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

Case No: CHG101153329

Sitting remotely using Microsoft Teams

Date: 11 March 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 — Self Catering Holiday Unit and Premises — Trading evidence — Double Bed Unit — appeal dismissed

Before:
MR A IQBAL
MR S MULDOON

Between:

1001 APARTMENTS LTD **<u>Appellant</u>**

- and -

NICOLA JOHNSON (VALUATION OFFICER) **<u>Respondent</u>**

Regarding:
376 CAMDEN ROAD, LONDON N7 0LG
(the "subject property")

Mr Tom Kyte for **Goodman Nash** on behalf of the Appellant
Mr James Bean for the **Respondent**

Hearing date: 27 February 2026

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed.

2. The Tribunal finds that the rateable value (RV) was not unreasonable.

STATEMENT OF REASONS

Introduction

3. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 8 November 2023. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was well founded and agreed to reduce the assessment from £235,000 RV to £220,000 RV. A decision notice to this effect was served on the appellant on 22 May 2025. His representatives then appealed the VO's decision to the Tribunal on 30 September 2025, on the grounds that the current valuation for the hereditament was not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

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

Background

5. The subject property was described in the rating list as Self Catering Holiday Unit and Premises which had been valued on the basis of 38 Double Bed Units (DBU) at a value of £4,000 per DBU. The subject property was built in 2008 and was originally constructed as a hostel with planning permission granted for 41 Self-contained studios, a store room, common rooms and a porters room. The appellant company had taken on the management of the subject property on 1 April 2017.

6. Mr Kyte appeared on behalf of the appellant as advocate and expert witness. The clerk asked if there was a success related fee involved and if so whether its existence was compatible with his 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).

7. Mr Kyte declared that he was instructed under a success fee arrangement in his role as expert witness. Mr Kyte confirmed 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.

8. The panel 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).

9. Mr Bean confirmed that he was representing the VO as an advocate.

10. The issue in dispute before the panel was the correct value to be applied to the DBU. Mr Kyte sought a reduced entry of £190,000 RV from 1 April 2017 based on a DBU of £3,150.

11. However, Mr Bean defended the VO's assessment of £220,000 RV based on a DBU of £4,000.

12. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties comparable assessments, skeleton arguments, location maps and internal and external photographs of the subject property and comparable properties, trading accounts for the year to 31 March 2018, 31 March 2019 and 31 March 2020 and the Valuation Tribunal decisions of *Lexham Properties Ltd v Bunyan* appeal numbers CHG100151518 and CHG100151517 dated 28 April 2022 and *Wymondham Abbey Project Ltd v Mr C Sykes (VO)* appeal number CHG1000053059 dated 11 November 2020.

Relevant Law

13. The term 'rateable value' is defined in 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; and*
>
> *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. For 2017 rating list appeals the Antecedent Valuation Date (AVD) is 1 April 2015. The material date for this appeal is 1 April 2017.

Discussion

15. In accordance with the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, the rent on the appeal property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

16. Although the passing rent was stated to be £400,000 effective from 1 April 2019 the panel had to ignore this rent as both parties accepted that the rent was between connected parties and therefore not an arms-length transaction.

17. Mr Kyte submitted that as the RV had changed from £104,000 for the 2010 rating list, to £235,000 for the 2017 rating list and had subsequently been reduced to £116,000 for the 2023 rating list, which he argued demonstrated that the RV for the 2017 was too high. However, the clerk referred the parties to the Upper Tribunal judgment of *Flight Centre (UK) limited v Ricketts (VO)* [2021] UKUT 0315 (LC) dated 19 October 2021. Mr Higgin, the Upper Tribunal member stated at paragraph 29

> *"I attach no weight to comparisons with previous Rating Lists or any significance to the fact that other parades nearby have declined in value since the 2010 List."*

18. Given the above, the panel applied little weight to Mr Kyte's argument in respect to the changes to the RV in the different rating lists for the subject property and his references in his evidence bundle to other properties where he was referring to comparisons with other Rating Lists.

19. Mr Kyte argued that the subject property had no storage, the basement apartments had been used to store various items such as cooking equipment, crockery and bedding. However, this appeared to contradict the appellant's own description of the subject property as the planning permission included a store room.

20. During questioning he confirmed that those apartments had not materially changed from apartments. One of the photographs still showed a shower cubicle, toilet and sink and still contained the plumbing.

21. By not valuing those apartments as self-contained apartments, this offended the "*Rebus Sic Stantibus*" principle. In effect, the subject property had to be valued as it stood, which the panel considered to be self-contained apartments.

22. The Latin expression for applying this principle of reality was known in rating circles as *rebus sic stantibus.* There were two strands to this. The first rule being that the physical state of the property had to be regarded as at the material day of 1 April 2017. The only alterations permitted were minor alterations of a non-structural character. The second rule being that the appeal property had to be valued vacant and to let, having regard to its mode or category of use as at the material date and it was the value of that use to the occupier that had to be determined. The leading authority was *Scottish & Newcastle Retails v Williams (VO)* [2001] EWCA Civ 185 dated 15 February 2001.

