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

Case No: CHG101100359

Sitting remotely using Microsoft Teams

Date: 15 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal: Local Government Finance Act 1988; restaurant and premises; preliminary issues; correct main space rate to be applied; end allowance; appeal allowed in part.

Before:
MR AB JOBANPUTRA
MRS N CRAWSHAW

Between:

CATERING UK LTD T/A THAI SQUARE **Appellant**

- and -

(VALUATION OFFICER) **Respondent**

Regarding:
THAI SQUARE, 27-28 GEORGE STREET, ST ALBANS, AL3 4ES
(the "subject property")

Miss E Woodhams, from Knight Frank representing the Appellant
Mrs N Awoyokun representing the Valuation Officer

Hearing date: 16 April 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel determined the appeal property's existing assessment of £123,000 Rateable Value (RV) was unreasonable and reduced it to £116,000 RV, with effect from 1 April 2017.

Introduction

3. This appeal had been brought in respect of the following: Thai Square, 27-28 George Street, St Albans, AL3 4ES, which was entered in the 2017 Rating List as Restaurant and Premises at £155,000 Rateable Value (RV), with effect from 1 April 2017.

4. The appellant's challenge to the Valuation Officer (VO) was made on 1 August 2023. The appeal to this Tribunal was made on 25 October 2024, following the VO's decision notice of 25 April 2024, in respect of the subject property. The VO's decision notice reduced the assessment from £155,000 to £123,000 Rateable Value, with effect from 1 April 2017. The material day in this appeal is 1 April 2017.

5. The appeal property is a four storey grade II listed building built pre-1900 and converted into a restaurant and premises located in central St Albans. It was stated to have been refurbished in 1999. The property, with an area of 523.92m^2, was stated to be situated on the corner of George Street and Verulam Road, having a non-standard frontage, with the main customer entrance and access point located around the corner, on Veralum Road.

6. Miss Woodhams 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 her 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). She confirmed that she was not representing the appellant at the hearing on a contingency fee basis, also declaring that she understood and accepted that her duty was to the Tribunal in giving her evidence and she would comply with this as well as the requirements of her professional body regardless of whether or not the evidence supported her client's case.

7. The panel have 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 Procedure regulations 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Background

9. The appellant sought a reduction in the RV of the subject property to £114,000, on the basis that the unadjusted rate (UAR) of £420/m2 was excessive and that it should be reduced to £382.50/m2.

Relevant Law

10. 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, 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

11. In arriving at its decision, the panel turned to the issue to address whether the current UAR applied to the appeal property's assessment was unreasonable. Miss Woodhams sought a reduced UAR of £382,50/m^2 after having regard to the assessments placed on his comparable properties. Whereas Mrs Awoyokun supported the existing UAR of £420/m^2.

12. 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 these six propositions in mind, the panel acknowledged that the rent on the subject property, where available, was considered to be the correct starting point and consideration to how that rent compared to the statutory definition of rateable value. The rents on similar properties were also considered and assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

13. The appellant owned the freehold of the appeal property, therefore there was no rental evidence available in respect of it, for the panel to consider.

14. The panel considered the rental evidence of comparable properties submitted by the respondent. With regard to this information which related to three other properties situated on George Street, St Albans, the panel did not find this evidence persuasive and agreed it should not be attached significant weight. One of these properties was a wine bar and premises, while the rents for 23A and 23B George Street were too remote from the AVD to be helpful as well as being in respect of properties significantly smaller than the subject property.

15. In this appeal, the panel turned to the tonal comparable evidence submitted in order to determine whether the property's existing assessment of £123,000 Rateable Value (RV) was unreasonable and excessive.

16. A sizeable number of properties were referred to, both in the documentary evidence provided and oral submissions made. Whilst the panel gave consideration to these properties, the panel in arriving at its decision focused on the comparable properties that it regarded were most persuasive in this appeal. Whilst the panel took into account the UAR's of the comparable tonal evidence, the panel did not attach substantial weight to the percentage of reductions in the UAR's made in the 2017 Rating List made in respect of several of the comparable properties.

