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

Case No: CHG101199432

Sitting remotely using Microsoft Teams

Date: 28 January 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Rating List Appeal; Offices and premises; Compiled List Entry; Price per square metre; Rental evidence; Evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

Before:
DR S PENNI
MRS S CHAUHAN

Between:

HEINEKEN UK — **Appellant**

- and -

NICOLA JOHNSON (VALUATION OFFICER) — **Respondent**

Regarding:
1ST & 2ND FLR ELSLEY HOUSE, 24-30 GREAT TITCHFIELD STREET, LONDON W1W 8BF
(the “subject property”)

Mr A Brooke from Dunlop Heywood for the Appellant
Miss C Boardman for the Respondent

Hearing date: 9 January 2026

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal was dismissed.

2. The Tribunal panel found that the current Rateable Value (RV) for 1st & 2nd Flr Elsley House, 24-30 Great Titchfield Street, London W1W 8BF (hereafter, known as the subject property) of £700,000 with effect from 1 April 2017 was not unreasonable.

STATEMENT OF REASONS

Introduction

3. This was a 2017 Compiled Rating List appeal. The assessment of the subject property was originally entered into the 2017 Rating List at £815,000 with effect from 1 April 2017 and it was described as office and premises. For this appeal, matters that affect the physical state or enjoyment of the property and the locality were to be taken as at the material day, which was 1 April 2017 with the Antecedent Valuation Date (AVD) being 1 April 2015.

4. A check had been submitted on 17 November 2023 and completed on 27 November 2023. A challenge was submitted on 23 March 2024, and the challenge completed on 10 January 2025. However, the Valuation Officer, based on the subject property's rent, reduced the RV to £700,000 with effect from 1 April 2017. An appeal was received by the Tribunal on 2 September 2025, made on the grounds that the current rate applied was incorrect and excessive as the appeal property's RV was not in line with assessments on comparable properties provided in the locality.

5. Mr Brooke 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), Mr Brooke stated that he was instructed on a fixed fee basis.

6. Mr Brooke declared that he understood the above judgment and therefore, 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 his client's case.

7. 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).

8. The panel, therefore, considered the "expert" evidence and attached such weight to it as it saw fit.

9. Miss Broadman, on behalf of the Respondent also appeared as advocate only.

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

Background

11. The subject property comprised the first and second floors of Elsley House, a converted office building constructed in the 1930s. It was located on Great Titchfield Street in London and has a net internal area (NIA) of 1,184.65 m². Elsley House underwent full refurbishment in 2007 / 2008 to provide Grade A office accommodation, including a manned reception, bicycle storage, showers and lockers, and access to a communal roof terrace.

12. The price per m² had been reduced by the VO from an unadjusted rate of £725 per m² to £625 per m², resulting in a revised RV of £700,000. The VO had considered the subject property's rent review details, effective from March 2016, which analysed to between £836 and £844 per m² as well as settlement evidence and comparable evidence. Therefore, the VO considered the current RV of £700,000, effective from 1 April 2017, to be reasonable.

13. The appellant, however, was of the view that a further reduction in the unadjusted rate was justified. The appellant proposed that the rate should be reduced to £475 per m², which would produce a revised RV of £620,000 with effect from 1 April 2017. The appellant's position was based on the values applied to the upper floors within the same office building.

Relevant Law

14. The panel is governed by Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, which provides that:

> 2(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.

15. 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). This common date was used to ensure that every property was treated in a consistent way.

16. The appeal property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988).

17. The actual date of valuation is 1 April 2015, this being the AVD. As also noted above matters that affect the physical state or enjoyment of the property (termed hereditament) or the locality were to be taken as at 1 April 2017, the material day for this appeal. When assessing the RV of any hereditament, rating law also requires that it must be assumed to be 'vacant

and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both its physical nature and mode or category of use.

18. The following case law was referred to within the evidence pack:

    (a) *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976].
    (b) *Charles Waters v Cox (VO) LC* [2023] 681.
    (c) *Futures London Ltd v Stratford (VO)* RA/47/2005.
    (d) *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.
    (e) *O'Brien v Harwood (VO)* RA 22 [2002].
    (f) *Simon Earle Racing v Virk (VO)* [2022] UKUT 311 (LC).
    (g) *Virk (VO) v Moor Land Self Storage* [2023] UKUT 93 LC.

