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

Case No: CHG101109514

Sitting remotely using Microsoft Teams

Date: 7 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141- tone of the rating list – restaurant and premises

Before:
MISS A M PRICE
MRS F E R DUGGAN

Between:

CARAFFINI LIMITED — **Appellant**

- and -

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

Regarding:
CARAFFINI, 61-63 LOWER SLOANE STREET, LONDON SW1W 8DH
(the “subject property”)

Mr H Makhdumi, of Evans & Payne LLP, for the Appellant
Mr J Bean, for the Respondent

Hearing date: 9 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal finds that the entry in the 2017 rating list is reasonable and should be confirmed at £131,000 with effect from 1 April 2017.

Preliminary issue

3. The hearing date was notified to the parties on 20 March 2025. The appeal was scheduled to be heard as the first case of the day at 10.00am. The appellant's representative and the Valuation Officer's representative, Mr Emery, were notified of the timing and provided with the Teams link to access the hearing on 3 June 2025. Mr Emery had earlier that same day been in contact with the clerk, to provide his estimated timings for presenting his case.

4. At 10.00am on the hearing day, Mr Emery was not in attendance. The clerk attempted to contact him and made enquiries with the Valuation Office Agency (VOA), as Mr Makhdumi advised the clerk that he understood Mr Emery was unwell earlier the previous week and a colleague would be presenting the case in his place. Eventually Mr Emery's line manager contacted the clerk and advised he was not aware cover was needed but he would ask another case worker to join the hearing and request a postponement.

5. Mr Bean joined the hearing to make the application, which was opposed by Mr Makhdumi, who was present and ready to make his client's case. The panel could appreciate the difficult position Mr Bean was in, but did not find it was in the interests of justice to adjourn the appeal to another date. The VOA was clearly aware of the hearing date and time but there had been some communication breakdown in arranging representation. The panel agreed to adjourn the appeal until later in the day to allow Mr Bean time to familiarise himself with the VOA's evidence and the appeal was then heard at 1.00pm.

Introduction

6. The appellant made a proposal to challenge the entry in the 2017 Rating List of £132,000 with effect from 1 April 2017. The proposal sought a reduction to £115,000. The Valuation Officer (VO) did not find the proposal to be well founded, and a Challenge decision was issued on 18 September 2024 revising the existing entry in the list to £131,000 to reflect a change to the floor areas. An appeal against that decision was received by the Tribunal on 13 January 2025.

7. Mr Bean was appearing as Advocate for the respondent, providing his statement of truth prior to the hearing, and presenting evidence prepared by a colleague.

8. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v Jackson (VO)* [2018] UKUT 0253 (LC), Mr Makhdumi provided a statement of truth declaring that he was appearing for the appellant in a dual role as Advocate and Expert Witness. He confirmed that his firm was instructed under a conditional or other success-based fee arrangement, but he understood his duty was to the Tribunal, regardless of whether the evidence supported his client's case.

9. 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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure)

Regulations 2009 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). It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

10. The subject hereditament is a restaurant situated on the corner of Lower Sloane Street and Holbein Mews. It occupies the ground and basement floors of a four-storey building constructed in the 1960s. It is formed from two retail units merged into one space with a total area of 175.92m^2, or 113.73m^2 ITMS. The existing valuation in the rating list of £131,000 is based on an overall valuation at £1,150/m^2. In his appeal to the Tribunal, the appellant's representative sought a reduction to £115,000, based on a valuation adopting the zoning method at £1,650/m^2 Zone A and a 5% reduction for a partially raised floor.

11. The material day on which to consider the property and its surroundings was 1 April 2017, as this was a challenge to the compiled list entry. The property must be valued as at the antecedent valuation date (AVD) of 1 April 2015.

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

Relevant Law

13. The subject property must be valued by the statutory assumptions set out in in Schedule 6 to the Local Government Finance Act 1988 as follows:

    "(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."*

14. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141, mentioned by both parties, which provided guidance on the weight to be attached to different forms of evidence.

Discussion

15. In accordance with *Lotus & Delta*, the panel found that the starting point must be any rent passing on the subject property. The rent passing on the subject property was agreed on 1 March 2015 as a renewal of the existing lease. The VO contended that this rent at £133,000 analyses to £1,158.94/m^2 and therefore the current valuation based on £1,150/m^2 is

reasonable. Mr Makhdumi contended that little weight should be placed on this rent as the relationship between tenant and landlord had soured and the ratepayer was not professionally represented in the negotiations. He submitted that, in 2020, it was acknowledged that the rent was excessive, and no increase was initiated at that review. In fact, from 25 March 2020 to June 2021, the rent was reduced by 50% and then from 25 June 2021 to 28 September 2021 it was reduced to £99,750. From 25 September 2021, the rent went back up to £133,000.

16. While the panel noted Mr Makhdumi's submissions regarding the background to the rental negotiations, it had no evidence to support the rent being not reflective of the open market very close to the AVD. Although the relationship between landlord and tenant may not have been cordial at that time, the panel did not find it helpful to speculate on whether a lower rent would have been agreed if the appellant were professionally represented. It must consider that it was a rent agreed between landlord and tenant for the continuing lease of the subject property and that figure was agreed very close to the AVD. The adjustments to the rent during 2020 and 2021 were far removed from the AVD and there was no evidence before the Tribunal that the reductions were an acknowledgement that the earlier rent was excessive. It was noted that the reduction to 50% between March 2020 and June 2021 coincided with the global pandemic and the adjustments to the rent could have been an acknowledgement of the impact on trade, rather than an acceptance that the rent agreed in 2015 was too high. The panel held that the rent agreed on the subject property in 2015 carried weight, but it must also consider the rents on comparable properties in the locality.

