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

Case No: CHG101161749

Sitting remotely using Microsoft Teams

Date: 23 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2023 Rating List appeal— Local Government Finance Act 1988 — Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 — office and premises — main space price — appeal allowed in part

Before:
MR N DE FREITAS
MR SM HOOBERMAN

Between:

NASH BOND LTD	**Appellant**
- and -	
NICOLA JOHNSON (VALUATION OFFICER)	**Respondent**

Regarding:
3rd Floor, 3 - 7 Portman Mews South, London W1H 6HU
(the "appeal property")

Mr J Norris for **DWD** (Appellant's representative)
Mr N Green for the Respondent

Hearing date: 28 April 2025 10:10

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. We find that the unadjusted main space price should be reduced to £417/m^2. The resultant rateable value (RV) was £103,000.

Introduction

3. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2023 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 30 November 2023. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was well founded, and altered the existing assessment to £152,000 RV effective from 1 April 2023 by way of a 2.5% end allowance for the mansard roof. A decision notice to this effect was served on the appellant on 30 July 2024. His representatives then appealed the VO's decision to the Tribunal on 29 November 2024, 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 appeal property was a third floor office and premises with an agreed total area of 240m². It was built in 2009, a steel frame construction with brick walls, located close to Oxford Street. It was initially held on a peppercorn rent followed by a one year lease effective from 16 January 2021 at a stepped rent. Mr Norris had adjusted this to £63,677 per year. It was then subsequently held on a third lease, effective from 25 December 2021, also on a stepped rent which Mr Norris devalued to £100,349.58 per year. This analysed to £417.79/m².

6. As Mr Norris appeared on behalf of the appellant as both 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. He declared that he was instructed under a fixed fee arrangement in his role as both advocate and expert witness. Mr Norris 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 Green confirmed that he was representing the VO as advocate.

10. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Mr Norris sought a reduced entry of £87,500 RV from 1 April 2023 based on an unadjusted value of £350/m².

11. However, Mr Green defended the VO's assessment of £152,000 RV based on a tone of value of £650/m².

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, a copy of the leases dated 13 August 2020, 2 February 2021 and 13 January 2022, a floor plan and internal and external photographs of the appeal property.

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".

Discussion

14. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA141. The rent on the subject 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.

15. The panel applied significant weight to the rent for the appeal property. The second lease commenced shortly before the AVD, with the third lease commencing eight months after the AVD. Whilst it was not a tenant coming fresh to the scene, ultimately, it was for the appeal property and very close to the AVD.

16. Mr Norris had taken the analysed rent for the appeal property of £417/m^2 and to reflect changes to the market from the AVD he adjusted this back to a value of £350/m^2. However,

this assumed that there was growth, which seemed to contradict his proposed value, as it had been in the 2017 rating list at a main space price of £575/m^2. Furthermore he provided no evidence to support this adjustment.

17. The panel was disappointed that Mr Norris had not provided any additional rental or tonal evidence to support his proposed value of £350/m^2.

18. The VO contended that he did not consider the rent for the appeal property to be reliable as the assessment had been valued at £575/m^2 in the 2017 rating list. He submitted that the rental market had not fallen to justify a main space price as low as £350/m^2 which was some 50% less in the 2023 rating list than the 2017 rating list. He therefore preferred the rent for the ground floor office which the VO had analysed to £650/m^2 and had commenced in August 2021.

19. However, whilst the panel applied some weight to the rent for the ground floor office, the panel concluded that the value of a ground floor office may be greater than those higher up such as the third floor, where the appeal property was located. Therefore the panel was not persuaded that the same value should be applied to the entire office block unless there was any evidence to prove that.

20. Turning to the VO's tonal evidence, the VO had applied the main space price for the ground floor to all of the offices within the block, which the VO presented as its tonal evidence.

21. During questioning, the clerk referred to the judgment of Futures (London) Ltd v Stratford (VO) [2006] RA 75. In particular paragraph 25, the Lands Tribunal member referred to the stages leading to the establishment of a 'tone of the list':

> "At first when a new rating list is put on deposit assessments will carry relatively little weight: they are opinions of value by the valuation officer as yet unchallenged and agreed or determined by a Valuation Tribunal or this Tribunal or accepted by lack of challenge. Finally, a stage will be reached when enough assessments have been agreed or determined or are unchallenged to establish a pattern of values, a tone of the list. The list is then said to have settled rents will be subsumed into assessments. At this stage rating surveyors will have little regard to rents and pay considerable attention to assessments. The position at any time regarding tone of the list is a question of fact".

22. Mr Green confirmed that there had not been any challenges for the other assessments, but he accepted that the tonal evidence that had been presented by the VO was poor as it was based on just the one rent. He stated that he would have presented more tonal evidence had he dealt with the initial challenge.

23. As the panel applied less weight to the VO's rental evidence and, given the above judgment, the panel was not persuaded that a tone of value had been established, as the rating list was just over two years old and there was still time for those assessments to be challenged.

Determination

24. Given the above, it was clear to the panel that there was a dearth of reliable evidence from both parties.

25. However, the panel was not persuaded by the VO's rental and tonal evidence, for the reasons already given. It also concluded that a value of £350/m^2 was too low as Mr Green had failed to provide any evidence to support this value. Therefore, the panel determined that the unadjusted main space price of £417/m^2 for the appeal property was reasonable because it was based on the actual analysed rent for the appeal property which had been agreed just over eight months after the AVD. It also reflected the potential disabilities of an office being on the third floor. The 2.5% allowance for the mansard roof will then reduce the main space price to £406.58/m^2. As Mr Norris had added an additional £25/m^2 fit out allowance and was not disputed, this resulted in a main space price of £431.58/m^2. The appeal was therefore allowed in part.

26. The Valuation is as follows:

Floor	Description	Area	Rate/£	Value
Third	Office	240.19	431.58	103,653
		Sub total		103,653
		Rateable value say		103,000

Order

27. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list to rateable value £103,000 with effect from 1 April 2023.

28. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

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/.

Mr N De Freitas, Senior Member

Mr SM Hooberman, Member

23 May 2025

Mr R Gath
Clerk to the Tribunal
Date issued to the parties: 23 May 2025