19. The case law of *Burroughs Machines Ltd v Mooney* (VO) [1977] 1 EGLR was discussed by the parties during the hearing.

Discussion

20. 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.

21. The panel began its deliberation of the appeal by considering the actual passing rents for the subject property. Following rent reviews, the first floor was let at £464,192 per annum with effect from 1 March 2016, and the second floor at £481,436 per annum with effect from 31 March 2016. A further rent review in March 2021 resulted in an agreed combined rent of £1,061,760 per annum for both floors.

22. The panel noted that Miss Broadman relied on the subject property's passing rents from March 2016, which were approximately one year after the AVD of 1 April 2015. In contrast, Mr Brooke based his position on the values applied to the upper floors within the same building, arguing that these provided support for a further reduction in the unadjusted rate applied to the subject property.

23. Mr Brooke referred the panel to the third and fourth floors, which he stated were of the same construction. Therefore, the unadjusted rate applied should be considered to be the same for the subject floors at £475 per m².

24. Mr Brooke referred to the case law of Futures London Ltd v Stratford (VO) [2006] LT RA 75 and O'Brien v Harwood (VO) RA 22 [2002] where Mr Brooke stated that this judgment referred to the fact that precedence was taken with regards to settlements, rather than the actual rent passing. Mr P H Clark stated in the Futures London Ltd case: "There comes a time when the list is said to have settled. At this point Rents will be largely subsumed into assessments". Therefore, Mr Brookes contended that as the rates had been applied to the upper floors of the subject property's building and had remained the same throughout the 2017 Rating List, the tone had been set. Therefore, the tonal unadjusted rate of £475 per m² should be applied to the subject property.

25. Mr Brooke explained that the lower ground and ground floors were originally valued together at £525,000, later reduced to £515,000, with the rate of £475 per m² unchanged as agreed on 15 June 2020. On 21 January 2021, the combined entry was deleted and replaced with two separate assessments, both still valued at £475 per m². He added that the Valuation

Office had reviewed the rates for the other floors several times during the 2017 List and consistently found them correct, with no increases applied.

26. The VO referred to the case of O'Brien v Harwood and Futures London Ltd outline the three stages of a Rating List, there was no settled tone within the subject property's building. The panel was referred to the judgment in Simon Earle Racing v Virk (VO) [2022] UKUT 311 (LC), where the Upper Tribunal placed no reliance on the actual rent because it was agreed more than three years after the AVD. Instead, the Tribunal considered settlements reached in neighbouring counties.

27. In the present case, the VO noted that no settlements existed within the subject building itself and therefore relied on settlements for properties of similar age, refurbishment, and specification. There was also the fact that the subject property's rent had been agreed less than one year post AVD, even though it was a rent review, the panel held it still carried some weight.

28. The panel considered each floor within the building where the subject property was located, along with the unadjusted rates applied to them. It was noted that all floors, with one exception, had an unadjusted rate of £475 per m², with additional uplifts applied for air conditioning and hardwood raised flooring, not considered to be access flooring. The only floor assessed differently was the 5th floor, which had an unadjusted rate of £725 per m², as the VO had been able to return the assessment into the 2017 Rating List at the higher rate of £725 per m².

29. Miss Broadman directed the panel to the judgment in Ladies Hosiery & Underwear Ltd v Middlesex Assessment Committee [1932], highlighting the principle of uniformity in rating assessments. The judgment emphasised that an authority should not sacrifice accuracy merely to achieve uniformity. Rather, uniformity should be achieved, where possible, by correcting inaccurate assessments.

30. The panel noted that the entire building containing the subject property had been refurbished in 2007/08, upgrading it to Grade A office accommodation, including a staffed reception area, bicycle storage, shower and locker facilities, and a shared roof terrace. However, the windows remained the same as metal sash single glazed windows and not upgraded to double glazed windows. The VO agreed that a consistent valuation should apply across all assessments within the building. Based on the available rental and comparable evidence, the VO considered that the floors currently valued at a base rate of £475 per m² were undervalued and should have been corrected previously.

