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

Case No: CHG101132360

Sitting remotely using Microsoft Teams

Date: 29 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — ; Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC); Barnard & Barnard v Walker (Valuation Officer) (LVC/231/1975); Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; rental evidence: comparable hereditaments; comparison between Rating Lists

Before:
MR K EVERETT
MR SC KAMALAN

Between:

YORKSHIRE BUILDING SOCIETY **Appellant**

- and -

KAREN GILES (VALUATION OFFICER) **Respondent**

Regarding:
YORKSHIRE BUILDING SOCIETY,YORKSHIRE HOUSE,SHEFFIELD,S1 2GZ
(the "subject property")

Mr Stephen Hornby of Newmark for the Appellant
Mr Michael Dent for the Respondent

Hearing date: 1 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal finds that the Rateable Value (RV) on the subject property was reasonable based on a Zone A rate of £500 per m and confirmed £39,500 from 1 April 2023

Introduction

3. At the commencement of proceedings, Mr Hornby declared that he was instructed under a fixed fee arrangement. In the declaration, Mr Hornby stated that he understood and accepted that his duty was to the Tribunal in giving evidence, that he would comply with this duty, and the requirements of his professional body, regardless of whether or not the evidence supported the Appellant's case.

4. Noting the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), the Tribunal Panel nevertheless accepted this expert witness evidence on the above basis because –

   (1) the appeal was not complex;

   (2) to do otherwise would be contrary to the requirements to deal with cases proportionately, avoiding unnecessary formality and ensuring parties are able to participate in proceedings (provided by Regulation 3 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269] (the "Tribunal Procedure Regulations")); and

   (3) was nevertheless permissible whether or not it would be admissible in a civil trial (provided by Regulation 17(2)(a) of the Tribunal Procedure Regulations).

5. The Panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

Background

7. For the purposes of the 2023 Rating List, the antecedent valuation date (AVD) is 1 April 2021.

8. The challenge relates to the ground floor and part first floor of a 2 storey property, comprising a building society branch office laid out on ground and first floor levels. The property is located on Leopold Street, close to its junction with Barkers Pool in Sheffield City Centre. It is held on a freehold basis.

9. The challenge relates to the Zone A (ZA) price of £500 per m^2 which is currently adopted for the subject property which gives an RV of £39,500 with effect from 1 April 2023.

10. The appellant's case is that the current Rating List assessment of the subject property is incorrect as it is not supported by rating list evidence relating to retail properties in the locality. There was an increase between the 2017 and 2023 of 45% on the subject property, whereas other retail properties in the area have had a reduction of between 10 and 17%.

11. The subject property was in the 2017 rating list at £22,250 based on ZA of £275 per m^2. The appellant considers that the ZA price should be £240 per m^2 and the RV should be £19,500 with effect 1st April 2023 by applying the general reduction in the ZA values that have been seen on the retail properties in the locality.

12. The Valuation Officer defended the ZA rate of £500 per m^2 as being reasonable given the values on similar properties in the locality. It was considered that the previous ZA value was under assessed and this had been rectified in the new list.

Relevant Law

13. The basis of valuation is defined in paragraph 2 of Schedule 6 of the Local Government Finance Act 1988 as amended by section 1(2) of the Rating (Valuation)
Act 1999 as:

> 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.

14. The definition of rateable value can be summarised as representing the rent which a property would realise if let from year to year on the open market with vacant possession assuming the tenant bore all usual rates, taxes and carried out all repairs. The definition gives rise to a hypothetical tenancy and all possible occupiers, including the actual occupier and owner, must be considered as possible hypothetical tenants.

15. *Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141* provides:

i) Where the subject hereditament is let, the rent should be taken as the starting point
ii) The more closely the rent accords with the rating hypothesis the more weight should be attached to it
iii) Where rents on similar properties are available, they too should be considered to confirm or otherwise the level of value indicated by the rent on the subject
iv) Assessments of comparable properties are also relevant
v) In the light of all the evidence an opinion can then be formed of the value of the appeal hereditament weighting the evidence as appropriate
vi) Where no rents are available on comparable properties a review of other assessments may be helpful, but in these circumstances, it would be difficult to reject the actual rent.

Discussion

16. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: appellant's challenge submission, initial response to the challenge, challenge further exchange, Valuation Officer's challenge case decision notice, and appellant's supporting evidence statement.

