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

Case No: CHG101180786

Sitting remotely using Microsoft Teams

Date: 9 March 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — shop and premises; price per m^2 in dispute; rental evidence; comparable assessments; comparison between lists; appeal dismissed.

Before:
MS L OWUSU-AFRIYIE
MS L MARSHALL

Between:

W BOYES & CO LTD — **Appellant**

- and -

KAREN GILES
(VALUATION OFFICER) — **Respondent**

Regarding:
BOYES, NEWBEGIN, HORNSEA, HU18 1AB
(the "subject property")

Mr S Hornby from Newmark Gerald Eve LLP for the Appellant
Mr C Kazembe for the Respondent

Hearing date: 13 February 2026

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed.

2. The Tribunal found that the entry in the 2017 rating list is reasonable, and confirmed the rateable value (RV) of £46,000 with effect from 7 February 2020.

STATEMENT OF REASONS

Introduction

3. This is a 2017 rating list appeal. Boyes, Newbigin, Hornsea, HU18 1AB (the subject property) had been entered in the 2017 rating list as ‘shop and premises’ at £47,500 RV with effect from 7 February 2020, based on an adopted price of £80 per m^2.

4. A challenge proposal was submitted by Newmark Gerald Eve LLP on behalf of W Boyes & Co Ltd and was received by the Valuation Officer on 6 February 2024. It had been made on the grounds that the RV was inaccurate. A revised RV of £34,750 was proposed, based on an adopted price of £58.65 per m^2, in line with the subject rent.

5. The Valuation Officer issued a challenge case decision notice on 12 June 2025, which disagreed with the proposed alteration of the list, but stated that the current rating list entry was unreasonable. A revised RV of £46,000 with effect from 7 February 2020 was confirmed, to reflect the addition of air conditioning and CCTV, and to correct the assessment as a retail unit measured to net internal area; following a split of the property, it had been incorrectly assessed as a large food store measured to gross internal area.

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 at £46,000 RV is not reasonable. The appeal received by the Tribunal on 11 September 2025 sought a revised RV of £29,250, based on an adopted price of £43.75 per m^2. This followed the recent conclusion of the 2023 rating list challenge which reduced the RV from £53,500 to £32,750.

7. Mr Hornby appeared on behalf of the appellant 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), he declared that he was instructed on a success-based fee arrangement, and that he understood and accepted that his duty was to the Tribunal in giving his evidence, and that 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 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).

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

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

Relevant Law

11. Rateable value is to be determined in accordance with paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988, which provides:

    (1) 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.

12. 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).

13. 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 7 February 2020.

14. Both parties referred to the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This case set out the six propositions to have regard to when considering the weighting of evidence and expert opinion.

Discussion

15. The subject property is located on a retail parade in Hornsea. It has a total area of 595.77m^2, with accommodation comprising ground floor sales and storage, mezzanine toilets, first floor office and storage. Mr Hornby highlighted that there is an access ramp from the shop entrance down on to the sales floor which is slightly lower than street level.

16. The issue in dispute was the price to be adopted in the valuation. The appellant's representative sought a revised price of £43.75 per m^2, whereas the Valuation Officer defended the present adopted price of £80 per m^2.

17. In support of £43.75 per m^2, Mr Hornby cited the subject rent effective from 12 November 2020, the 2023 rating list appeal outcome, and the relative shifts in value for retail premises in the locality between the 2017 and 2023 rating lists.

18. In accordance with *Lotus and Delta*, Mr Hornby considered the subject rent as the starting point. While he acknowledged that limited weight would usually be attached to a rent over five years post AVD, in the absence of other reliable rental evidence, he considered that it assumed a greater degree of importance. When the rent was averaged up to the tenant's break option at year 10, this analysed at £32,750 per annum. Taking into account the agreed 2023 list assessment at £32,500 RV (based on £55 per m^2), Mr Hornby contended that the 2017 list entry should be downwardly adjusted by 12.5% to reflect the relative movement in tone, which resulted in £43.75 per m^2 in terms of main space.