31. Miss Broadman explained that, had the 2017 Rating List still been open to amendments, the assessments for all relevant floors would have been reviewed to ensure uniformity. However, as the list was now closed, save for assessments subject to an outstanding Challenge. Therefore, she was unable to amend the other entries. The subject property's assessment, however, could be corrected through the present Challenge. Taking account of the rental, settlement, and comparable evidence, Miss Broadman considered an unadjusted base rate of £625 per m² for the subject property to be fair and reasonable.

32. Mr Brooke explained that the appellant had taken occupation in March 2011, an internal staircase had been installed linking the first and second floors. The panel noted that the landlord did not want the installation of such a staircase and required it to be removed when the appellant vacated the property. Once the staircase is removed, the first and second floors will be marketed separately, in accordance with the landlord's intentions.

33. Mr Brooke directed the panel to a photograph showing the front of the building in which the subject property was located. The image included a section highlighted in blue on the right-hand side, indicating a side passageway where an entrance served the rest of the floors within the subject property's building. Mr Brooke stated that this side access justified an uplift from the unadjusted rate of £475 per m² to £523.67 per m².

34. The panel noted that the part lower ground floor of the building, being the most prominent on the street with its own access, was adjusted downwards. It had an unadjusted rate of £475 per m², adjusted to £411.47 per m² due to less light.

35. Miss Broadman stated that the values applied to the other floors within the building were too low, particularly in light of the refurbishment carried out in 2008/09. To support this position, she presented details of comparable properties, which she said demonstrated the level of value that ought to have been applied to the subject building.

36. Mr Brooke discussed the case law of *Burroughs Machines Ltd v Mooney* (VO) [1977] 1 EGLR. He stated that in this case, the VO stated that all of the comparable evidence were underassessed. The Lands Tribunal pointed out that the assessment had stood for three years and it was not the practice of the VO to impugn the list and carry full evidential weight, The VO went and served lots of notices to ratepayers, but the Lands Tribunal did not accept this.

37. The panel agreed with the comments made by Mr Brooke above with regards to the Lands Tribunal statement, however, the panel noted that the Lands Tribunal also stated:

"My finding is that the evidence as a whole is sufficient to establish the valuation officer's defence of the assessment under appeal, despite the contra-indication provided by the assessment of nos19-25. The appeal is dismissed."

38. The panel referred to the comparable properties provided by Miss Broadman:

(a) 84 Great Portland Street was refurbished in 2016. At Challenge, a reduction in the assessment had been agreed, from £725 per m² to £650 per m².

(b) Charlotte Building, 17 Gresse Street was refurbished in 2009, and a reduction had similarly been agreed at Challenge, from £725 per m² to £675 per m².

(c) 201–203 Great Portland Street and 46–54 Great Tichfield Street were both assessed at £475 per m². However, Miss Broadman noted that these properties had not been refurbished in recent years and lacked the modern specifications and features present in the subject property.

39. The panel noted that the two comparables of 84 Great Portland Street and the Charlotte Building at 17 Gresse Street, were Challenge cases that had been deemed well-founded. These outcomes provided evidence of the rental values for refurbished offices modernised around the same period as the subject property.

40. As the comparable properties at 201–203 Great Portland Street and 46–54 Great Titchfield Street had not been refurbished in recent years, the panel gave less weight to the details of these properties when reaching its decision.

41. The panel recognised that the correct approach was to consider the passing rent first, followed by any agreed settlements, as well as tonal evidence. In this case, the panel found the passing rent, together with the settlements for comparable properties that had also been refurbished in recent years, to be the most persuasive. Accordingly, the panel placed greater weight on the evidence presented by Miss Broadman when reaching its decision.

Conclusion

42. In light of the above findings and conclusions, the Tribunal panel acknowledged that both parties had presented strong arguments. However, the panel determined that the valuation process had to be guided by established legal principles, including the decision in Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141.

43. The panel noted that, Miss Broadman’s analysis placed the passing rent in March 2016 between £836 per m² and £844 per m². Taking this into account, along with agreements for comparable properties and the fact that the VO had applied a rate of £625 per m² to the subject property, the panel concluded that the adopted rate was fair and reasonable.

44. Therefore, the appeal was dismissed.

Right of further appeal

45. 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.

46. 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/.

Dr S Penni, Senior Member (Chair)
Mrs S Chauhan, Senior Member
28 January 2026

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 28 January 2026