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

Case No: CHG101103769

Sitting remotely using Microsoft Teams

Date: 3 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Offices and premises — Rental evidence — Assessment evidence — Appeal dismissed.

Before:
MRS M CHAGGAR

Between:

J C BAMFORD EXCAVATORS LTD — **Appellant**

- and -

NICOLA JOHNSON (VALUATION OFFICER) — **Respondent**

Regarding:
3 DEANERY STREET, LONDON, W1K 1AX
(the "subject property")

Mr O Dowty of Colliers International for the Appellant
Mr L Crossley for the Respondent

Hearing date: 7 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. I confirmed the rateable value (RV) of the subject property at £89,000 with effect from 1 April 2017.

Introduction

3. This was a 2017 rating list appeal. The subject property had been entered in the 2017 rating list as “Office and Premises” at an RV of £94,000 with effect from 1 April 2017. This was based on an unadjusted base rate of £525 per square meter (psm).

4. The challenge proposal was submitted by Colliers International on behalf of J C Bamford Excavators Ltd and was received by the Valuation Officer (VO) on 2 August 2023. It had been made on the grounds that the RV shown in the 2017 rating list was wrong and proposed a revised RV of £80,500 based on an unadjusted base rate of £450 psm.

5. Following the exchange of evidence and discussions throughout the challenge period, the VO revised her decision and reduced the RV to £89,000 with effect from 1 April 2017, due to a 5% allowance being applied for the location of the subject property on a less prominent street which would reduce the levels of natural light. The 5% allowance effectively reduced the base rate to £500 psm. A challenge case decision notice was issued on 5 August 2024 to this effect.

6. Mr Dowty and Mr Crossley both declared they were appearing as advocate only in the Tribunal proceedings.

7. The Tribunal business arrangements provide that a Senior Member of the Tribunal may sit alone. I am therefore satisfied that I was authorised to hear and determine these appeals sitting alone.

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

Background

9. The subject property was a period office building comprising of basement to fourth floor space with a passenger lift, located in Mayfair. The property was owned freehold by the appellant.

10. Mr Dowty originally requested a reduction in the unadjusted base rate to £450 psm. Prior to the hearing, the VO corrected their rental analysis on a comparable property located next door to the subject property. Based on this analysis, Mr Dowty now sought a reduction to £308 psm which resulted in an RV of £55,000.

Relevant Law

The Local Government Finance Act 1988

11. Schedule 6 of the Act provides that:

> 2(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. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015.

13. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

Discussion

14. The leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, set out six propositions to be followed when considering the weighting of evidence:

    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 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 differing types of evidence depending on the one hand 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.

15. The subject property was owner occupied and therefore there was no rent that could be referred to. I then had to consider the rental and assessment evidence submitted by the parties.

16. Within the challenge submission, the appellant's representative had referred to assessment evidence of the neighbouring property, 4-6 Deanery Street. There were two assessments, 1st Flr Nth which was in the rating list measuring 79m^2, and Grd Flr Pt & 1st Flr Ctr & Sth which was in the rating list measuring 133.50m^2. Both of the assessments were valued with an unadjusted base rate of £450 psm.

17. A copy of the lease was included in the evidence bundle which was for Part Ground and First Floor Offices 4-6 Deanery Street. The rent was £65,000 per annum with effect from 26 June 2014 for a ten-year term. The rent was increased annually as set out in the lease. The plan included in the lease demonstrated that the rent incorporated both rating assessments. However, I noted that the size of the assessments in the rating list, as provided by the appellant's representative, did not equate to the total area included in the lease which was larger by 45.5m^2.

18. Additionally, at clause 2.3 of the lease it states that "*The grant is made with the Tenant paying the following as rent to the Landlord:*
    2.3.1 the Annual Rent and all VAT in respect of it;
    2.3.2 the Service Charge and all VAT in respect of it;
    2.3.3 the Insurance Rent; and
    2.3.4 all interest payable under this lease; and
    2.3.5 all other sums due under this lease.

19. The service charge was stated to be an estimated amount per year with a maximum of £25,000 per year up to 24 May 2019, and a maximum of £30,000 per year from 25 May 2019 until the expiry of the term.

20. Mr Dowty stated that originally the VO had analysed the above rent to £539.26 psm, however this was based on the property measuring 120.59m^2. He stated that when it was noticed the size was incorrect, the VO amended the analysis to £252.05 psm. Mr Dowty analysed the rent to £308 psm, however because both parties were appearing as advocate only, no breakdowns from either party was provided to demonstrate how the figures were arrived at.

21. I placed little weight on this rental evidence as with no workings to demonstrate what had been included in the analyses, I did not find it to be useful. It was my opinion that the rent was not a clean rent and required adjustment to meet the rating hypothesis and this had not been evidenced. In addition, there was a discrepancy between what the lease covered and what was provided in the evidence of the size of the two separate assessments.

22. As I found the rent of 4-6 Deanery Street to be of little assistance, I then considered the assessment evidence of the two assessments in the rating list at £450 psm. 4-6 Deanery Street was a mixed use 1950's building. It comprised a shop on the ground floor, offices on the ground and first floor, and residential accommodation in the floors above. The property did not benefit from a passenger lift.

23. Rental evidence was provided by the VO for three properties which were stated to be of a similar age to the subject property. Two assessments were located at 22 South Audley Street. They were new lettings with rents commencing on the same date, 1 September 2014, each for a two-year term. 2nd Flr Front South had been analysed to £491 psm and 1st Flr West had been analysed to £563 psm. 22 Park Street was a new letting with effect from 1 May 2013 which had been analysed to £548 psm.

24. Mr Dowty placed less weight on these rents as he considered 22 Park Street to be too far from the AVD. It was his contention that as the two rents at 22 South Audley Street commenced on the same date, yet had analysed rents with a 15% difference, the rents were unreliable.

25. Mr Crossley stated that the properties were all comparable to the subject property, being period buildings in the same locality. It was his contention that the analysed rents of the VO's comparable properties were between £491 psm and £563 psm and were all in the rating list with an unadjusted base rate of £525 psm. There had been no challenges against the rate of £525 psm.

26. It was my view that, based on the evidence before me, the subject property was superior to 4-6 Deanery Street. It was solely used as office accommodation and included a passenger lift, in comparison to 4-6 Deanery Street which had no lift and incorporated residential accommodation and a shop as well as office accommodation. Therefore, the current RV of the subject property at £500 psm did not seem unreasonable compared to the £450 psm of 4-6 Deanery Street.

27. When considering the basket of evidence, I placed more weight on the comparable period properties. The rental evidence showed a range from £491 psm to £563 psm. The subject property was at the bottom of this range at £500 psm having accounted for it being in a less prominent location that resulted in less natural light. I was not persuaded that there was sufficient evidence to reduce the RV of the subject property further on the basis of 4-6 Deanery Street, as I did not find this property to be as comparable to the subject property for the reasons mentioned above.

Determination

28. In view of the above findings and conclusions, I am satisfied that the RV of £89,000 with effect from 1 April 2017 was reasonable. Therefore, the appeal was dismissed.

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/.

Mrs M Chaggar, Senior Member

2 June 2025

Mrs S Hodgson
Clerk to the Tribunal
Date issued to the parties: 3 June 2025