017 being the date the subject property entered the 2017 rating list.

Discussion

15. 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.

16. The panel turned to the six propositions set down in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 which were binding on this panel. The first two propositions are that:

> (1)Where the hereditament which is the subject of consideration is actually let, that rent should be taken as the starting basis.

(2)The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in section 19(6) of the General Rate Act 1967 the more weight should be attached to it. (These statutory requirements now contained in Schedule 6, Para 2 (1) Local Government Finance Act 1988 (as amended by the Rating (Valuation) Act 1999)).

17. The panel noted that the subject property was let on a full repairing and insuring (FRI) agreement from 1 April 2017 which is in line with the rating hypothesis. The stepped rents agreed were from 24 April 2017 the rent was £41,160, from the 11 December 2017 £43,218, from 11 December 2018 £45,378, from 11 December 2019 £47,647 and the agreement expired on 10 December 2020. A capital sum of £13,164 was also spent from 1 December 2017 in respect of a glass partition to create a meeting room and a kitchen space. There was also a break clause after one year upon giving two months' notice.

18. Ms Roberts devalued the rent to £44,486 applying a discount rate of 8.5%. When taking into account a floor area of 105.09m^2 the adjusted rent equates to £423.31/m^2 without reflecting the capital expenditure. The panel put weight on this analysis which supported the unadjusted rate of £404.42/m2. The rent on the subject property is always the first evidence that must be considered in accordance with the case of *Lotus and Delta*. The panel put little weight on the agreement from 1 August 2022 as the date was too far removed from the AVD.

19. The panel then turned to the appellant's argument that the agreement was a workspace agreement and not a lease and as such it was not reliable evidence and so little weight should be put on it. Mr Parkin submitted that the workspace agreement was similar to a licence and only included internal repairs however he produced no evidence to support this. The panel was aware that it also included a premium to cover the extra services provided within the building. The building was set up to help small businesses and included IT support, a communal café, postal service, utility bills, Wi-Fi and as such would require considerable adjustments to the rent in order for it to relate to the statutory definition of a rateable value. The panel found that as the workspace agreement was on FRI terms, which was the same as the statutory rating hypothesis, the panel put weight on the agreements as part of the basket of evidence when determining the correct RV for the subject property.

20. Further the panel noted that the two Valuation Tribunal for England (VTE) cases being Appeal Number CHG100769826 for 28 Westbourne Studios, 242 Acklam Road, London and CHG100044695 Unit TRG, Trowbray House, 108 Weston Street, London. In both of these cases the panel had found that a workspace agreements were not reliable indicators of tone. Although the panel put weight on these decisions the panel was also aware they were not binding on them and that each case had to be decided on its own merits.

21. The third and fourth propositions set out in *Lotus and Delta* are:

(3) 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 subject property.

(4) 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 be properly be referred to as giving an indication of that opinion.

22. The panel was aware that the rent on the subject property was the starting point when determining an RV as it needs to be placed in a basket of evidence. The panel therefore turned to the comparable properties put into evidence by the VO. Ms Roberts referred the panel to the lettings of two other units in Chester House the same building as that of the subject property. These units were also let on workspace agreements in line with that on the subject property. She drew the panel's attention to the market letting of Unit G 0.2 Chester House which was for a term of two years and commenced on 12 January 2015 close to the AVD at a rent of £48,933.86 per annum. This was based on a floor area of 123.66m^2 which equates to an unadjusted rate of £395.71/m^2 which the panel found was slightly lower than that of the subject property but this property had a total floor area which was larger than the subject property by 18.57m^2. The other letting was in connection with 2.05-2.06 Chester House which was let at £53,640 per annum from 9 March 2015, which was only days from the AVD. Based on a total area of 93.08m^2 this equates to an unadjusted rate of £576.27/m^2 which is higher than the rate for the subject property. The panel found that it supported that the unadjusted rate on the subject property of £404.42/m^2 was not unreasonable. The panel found this evidence very persuasive and put weight on it.

23. The panel then turned to the comparable properties put forward by Mr Parkin which although they were within the Kennington Park Business Centre, of which the subject property forms a part, they were not in the same building, rather in Canterbury Court. Although Chester House is the main building at the Kennington Park Business Centre site there are a number of other buildings which form the whole. These Canterbury Court settlements, Mr Parkin submitted, offered the best indication of what the tone should be for the subject property as well. The panel took into consideration the list of nineteen properties which had received a reduction in Canterbury Court. The units had a total area of between 60.62m^2 and 1,323.11m^2 and had an unadjusted rate of between £150/m^2 and £310/m^2. This, Mr Parkin suggested, supported an unadjusted rate for the subject property of £260/m^2. He also included settlements of ten other properties in the vicinity of the subject property. These had a total area of between 50.70m^2 and 1,455m^2 and an unadjusted rate of between £170/m^2 and £260.00/m^2.

24. The panel found that these settlements were not open market rents and the properties varied widely in terms of size and unadjusted rate and therefore did not demonstrate that a tone had been established. Mr Parkin explained that all the other comparable properties in Canterbury Court were given the same unadjusted rate in the 2010 rating list as the 2017 rating list except the subject property The unadjusted rate for the subject property in the 2010 rating list was £225.00/m^2 but this had increased to £404.42/m^2 in the 2017 rating list which he submitted was excessive. The panel noted that whereas Canterbury Court was largely of the same construction, same age and similar in terms of specification as the subject property this building was on the roadside, had mixed use and no air conditioning and would therefore command a lower unadjusted rate. Furthermore Chester House had been more recently refurbished and had easy access to all the communal areas and services making it a more desirable building. The panel was also aware that in each new rating list the tone was not automatically carried forward, but that each was a standalone valuation exercise.

25. The panel now turned to the fifth and sixth propositions from Lotus and Delta which were:

> (5)In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attached to 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.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but, in each circumstance, it would be difficult to reject the evidence of the actual rent.

26. After considering all the evidence presented by both parties the panel found that the comparable properties presented by Ms Roberts were more persuasive. They were open market transactions in the same building as the subject property, of a similar size and had rental evidence close to the AVD. There had been no challenge raised in connection with these two comparable properties. The evidence from the VO was that the workspace agreements were in fact on FRI terms, and the appellant's agent had not produced any evidence to the contrary. The comparable properties produced by the appellant's agent were not in the same building as the subject property and were settlements. The panel was therefore not aware of the facts of each settlement and the degree to which they were comparable to the subject property.

27. In appeals of this nature the burden of proof was on the appellant to provide evidence to demonstrate that the RV of the subject property of £42,500 based on an unadjusted rate of £404.42/m^2 was unreasonable. The panel found that the appellant had failed to discharge this burden and that the basket of rents supported the unadjusted rate of £404.42/m^2. The panel was therefore satisfied that the current assessment for the subject property was reasonable.

Determination

28. In view of the above findings and conclusions, the Tribunal is satisfied that the current RV of £42,500 with effect from 24 April 2017 was fair and reasonable and dismissed the appeal.

Right of further appeal

29. 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.

30. 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 Amran Hussain, Senior Member (Presiding)

Mr I Lonsdale, Senior Member

9 July 2025

Miss F Willson
Clerk to the Tribunal
Date issued to the parties: 9 July 2025