VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: advertising right and premises; proposal to delete; section 64(2) and 64(11) of the Local Government Finance Act 1988; definition of land; appeal dismissed.

APPEAL NUMBER:	CHG101096984	
RE:	InLink Outside 29-31 Hampstead Road, London, NW1 3JA (the "subject property")	
BETWEEN:	British Telecommunications Plc (BT)	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	Remotely using Microsoft Teams	
ON:	Monday 13 January 2025	
BEFORE:	Mr S Wood, Presiding Senior Member Mr P Jennings, Senior Member	
CLERK:	Mrs L Horne	
APPEARANCES:	Mr L Hatchwell from Colliers International, advocate for the appellant Mr G Richardson from Colliers International, providing evidence of fact Mr T Dingle, advocate for the Valuation Officer	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. The panel found that the subject hereditament should remain in the rating list at a rateable value (RV) of £6,600 with effect from 1 June 2019.

Introduction

2. This is a 2017 rating list appeal. InLink Outside 29-31 Hampstead Road, London, NW1 3JA (the 'subject property') had been entered in the 2017 rating list as 'advertising right and premises' with an RV of £6,600 with effect from 1 June 2019.

3. The challenge proposal was one of ten submitted by Colliers International on behalf of BT, and was received by the Valuation Officer on 27 July 2023. It had been made on the grounds that the assessment should be deleted from the local rating list.

4. The Valuation Officer issued a challenge case decision notice on 7 May 2024, which stated that the rating list entry was reasonable based upon the evidence and information available, and that the assessment would remain in the local rating list.

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 rating list is inaccurate. The appeal was received by the Tribunal on 13 August 2024, in which the appellant's representative sought a deletion of the assessment with effect from 2 December 2019.

6. The subject hereditament is an advertising right on a BT StreetHub unit. The StreetHub is a telephone kiosk with two digital displays either side of the unit. It had replaced the former Street Talk 6 (ST6) which had been a joint venture between BT, LinkNYC and Primesight as InLink Limited. In 2019, InLink entered administration, and BT purchased the remaining part. The kiosks were rebranded as "StreetHub", and BT entered into a management agreement with Global, who had acquired Primesight in 2018.

7. Prior to the hearing, the parties selected the subject property as the assessment to be considered by the panel; a schedule of the remaining assessments is detailed at the end of this decision. The parties had also agreed to provide a revised bundle with skeleton arguments in respect of an alternative argument. This was due to the fact that the issue of whether an advertising right had been "let out" was subject to an appeal to the Court of Appeal, following the recent decision of the Upper Tribunal in *Karl List (VO) v Network Rail Infrastructure Limited* [2024] UKUT 351 (LC).

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

Issue

9. The issue in dispute was whether the appeal hereditaments should be deleted from the 2017 rating list, in consideration of the definition of land in section 64(11) of the 1988 Act.

Relevant Law

10. The relevant law was contained in section 64 of the Local Government Finance Act 1988 (the "1988 Act"):

> 64 Hereditaments
>
> (1) A hereditament is anything which, by virtue of the definition of hereditament in section 115(1) of the 1967 Act, would have been a hereditament for the purposes of that Act had this Act not been passed.
>
> (2) In addition, a right is a hereditament if it is a right to use any land for the purpose of exhibiting advertisements and—
>
> (a) the right is let out or reserved to any person other than the occupier of the land, or

(b) where the land is not occupied for any other purpose, the right is let out or reserved to any person other than the owner of the land.

(11) In subsection (2) above "land" includes a wall or other part of a building and a sign, hoarding, frame, post or other structure erected or to be erected on land.

Discussion

11. The new argument advanced on behalf of the appellant was that the right to use the screens for advertising is not a right to use land within the meaning of section 64(11) of the 1988 Act, and therefore section 64(2) is not engaged.

12. Mr Hatchwell submitted that, in order to be a hereditament, the "right" has to be a right to use land, and that land is defined in section 64(11) as a wall or other part of a building and a sign, hoarding, frame, post or other structure. He emphasised that it does not say "part of" a "sign, hoarding, frame, post or other structure."

13. He further submitted that the right granted in the subject case is not a right to use land as so defined. It is a right (and a restricted right) to use screens for advertising. He contended that the screens are plant, not land, and neither are they "a wall or other part of a building and a sign, hoarding, frame, post or other structure." The structure in which the screens are set is not a building and is not the subject of any right, and moreover it comprises the other components of a StreetHub which are not the subject of any right.

