IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2023 RATING LIST APPEAL

Case No: CHG101087385

Sitting remotely using Microsoft Teams

Date: 24 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 —office and premises - rental analysis – comparable properties - Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141

Before:
MR A HUSSAIN
MS A G COLE ROBERTS

Between:

BUTTERWORTH LABORATORIES LTD — **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) — **Respondent**

Regarding:
1ST FLOOR, 14 CASTLE MEWS, HIGH STREET, HAMPTON, MIDDLESEX TW12 2NN
(the “subject property”)

Mr P Roberts of Roberts Vain Wilshaw, for the Appellant.
Mr J Reene, for the Respondent.

Hearing date: 10 July 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The Tribunal finds that the existing entry in the 2023 rating list is unreasonable and should be reduced to £74,000 with effect from 1 April 2023.

Introduction

3. The appellant's representative made a proposal on 12 July 2023 to challenge the entry in the 2023 Rating List of £87,500 with effect from 1 April 2023. The proposal sought a reduction to £74,000. The Valuation Officer (VO) did not find the proposal to be well founded, and a Challenge decision was issued on 11 October 2024. The appeal against the decision notice was received by the Tribunal on 10 February 2025.

4. Mr Reene stated that he was appearing as both Advocate and Expert Witness for the respondent, having inspected the subject property on 7 July 2025.

5. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Roberts declared that he was also appearing for the appellant in a dual role as Advocate and Expert Witness. He confirmed that his firm was instructed under a conditional or other success-based fee arrangement, but he understood his duty was to the Tribunal, regardless of whether the evidence supported his client's case.

6. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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). It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

7. The hereditament is valued as an office and premises. It consists of offices with raised floors and air conditioning and a laboratory area that benefits from uprated air conditioning. There was no dispute on the survey data, with the hereditament recorded at 429m^2. The sole issue in dispute was the correct unit price per m^2 to be applied to the valuation.

8. The material day on which to consider the property and its locality was 1 April 2023, as this was a challenge to the compiled list entry. The property must be considered with regard to values on the antecedent valuation date (AVD) of 1 April 2021.

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

<u>*Preliminary issue*</u>

10. Mr Reene provided the panel with photographs taken on his recent inspection of the subject property and Mr Roberts provided an extract from the subject property's lease. Both parties were content to agree the admission of these items and therefore the panel admitted them into evidence under Regulation 17a of the Tribunal's procedure regulations.

Relevant Law

11. The subject properties must be valued by the statutory assumptions set out in Schedule 6 to the Local Government Finance Act 1988 as follows:

"(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."*

12. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141, mentioned in the parties' submissions, which provided guidance on the weight to be attached to different forms of evidence. Both parties also referred to *Bunyan v Acenden Limited* [2023] UKUT 17 (LC).

Discussion

13. In accordance with *Lotus & Delta*, the panel first had regard to the rent passing on the subject property. The appellant agreed a ten-year lease on the subject property from 22 December 2016 at £74,208. There was a rent review and tenant break option at year five on 22 December 2021 and the rent was not increased. Mr Roberts submitted that the lease permits only upwards rent review and therefore this suggested that the rent agreed in 2016 was higher than would be achieved on the open market at the AVD. On this basis, he contended the rateable value should be reduced to £74,000, at £173/m^2 from £205/m^2.

14. The VO acknowledged the proximity of the rent review to the AVD in this case but contended that the subject property was let out in Category A state, rather than Category B, and therefore an uplift should be applied to reflect the tenant fit out. There appeared to be no dispute that the appellant company on taking the lease in 2016 carried out refurbishment and fit out, costing £292,000. The VO argued that this level of fit out must add value. Mr Roberts contended that the subject property was never let in Category A (shell) condition, and it was ready for occupation albeit with a 'tired' décor. He explained that a large proportion of the capital spent was on business specific fit out. Although the area designated the laboratory was smaller than the office space, Mr Roberts stated that the laboratory required uprated Heating Ventilation and Air Conditioning (HVAC) rather than the comfort cooling in place when the lease was originally agreed. Therefore, his client set out to upgrade the air conditioning and fit out the office space to suit its needs, including carpeting and partitions.

15. The VO relied on the Upper Tribunal (Lands Chamber) judgment in *Bunyan v Acenden*, where it was decided that the rateable value would be increased by tenant's fit out works. The panel was aware that in the *Acenden* case, the appeal property was office space let in a

Category A condition. The Upper Tribunal found that the rent agreed would reflect the shell state of the offices and the tenant’s fit out should be reflected in the valuation, as it would add value. The panel considered that the situation may be different in the appeal before it, as Mr Roberts contended the subject property was let in a Category B state.

16. The VO submitted that, following *Acenden*, there was agreement in Central London that offices, where fit out was required to be included in the analysis, should be uplifted by £25/m^2 in the 2017 rating list. It was accepted that the subject property is not located in Central London, but the VO contended that more than £25/m^2 would be needed to reflect tenant’s fit out in the 2023 rating list, due to the rising cost of materials. Mr Reene submitted that the £292,000 spent on fit out in 2016 would equate to a higher value at the 2023 list AVD of 1 April 2021. The VO analysed the subject property’s rent to £176/m^2 with a further £29/m^2 added to reflect the fit out required to Category B standard, making a total of £205/m^2. He therefore considered the existing valuation to be fair and reasonable.

