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

Case No: CHG101217085

Sitting remotely using Microsoft Teams

Date: 9 January 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 — Shop and premises — Zone A value — appeal dismissed

Before:
MR I LONSDALE
MRS N MANZOOR
MR C DERRICK

Between:

BOOTS — **Appellant**

- and -

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

Regarding:
384 GREEN STREET, LONDON E13 9AP
(the "subject property")

Mr Callum Mitchell for **GL Hearn** for the **Appellant**
Mr Wai Hung Mak for the **Respondent**

Hearing date: 10 December 2025

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed.

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

STATEMENT OF REASONS

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 9 May 2024. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to this effect was served on the appellant on 28 March 2025. His representatives then appealed the VO's decision to the Tribunal on 23 July 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 appeal property was a shop and premises with a total area of 290.39m², 129m^2 in Terms of Zone A (ITZA). It had an addition of £7/m² for air conditioning. It was located on a corner location a short distance from Upton Park underground station.

6. As Mr Mitchell 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 Mitchell 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 Mak confirmed that he was representing the VO as advocate and expert witness.

10. The only issue in dispute before the panel was the Zone A rate. Mr Mitchell was seeking a RV of £75,500 based on a Zone A rate of £1025/m^2.

11. However, Mr Mak defended the VO's assessment of £86,500 RV, based on a Zone A rate of £1,175/m^2.

12. The evidence bundle before the panel comprised of all the evidence disclosed and exchanged during challenge which included the parties' skeleton arguments, a location map, photographs of the subject property and their comparable properties.

Preliminary issue

13. There was a preliminary issue in that Mr Mitchell wanted to introduce amended rental evidence. He had taken the appeal over from a colleague and Mr Mitchell had analysed the rental evidence differently to his colleague. However, it was only presented to the VO and the Tribunal within a few days of the hearing.

14. Mr Mak objected to the amended rental evidence as one line of the late evidence contained a new rent and he considered that he was prejudiced with the late evidence as he had not had the time to examine the forms of return and comment upon the revised rental analysis.

15. The panel considered the situation in light of the Upper Tribunal decision in *Simpsons Malt Ltd and Other v Jones (VO)* UKUT [2017] 460 and *Denton v TH White Ltd* [2014] 1 WLR 3926 which dealt with non-compliance. This laid out the three-stage test which the panel had to consider.

    Stage 1 – If the panel conclude that the breach is not serious or significant then relief from sanctions should usually be granted (para. 53).

    Stage 2 – Then the panel need to consider why the failure or default occurred. The burden is on the defaulting party to persuade the panel to grant relief. They must explain what happened and why. Illness or accidents are good reasons but overlooking a deadline is not (para. 54).

    Stage 3 – The panel must consider all the circumstances of the case including:

    a) the need for litigation to be conducted efficiently and at a proportionate cost;
    b) a failure to grant a sanction may leave an inaccuracy being uncorrected; and
    c) the need to enforce compliance with rules, directions and orders (para. 55); However, such matters must never be allowed to assume a greater importance than doing justice (para. 56).

16. The panel understood the reasons for Mr Mak objecting to the new evidence. However, it also understood that Mr Mitchell was assisting the Tribunal by providing his analysis of the rental evidence. The panel also concluded that there was some prejudice to Mr Mak as he had only had a few days' notice of the additional evidence, which may not have provided sufficient time to review the rental analysis as set out by Mr Mitchell, in detail.

17. The panel therefore determined that the breach of the Tribunal's directions was serious and significant and there was no justification for the revised analysis being late.

18. The Tribunal's consolidated practice statement states that the overriding objective of the Tribunal is to deal with cases fairly and justly. In doing so it will amongst other things:

a) deal with appeals proportionately to the importance of the case, the complexity of the issues, the costs of the case and the resources of the parties including the Tribunal;
b) avoid unnecessary formality and being flexible in the proceedings;
c) deal with the parties fairly allowing them to participate so far as is practical in the proceedings;
d) use the special expertise of the Tribunal effectively; and
e) avoid delay, so far as it is compatible with the proper consideration of the issues.

19. Given the above objectives the panel decided to hear the appeal and allow the amended rental evidence, but, noting that Mr Mak had not had time to examine it in detail.

Relevant Law

20. 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

21. In the case under consideration, the competing evidence was analysed 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.

