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

Case No: CHG100868920

Sitting remotely using Microsoft Teams

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating appeal; 2017 Rating list; Local Government Finance Act 1988; Offices and premises; Material change of circumstances; The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 as amended; Comparable assessments; Appeal dismissed.

Before:

MR A HUSSAIN
MR S MULDOON

Between:

RUSSELLS SOLICITORS	**Appellant**
- and -	
THE VALUATION OFFICER	**Respondent**

Regarding:

1ST & 2ND FLRS, YALDING HOUSE,152-156, GREAT PORTLAND STREET, LONDON W1W 6AJ

Mr Edward Murfitt of Ryan Property Tax Services UK Limited for the appellant, Ms Winkie Leung for the respondent.

Hearing date: 13 JUNE 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was dismissed. The Rateable Value (RV) of the appeal property was confirmed as £487,500 with effect from 1 June 2022.

Introduction

2. This 2017 rating list appeal had been brought in respect of the following: the appellant was the non-domestic ratepayer of the appeal property 1st and 2nd FLRS, Yalding House, 152 – 156 Great Portland Street, London W1W 6AJ.

3. The property had been entered in the 2017 rating list as Offices and premises based on a rate of £625/m^2 giving an RV of £500,000 with effect from 18 December 2017.

4. A challenge proposal was submitted by the appellant's representative on 19 October 2022 for a 10% reduction in the RV with effect from 1 June 2022 to £450,000 due to a material change of circumstances (MCC) arising from redevelopment work at 104 Bolsover Street.

5. The valuation officer (VO) issued a challenge decision notice on 14 November 2023 stating that the rating list entry was unreasonable based on the evidence and information available but disagreed with the entry proposed in the submission.

6. The VO amended the rating list entry to allow a 2.5% temporary reduction to give an RV of £487,500 with effect from 1 June 2022 and this was now the basis of the appeal.

7. The appeal property was built in the early 1900's on Great Portland Street and overlooks Clipstone Street and Bolsover Street. It was a six storey building with the appeal property located on the 1st and 2nd floors. It benefited from full air conditioning and full central heating and underwent a refurbishment in 2016/2017.

8. The appellant was represented by Mr Edward Murfitt of Ryan Property Tax Services UK Limited who appeared 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 confirmed that he was instructed under a conditional fee arrangement. He declared 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.

9. 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).

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

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

Relevant Law

12. Local Government Finance Act 1988.
13. The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009.

Issue

14. The issue in dispute was whether the material change of circumstances with effect from 1 June 2022 was sufficient to warrant a reduction in the appeal property's RV by 10% rather than by 2.5%.

Discussion

15. The appellant's representative stated that the 2.5% allowance was not in line with other allowances on properties facing similar levels of disruption. The works were party wall to the appeal property where the office lift was located.

16. The works began in June 2022 and were meant to be completed by 10 February 2023 however, it overran by 10 months. The MCC event was portrayed in the Westminster Planning Applications.

    21/05580/FULL Removal of existing cladding (front, rear, rear side and plant room elevations) and canopy (front elevation), and installation of new external wall insulation system (front, rear, rear side, and plant room elevations), together with replacement canopy (front elevation) and other associated works.

    21/01076/FULL Variation of condition 4 of planning permission dated 01 October 2019 (RN 19/06271/FULL) for the installation of a new boiler flue to the rear of the building. NAMELY, for the flues to remain as polished stainless steel.

17. The main issues were that the offices were in use during the day whilst the works were being undertaken and there was excessive noise particularly with the windows open as well as dust, vibrations and disturbances similar to other MCC's given an allowance. It was difficult to hold meetings with visiting clients and privacy was compromised.

18. He submitted five properties he considered comparable as well as a location plan and photographs of the appeal property. For these reasons, he felt that a 10% allowance was appropriate.

19. The VO's representative had stated that when considering the effects of an MCC and the effect it would have on the hypothetical tenant all the following are considered:

    The subject and the level of the works being carried out
    The general noise level of the area when there are no works ongoing
    The level of shielding between the works and the subject property
    The effective date of the MCC
    The current rent on the appeal property (if available)
    Whether it is an enclosed space
    Whether the subject faces onto the works or whether they have a party wall
    The height of the works/height of the appeal property
    The material date of the MCC proposal

20. The refurbishment in 2016/17 included the installation of new windows which would block most of the noise.

21. The part of the appeal property that was adjacent to 104 Bolsover Street would suffer the highest impact of the works than the rest of the appeal property. Further, that these works were some way from the appeal property as a whole. The entrance and the views from the appeal property would be mostly unaffected by the works.