17. Mr Roberts provided extracts from the subject property’s lease to illustrate the clauses that the VO relied on to show the offices were let in Category A condition.

18. Under the Insurance section (Clause 5), clause 5.14 states:

    “5.14. References to “fit for occupation and use.”

    Except to the extent that the Landlord is obliged to reinstate the tenant’s fitting-out works, in this clause 5 references to “fit for occupation and use” mean ready to receive tenant’s fitting-out works.”

19. Under the Rent Review section (Clause 16), clause 16.4 refers to assumptions to be made. 16.4.2 states included in the assumptions are:

    “16.4.2. That the Premises are fit for immediate occupation and use by the willing tenant for the use permitted by this Lease;”

20. After considering these clauses, the panel did not interpret the phrase “fit for occupation and use” or “fit for immediate occupation” to conclusively evidence the subject property was let in Category A shell condition. Mr Roberts submitted that the offices were fitted out for use as such, but the appellant needed to carry out business specific fit out to make the space suitable for its particular use. It was submitted that another occupier may well have been content to use the space as it was when the rent was agreed, but it is not unusual for a tenant to re-decorate and alter offices to suit their needs.

21. As Mr Roberts submitted that much of the capital spend in this case was on upgrading the HVAC specifically for the laboratory area, the panel was not persuaded this would be of particular added value to a new tenant looking for office space on 1 April 2021. Mr Roberts stated that in 2024, the appellant company attempted to assign the lease, and it was marketed with an asking rent of £74,208 per annum. However, there was no success, and it was submitted that this indicated the passing rent was higher than the market rent. The panel noted that 2024 was a long way from the AVD but it added weight to Mr Robert’s argument that the absence of an increase at the December 2021 rent review was due to the market not supporting any increase for offices in this locality.

22. The VO's evidence contained reference to two comparable properties. At 100a High Street, Hampton was a nursery and premises that was valued in the same scheme as the subject property. This hereditament was subject to a lease from 1 June 2021 at £28,500, which the VO analysed to £287.56/m^2 and it was valued at £220/m^2. Units 1 & 2 at 9-11 High Street, Hampton were offices subject to a lease from 1 April 2021 at £13,341, which the VO analysed to £292.25/m^2 and valued at £220/m^2. The panel did not find these examples particularly useful in valuing the subject property. One was a nursery, and therefore a different mode and category of use to an office, and both examples were significantly smaller than the subject property, at 113.16m^2 and 53.40m^2, respectively.

23. After considering the submissions, the panel found the best evidence was the rent passing on the subject property. In an email of 14 June 2024 in the evidence bundle, Mr Roberts provided a breakdown of the capital expenditure when the appellant took on the lease. This included £13,000 for removal of services and strip out (which suggested the property was not let in a Category A state) and £78,000 on new lighting as "*the space had been previously occupied and was to Cat B*". The largest expenditure by far, at £120,000, was stated to be for air conditioning and fresh air circulation.

24. The breakdown of areas in the VO's valuation showed that the laboratory was just 56m^2 compared to 343m^2 of office space. The panel concluded from this that the bulk of the expense for the appellant company was on business specific upgrades for a relatively small part of the hereditament, and this would not necessarily add value to a new tenant arriving on the scene at the AVD looking for office space. The remaining works appeared to be typical of any refurbishment of second-hand office space by a new tenant.

25. The panel concluded that the subject property was let in 2016 in a Category B state. The review in December 2021 did not allow a reduction in the rent and therefore a nil increase was agreed. Although the rent review was eight months after the AVD, the panel found it to be the best evidence of value for the subject property. Generally, it may be considered that an existing tenant would agree to pay more to retain existing occupation, particularly when money has been spent to fit out the space to specific requirements. Therefore, the panel concluded that, if the market at the AVD supported an increase, this would likely have been negotiated. The fact that the appellant had been unsuccessful in assigning the lease at the same rental level some three years later, also suggested the passing rent was not attainable in the locality.

Determination

26. In view of the above findings and conclusions, the Tribunal is satisfied that the existing entry in the rating list was unreasonable and should be reduced to reflect the rent passing on the subject property.

27. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to amend the entry for 1ST Floor, 14 Castle Mews, High Street, Hampton, Middlesex TW12 2NN in the 2023 Rating List to £74,000 effective from 1 April 2023.

28. The Valuation Officer must comply with this Order within two weeks of its making.

Floor	Description	Area m/^{2}	£ per m/^{2}	Value (£)
First	Office	343.27	173	59,386
First	Board/Meeting Room	29.26	173	5,062

First	Laboratory	56.42	173	9,761
		Valuation sub-total		74,209
		Rateable value		74,000

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 A Hussain, Senior Member (Presiding)

Ms A G Cole Roberts, Senior Member

24 July 2025

Mrs A Sloan
Clerk to the Tribunal
Date issued to the parties: 24 July 2025