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

Case No: CHG101177939

Sitting remotely using
Microsoft Teams

Date: 21 July 2025

**SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988**

*2023 Rating List Appeal : Local Government Finance Act 1988; Challenge against Compiled List entry; Offices and Premises; accuracy of rateable value; reduction in main space rate sought; reduced rate sought for area behind supporting wall; rental evidence for subject property considered; found that weight of evidence supported current rateable value; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed.*

**Before:**
**MR AMRAN HUSSAIN**
**MRS NC YANG**

**Between:**

**HOLLAND PROPERTIES LTD** **Appellant**

**- and -**

**Nicola Johnson**
**(VALUATION OFFICER)** **Respondent**

**Regarding:**
**GRND FLR AND PT 1ST FLR AT 429, WESTFERRY ROAD, LONDON, E14 3AL**
(the "subject property")

Mr M Brownstone of Marston Associates representing the Appellant
Mr A Ngwube for the Respondent

Hearing date: 24 June 2025

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**DECISION AND STATEMENT OF REASONS**

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## Decision

1. The appeal is dismissed.

2. The Tribunal finds that a main space rate of £200 per $m^2$ for the subject hereditament was reasonable and that the rent passing on the subject property did not support a reduced rate for the elements identified by the appellant. It therefore confirmed the rateable value (RV) at £30,250 with effect from 1 April 2023.

## Introduction

3. This was a 2023 Rating List appeal. The subject property had been entered in the 2023 rating list as 'Offices and Premises' at a RV of £30,250 with effect from 1 April 2023.

4. The challenge proposal was submitted by Marston Associates on behalf of Holland Properties Limited and was received by the Valuation Officer on 26 January 2024. A reduction in the rate applied to the main space from £200 per $m^2$ to £190 per $m^2$ was sought along with an allowance of 75% for the area described as 'ground floor unclassified area', resulting in a revised RV of £26,000 with effect from 1 April 2023.

5. The Valuation Officer issued a challenge case decision notice on 7 March 2024, which stated that based upon the evidence and information available, the rating list entry of £30,250 was considered to be reasonable and there would be no amendment.

6. 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 is not reasonable. The appeal was received by the Tribunal on 2 April 2024.

7. Mr Brownstone and Mr Ngwube appeared on behalf of the appellant and respondent respectively as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), the panel noted their declarations of truth included a statement that they were not instructed under any conditional fee arrangement. They declared that they understood and accepted that their duty was to the Tribunal in giving their evidence and they would comply with this as well as the requirements of their professional bodies regardless of whether or not the evidence supported the client's case.

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

## Background

9. The subject property is currently occupied as an Estate Agent's office and comprises offices situated on the ground floor and part of the first floor of a three-storey building with a total area of 117.4$m^2$. The ground floor ancillary rear storage areas comprise an under stairs stationery cupboard, a galley kitchen leading to a toilet and storage. There are also four car spaces.

10. The issue between the parties concerned the RV of the subject property. The appellant's representative had initially proposed a revised RV of £26,000 based on a main space rate of £190 per $m^2$, with a reduction to 25% of this rate for 24.6$m^2$ of 'unclassified' area on the

ground floor. The respondent defended the current valuation of the subject property at RV £30,250, based on main space rate of £200 per $m^2$.

## Introduction of Late Evidence

11. During the hearing, Mr Brownstone made reference to the lease renewal for the subject property dated 20 August 2021 which took effect from 2 August 2021. He stated that a copy of the lease had been provided to the respondent during the challenge period and considered that its inclusion in the evidence bundle would assist the panel. Mr Ngwube stated that whilst a later lease relating to the subject property had been provided, a copy of the 2021 renewal had not, although this had been requested. Mr Brownstone stated that he had not received any correspondence from the respondent chasing this document.

12. In determining whether to allow the late evidence, the panel had regard to the Standard Directions for 2017 List and later List NDR appeals issued with the notice of hearing

**Further evidence**

*1. No later than **four weeks** before the date of the hearing, a party must make written application to the Tribunal (with a copy to the other parties) if it intends to include at the hearing any new evidence which:*

> *a) was not included within the notice of appeal but which all parties have subsequently agreed in writing to include (together with a copy of the written agreement); or*
>
> *b) relates to the ground on which the proposal was made, was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations.*

*2. The application must specify the reasons for the late application and if under b) above set out:*

- *why the evidence was not available earlier;*
- *when it came into the possession of the party.*

*3. Starting from the date the notice is served on them requesting the inclusion of the new evidence, parties to the appeal have two weeks to raise with the Tribunal any objection in writing and issue copies to all other parties.*

13. The panel considered that the application for late evidence to be introduced had not been made four weeks before the hearing as required by the Standard Directions. In considering a breach of the Tribunal's directions, the panel must have regard to the three-stage test set out in *Denton v TH White Ltd* [2014] 1 WLR 3926 before applying sanctions.