22. She also stated that the occupants of 104 Bolsover Street, the YHA, had not amended its room rates or closed any part of its building or sought a reduction in its RV.

23. The period of works was generally fairly short, less than a year, and in her opinion would have been unlikely to warrant any rent reduction.

24. In respect of the appellant representative's submitted comparable properties she submitted that they were not comparable to the appeal property MCC as there was generally far greater disruption caused and that the circumstances bore little or no relation to the circumstances of the appeal property.

25. The panel referred to the Local Government Finance Act 1988 in respect of the definition of rateable value of a non-domestic hereditament as defined at paragraph 2(1) of Schedule 6 to the Act.

26. Briefly, the rateable value of any hereditament is to be taken to be the amount, determined in accordance with the statutory assumptions, equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on 1 April 2015, the antecedent valuation date (AVD).

27. The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 sets out a number of grounds where the list may be altered. In regulation 4 (1)(b):

    "the rateable value shown in the list for a hereditament is inaccurate by reason of a material change of circumstances which occurred on or after the day on which the list was compiled."

28. In respect of this appeal, the material day was 20 August 2022 and the effective day was 1 June 2022.

29. A "material change of circumstances" (MCC) is defined by regulation 3(1) of the 2009 Regulations as "a change in any of the matters mentioned in paragraph 2(7) of Schedule 6 to the [1988] Act". Those matters are:

    "(a) matters affecting the physical state or physical enjoyment of the hereditament,
    (b) the mode or category of occupation of the hereditament,
    (c) …
    (d) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there…"

30. The issue for the panel to determine was whether a reduction in the RV by 10% rather than by 2.5% was warranted as a result of the MCC. The panel noted that the reduction was sought from 1 June 2022.

31. As outlined by the parties, the MCC in question was the development taking place at 104 Bolsover Street.

32. The panel referred to the many photographs of the appeal property as well as the diagram of its location and proximity to the works themselves. The panel found that the majority of the frontages of the appeal property on Great Portland Street and Clipstone Street were away from the works and did not find that there would be significant disruption there. The main disruption would be to the offices overlooking Bolsover Street itself. Similarly, the amount of shared party wall was not greatly significant.

33. In respect of the submitted comparable properties the panel found that none of them were particularly similar to the appeal property circumstances.

34. Grimaldi House was given a 25% reduction for multiple works causing intense and sustained disruption. The works included demolition, reconstruction and restricted access to the property all taking place within a quiet location. 8 Berwick Street also involved extensive works including demolition, stripping back to frame and rebuilding. This lasted for over five years and caused significant disruption. The panel found that they were not reasonably comparable and attached little weight to this evidence.

35. 4th Flr 8 Hanover Street, 5th Flr 49, St James's Street and 1 St Flr 1516, Brooks Mews had lesser works but the panel found that they were still more disruptive than the works at 104 Bolsover Street were to the entirety of the appeal property.

36. The panel noted that the appeal property entrance on Great Portland Street was some distance from the cladding works and the pavements and roads surrounding Yalding House were clear and unaffected by the cladding works.

37. The panel therefore found that the level of disturbance to these properties was considerably greater than to that of the appeal property and that an allowance of 2.5% was reasonable.

Decision

38. In cases such as this the onus is on the appellant to provide sufficient evidence to support his case, however, the panel found that whilst there clearly was some disturbance an allowance of 2.5% was appropriate when considered against other properties in similar situations. The appeal was therefore dismissed.

Right of further appeal

39. Any party who is aggrieved at the tribunal's decision has a statutory right of further appeal to the High Court on a point of law pursuant to Regulation 43 of the Tribunal Procedure Regulations. Any appeal must be made directly to the High Court within **four weeks** of the date this decision and statement of reasons is issued. A party does not require permission from the Tribunal to appeal.

40. 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 A Hussain, Senior Member (Presiding)
Mr S Muldoon, Senior Member
9 July 2025

Mr D Adamson
Clerk to the Tribunal
Date issued to the parties: 9 July 2025