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

Case No: CHG101110792

Sitting remotely using
Microsoft Teams

Date: 13 August 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — office and premises; material change of circumstances; end allowance; appeal allowed-in part

Before:
MR MS HUSSAIN
MS CJ JONES

Between:

MARKS & SPENCER PLC **Appellant**

- and -

NICOLA JOHNSON
(VALUATION OFFICER) **Respondent**

Regarding:

M&S SIMPLY FOOD,WATERSIDE HOUSE,LONDON,W2 1NW
(the "subject property")

Mr A Waller of GL Hearn, on behalf of the appellant as Advocate
Mr B Barton of GL Hearn, on behalf of the appellant as Expert Witness
Mr K Abbaas for the **Respondent**

Hearing date: 14 July 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The panel finds that an allowance of 3% was applicable at the subject property for the period of 1 April 2017 to 29 June 2020 and determined a revised rateable value (RV) of £8,740,000 for this period.

Introduction

3. This is a 2017 rating list appeal. The subject property had been entered into the 2017 rating list as ‘office and premises’ at an RV of £10,230,000 with effect from 1 April 2017.

4. The challenge proposal was submitted on behalf of the appellant and was received by the Valuation Officer on 15 August 2023. It. A revised RV of £8,330,000 was proposed with effect from 1 April 2017 based upon an unadjusted rate of £440/m2 and a 7.5% temporary allowance from 1 April 2017 to 29 June 2020 to reflect the disadvantages of nearby building works.

5. The respondent issued a challenge case decision notice on 14 October 2024, which stated that based on the evidence available, the existing rating list entry of £10,230,000 RV was unreasonable and determined a revised entry of £9,010,000 RV with effect from 1 April 2017. The revised RV accounted for a reduction in unadjusted rate to the proposed £440/m2 but no allowance for the building works. The appellant’s representative appealed that decision to this Tribunal on 13 February 2025 on the grounds that the valuation for the subject hereditament remained unreasonable.

6. Mr Waller appeared on behalf of the appellant as advocate and Mr Barton as expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Barton explained that he was not instructed on a conditional fee basis and he declared that he understood and accepted his duty 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 the evidence supported the client’s case.

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

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

Relevant Law

9. Matters which constitute an MCC are defined in paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988.

10. The subject property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let for from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988).

11. Therefore, having regard to the above, in reaching its decision, the panel considered, would the MCC affect the hypothetical tenant's bid? In doing so, economic factors must be considered as at the antecedent valuation date of 1 April 2017 whereas the physical factors are as they existed on the material date. As this was a compiled list entry appeal, the material date was 1 April 2017.

Discussion

12. Mr Waller submitted that he considered the disturbance due to effects of the building works were such as to warrant a temporary allowance of 7.5% to account for the impact caused. Mr Barton advised that the works were located opposite the subject property, less than 30 metres away, separated by North Wharf Road. The works included demolition of existing buildings and redevelopment of the site providing residential space, office space, a primary school, gym and other amenities. The works had commenced in 2016 and were not completed until the end of June 2020. Mr Barton contended that the noise, vibration, and disturbance caused by the works in conjunction with the duration would have had an impact on any potential rental bid at the material date.

13. Mr Abbaas contended that as of 1 April 2017 the works had progressed to a state at which he did not consider would affect any rental bid from a hypothetical tenant. He referred to a Google Image photograph dated April 2017 which he submitted demonstrated that the works which would have caused most disturbance had been completed by this date. The demolition and piling were done as was construction of the concrete core of the new buildings, with just the framing and skeleton to be added. He submitted that the disturbance of the outstanding works did not warrant an allowance and that the noise created would not be any greater than that of the main road on which the subject property was located and the nearby Paddington Station.

14. In support of an allowance Mr Barton had provided details of other properties which had allowances awarded in what he considered to be similar circumstances. Of these, the panel noted that 28 Ropemaker Street, 8 Fitzroy Street, 62/76 Park Street and 2 Pancras Square each had allowances of 7.5% to reflect the disadvantages caused by nearby works, the same allowance proposed in respect of the subject property.

15. Mr Barton submitted that he considered 28 Ropemaker Street to be the best comparable as he deemed the works here to be on a similar scale and nature to the subject property, with demolition starting in 2020 and being completed by 2023. He also submitted that 62/76 Park Street was a good comparator due to being of a similar scale to the subject property. Having consideration to the photographs provided of the works at 28 Ropemaker Street and 62/76 Park Street the panel noted that they were located closer than in proximity than those opposite the subject property and were not separated by such a main road. With regards to 8 Fitzroy Street and 2 Pancras Square Mr Barton submitted these works were on a scale larger than those opposite the subject property and as such were not as comparable.

16. Mr Abbaas disputed the comparability of these properties, contending that each of these properties were located within different areas of London to the subject property, and each had allowances awarded based upon their own specific circumstances and location. He submitted

that whether an allowance was applicable at the subject property was based specifically on the facts there.

17. Having regard to the evidence and submissions of both parties the panel determined that it considered that an allowance was applicable at the subject property. The evidence provided demonstrated that works were ongoing at the material date. Whilst most of the major works had been completed by this date, it was the panel's opinion that the disturbance created by the remaining works and the duration of them would have impacted a rental bid of a hypothetical tenant as of 1 April 2017. However, taking into account the works at that date and the comparable properties provided the panel found that the proposed allowance of 7.5% was not reasonable. Instead, it considered that an allowance of 3% was more appropriate when taking all circumstances into consideration.

Determination

18. In view of the above findings and conclusions, the panel concluded that a 3% allowance was applicable for the period 1 April 2017 to 29 June 2020. The panel calculated the revised valuation as shown below:

Floor	Description	Area m2	£/m2	Value
Basement	Locker Room	26.96	£220.00	£5,931
Basement	Locker Room	17.20	£220.00	£3,784
Basement	Locker Room	7.45	£220.00	£1,639
Basement	Locker Room	16.32	£220.00	£3,590
Basement	Office	23.41	£176.00	£4,120
Basement	Office	10.34	£176.00	£1,820
Lower Ground	Office	148.32	£330.00	£48,946
Lower Ground	Internal Storage	34.94	£143.00	£4,996
Lower Ground	Office	43.07	£264.00	£11,371
Lower Ground	Office	201.71	£330.00	£66,564
Ground	Office	1723.45	£440.00	£758,318
First	Office	2167.06	£440.00	£953,506
Second	Office	2191.39	£440.00	£964,212
Third	Office	2191.39	£440.00	£964,212
Fourth	Office	2191.39	£440.00	£964,212
Fifth	Office	2191.39	£440.00	£964,212
Sixth	Office	2191.39	£440.00	£965,092
Seventh	Office	1285.70	£440.00	£565,708
Eighth	Office	1435.62	£440.00	£631,673
Ninth	Office	1269.12	£440.00	£558,413
Tenth	Office	1269.12	£440.00	£558,413
Car Parking		11.00		£11,275
Temporary Disadvantage		-3%		-£270,333
Total Value				£8,740,792

Say RV	£8,740,000

19. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list with respect of the subject property to £8,740,000 RV with effect from 1 April 2017 to 29 June 2020.

Right of further appeal

20. 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.

21. 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 MS Hussain, Senior Member (Presiding)

Ms CJ Jones, Senior Member

13 August 2025

Clerk to the Tribunal
Date issued to the parties: 13 August 2025