14. Stage one requires the Tribunal to determine the significance and seriousness of the breach: if the breach is neither, then relief should usually be granted. At stage two the Tribunal must consider the reasons why the failure and default occurred: if the defaulting party has good reasons to explain what happened, relief should usually be granted. Finally, at the third stage, the Tribunal must have regard to all of the circumstances of the case;

- the need for litigation to be conducted efficiently and at proportionate costs
- that the failure to grant relief may leave an inaccurate entry in the rating list and
- the need to enforce compliance with the rules, directions and orders of the Tribunal.

15. The panel was satisfied that a request to introduce new evidence at the hearing was a significant breach of the Tribunal's directions, which required such an application to be made four weeks before the hearing. Mr Brownstone stated that he thought the copy of the 2021 lease renewal had been provided to the respondent and it should have been included in the respondent's decision notice. The panel did not consider that this was good reason for the breach as the appeal documents had been supplied by the appellant, and did not contain the documents in question.

16. The panel recognised however that the rent agreed on the subject property was pivotal to both parties' cases as no rental or assessment evidence had been provided in respect of comparable properties. It also noted that Mr Ngwube did not object to the late inclusion of a copy of the 2021 lease renewal as new evidence at the hearing. In the circumstances the panel determined that it was in the interest of justice to allow its inclusion and adjourned the hearing briefly whilst Mr Brownstone emailed the document to the clerk and to the respondent and to allow the Mr Ngwube to examine the document.

**Relevant Law**

17. 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 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".

18. In respect of an appeal against an entry in the 2023 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2021, in accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No. 832).

19. 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 2023.

## Discussion

20. Mr Brownstone referred to the rents passing on the subject property since 2010, which he had summarised as below;

| | |
|---|---|
| 2 August 2010 to 1 August 2015 | £22,500 pa (average) |
| 2 August 2015 to 1 August 2017 | £25,000 pa |
| 2 August 2017 to 1 August 2019 | £25,000 pa |
| 2 August 2019 to 1 August 2021 | £25,000 pa |
| 2 August 2021 to 16 December 2023 | £28,750 pa (average) |
| 17 December 2023 to 13 December 2024 | £20,000 pa |

He considered that the average rent paid over the whole of this period was £23,750 pa which indicated that the current RV was excessive and concluded that the rents payable indicate a RV of between £25,000 and £27,500.

21. Mr Brownstone argued that part of the ground floor area consisted of what used to be a bank vault created by a previous occupier, was separated from the main office by a structural wall, and had limited utility compared to the rest of the space within the subject property. He considered that this area should be valued at 25% of the main office rate.

22. The panel was aware that the rent agreed on the subject property is a starting point in determining its correct RV, and that the closer to the AVD a rent is agreed, the more weight that it should be given. It considered that the best evidence was therefore the rent agreed for the subject property with effect from 2 August 2021, four months after the AVD. It was agreed on a stepped basis at £27,500 pa from 2 August 2021 then £30,000 pa from 2 Aug 2022 to 16 December 2023. The appellant had analysed this on a straight-line basis at £28,750 for the term of the lease. The respondent's analysis had resulted in a slightly higher figure of £29,102.

23. Mr Brownstone contended that the August 2021 rent would not have been known at the AVD and therefore less weight should be placed on it, with more weight on the 2019 rent of £25,000 pa. The panel did not find much force in this argument, as the August 2021 rent would have been agreed based on knowledge of rents which had been recently agreed at or around the AVD and would therefore match, or be close to, those rents. The panel also did not place any weight on Mr Brownstone's contention that the RV was excessive based on the average rent payable over an eleven year period prior to the AVD, as the RV is based on the rental market at or around the AVD, and not an average rent for preceding years.

24. There appellant had not provided any photographic or other evidence to demonstrate the disadvantages of the area described as 'unclassified' which was purported to be a bank vault installed by a previous occupier. No comparable assessments had been provided showing a reduction for such a feature being applied. Given the number of bank branch closures over the years, the panel would have expected to have seen evidence of reductions given for vaults in former bank premises if any had indeed been applied. Notwithstanding this, the panel would expect any such disadvantages to have been reflected in the rent agreed by the parties, and in this case, the rent agreed did not reflect such disadvantages.

25. The lease renewal agreed on 20 August 2021 was for a period of two years and four months and was outside of Sections 24-28 of the Landlord and Tenant Act 1954. The panel understood that this meant that the tenant had no guarantee of continuance after the expiry of

the lease. It considered that a hypothetical tenant would pay more rent where there was certainty of continuance than for one not covered by the above Act. Taking this into account, the panel was satisfied that the analysed rent of £28,750 (or £29,102) for the lease renewal agreed for the subject property on 20 August 2021 supported the current RV.

**Determination**

26. In view of the above findings and conclusions, the Tribunal is satisfied that the current rateable value of £30,250 is reasonable and dismissed the appeal.

**Right of further appeal**

27. 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.

28. 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 Amran Hussain, Senior Member (Presiding)

Mrs NC Yang, Senior Member

21 July 2025

Mr J Massey
Clerk to the Tribunal
**Date issued to the parties:** 21 July 2025