17. Having reviewed the information and evidence to justify the proposed UAR rates of £420/m^2 and £382.50/m^2, the panel found that the following assessments to be most helpful:

i) 3A Veralum Road, St Albans, with an area of 378.80m^2, which had been valued with a UAR of £400.00/m^2;
ii) 5B Veralum Road, St Albans, with an area of 428.81m^2, which had been valued with a UAR of £375.00/m^2;
iii) 3 High Street, St Albans, with an area of 584.39m^2, which had been valued with a UAR of £350.00/m^2;
iv) 20 High Street, St Albans, with an area of 383.60m^2, which had been valued with a UAR of £425.00/m^2;

18. The panel had regard to the comments made by both of the parties about the comparability of the aforementioned properties. Taking into account the sizes, age, locations, including their relative positions within the retail areas in central St Albans, the panel found that the current UAR of £420/m^2 was not reasonable. The panel decided that £390/m^2 was appropriate, based on the evidence submitted, and more fairly reflected the subject property's attributes.

19. The day before the hearing, the appellant's representative emailed the clerk details of her proposed valuation of £114,000, The clerk forwarded this valuation to the respondent's representative and the panel prior to the hearing. This valuation, unlike the previous valuations received, included an amount for air conditioning. On the basis that this valuation was provided by the appellant, confirming the presence of the air conditioning in the subject property at the material date, the panel decided that the valuation to be arrived at should be inclusive of the air conditioning element.

20. The challenge submitted by the appellant had requested an allowance of 20% for fragmentation, access and headroom disabilities, with the parties having agreed a 15% reduction when discussing allowances. It was also noted that two separate valuations were provided, explaining how the RV of £123,000 had been reached. One set out the valuation based on the UAR of £420/m^2 followed by a 15% allowance, while the other applied the 15% reduction to each line entry in the valuation, basing this on a UAR of £357.00/m2, which was 15% of £420/m^2. The panel heard comments from the parties as to what constituted an 'end allowance' and a ' Survey Unit Allowance;' in this appeal, the disability had been agreed for access and layout issues affecting the subject property, Consequently, the valuation was to be calculated such that the 15% allowance was applied at the end of the valuation.

21. With regard to the appellant's request for an end allowance to be awarded to reflect the unusual shape of the building and the poor loading facilities, the panel deemed that the onus was on the appellant to evidentially demonstrate that the subject property was disadvantaged to an extent in comparison to other similar properties, such that it necessitated an end allowance. No evidence had been presented to show this. The panel had allowed for the features of low ceiling height and lack of heating in the loading bay to be adequately reflected in the relativities applied to this area and determined that no end allowance was justifiable. The panel noted that the 5% end allowance awarded for the layout of 178-182 Gooch Street, where three units were combined into one, was not applicable to the subject property.

Determination

22. 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 £75,000 RV more accurately reflected the appeal property, and the panel calculated a revised valuation, as shown below:

Floor	Description	Area m^2	£/m^2	Relativity	Value (£)
Ground	Restaurant	178.71	390.00	1.0	69,696.90
Ground	Kitchen	11.5	390.00	0.7	3139.50
Ground	Internal Storage	12	390.00	0.5	2,340
Ground	Internal Storage	10.4	390.00	0.5	2,028
First	Restaurant	148.12	390.00	0.7	40,436.76
First	Public Toilets	27.39	390.00	0.35	3,738.74
First	Kitchen	30.5	390.00	0.49	5,828.55
First	Internal Storage	1.7	390.00	0.35	232.05
Second	Internal Storage	23.1	390.00	0.175	1,576.57
Second	Cold Store	7.4	390.00	0.245	707.07
Basement	Staff Toilets	0	390.00	0	0.00
Basement	Internal Storage	24.2	390.00	0.25	2,359.50
Ground	Stores	48.9	390.00	0.125	2,383.86
					134,467.50
Adjustment	Air conditioning	326	£7.00		2,282
					136,749.50
Allowance	Layout, Access		-15%		
				Valuation Total	**116,237.08**
	Say £116,000 Rateable Value, with effect from 1 April 2017				

23. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £116,000 RV, with effect from 1 April 2017, within two weeks of the date of this Order.

24. 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

25. 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.

26. 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 AB Jobanputra, Senior Member (Presiding)

Mrs N Crawshaw, Senior Member

15 May 2025

Mr R Patel
Clerk to the Tribunal
Date issued to the parties: 15 May 2025