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

Case No: CHG101084702

Sitting remotely using Microsoft Teams

Date: 7 August 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal: Local Government Finance Act 1988; Shop and premises; Correct main space rate to be applied; Temporary allowance for Material change of Circumstance: Appeal allowed in part.

Before:
MR AMRAN HUSSAIN
MRS MJ COLE

Between:

J.J FOX (ST JAMES'S) LTD **Appellant**

- and -

NICOLA JOHNSON (VALUATION OFFICER) **Respondent**

Regarding:
JAMES J FOX, 19 ST JAMES'S STREET, LONDON, SW1A 1ES
(the "subject property")

Mr A Marshall, from Conneely Tribe Surveyors representing the Appellant
Mr C Tawonezvi representing the Valuation Officer

Hearing date: Wednesday 9 July 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel determined that the appeal property's existing assessment of £125,000 Rateable Value was excessive and reduced it to £113,000, with effect from 1 April 2017 to 16 July 2018.

Introduction

3. This appeal had been brought in respect of the following: James J Fox, 19 St James's Street, London, SW1A 1ES, which was entered in the 2017 Rating List as a shop and premises at £125,000 RV, effective from 1 April 2017.

4. The appellant's challenge to the Valuation Officer (VO) was made on 10 July 2023. The appeal to this Tribunal was made on 2 January 2025, following the VO's decision notice of 5 August 2024, in respect of the appeal property (hereditament). This is a compiled list appeal so the material day is 1 April 2017.

5. The subject property is a shop and premises which sells cigars. It is located on the basement, ground, and mezzanine floors at 19 St James's Street, within the building 20 St James's Street, which underwent major refurbishment from April 2016 for several years. It is stated to be the only retail premises within its block. St James's Street is the principal street in the district of St James's, central London, and runs from Piccadilly downhill to St James's Palace and Pall Mall

6. Mr Marshall was appearing on behalf of the appellant as 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).

7. Mr Marshall confirmed that he was representing the appellant at the hearing on a contingency fee basis. He also declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether t the evidence supported his client's case.

8. Mr Tawonezvi stated that he had taken on this appeal, following the departure of his colleague from the Valuation Office Agency. He stated that he was appearing in a dual role, albeit more as an advocate than an expert witness, for the respondent.

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

Background

10. There were two issues in dispute to determine, namely

    i. Mr Marshall sought a reduction to the current unadjusted zone A rate from £2,000/m^2 to £1500/m^2. Mr Tawonezvi supported the existing rate of £2,000/m^2.

ii. Mr Marshall sought an allowance of 22.5% to be applied from 1 April 2017 to 20 July 2020. This was the continuation of an allowance, awarded for the subject property in the 2010 Rating List, effective from 15 April 2016, to reflect the material change of circumstance caused by building works surrounding the subject property. Mr Tawonezvi contended that the allowance should be applied at a rate of 10%, adding that it should be awarded up to 16 July 2018.

Relevant Law

11. The appeal hereditament must be valued for the purpose of non-domestic rating based on the rent at which it might reasonably be expected to let from year to year on several 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, the Antecedent Valuation Date (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.

Discussion

12. In arriving at its decision, the panel turned to each issue in dispute. Firstly, addressing whether the current zone A rate applied to the appeal property's assessment was unreasonable. Mr Marshall sought a reduction to £1,500/m^2 after having regard to the assessments placed on his comparable properties. Whereas Mr Tawonezvi supported the existing rate of £2,000/m^2.

13. The panel was aware that the Lands Tribunal judgment in Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. This case had established six propositions that gave clear guidance to be followed when assessing rateable value. Bearing in mind these six propositions, the panel acknowledged that the rent on the subject property, where available, was the correct starting point and consideration of how that rent compared to the statutory definition of rateable value. In this instance, both parties considered that weight should not be attached to the subject property's rent, due to it being too remote from the AVD and said to be between connected parties. The panel agreed.

14. Consideration was then given to the rents on similar properties and assessments on other comparable properties, which the parties deemed relevant. The panel would attach weight to all of the evidence when determining if the zone A rate was reasonable or excessive.

