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

Case No: CHG101092163

Sitting remotely using Microsoft Teams

Date: 22 October 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

2017 Non-domestic rating list appeal; Local Government Finance Act 1988; Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Price per m^2 in dispute; Basis of Valuation in dispute; Appeal allowed

Before:
MISS A GRIFFITHS
DR T WEBB

Between:

NERO HOLDINGS LIMITED — **Appellant**

- and -

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

Regarding:
BST & GND FLRS 142, WANDSWORTH BRIDGE ROAD, LONDON SW6 2UL
(the “subject property”)

Mr D Price from Newmark Gerald Eve LLP for the Appellant
Mr M Staples for the Respondent

Hearing date: 29 September 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed.

2. The Tribunal found that the rateable value (RV) of Bst & Gnd Flrs 142, Wandsworth Bridge Road, London SW6 2UL should be reduced to £35,500 with effect from 1 April 2017.

Introduction

3. This was a 2017 rating list appeal. Bst & Gnd Flrs 142, Wandsworth Bridge Road, London SW6 2UL (“the subject property”) had been entered in the 2017 rating list as ‘Restaurant and Premises’ at a RV of £49,500 with effect from 1 April 2017.

4. A Challenge was submitted and received by the Respondent on 19 July 2023. It had been made on the grounds that the RV shown in the 2017 rating list on 1 April 2017 was excessive. The Challenge stage was completed on 31 December 2024 where the RV was reduced to £47,500 with effect from 1 April 2017.

5. 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 was excessive. The appeal was received by the Tribunal on 29 April 2025.

6. Both Mr Price for the Appellant and Mr Staples for the Respondent appeared as both advocate and expert witnesses. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Price stated that he was instructed on a success related fee arrangement.

7. Mr Price also declared 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 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.

<u>Background</u>

11. The subject property, currently occupied by Caffè Nero and operating as a café within Class 3 of the Town and Country Planning (Use Classes) Order 1987, was located midway along Wandsworth Bridge Road in West London. The total area of the property was not in dispute and was agreed at 169.36 m² Net Internal Area (NIA), with an ITMS measurement of 122.60 m².

12. The original RV of £49,500 was based on an overall rate of £400 per m². The property was assessed under scheme 399835, which applied to restaurants on Wandsworth Bridge Road in the London Borough of Hammersmith and Fulham, valued on an overall basis.

13. On 31 December 2024, the respondent issued a Challenge decision notice, which reduced the assessment to £47,500, effective from 1 April 2017. This revision reflected the assessment based on a zoned basis at £725 Zone A, under scheme 308637, which applied to shops on Wandsworth Bridge Road, including restaurants valued using a zoned approach.

14. The appellant sought a further reduction in the RV to £35,500, effective from 1 April 2017, based on an overall rate of £285 per m², or alternatively, if valued on a zoned basis, at £540 per Zone A.

15. Mr Staples argued that the mode and category of a ‘shop and premises’ should not be altered solely because the lease contained an A3 use clause. He maintained that the revised RV of £47,500, effective from 1 April 2017, was appropriate for the subject property at a Zone A value of £725.

Preliminary issue

16. Before the hearing, it was identified that the rental summary was missing from the evidence bundle. This document was subsequently provided by Mr Staples to Mr Price, who confirmed during the hearing that he had reviewed the rental summary and that it did not constitute new evidence. Both parties also confirmed at the hearing that no other evidence was missing from the bundle.

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 various assumptions.

18. 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).

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 was 1 April 2017.

20. Both parties had referred *to Lotus and Delta v Culverwell*. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject hereditament was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

Discussion

21. The panel noted that the subject property was originally let on a 15 year lease, which had commenced on 28 September 2005 at an annual rent of £30,000, with upward-only rent reviews every five years. Mr Price stated that following the rent review on 28 September 2015, the rent was set at £35,000 per annum. Based on an ITMS floor area of 122.60 m², this equated to £285.48 per m² on an overall basis.

22. The panel further noted that the rent review on 28 September 2015, occurred approximately five months after the AVD of 1 April 2015. Although the lease provided for upward-only reviews, a rent review was subsequently granted on 21 June 2021 at the same rent of £35,000 per annum.

23. The panel initially noted a dispute regarding the mode and category of the subject property. It had originally been described as “restaurant and premises” but valued on a zoned basis, which typically applied to retail shops. The panel further observed that, when the RV was reduced to £47,500 at the Challenge stage, the respondent amended the description to “café and premises”, although the property continued to be valued on a zoned rather than an overall basis.