23. During questioning Mr Kyte confirmed that there had not been any overt act to prevent those apartments that were being used as storage, as apartments as they could be used as such if needed. The panel therefore concluded the apartments that were being used as storage, vacant and to let, could be let as apartments and therefore all of the apartments had to be valued having regard to its mode or category of use which was apartments, rather than storage.

24. Turning the Mr Kyte's reliance on the turnover, he provided the profit and loss accounts for the years to 2018, 2019 and 2020. However, the panel rejected these as they were post AVD (1 April 2015). Whilst the panel understood that the appellant company had only started

trading effective from 1 April 2017, any evidence such as rental evidence or even profit and loss accounts presented after the AVD were not reliable to determine the RV[1]. The clerk also referred to the Lands Tribunal judgment of *Christopher Berrill (T/A Cobweb Antiques) v William Hill (VO)* [2000] EW Lands RA_34_1999 dated 2 February 2000 in which the appellant's turnover figures were rejected (paragraph 30):

> *"I do not find these turnover figures helpful for three reasons. First, in the rating hypothesise the appeal property must be assumed to be vacant and to let to the hypothetical tenant and therefore the trade of the actual occupier is not relevant (March v Weston (VO)) Secondly, the measure of rateable value (and any reduction on that value) is rental value and not turnover. There is no direct correlation between turnover and rent. Thirdly, Mr Berrill's turnover started to fall before the start of the Tramlink works. There is no evidence to show that the continued fall was wholly or partly caused by the works. I give no weight to the evidence"*

25. Whilst the panel accepted this judgment related to a Material Change of Circumstances, and, that RVs could be determined by reference to Income and Expenditure but, only in specific instances were properties were not generally let. However, the subject property was let, albeit between connected parties and the RV had been determined by reference to the DBU which Mr Kyte also accepted.

26. Turning to the DBU, Mr Kyte had referred to a number of Special Category (SCAT) codes which differed between serviced apartments (722G); Self Catering Holiday lets (131G) and hotels (138S, 137G and 227G depending on the number of stars) and that the VO had used codes 722G and 138S interchangeably. Where the VO had changed the code for some of the properties, such as Royal Court, 51 Gloucester Terrace which was changed to SCAT code 722G for Apart-Hotels the RV had changed significantly from £870,000 to £700,000. The VO had placed the subject property in SCAT code 131G and there was no argument from Mr Kyte that this was the wrong code.

27. Mr Kyte argued that the VO's comparable properties were closer to the centre of London where the DBU was greater. 6 Knaresborough Place had been valued using a DBU of £3,550; The Lexham 32-38 Lexham Gardens, this Tribunal[2] decided a DBU of £5,000; 74 Warwick Way had been valued using a DBU of £4,500; 120 Maida Vale had been valued using a DBU of £2,700, although he accepted that it was older than the subject property. Within the VO scheme (361178) Mr Kyte had established that the common value of a DBU was £6,200. During questioning, Mr Kyte confirmed that the subject property was approximately 1 Kilometre away from an underground station.

28. Mr Kyte had arrived at his DBU of £3,150 by reference to the profit and loss accounts. However, the panel had already rejected the profit and loss accounts as they were after the AVD. Apart from reference to the profit and loss accounts and arguing that the DBU should be less than the properties located in central London, Mr Kyte had not provided any further evidence to support his DBU.

29. In establishing the DBU for the subject property, Mr Bean had contended that the VO relied on 66 Turnmill Street, which had a DBU of £5,000; 33 Coptic Street which had a DBU of

[1] *Flight Centre (UK) limited v Ricketts (VO)* [2021] UKUT 0315 (LC) dated 19 October 2021

[2] *Lexham Properties Ltd v Bunyan* appeal numbers CHG100151518 and CHG100151517 dated 28 April 2022

£4,500 and 8-9 Ludgate Street which also had a DBU of £4,500. These DBUs had been agreed by the respective parties, which given that we are now getting towards the end of the next rating list, would suggest that a tone had been established for DBU for central London. Mr Bean then reduced the DBU for the subject property to £4,000 to reflect it being located further away from the centre of London.

Conclusion

30. In view of the above findings and conclusions, the Tribunal is satisfied that the RV, based on a DBU of £4,000 was reasonable. It was located not very far away from an underground station and therefore central London was easily reached from it. The panel understood how Mr Bean had arrived at a DBU of £4,000, by reference to a basket of agreed DBUs and reduced that by £500 per DBU to reflect the inferior location.

31. Although Mr Kyte had argued that the DBU should be lower and had referred to properties in the same SCAT code with DBUs of £3,550 and £2,700. His other comparable properties had significantly higher DBUs than the VO's comparable properties and Mr Kyte had failed to provide any relevant evidence to show how he arrived at his DBU of £3,150. The appeal is therefore dismissed.

Right of further appeal

32. 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) using Form T385 (Notice of appeal) within **four weeks** of the date this decision and statement of reasons was issued.

33. 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 Iqbal, Senior Member (Chair)
Mr S Muldoon, Senior Member
11 March 2026

Mr Richard Gath IRRV (Hons)
Clerk to the Tribunal
Date issued to the parties: 11 March 2026