17. In support of maintaining the existing entry in the 2017 rating list, the VO's submissions referred to four other hereditaments valued as restaurants in Lower Sloane Street. Close to the subject property were 65 Lower Sloane Street and 62-64 Lower Sloane Street. Both are smaller than the subject property, at 64.69m^2 and 67.43m^2 ITMS, respectively. The VO submitted that neither assessment had been challenged in the 2017 list, and they were valued at £1,150/m^2 and £1,100/m^2 respectively.

18. Further along the street, the VO referred to 77 Lower Sloane Street (now merged with number 75) and 79 Lower Sloane Street. Number 77 was closer in size to the subject property, at 84.78m^2 ITMS and 79 was much smaller at 49.35m^2. Both were valued at £700/m^2. The VO pointed out that the 2016 lease on 79 Lower Sloane Street was not known when the list was compiled.

19. The rents presented on the VO's examples were all renewals, rather than new lettings, and ranged from 11 February 2013 to 1 March 2020. The VO analysed the rents to £1,215.83/m^2 (79 Lower Sloane Street), £1,201.25/m^2 (62-64 Lower Sloane Street), and £1,612.52/m^2 (65 Lower Sloane Street). The VO submitted that the lower unit price applied to 79 Lower Sloane Street was due to the rent not having been analysed when compiling the list, but in any case, the rent supported a higher value than £700/m^2.

20. It was pointed out by Mr Makhdumi that 65 Lower Sloane Street was valued using the zoning method. The panel noted from the valuations provided that this hereditament was valued using a zone A price of £1,800/m^2 when it was in the list as a shop, and changed to be valued as a restaurant, but with a zone A price of £1,150/m^2. Mr Makhdumi also highlighted that 62-64 Lower Sloane Street was valued by zoning at £1,100/m^2 for Zone A. For a fairer comparison, he provided an analysis of the rent for this property from February 2013 on an overall basis and submitted this produced £662.93/m^2. The panel concluded that the analysis of the rents on these two properties was not agreed, and they were both removed from the AVD. The rent on 62-64 Lower Sloane Street was over two years before the AVD and the

renewal of the lease for 65 Lower Sloane Street in 2020 was closer to the AVD for the 2023 rating list. It therefore did not consider them particularly helpful in valuing the subject property.

21. Mr Makhdumi sought a higher £/m^2 for the subject property, at £1,650/m^2, but contended a zoning methodology was more appropriate than valuing overall. He cited the valuation of 79 Lower Sloane Street at £700/m^2 as being evidence that the subject property was overvalued. The panel did not find this comparison particularly useful as number 79 is a much smaller property and the VO had shown that the passing rent on that property from 2016 suggested a higher value. As the 2017 rating list is closed, the VO is now unable to correct any errors.

22. The panel were referred to the tone in Orange Square on Pimlico Road, where there are more restaurants and Mr Makhdumi considered this a superior location. He highlighted that the tone in Orange Square is just £560/m^2. The panel understood Mr Makhdumi's assertions that this location was occupied by large chain brands and is a restaurant destination, but it found this to be a different location to that of the subject property, albeit close by.

23. Having considered the evidence, the panel was satisfied that there were examples of restaurants being valued both overall and by zoning. At the hearing, the panel sought clarification on the history of the subject property as the appellant company had been in occupation for many years. On checking their records, the parties confirmed that the subject property was valued using zoning in the 1995, 2000, and 2005 rating lists but changed to an overall basis in the 2010 and 2017 lists.

24. The panel found that it must have regard to the statutory definition of rateable value and the requirement to arrive at "*an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year."* After considering the comparable properties cited by the parties, the panel did not find any of them particularly useful. The rents in Lower Sloane Street were all somewhat removed from the AVD and there were no rents presented to explain the lower tone applied to Orange Square. Therefore, the panel found they carried little weight as evidence to reduce the subject property's valuation.

25. The panel found it hard to disregard the rent passing on the subject property in this case. While not a new letting, it was a rent review agreed just one month prior to the AVD, with the tenant being aware of the market at that time, and it would reflect the location. The VO submitted that there were no adjustments required to bring this rent into line with the statutory assumptions and the panel noted there was no mention of what rent was passing prior to 2015 to indicate if there had been a large increase. The adjustments to the rent in 2020 were not evidenced and, in any case, would be more relevant to the 2021 AVD for the 2023 rating list.

26. There was a further issue raised in Mr Makhdumi's submissions, which concerned the raised floor in the subject property. From the plans provided, the panel noted there was a small area, 1.56 metres by 3.95 metres, which was higher than the rest of the restaurant floor area. The panel was provided with a table of shops and restaurants where an allowance had been given for variations in floor level. It noted that the examples were not in the same locality as the subject property and the allowances varied from 2.5% to 7.5%. Mr Makhdumi had changed his submissions from seeking an allowance for the whole floor area to seeking 5% for just the raised area.

27. The panel accepted that this small, raised area would have an impact on how the restaurant is used and restricted accessibility to some customers. It would also present some

challenges for serving staff and limited the layout of tables. The panel therefore found that a 5% allowance for that area would be reasonable. However, when calculating the valuation with a 5% adjustment for the small floor area of just over six metres, this did not lower the rateable value below £131,000 already in the list.

Determination

28. In view of the above findings and conclusions, the Tribunal is satisfied that the current entry in the list is reasonable and the appeal should be 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) within **four weeks** of the date this decision and statement of reasons is 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/.

Miss A M Price, Senior Member (Presiding)

Mrs F E R Duggan, Member

7 July 2025

Mrs A Sloan
Clerk to the Tribunal
Date issued to the parties: 7 July 2025