24. Mr Price advised the panel that the subject property had been assessed on an overall basis in the 2010 rating list, as well as the 2023 rating list. As there had been no material change in circumstances, he argued that the same approach should apply to the 2017 rating list. However, the panel noted that each new rating list must be considered independently. However, the panel attached weight as it saw fit to this aspect of Mr Price’s argument.

25. In support of his position that the current assessment was correct, Mr Staples presented four rental comparables. The panel noted that these properties were all described as “shop and premises” and located on Wandsworth Bridge Road. Their sizes ranged from 49.26 m² to 115.73 m², and a value of £800 per m² had been applied to each.

26. The panel reviewed the rental details provided and noted that the leases had commenced between 24 September 2014 and 28 September 2015, dates close to the AVD of 1 April 2015. However, the panel also observed that these comparables were not directly comparable to the subject property, as their occupiers included a hairdresser, interior design shop, waxing salon, and pharmacy.

27. Mr Staples explained that the comparable properties were all located in close proximity to the subject property: the hairdresser was almost opposite, the interior design shop slightly south on the same side, the waxing salon further north on the same side, and the pharmacy on the opposite side but slightly north. He emphasised that while the starting rent provides a useful reference point, the entire basket of evidence should be considered.

28. The panel noted the reference to the Lands Tribunal decision in *Williams (VO) v Scottish & Newcastle Retail Ltd* (2001) within the evidence pack. The panel recognised that the *rebus sic stantibus* principle comprised of two distinct limbs:

    First, the physical state of the property must be considered as at the material day.

Second, it must be assumed that the hereditament could only be occupied for a purpose within the same mode or category of use as its actual use on the material day, 1 April 2017.

29. The key question, therefore, was the mode or category of use in which the subject property's actual use placed it on that date. The panel was mindful that, for rating purposes, a property must be considered on the basis of being vacant and to let. The panel also noted that these comparable properties were not only used for different purposes and under a different mode and category but were much smaller in size than the subject property, with a difference of between circa 53 m² and 120 m².

30. As the subject property was now described as "café and premises", the panel considered whether it should be valued on an overall basis or on a zoned basis, and what rate should apply. In the absence of any comparable evidence from the agent, the panel examined whether zoning was appropriate. It concluded that the comparables submitted by Mr Staples were of limited assistance, as they were not in the same mode or category as the subject property.

31. The panel found that valuing the subject property on a zoned basis was inappropriate, given its use as an A3 café/restaurant. Accordingly, the panel determined that the property should be valued on an overall basis. Mr Price had also referred to other restaurants on Wandsworth Bridge Road that were assessed on an overall basis. Although no detailed evidence of these properties was provided, the panel agreed that the subject property should be assessed consistently with other Class A3 properties.

32. The panel noted that Mr Price had not provided any rental comparables other than the subject property's own rent. His reasoning was that this rent represented the best evidence, being close to the AVD.

33. The panel accepted Mr Price's figures, based on the subject property's rent, which analysed to £285 per m², which producedan RV of £35,500. While it noted that other restaurants on Wandsworth Bridge Road were assessed at £400 per m², the panel concluded that the appropriate rate for the subject property, based on its rental evidence, was £285 per m².

34. The panel further observed that valuing the property on a zoned basis would produce an anomalous result when compared with both the actual rent and the assessments of neighbouring A3 properties, which were valued on an overall basis. The panel also held that it could not justify departing from the subject property's rent when determining its assessment.

Determination

35. In light of the above findings and conclusions, the Tribunal was satisfied that Mr Price had provided sufficient evidence to justify a lower valuation. Accordingly, the panel determined that the appeal should be allowed and that the RV of the subject property be reduced to £35,500, effective from 1 April 2017.

Order

36. Accordingly, the Tribunal order the Valuation Officer to reduce the 2017 Rating List entry for Bst & Gnd Flrs 142, Wandsworth Bridge Road, London SW6 2UL to £35,500 with effect from 1 April 2017 within two weeks of the date of this order.

Refund of appeal fee

37. The Appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Right of further appeal

38. 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.

39. 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/.

Miss A Griffiths, Senior Member (Presiding)

Dr T Webb, Senior Member

22 October 2025

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 22 October 2025