22. The panel applied little weight to the majority of the passing rents as they commenced too far from the AVD to be reliable. The passing rent for the subject property was agreed many years ago. There was a rent review in 2013 and in 2018 although there was a suggestion that it was also reviewed in 2020. There was a nil increase following the 2018 rent review. Rents on other properties presented by Mr Mitchell commenced in 2017 and 2018.

23. Whilst there were passing rents presented with the leases which commenced in 2021 and 2023, they did not assist the panel as the properties were substantially smaller. Their areas

ITZA were between 30/m^2 to 47/m^2. However, one of them, 370-372 Green Street had a passing rent of £90,000 which commenced in January 2023 which Mr Mitchell had analysed at £935.70/m^2. Although it was nearly two years after the AVD, the panel applied some weight to this rent. But, it was mindful t0hat the area of this property ITZA was 85.3/m^2 which was smaller than the subject property; although, the total area of it was 815m^2, which was substantially greater than the subject property. The RV was £101,000 which Mr Mitchell argued that it suggested rental values in the locality were in decline.

24. Mr Mitchell also submitted that the Zone A rate for the subject property had increased from £950/m^2 which was the Zone A rate for the 2017 rating list whereas some properties in the locality such as 330-332 Green Street and 370-372 Green Street remained the same for the rating lists. However, the panel could not apply any significant weight to this argument as there could be many reasons for this, such as a change to the locality or, it could have been too low in the 2017 rating list and has therefore been corrected.

25. Mr Mitchell also argued that the shops on the opposite side of the road were not as valuable as the subject property. This was confirmed in the VO's evidence as numbers 359 and 361 were valued at £1,050/m^2. The panel noted that these properties were closer to the underground station and one would expect a property to be more valuable closer to an underground station, due to an increase in footfall. But, the photographs submitted to the panel did show that the pavement on the side where the subject property was located was wider and therefore the panel concluded that there would be more footfall on the side where the subject property was located. Mr Mak did confirm that in his opinion, the shops on the other side of the road were not as valuable by about 5%, but the fact that these properties were valued less, seemed to contradict Mr Mitchell's own argument as he was seeking a reduced RV based on a value of £1025/m^2 which was clearly less than the values for the opposite side of the road.

26. Turning to the VO's evidence, in support of the Zone A rate of £1,175/m^2 the VO produced four comparable properties which had new lettings between September 2020 and May 2021. The rents for these properties had been analysed at between £1,050/m^2 to £1,297/m^2. However, the panel concluded that there were drawbacks to these properties as they were all substantially smaller with area's between 62.40m^2 to 144.30m^2 (30.12m^2 to 45.86m^2 ITZA). However, as three of these properties were located on the opposite side of the road, which was accepted by both parties was lower in value, these appeared to the panel to support the current value of the subject property (£1,175/m^2).

27. Given the above, the panel was disappointed with both parties' evidence as there was a dearth of reliable rental evidence supporting their respective arguments. However, making best use of the evidence presented, the panel was satisfied that the subject property was correctly valued. The panel came to this conclusion as the rent for the shops that were accepted were located in a lower valued area were valued at £1,050/m^2. The only relevant rental evidence produced by Mr Mitchell was for 370-372 Green Street. However, even this rent was nearly two years after the AVD and being analysed to £935.70/m^2 in a declining rental market, made this rent less reliable. The VO had produced the rent for one property that was located on the same side as the subject property (326 Green Street). Although this was a new letting around six months before the AVD, the VO had analysed the rent to £1,297/m^2 which was more than the zone A rate for the subject property. Furthermore it was located further away from the appeal property and the underground station, which suggested to the panel, that the zone A rate for the subject property may be too low. However, on the balance of probabilities, the panel concluded that the zone A rate for the subject property was correct.

Conclusion

28. In view of the above findings and conclusions, the Tribunal is satisfied that the RV was reasonable as there was very little conclusive evidence to prove otherwise. The appeal is therefore dismissed.

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) using Form T385 (Notice of appeal) within **four weeks** of the date this decision and statement of reasons was 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 I Lonsdale, Senior Member (Chair)
Mrs N Manzoor, Senior Member
Mr C Derrick Senior Member
9 January 2026

Mr Richard Gath IRRV (Hons)
Clerk to the Tribunal
Date issued to the parties: 9 January 2026