15. Both parties commented about the credibility of the rental evidence within the locality. The subject property was stated to be the only retail premises within the block in which it was located on St James's Street, between King Street and Ryder Street. The appellant stated that there was no credible evidence within the same block as the subject property or on the eastern side of St James Place. There was only one rent close to the AVD, the appellant argued that regard therefore should be given to other evidence, in the form of zone A rates of comparable assessments.

16. The respondent stated that the subject property was situated within a parade of buildings, with there being breaks along both sides of the street, Mr Tawonezvi acknowledged that there was no helpful evidence of properties within the subject property's parade, adding that whilst there was not an abundance of rental evidence within other parades on the street, there was rental evidence close to the AVD within the locality to support the subject property's existing zone A rate of £2,000/m^2. The respondent had submitted evidence in

respect of the rent for properties at Basement-Ground Floor, 66 St James Street, 61 St James Street, and 62 St James Street. These rents were effective between from June 2014 to March 2015, the closest to the AVD being that in respect of the first of these, with an analysed rent of £2,044.39, based on a lease renewal in November 2014, and a zone A rate of £2,000/m^2. The panel also noted the zone A rates applied for the other two properties were values of £2,400/m^2 and £2,200/m^2.

17. The appellant asserted that the position in the street was relevant to the valuation, drawing the panel's attention to a number of properties on St James Street with zone A rates of £1,500/m^2, including numbers 2 to 4, 6,9, and 29. The appellant argued that the subject property should be valued in accordance with properties on the same side of the street as the subject property at a zone A rate of £1,500/m2. With zone A rates of £1,500/m^2, situated on the same side of the street as the subject, these properties in the appellant's view, endorsed his claim that the evidence supported his request for a zone A rate of £1,500/m^2.

18. Further to this line of reasoning, the appellant stated that relative changes between the 2010 to 2017 Rating List entries, in respect of the comparable properties, underpinned his case, with the zone A rate of the subject property out of line. He made reference to the Lands Tribunal judgment in Barnard & Barnard v Walker (VO) 1975 RA 383, in which it was argued that when it comes to a consideration of differentials in a previous Rating List there is a presumption that the differentials in previous rating lists were correct, unless the presumptions can be rebutted by evidence to show why the differentials from the previous list should not be carried forward.

19. The panel was mindful that each Rating List stands on its own and reflects the market and economic circumstances appropriate to the AVD and physical circumstances at the compiled list date for that particular list, with the likelihood that relative values between properties and locations could change from one list to the other. The subject property's RV had been appealed in respect of the 2010 Rating List, with the zone A rate reduced by agreement due to the passing rent in May 2008 and that the subject property was the only shop between King Steet and Ryder Street. That passing rent was now stated not to be an arms-length transaction. Any comparison between and continuation of values in the 2010 and 2017 Rating Lists would depend upon the reliability of the evidence on which these values are made, with preferential weight afforded to more dependable evidence to help establish the rent at which a property might reasonably be expected to let from year to year.

20. In reaching a decision, when appraising the basket of evidence, the panel attached most weight to the rental evidence of the properties submitted by the respondent, in paragraph 16 above, situated opposite the subject property. In accordance with the propositions set out in Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141, such evidence where available should be looked at and was relevant. It was not to be disregarded in favour of assessments of other comparable properties but, rather considered with it. On this basis, the existing zone A rate was deemed reasonable.

21. The other issue for the panel to decide was whether an allowance was warranted to reflect a material change of circumstances for disruption due to building works surrounding the subject property, at 20 St James Street. A different Tribunal had considered this issue in June 2017 in respect of the 2010 Rating List, deciding that an allowance of 22.5% was appropriate to award effective from 15 April 2016.

22. The appellant sought a continuation of this allowance at the same rate of 22.5%, while the respondent accepting an allowance was merited, felt the appropriate rate was 10%.

23. Evidence submitted of properties awarded allowances for similar reasons was submitted, with the panel aware that it was not bound by the earlier Tribunal decision, and moreover, that the material date to consider this matter, was 1 April 2017, rather than 4 August 2016. There was eight months difference between the two material dates, with nearly twelve months having passed from the date the work at 20 St James Street had started, up to the material date at which the award and level of allowance required consideration.

