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

Case No: CHG101107866

Sitting remotely using
Microsoft Teams

Date: 1 October 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Non-domestic rating list appeal; Local Government Finance Act 1988; Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Café and premises; Price per m^2 in dispute; allowances sought for lack of toilets; Appeal allowed in part.

Before:
MR A CRAWFORD

Between:

BOSWELLS COFFEE CO LTD — **Appellant**

- and -

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

Regarding:
BOSWELLS CAFE, BOSWELLS CAFE, COWLEY, OXFORD OX4 3UZ
(the “subject hereditament”)

Mr D Bullimore from Lambert Smith Hampton for the Appellant
Mrs P Rowntree for the Respondent

Hearing date: 2 September 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed in part.

2. I determined that the rateable value (RV) of Boswells Cafe, Boswells Cafe, Oxford OX4 3UZ should be reduced to £50,000 with effect from 1 April 2017.

Introduction

3. This was a 2017 rating list appeal. Boswells Cafe, Boswells Cafe, Cowley, Oxford OX4 3UZ ("the subject hereditament") had been entered in the 2017 rating list as 'Cafe and Premises' at a RV of £58,000 with effect from 1 April 2017.

4. The Challenge proposal was submitted by Lambert Smith Hampton on behalf of Boswell Coffee Co Ltd (the appellant) and was received by the Valuation Officer (VO) on 9 August 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was excessive. The Challenge stage was completed on 5 December 2024 where the RV was reduced to £55,500 with effect from 1 April 2017.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament was excessive. The appeal was received by the Tribunal on 2 April 2025.

6. The hearing had originally two Tribunal members assigned to it. However, on the morning of the hearing, one Tribunal member could not attend. Therefore, I was authorised by the President of the Valuation Tribunal to sit alone as Senior Member for the hearing. This was in accordance with paragraph 11 of the Consolidated Practice Statement for the Valuation Tribunal for England 2025 – effective 1 July 2025

> ***Hearings where a member is unable to sit***
>
> *Where a panel of two or three members is due to sit and one of them is unable to sit for any reason, or fails to appear, they will be replaced by another member wherever possible. However, to avoid postponement, a hearing will proceed with a Senior Member sitting alone where the panel member(s) give(s) notice of their unavailability within one working day of the commencement of the hearing. In all other cases the hearing must be postponed unless the President directs otherwise.*

7. Both Mr Bullimore for the Appellant and Mrs Rowntree for the Respondent appeared as both advocate and expert witnesses. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Bullimore stated that he was instructed on a conditional fee basis.

8. Mr Bullimore 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 or not the evidence supported the client's case.

9. The panel accepted this expert witness evidence on the above basis as the appeal was not 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 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).

10. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

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

Background

12. The subject hereditament comprised an open-plan café located within the Templars Square Shopping Centre in Cowley, Oxford, with a total floor area of 407.75 m². The subject hereditament had no ceilings but did have balustrades surrounding it. As per the 2017 Rating List, the subject hereditament had a RV of £55,500. The appellant sought a reduction in the RV to £30,750, effective from 1 April 2017.

13. The basis of measurement applied was Net Internal Area (NIA) and the base rate applied to the hereditament was £136.80 per m², after allowing 10% for quantum and 5% for lack of toilet facilities.. However, Mr Bullimore contended that this figure was excessive and proposed a revised base rate of £85.50 per m² after the 10% and 5% had been applied, as a more appropriate valuation.

14. The issue between the parties concerned the RV of the subject hereditament, in particular the price per m² that should apply.

Relevant Law

15. The term ‘rateable value’ is 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 various assumptions.

16. 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, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

17. 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 was 1 April 2017.

18. Both parties had referred *to Lotus and Delta v Culverwell*. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject hereditament was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

Discussion

19. The subject hereditament was held under a 20-year lease which commenced on 2 July 2004. The initial rent review was pre-agreed at £45,000 per annum, while subsequent reviews in 2014 and 2019 were based on the Retail Price Index (RPI), rather than open market valuation. The rent agreed in 2014 was £61,225 per annum with effect from 2 July 2014 and the rent agreed in 2019 was £61,000 per annum.

20. The lease included a non-competition clause, preventing other café or restaurant operators from opening within the shopping centre. The repairing obligations were limited to internal elements only; however, as the unit lacks a ceiling, the appellant's responsibilities were confined to the flooring and balustrades. Additionally, the lease incorporated a separate storeroom located at 14 The Square, which had a Rateable Value (RV) of £1,650 in the 2017 rating list.

21. I noted that the original lease for the subject hereditament commenced on 2 July 2004 at an annual rent of £45,000. A rent review took place on 2 July 2014, approximately nine months prior to the AVD of 1 April 2015 with the rent pre-agreed at £61,225 per annum. As the revised rent was calculated using the Retail Price Index (RPI) and the lease contained a non-competition clause, I considered that the tenant may have paid a premium. Consequently, I concluded that the lease offered limited evidential value and could not be relied upon for determining the matter at hand. Furthermore, the lease was too remote from the AVD to be of assistance. I also noted that upward rent reviews do not reflect open market rents, and this was not a new tenancy entering the market afresh. However, it could be argued that the presence of the clause might enhance the attractiveness of the property, potentially increasing the bid from a hypothetical tenant entering the market afresh.