19. In support of his proposed adjustment of 12.5%, Mr Hornby referred to the table contained in the appeal submission, which demonstrated the relative changes between the lists for all of the retail assessments on the street:

Address	Size	2017 RV	£ per m^2	2023 RV	£ per m^2	Change
Subject property	527.41	£46,000	£80	£32,750	£55	-31.25%
69 Newbigin		£67,500	£110	£59,000 (under appeal)	£95	-12.6%
67 Newbigin	316.20	£33,000	£200 Zone A	£33,000	£200 Zone A	0%
63A Newbigin	141.65	£15,750	£200 Zone A	£17,750	£225 Zone A	+12.5%
57 Newbigin	131.19	£15,500	£200 Zone A	£17,500	£225 Zone A	+12.5%
65 Newbigin	90.66	£15,250	£200 Zone A	£17,000	£225 Zone A	+12.5%
55A Newbigin	104.25	£13,000	£200 Zone A	£14,500	£225 Zone A	+12.5%
29-51 Newbigin	666.69	£53,000	£80	£60,000	£90	+12.5%
Heron Frozen Foods	229.51	£30,500	£200 Zone A	£34,250	£225 Zone A	+12.5%

20. The panel was not persuaded by Mr Hornby's argument that reliance should be placed on the subject rent, as it was effective from November 2020, over five years after the AVD for the 2017 list. While there was limited rental evidence available, the panel considered that this was preferable to applying a percentage adjustment between lists. This approach had been confirmed in the Upper Tribunal case of *Martyn Lamb (Valuation Officer) v Go Outdoors Ltd* [2015] UKUT 0366 (LC). The panel noted Mr Hornby's reference to the lower 2023 list assessment at £32,750 RV, however, was aware that each revaluation is required to be considered afresh and based on rental values at the relevant AVD.

21. The panel turned to the rental evidence scheduled by the Valuation Officer:

69 Newbigin, Hornsea, HU18 1AB

22. A retail unit of 585.04m^2 in terms of main space, the rent of £70,000 effective from 7 July 2012 analysed at £119.65 per m^2. The RV of £67,500 was based on an adopted price of £110 per m^2.

23. Although the rent was three years prior to the AVD, this property was considered by the Valuation Officer to be the best comparable evidence, as the assessment was not challenged during the 2017 list.

24. Mr Hornby submitted that the letting of 69 Newbigin to The Original Factory Shop (TOFS) in October 2012 related to a rent based on special market circumstances at that time. In support, he provided correspondence from TOFS in which it was stated that they had agreed to pay what was regarded as a premium rent to secure town centre exclusivity. Correspondence from Colliers who had represented TOFS stated that the original caseworker involved in the transaction was no longer employed, but it was their opinion that the leases of 69 Newbigin and a property in Withernsea were based upon a projected turnover.

25. The panel acknowledged the issues highlighted by Mr Hornby regarding the circumstances of the rent for 69 Newbigin, but was also mindful that the Valuation Officer confirmed that the form of return declared that this was an open market rent. The panel also considered that if it was to be accepted that a premium rent had been paid, the fact that the subject property had been assessed at £80 per m^2 was significantly below the analysed rent of 69 Newbigin at £119.65 per m^2, and the adopted tone of £110 per m^2.

26. As a piece of rental evidence dated three years prior to the AVD, the panel could not attach significant weight to it. However, the panel considered that 69 Newbigin provided compelling assessment evidence for a similar sized retail unit in the locality. In consideration of the adopted price of £110 per m^2, the panel considered that this demonstrated that £80 per m^2 for the subject property was not unreasonable.

67 Newbigin, Hornsea, HU18 1PB

27. A retail unit of 155.29m^2 in terms of main space, the rent of £42,000 effective from 1 August 2017 analysed at £270.46 per m^2. The RV of £33,000 was based on an adopted price of £200 per m^2.

28. The panel noted that as a smaller unit, this was not directly comparable with the subject property. However, it provided useful insight into the values adopted in the locality, and provided further support that £80 per m^2 for the subject property was not unreasonable, taking into account any adjustment for quantum.

Poundstretcher R/O Proudfoot, Queen Street, Withernsea, HU19 0BU

29. A retail unit of 584.1m^2 in terms of main space, the rent of £50,000 effective from 1 January 2017 analysed at £94.93 per m^2.

30. The panel attached little weight to this rental transaction as the property was located in a different town.

31. The panel concluded that in his reliance on the post AVD subject rent together with a comparison between rating lists, Mr Hornby had failed to demonstrate that the present adopted price of £80 per m^2 was excessive. The panel was satisfied that the Valuation Officer had demonstrated that the adopted price of £80 per m^2 was reasonable with reference to comparable assessments in the locality.

Conclusion

32. In view of the above findings, the Tribunal confirmed the assessment of the subject property at £46,000 RV with effect from 7 February 2020 and dismissed the appeal.

Right of further appeal

33. 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.

34. 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/.

Ms L Owusu-Afriyie, Senior Member (Presiding)
Ms L Marshall, Senior Member
9 March 2026

Mrs L Horne
Clerk to the Tribunal
Date issued to the parties: 9 March 2026