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

Case No: CHG101087573

Sitting remotely using Microsoft Teams

Date: 27 October 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; shop and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council 1976; subject rent; rental evidence; comparable properties; zone A rate; appeal dismissed

Before:
MRS LR MCDERMOTT
MRS FER DUGGAN

Between:

SIGNET TRADING LIMITED — **Appellant**

- and -

KAREN GILES (VALUATION OFFICER) — **Respondent**

Regarding:
H.SAMUEL, 7-9 GALLOWTREE GATE, LEICESTER LE1 5AD
(the "subject property")

Appearances:
Joe Richardson of Colliers International for the Appellant
Peter Howard for the Respondent

Hearing date: 6 October 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal finds that the rateable value (RV) of £168,000 based on a rate of £1,360/m^2 in terms of Zone A is reasonable.

Introduction

3. This appeal has been brought in respect of the following: H.Samuel, 7-9 Gallowtree Gate, Leicester LE1 5AD which is shown in the 2017 Rating List as 'shop and premises' at £168,000 RV effective from 1 April 2017. It comprises a four storey retail unit situated along Gollowtree Gate in the city centre of Leicester.

4. A challenge was submitted on 12 July 2023 which disputed the determination of the RV. The RV was assessed based on a tone of £1,360/m^2 in terms of zone A (ITZA). The appellant challenged this and requested a reduction to £1,000/m^2 ITZA. A challenge decision was issued which upheld the current RV, consequently an appeal was lodged with this Tribunal.

5. Both Mr Howard, for the respondent, and Mr Richardson, for the appellant, appeared in dual roles of advocate and expert witness and confirmed that they accepted and understood that their overriding duty was to the Tribunal. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr Richardson declared that he was not instructed under a conditional fee in respect of his role as expert witness but he was on a conditional fee in respect of his advocacy.

6. 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 Tribunals' 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Relevant Law

8. The issue between the parties concerned the RV of the subject property, specifically the Zone A rate per m^2 that should apply.

9. The term 'rateable value' as defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "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."

10. The antecedent valuation date (AVD) for 2017 list rating appeals is 1 April 2015. The material day is 1 April 2017.

11. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta v Culverwell and Leicester City Council (*LVC/376/1975). This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

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

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

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

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on 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 such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

Discussion

12. In deciding this appeal, bearing the six propositions derived from *Lotus* in mind, the panel acknowledged that the starting point was the actual rent passing on the subject property. There was a ten year lease agreed on 13 August 2010 at a rent of £200,000 per annum. The appellant stated that the 2015 rent review was never triggered and it was renewed in 2020. There was conflicting evidence as the respondent's records held a form of returning detailing

a lease renewal in 2017. In any case, both parties were not relying on it. The panel found that whichever date it was, 2017 or 2020, they were too far removed from the AVD and therefore proceeded to examine the basket of rents brought before it.

13. The appellant referred to five rents for assessments all on Gallowtree Gate which had rents agreed between March 2013 to November 2016. They had analysed to figures ranging from £478/m^2 to £1158/m^2 ITZA. All five assessments had an adopted tone of £1,360/m^2 ITZA but it was the appellant's contention that given the rental transactions for this period the tone was excessive.

14. They were all situated in close proximity to the subject property and, as such, they were strong comparable properties in terms of location. 31 Gallowtree Gate had analysed to £478/m^2. This was a ten year lease from 16 November 2016 with a commencing rent of £50,000 per annum. It was also noted that the rent was for a charity. It was removed from the AVD and did appear low in comparison so the panel placed little weight to this rent, which seemed to be an outlier. Similarly less weight was attributed to 25-30 Gallowtree Gate which had been analysed to £1,158/m^2. It was a stepped rent agreed two years prior to the AVD so would require too much adjustment to conform with the rating hypothesis.

15. 3 Gallowtree Gate and 25-27 Gallowtree Gate which had been analysed to £1,030/m^2 and £868/m^2 respectively were both new lettings. 25-27 Gallowtree was agreed in March 2013 so two years prior to AVD. 3 Gallowtree was agreed closer to the AVD in October 2014, approximately six months prior to the AVD on a two year term. The panel therefore found that this was stronger rental evidence. However, it was mindful that the respondent had submitted that this information was from CoStar, a fact which was not disputed by the appellant, and therefore no terms had been made available to verify the analysis to £868/m^2.

16. 11 Gallowtree Gate was agreed closest to the AVD on 24 March 2015. The landlord and tenant agreed to remove the break option in return for a rent reduction from £72,000 to £52.000. The appellant's representative stated that the break was removed but the rent was set in accordance with the open market value and agreed with professional advice. This analysed to £1,020/m^2 ITZA. The respondent's argument was that this was a deed of variation and whilst there was an agreement to lower the rent there was nothing to suggest that it was reflective of the open market. Whilst the appellant had placed most weight on this rent, the panel found that as it was not a new letting and the rent was reduced by a deed of variation, it would require significant adjustment and so the panel was not convinced that this could be strongly relied upon as evidence that the subject property was over assessed.

