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

Case No: CHG100949943

Sitting remotely using Microsoft Teams

Date: 19 August 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — challenge seeking deletion from the list; Newbigin (VO) v Monk [2017] UKSC 14; Jackson (VO) v Canary Wharf Ltd [2019] RA 411; hereditament test; appeal dismissed

Before:
MR CM TAYLOR
PROF P CATTERALL

Between:

PC Partnership (South East) Ltd **Appellant**

- and -

(VALUATION OFFICER) **Respondent**

Regarding:
86-87 DUKE STREET, CHELMSFORD, CM1 1JP
(the "subject property")

Mr N and Mrs K Baker of PC Partnership (South East) Ltd, the Appellant
Mr L Stevens for the Respondent

Hearing date: Thursday 31 July 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. The subject property to remain in the 2017 Rating List as it remained a hereditament for the purposes of rating.

Correction of the Appellant name

2. At the commencement of the hearing, the Clerk to the Tribunal invited the Tribunal Panel to correct the name of the Appellant to the appeal. The Clerk explained that the appeals had, on registration with the Tribunal, been incorrectly recorded as being brought by Mr Goadby in his personal capacity as a former director of the appellant company PC Partnership (South East) Ltd. However, whilst the appeal forms had been completed by Mr Goadby, this was on behalf of the appellant company. Mr Baker remained a director of the company and was accompanied and assisted by his wife Mrs Baker.

3. Neither party had any objection to the correction of the record and the Tribunal Panel was satisfied that there was no prejudice to either party in doing so.

Introduction

4. This appeal has been brought in respect of the following: an appeal was lodged by the appellant company on 14 February 2025 against the Valuation Officer's decision of 30 January 2025.

5. With the agreement of the parties the panel varied the procedure outlined in the Valuation Tribunal for England Consolidated Practice Statement and requested the respondent to present his evidence first.

6. Mr Stevens appeared before the panel as both advocate and expert witness.

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

Issue

8. The issue before the panel concerned whether or not the subject property should be deleted from the 2017 rating list with effect from 31 May 2022, the date the appellant company purchased the subject property.

9. The appellant company considered that the subject property was in a poor condition following the property being unoccupied for a number of years without repair and that it was beyond economical repair.

10. The respondent considered that the works required to enable the property to be let was work that a hypothetical landlord would undertake and therefore the property should remain in the 2017 Rating List. The property is currently undergoing conversion into residential accommodation with works commencing on 5 June 2023 and it was from that date the VO had removed the property from the 2023 rating list but remained in the 2017 rating list.

11. The subject property was a traditional retail unit with accommodation spread over three floor which had been previously occupied as a restaurant and premises. The upper floors had

previously been assessed under the valuation list for council tax purposes but from 8 April 2021 the whole building had been assessed for rating purposes and the entry removed from the valuation list. The subject property was within a prominent position within Chelmsford and opposite the cathedral.

Preliminary Issue

12. At the start of the hearing, it became apparent that photographs had been provided during the check and challenge stage of the process by the appellant had been omitted from the appeal documents. These photographs were subsequently provided to the panel and no objection

Relevant Law

13. The statutory definition of a hereditament was contained in section 64 of the Local Government Finance Act 1988. A hereditament was anything which, by virtue of the definition of hereditament in section 115(1) of the General Rate Act 1967 would have been a hereditament for the purposes of that Act had this Act not been passed.

14. The statutory rating hypothesis is contained in paragraph 2 of Schedule 6 to the Local Government Finance Act 1988. The statutory definition of rateable value is as follows:

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    (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. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined 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 is 31 May 2022, the date the appellant proposed that the subject property was deleted from the 2017 rating list due to it being incapable or beneficial occupation.

Decision and reasons

16. Mr Stevens stated that subject property was built around 1969 and was occupied as a restaurant with the previous company being in occupation from 2009 and thought that they had vacated around two to three months before the appellant company purchase of the property although he accepted the appellant contention that it had been unoccupied for at least two years.