14. Since section 64(2) was not engaged, Mr Hatchwell submitted that the rating treatment of the StreetHub falls to be decided on normal rating principles. In view of the occupation and control by BT, together with the fact that the StreetHubs already appear in the central list, the panel was requested to delete the subject hereditaments.

15. On behalf of the Valuation Officer, Mr Dingle referred the panel to a photograph of the subject hereditament, which he described as a structure, presumably metal, which featured large advertising screens on both sides. He submitted that the appeal should be dismissed for the following reasons:

    i. Sections 64(2) and 65(8) of the 1988 Act create a specific statutory framework for advertising hereditaments. Section 64(2) creates a statutory species of hereditament which does not consist of land or physical property; rather it consists of a "right to use any land". 'Land' in this context is given an extended definition which includes "a sign… or other structure erected… on land".
    ii. It is distinct from that more generally applicable under section 64(1) and section 65(2).
    iii. In accordance with section 64(2), the advertising rights have been "let out" to a third party, so give rise to separate hereditaments.
    iv. By virtue of section 65(8), those hereditaments are deemed to be in the occupation of the advertiser.
    v. Regulation 8 of the Central Rating List (England) Regulations 2005 ("the 2005 Regulations") does not apply. BT does not occupy the advertising hereditaments and they are not let or licensed to a licence holder or licence exempt operator, and neither of the conditions in regulation 8 are therefore met.

vi. Accordingly, the advertising rights do not fall to be treated as part of the BT hereditament and included in the central list. The Valuation Officer has correctly entered them in the local rating list.

vii. BT's reliance on the principles of paramount occupation and landlord-control is misplaced. Those principles relate to section 64(1) and 65(2), not 64(2) and 65(8), which were enacted precisely to avoid the difficulties inherent in applying the principles concerned to advertising rights. The question of whether or not those principles would lead to the result contended for by BT (which, for the avoidance of doubt, the VO does not accept) does not therefore arise.

16. In response to Mr Hatchwell's contention that the screens are plant, not land, Mr Dingle submitted that the hereditament in this case is a "right" with terms defined as set out above (including express statutory provision that it includes the right to use the actual sign in place). It is accordingly not possible for it to have plant or machinery "in or on" it, or for plant and machinery to form "part of the hereditament". There is accordingly no means by which plant and machinery could become relevant to the valuation exercise pursuant to the Valuation for Rating (Plant and Machinery)(England) Regulations 2000.

17. In full consideration of the parties' submissions, the panel determined that the right to use the screens for advertising is a right to use land within the meaning of section 64(11). The panel found that the StreetHub is a structure which falls within the definition of land as follows:

"land" includes a wall or other part of a building and a sign, hoarding, frame, post or **other structure** erected or to be erected on land.

18. The panel was not persuaded by Mr Hatchwell's contention that it was required to be *part* of a "sign, hoarding, frame, post or other structure." The panel considered that it was reasonable to assume that the use of "includes" indicated that the definition of land was not exhaustive and could apply to part of a sign, hoarding, frame post or other structure without expressly referring to it.

Disposal

19. In view of the above findings and conclusions, the panel is satisfied that the subject hereditament should remain in the rating list. The appeal is therefore dismissed.

Date issued to parties: 10 February 2025

Schedule of assessments subject to appeal:

Appeal number	Address
CHG101097691	InLink Ncs-039 Jnc Brunswick Place, Northumberland Street, Newcastle Upon Tyne, NE1 7AE
CHG101097899	BT InLink O/s 50, Notting Hill Gate, London, W11 3JD
CHG101097818	InLink Uk Phone Kiosk 047209 Opp Tesco Express 3-11, The Cut, London, SE1 8JZ

CHG101097803	InLink Unit O/s St George The Martyr Church, Borough High Street, London, SE1 1JA
CHG101097792	BT Link O/s 119, Newington Causeway, London, SE1 8BN
CHG101096993	BT InLink O/s 26, Tolmers Square, London, NW1 2PE
CHG101096988	InLink Outside 338, Euston Road, London, NW1 3BT
CHG101097184	BT InLink O/s, Stoke Newington High Street, London, N16 7PL
CHG101096489	BT InLink Adj 7, Greville Street, London, EC1N 8PQ

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.