22. Mr Bullimore stated that the assessment evidence he had provided showed that there as a reduction in values from 2010 to 2017, but the subject hereditament had seen a substantial rise in its assessment. comparable properties and not comparable and there is the clause that it can only be the coffee shop so it could be argued that it would increase the potential bid.

23. In support of his argument that the current base rate was excessive, Mr Bullimore referred to rental evidence from comparable properties, specifically Unit 2, The Square, Cowley and 22–23 The Square, Cowley. Both properties were subject to new leases, which had commenced in February 2022, with lease terms of 15 and 20 years respectively. He highlighted that rent reviews conducted in 2007 and 2012 resulted in nil increase, suggesting a prolonged period of rental stagnation within the shopping centre. Mr Bullimore therefore submitted that, had the rent review for the subject hereditament been based on open market value rather than RPI, the rent would likely have remained unchanged.

24. However, Mrs Rowntree argued that these two properties were a large supermarket and a shop and premises, which had a total area of 783 m². I noted this was more than double the size of the subject hereditament and they were not 'like for like' comparable to the subject property. Therefore, I placed less weight on the details of these two comparable properties. I also noted that the VO mentioned within their submission that if the two properties were to be assessed on an overall basis, instead of the zoned basis, the adopted price for these two comparable properties would be higher than the subject hereditaments adopted value.

25. Although Mrs Rowntree referred to the area of the subject hereditament as 407.75 m², and Mr Bullimore mentioned it as 408.75 m² in his email, I noted that in Mr Bullimore's closing

summary, he requested the Tribunal to reduce the RV to £30,750. However, upon reviewing the breakdown of the assessment provided in his submission, it became evident that the area he had used to support the requested RV of £30,750 was 360.03 m², not the agreed figure of 407.75 m² as confirmed by Mrs Rowntree during the hearing. Therefore, had I allowed the appeal in full, the RV, based on the agreed measurement of 407.75 m², would have equated to £34,863, which would be rounded down to £34,750 rather than the £30,750 contended for by Mr Bullimore..

26. Mr Bullimore presented comparable assessment evidence relating to hereditaments located at The Square, Cowley. I was informed that, although 22 comparable properties were submitted, the majority had been assessed using a zoning approach, with only five assessed on an overall basis. Additionally, two of the properties listed were public houses. Given this, I placed greater weight on the comparable properties assessed on an overall basis, consistent with the method used for the subject hereditament, rather than on the zoned properties or the two public houses.

27. I acknowledged that while several properties were located within the shopping centre, none were directly comparable to the subject property, which operated as an open-plan café. The other units had been assessed on an overall basis and varied in size from 811.77 m² to 3,575.10 m², with base rates ranging from £55 per m² to £520 per m². The schedule of assessments provided by Mr Bullimore was helpful in this context. I noted that fourteen of the comparable properties had a base rate of £520 per m². However, adjustments had been made in some cases: one was reduced to £450 per m², six to £470 per m², and one to £500 per m².

28. The remaining properties had base rates ranging from £55 per m² to £105 per m². In contrast, the subject hereditament was assessed at a base rate of £160 per m², with a 10% allowance applied for quantum and a further 5% allowance for the lack of toilet facilities.

29. Among the five comparable properties assessed on an overall basis, I noted that two had their rate per m² reduced through agreement between the appellants and the VO. One was adjusted from £78 per m² down to £70 per m², and the other from £120 per m² down to £108 per m².

30. I observed that overall, the comparable properties that had had a reduction in value was approximately 10%. This suggested that the VO had initially valued all of the units within the shopping centre too high. By taking this into account, I gave significant weight to this evidence and considered it appropriate to apply a similar 10% reduction to the subject properties base rate of £160 per m².

31. After applying a similar 10% reduction, along with the previously acknowledged allowances, 10% for quantum and 5% for lack of toilet facilities, I determined that the correct base rate should be £123.12 per m². This resulted in a revised RV of £50,000 for the subject hereditament, effective from 1 April 2017, as follows:

Floor	Description	Area m²	£ per m²	Value (£)
Ground	Ground floor sales	407.87	123.12	50,217
			Say RV	£50,000

Determination

32. In view of the above findings and conclusions, I was satisfied that Mr Bullimore had provided sufficient evidence to support a lower valuation. This included agreed reductions for other properties within The Square. Therefore, I determined that the appeal should be allowed in part.

33. Accordingly, I order the Valuation Officer to reduce the 2017 Rating List entry for Boswells Cafe, Boswells Cafe, Cowley, Oxford OX4 3UZ to £50,000 with effect from 1 April 2017. within two weeks of the date of this order.

Refund of appeal fee

34. 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

35. 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.

36. 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 Crawford, Senior Member

1 October 2025

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 1 October 2025