17. The panel noted that in correspondence during the challenge stage the Valuation Officer referred to the decision in *Lamb (VO) v Go Outdoors Ltd (2013) RA 66* where the Valuation Officer relied upon a comparison between assessments in the 2005 and 2010 Rating Lists. In that case the Tribunal was not persuaded that any weight should be attached to such a comparison noting that some assessments had increased, some decreased and some remained static. Some of the assessments were subject to appeal, the settlement of

which could affect the amount by which the assessments changed between the lists.

18. Mr Hornby referred the panel to the judgment of *Barnard & Barnard v Walker (Valuation Officer) (LVC/231/1975)* noting that when there is a consideration of differentials in the old list there must be a presumption that those differentials were correct. Such a presumption can be rebutted by evidence. It was not sufficient for the assertion that the old list is irrelevant there is a need for persuasive evidence that there has been a change in circumstances.

19. The Valuation Officer advised that it was his opinion the subject property was under assessed in the previous lists and it was the Valuation Officer's duty to rectify this error. He referred to *Ladies Hosiery v West Middlesex Assessment Committee* [1932]. In this judgment Scrutton L.J. at p.p. 686-688 stressed the "vital principle" of rating law that "*each hereditament should be independently assessed*" and that correctness should not be sacrificed to ensure uniformity so as to "*obtain uniformity by correcting inaccuracies"*.

20. Mr Hornby argued that as the assessment in the 2005 list and 2010 list were similar and as each list gives an opportunity to revalue it seemed unlikely that this was an error which had been continually repeated over seventeen years. There had been more than sufficient a period to correct any perceived inaccuracy. As no action was taken it must be assumed that the VOA was satisfied with the level of the assessment.

21. The panel accepted that each list was independent of each other and that some consideration had to be given to the previous lists. However it found that it was clear from the evidence that the subject property had previously been assessed at a rate considerably lower than its neighbouring property and it also appeared to be out of step with similar assessments in the locality. 1-3 Leopold street and ground floor 11 Leopold Street which had similar assessments to the subject property in the previous list were in poorer positions according to the GOAD map provided compared to the position of the subject property which was clearly visible from the end of Fargate. The neighbouring property 2-8 Barkers Pool had similar visibility to the subject property and had a ZA rate of £775 in the 2017 list and £660 in the 2023 list.

22. Three rents were provided by the Valuation Officer to support the current tone of £500:

- 2- 8 Barkers Pool has been valued at £660 per m^2 ZA in 2023 list.
- 49 Leopold has been valued at £530 per m^2 ZA in 2023 list
- 2 Orchard Square has been valued at £650 per m^2 in 2023 list.

23. The appellant gave his analysis of the position and advantages of these properties and argued little weight could be placed upon these as comparable to the subject property.

- 2-8 Barkers Pool comprises a wide fronted shop unit that occupies a very prominent corner pitch position overlooking Fargate.
- 49 Leopold Street occupies a much superior pitch being adjacent to the Orchard Square Shopping Centre and lies immediately adjacent to a pedestrian entrance to the shopping centre. It is also much smaller, in a parade of shops with a second entrance on Orchard Square.
- Orchard Square itself lies immediately off Fargate, traditionally regarded as the prime shopping pitch in Sheffield City Centre a pedestrianised street on which national retailers are located, whereas the subject property is in a much poorer retail location.

24. The panel was mindful of the requirements in Lotus and Delta v Culverwell (VO) and Leicester City Council, [1976] RA 14, where the hereditament is actually let, the rent should be taken as a starting point. As there was no rent on the subject property, rents of similar properties should be analysed in order to confirm or otherwise the level of value for the subject hereditament.

25. The panel found that in the absence of rental evidence for the subject property, the rental evidence on the comparable properties could be given some weight. Although these were rent reviews or lease renewals each analysed to well above the ZA rate for the subject property. The panel placed most weight on the rental evidence on 28-29 Orchard Street a rent review from 7 March 2021 just a few days before the AVD which analysed to £772.12p per m^2.

26. The panel also placed weight on the tone for the properties that were in the immediate vicinity of the subject property. 2-8 Barkers Pool and 10 Barkers Pool both of which had higher ZA rates than that proposed for the subject property. Having had regard to all of the comparable evidence, the panel concluded that the subject property was not over assessed the panel having made adjustments for the slightly poorer position compared to the other comparable properties identified.

Determination

27. In view of the above findings and conclusions, the Tribunal finds that the RV on the subject property was reasonable and confirmed the RV of £39,500 from 1 April 2023.

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/.

Mr K Everett, Senior Member (Presiding)

Mr SC Kamalan, Senior Member

29 May 2025

Mrs J Routledge
Clerk to the Tribunal
Date issued to the parties: 29 May 2025