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

Case No: CHG101073763

Sitting remotely using Microsoft Teams

Date: 2 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating appeal; 2017 Rating list; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Offices and premises; Proposal seeking a lower £ p/m^2; Appeal dismissed.

Before:
MS B KNIGHT
MR D HOGG

Between:

O'BYRNE & KENNEDY **Appellant**

- and -

THE VALUATION OFFICER **Respondent**

Regarding:
EAST WING GOFFS OAK HOUSE,617, GOFFS LANE,WALTHAM CROSS,EN7 5HG
(the "subject property")

Representatives:
Mr M Clayton of Ryan Property Tax Services UK Ltd, representing the Appellant
Mr L Stevens, representing the Respondent

Hearing date: 2 MAY 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel made no change to the rateable value (RV) of the subject property which remained at £26,250 with effect from 1 April 2017.

Introduction and background

3. This decision and statement of reasons is not a contemporaneous or verbatim record of the proceedings.

4. The subject property primarily consists of office accommodation spread over ground and first floors, with a total area of 201.4m^2 (agreed between the parties at the Check stage).

5. The subject property entered the 2017 rating list with effect from 1 April 2017 with a RV of £26,250. This was on the basis of a base rate of £100 per m^2 with a 33% addition for quality. A Challenge was submitted to the Valuation Officer in accordance with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 on the grounds that its RV was unreasonable and should be reduced to £20,000 (arrived at by removing the uplift for quality). The Valuation Officer decided that the Challenge was not well-founded and refused to alter its entry in the valuation list. As a consequence, an appeal was submitted to the tribunal.

6. The representatives appeared in the dual roles of advocate and expert witness, with Mr Clayton declaring that he was representing the Appellant on a contingency fee basis. Both representatives acknowledged and accepted that when presenting evidence as expert witnesses, that their duty was to the tribunal irrespective of whether their evidence supported their respective argument. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), the panel accepted the expert witness evidence on this basis as the appeal was not considered to be 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 concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). It was therefore appropriate for the panel to consider the expert evidence and assess what weight, if any, to give it in the context of the issues before it.

Discussion

7. This was an appeal against an entry in the 2017 rating list and so the rental levels are taken as those passing at the antecedent valuation date (AVD) of 1 April 2015. This is in accordance with the Rating Lists (Valuation Date) (England) Order 2014. The material day (the date by which physical factors must be taken into account) is provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992. The material day in respect of the subject property is 1 April 2017.

8. Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 provides that the RV 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 based upon three assumptions. These assumptions are well known to the parties and so the panel did not consider it necessary to set them out in this decision notice.

9. The panel was also guided by the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. Whilst it was not found necessary to list them, this case set out six propositions to have regard to when weighing the evidence.

10. In broad summary, Mr Clayton argued that the subject property had been over-rented in 2007 at £32,000 per annum and this did not provide good evidence to support an RV of £26,250. Mr Clayton also submitted that he had been able to establish that the rent was between connected parties which further reduced its relevance. Mr Clayton argued that the best evidence (which supported a revised RV of £20,000) were other 'offices and premises' assessments in the same scheme of pre 1970's offices, all of which had an adopted rate of £100 per m^2.

11. Also in broad summary, Mr Stevens argued that whilst the passing rent may be between connected parties, and had initially been agreed in 2007 (on a FRI basis), it was for an initial term of ten years and the Appellants had continued to occupy the subject property for a number of years after its expiry and had continued to pay the same rent. Mr Stevens added that the subject property had become unoccupied and was being marketed at an increased rent of £36,000 per annum, thereby demonstrating that an RV of £26,250 from 1 April 2017 was reasonable.

12. The accepted starting point for consideration is the passing rent in respect of the subject property. Whilst the annual rent of £32,000 had initially been agreed in 2007 and was understood to be between connected parties it was, nevertheless, the passing rent having been agreed between the parties. The panel found this to be persuasive in demonstrating that a RV of £26,250 was reasonable.

13. Mr Clayton had presented information relating to seven other office assessments, which ranged in size from 127.08m^2 to 706.8m^2 with RV's ranging from £11,500 to £75,000, and were in the same scheme as the subject property (built pre-1900). Mr Clayton submitted that all (with one exception) had an adopted rate of £100 per m^2 with no uplift for quality and supported an adopted rate of £100 per m^2 for the subject property. The panel found that whilst the properties were in the same scheme, the subject property did not come into existence until 1989 following conversion work. Therefore, the Appellant's comparables were actually older. The exception referred to above was the adjacent property at 607 Goffs Lane. This was more than three times larger than the subject property at 706.8m^2 and had a base rate of £90 per m^2 (possibly to allow for quantum) and had a very similar uplift of 31%. The panel was not, for the reasons given, persuaded by this evidence.

Determination

14. The burden of proof rests with the appellant to clearly demonstrate that the RV of the subject property is unreasonable and the panel was not so persuaded. The panel placed most weight upon the passing rent and, in doing so, it concluded that the RV of £26,250 was reasonable.

15. This appeal was therefore dismissed.

Right of further appeal

16. 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.

17. 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/.

Ms B Knight, Presiding Senior Member
Mr D Hogg, Senior Member

Mr A Johnson
Clerk to the Tribunal

Date issued to the parties: 2 June 2025