17. Mr Stevens was aware that the property was purchased by the appellant company on 31 May 2022 and that was the date sought for deletion. Although the property was in a poor state of repair having been unoccupied for a while he considered that works required make the property capable of beneficial occupation was work the hypothetical landlord would undertake to secure a tenant.

18. Mr Stevens understood that planning was sought in November 2022 and granted in January 2023 but no scheme of works was in place and no major works had been undertaken until 5 June 2023 at which date the subject property was removed from the 2023 rating list.

19. Mrs Baker stated that the appellant company purchased the subject property on 31 May 2022 and it was the company's intention to convert the upper floors into flats and retain a commercial unit on the ground floor. When purchased it had been unoccupied for at least two years and required considerable works to render the property safe which she considered was uneconomical to do especially as it was their intention to convert the property to residential accommodation on the upper floors.

20. Mrs Baker stated that the subject property was structurally unsafe for occupation with rotten floor joists, no foundations along rear wall, full rewire required, fire alarm system damaged, water ingress on 1st and 2nd floors causing mild to severe damp with black mould and fungus, rodent and pigeon infestation in air conditioning system, suspected asbestos to ground floor ceilings, external doors and windows broken and casements damaged and internal fire exit doors blocked. She did not consider the photographs submitted did justice to the poor condition of the property.

21. Mrs Baker confirmed that planning permission was sought in November 2022 and granted in January 2023 with work starting on the conversion from June 2023. However, Mr Baker stated that work on light demolition started between the granting of planning and the conversion which included clearing out the fixtures and fittings left behind by the previous occupier and removing some upper walls due to damage, removal of floors. Mr Baker considered that works to repair the building to a lettable condition would have taken longer than the conversion works.

22. The panel was aware that the correct approach in appeals of this nature was to consider whether or not a hereditament exists at the material date. If it does, then it must be valued on the statutory assumption that it is in reasonable repair, even if in reality it is in need of repair.

23. In Canary Wharf, the Upper Tribunal clarified the proper interpretation and application of Monk stating "Before one considers the repair assumption in the context of a building undergoing redevelopment, the logically prior question is whether the property is capable of beneficial occupation at all, and thus a hereditament at all" (para 35) and "The question whether a building is incapable of beneficial occupation as a result of a programme of refurbishment is a matter of objective fact (para 40)".

24. The panel accepted that the subject property was in poor repair. However, it had to assess the property on the basis that it was in a state of reasonable repair, excluding from this

assumption any repairs that a reasonable landlord would consider uneconomic. Therefore, the panel had to determine whether the works required to bring the property into reasonable repair were economically viable. The panel also noted that it was always the intention of the appellant company to redevelop the subject property, rather than to restore it to its former use as a restaurant operating across three floors but the panel had to consider a hypothetical tenant and hypothetical landlord in these matters.

25. The panel noted that works to convert the property into residential accommodation commenced on 5 June 2023. From that date, a scheme of works was in place, and an overt act to change the use of the property had occurred. As a result, the Valuation Officer removed the property from the 2023 rating list effective from that date. The panel had to consider whether the subject property should be removed from an earlier date.

26. The panel noted that no major structural works had taken place to the subject property between it becoming unoccupied and the works commencing to convert to residential apart from the removal of fixture and fittings, clearing the premises and some removal of internal walls being completed after planning had been granted.

27. The panel, having the benefit of the photographs considered that the property was still in a condition that a hypothetical landlord wishing to let the property would undertake as economical repairs and had not been persuaded by the appellants that the property should be deleted at an earlier date. The panel therefore dismiss the appeal.

Right of further appeal

28. 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.

29. 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 C M Taylor, Senior Member (Presiding)

Prof P Catterall, Member

19 August 2025

Mr A Jolly
Clerk to the Tribunal
Date issued to the parties: 19 August 2025