17. The respondent referred to the rent on 3A-5A Gallowtree Gate. This was a five year lease with twelve months rent free commencing from 9 November 2015. When the terms were verified the respondent found the contract was agreed on 26 March 2015, just a few days prior to the AVD. It was for £140,000 per annum which the respondent had analysed to £1,422.82/m^2 ITZA. The respondent submitted at the hearing that a three month rent free period was included in the analysis which was standard practice and reflected fit out. The appellant questioned the respondent's analysis as it was stated that the year rent free had not been included, the appellant had analysed it to £1,235/m^2. The panel preferred the respondent's analysis, twelve months did appear excessive to the normal three month period. The panel was mindful that the agreement in March 2015 was a forecast of the expected rent, that being said, the rent commencement date was only seven months post AVD.

18. Having considered the basket of rental evidence, the panel gave more consideration to the three agreed closest to the AVD which had analysed to £1,020/m^2, £1,030 m^2 and £1,422.82 m^2, but as stated above there were factors to consider when considering the rents in line with the statutory basis for valuation. The panel therefore found it helpful to consider the tonal evidence in conjunction with this starting point.

19. The parties disagreed with the weight which could be attributed to assessment evidence. The respondent's position was that there had been challenges lodged. He referred to the Lands Tribunal decision, *O'Brien v Harwood* (VO) RA/22/2002 which provided that there comes a time when a tone becomes established for a rating list.

20. The appellant's position was that assessment evidence was not relevant as there had not been any reductions and there were challenges outstanding. Furthermore, the appellant referred to Upper Tribunal's decision, *Robert Dyas Holdings Limited v Moore* (VO) [2025] UKUT 163 (LC) stating this somewhat overrides *O'Brien v Harwood*.

21. In *Robert Dyas* the Valuation Officer argued that as the list was eight years old, the tone of value for distribution warehouses was established. The appellant's counter argument was that because there was a lack of a co-ordinated approach amongst ratepayers, under check, challenge and appeal, that the key rental evidence in this case had not been subsumed in the tone. The Upper Tribunal upheld the appellant's argument on this point.

22. In *O'Brien* the Land Tribunal considered the different stages of the establishment of the tone of the list. Paragraph 41 states:

> "There are three stages leading to the establishment of tone of the list. At first, when a new rating list is put on deposit, entries will carry relatively little weight: they are opinions of value by the valuation officer, as yet unchallenged and untested by negotiation. Over time assessments will be challenged and agreed or determined by a valuation tribunal or this tribunal or accepted by lack of challenge. Finally, a stage is reached where enough assessments have been agreed or determined or are unchallenged to establish a pattern of values, a tone of the list. The list is then said to have settled. Rents will be largely subsumed into assessments. At that stage rating surveyors will have little regard to rents and pay considerable attention to assessments. The position regarding tone of the list at any time is a question of fact. Where an assessment is challenged before a Tribunal the correct time for deciding whether a tone of the list has been established is immediately before the hearing."

23. Ultimately, the panel found that in the case before it, there had been challenges made and decision notices had been issued. Furthermore, the 2017 list was now closed, and as we move further away, assessment evidence can carry significant weight. There were rents and assessment evidence referred to and it was for the panel to weigh this accordingly. The panel found that as the rents required adjustment, it was also necessary to consider the assessment evidence in accordance with points (4) and (5) in *Lotus and Delta*.

24. All of the rental evidence related to assessments which had a rate of £1,360/m^2 ITZA. The assessment evidence referred to included ten assessments with the same adopted tone. They were all situated on Gallowtree Gate and range in main space size from 80.33m^2 to 206.69m^2 (with the subject property being at 123.11m^2). The table of evidence provided showed that five had been challenged and the decisions upheld the current rate. At the time of the hearing, the respondent stated that there had been seven settled challenges regarding

the tone. None had been appealed and he observed that six of them are now out of time to be appealed.

25. The appellant submitted that reductions in the zone A value at the time of submitting the appeal had also been sought for Humberstone Gate at Valuation Tribunal. This has now been agreed at Appeal and the Zone A values being reduced to £1,050/m^2. During cross examination, there was a discussion regarding the differences in locality in that the respondent considered it to be an inferior location. The appellant's position was that they were 30% higher than Gallowtree assessments in the 2010 list. The panel found that there was too little information regarding this as no specific assessments on Humberstone Gate had been referred to and it preferred the tonal evidence in the immediate locality.

26. In conclusion, in light of all the evidence presented, the panel found that there was an established tone of £1,360/m^2 ITZA for shops within this locality. The challenge decisions had not been appealed to the Tribunal which suggests the reasoned challenge decisions were accepted. Whilst there was rental evidence available, given the level of adjustments required, it was not persuaded that the rent proved that the current tone was excessive. The terms of 3 Gallowtree Gate were not verified and 11 Gallowtree Gate was a deed of variation. Having regard to the rental evidence on 3A-5A Gallowtree Gate and the clear established tone, the panel concluded that the adopted rate of £1,360/m^2 ITZA was reasonable.

Determination

27. In view of the above findings and conclusions, the Tribunal is satisfied that the RV is reasonable and the appeal is therefore dismissed.

Right of further appeal

28. 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.

29. 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 LR McDermott, Senior Member

Mrs FER Duggan, Member

27 October 2025

Mrs C McAvoy
Clerk to the Tribunal
Date issued to the parties: 27 October 2025