24. Mr Tawonezvi stated it was his opinion that the demolition work had taken place prior to 1 April 2017, and although the respondent had invited the appellant to provide details about the works, the appellant had not provided any information about the nature, extent, and severity of the building works as at 1 April 2017. Added to this, Mr Marshall stated that he could not confirm what work was being carried out and what work remained, as at 1 April 2017.

25. Included within the evidence were photographs of the front of the subject property and 20 St James Street, taken in April 2017, September 2017, and April 2018. Mr Marshall stated these photographs did not show any internal on-going work, albeit no evidence to show any internal works was available. Notwithstanding, the external photographs were a useful indicator to show the degree of work affecting the subject property at different dates.

26. The panel was satisfied that the subject property was not affected at 1 April 2017 to the extent of the extreme disturbance which the previous panel had determined to be the case as at 4 August 2016. An allowance was justifiable, however, taking the above into account, like the previous panel, a pragmatic approach was adopted with the panel deciding that an allowance of 10% was fair and reasonable.

27. The period for which to award the allowance also required determination. The appellant stated the building work lasted for three years after the material date, so the allowance should continue up to 20 July 2020, this being the effective date of the re-entry of the offices at 20 St James Street into the 2017 Rating List. Mr Marshall stated that it was accepted that there were two methods by which a property could be brought into a rating list, these being the date of occupation or the issue of a valid completion notice, referring the panel to the judgment in Aviva Investors and PPG v Whitby and Mills LT (2013) (VO) RA/3/2011.

28. In addition to the photographs taken in April 2017, September 2017, and April 2018 that showed the extent of work from an external perspective, evidence from articles published in May 2017 and July 2018, respectively referred to the redevelopment of 20 St James Street being complete in May and July 2018. The subject property had remained open throughout the redevelopment works at 20 St James Street. The allowance was to be awarded for the subject property 19 St James Street, regarding how, and for how long, it was impacted by the material change of circumstance. This did not rely on when the offices at 20 St James Street entered the Rating List.

29. Based on the documentary evidence and oral submissions in behalf of both parties, the panel was not convinced that the zone A rate required amendment. However, the panel concluded that an allowance for the material change of circumstance was justified. This should be at the rate of 10%, for the period 1 April 2017 up to 16 July 2018.

Determination

30. In view of the above findings and conclusions, the panel was satisfied that the current assessment was unreasonable. The panel determined that an assessment of £113,000 RV

more accurately reflected the appeal property from 1 April 2017 to 16 July 2018. A breakdown of the assessment is shown below.

Ref	Floor	Description	Area m^2	£/m^2	Relativity	Price Adopted	Value (£)
1.1	Basement	Internal Storage	14.28	2000.00	0.03335	66.70	952.48
1.2	Basement	Vault used as Kitchen	8.15	2000.00	0.03335	66.70	543.60
1.3	Basement	Internal Storage	60.42	2000.00	0.05	100.00	6,042
1.4	Ground	Retail Zone A	34.81	2000.00	1.00	2000.00	69,620
1.5	Ground	Retail Zone B	31.99	2000.00	0.5	1000.00	31,990
1.6	Ground	Retail Zone C	22.45	2000.00	0.25	500.00	11,225
1.7	Mezzanine	Office	34.37	2000.00	0.05	100.00	3,437
1.8	Mezzanine	Mess/Staff Room	14.36	2000.00	0.05	100.00	1,436
1.9	Mezzanine	Kitchen	6.62	2000.00	0.05	100.00	622
1.10	Mezzanine	Shower	n/a	2000.00	0.0	0.00	0.00
					Valuation sub-total		**£125,868.08**
Adjustments made to the sub-total							
Temporary MCC Allowance for Building Work				10.00%			£12,586.81
					Valuation Total		**£113,281.27**
	Say £113,000 Rateable Value, with effect from 1 April 2017 to 16 July 2018						

Order

31. Because of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £113,000 RV, with effect from 1 April 2017 to 16 July 2018, within two weeks of the date of this Order.

32. The Appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Right of further appeal

33. 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.

34. 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)
Mrs MJ Cole, Senior Member

7 August 2025

Mr R Patel
Clerk to the Tribunal

Date issued to the parties: 7 August 2025