IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2023 RATING LIST APPEAL

Case No: CHG101116645

Sitting remotely using
Microsoft Teams

Date: 25 July 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — preliminary issue: was the proposal in respect of the 2017 or 2023 Rating List —2023 Rating List proposal to delete — Warehouse and premises — Aviva v Whitby (VO) [2013] UKUT 0430 (LC) — Porter (VO) v Trustees of Gladman SIPPS [2011] RA 33 — appeal allowed.

Before:
MR A RAMSAY
MRS H NEWMAN-NEWING

Between:

SEGRO PUBLIC LIMITED COMPANY **<u>Appellant</u>**

- and -

ANDREW MOULAND
(VALUATION OFFICER) **<u>Respondent</u>**

Regarding:
UNIT 12A WORLD CARGO CENTRE, BUILDING 332, GATWICK AIRPORT, GATWICK RH6 0SQ
(the “subject property”)

Mr M Jordan from Ryan Property Tax Services UK Limited for the **Appellant**
Mr R Das of the Valuation Office Agency for the **Respondent**

Hearing date: 30 June 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed.

2. The Tribunal held that the current entry within the 2023 Rating List should be deleted with effect from 1 April 2023.

Introduction

3. Mr Jordan on behalf of the appellant and Mr Das on behalf of the respondent, appeared as both advocate and expert witness.

4. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Jordan informed the panel that he was instructed on a success fee basis. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that he was aware of and had complied with the requirements of the rules, protocols and directions of the Valuation Tribunal.

5. 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 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).

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

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

Background

8. The subject property was a warehouse, which formed part of a former hereditament (Unit 12, World Cargo Centre Building 332, Gatwick Airport, Gatwick), which was purpose built and situated within an industrial park close to Gatwick airport. On 28 October 2019, the former hereditament was deleted from the 2017 Rating List as it underwent a scheme of works to renovate and improve the accommodation.

Preliminary issue

9. It was noted that renovation of the subject property was completed on 20 January 2020. However, a tenant did not take up occupation of the warehouse until 4 March 2022. This was the effective date adopted by the Valuation Officer for the list entry of the entire unit into the 2017 Rating List. It was treated as one hereditament in single rateable occupation. However, the tenant/rateable occupier only occupied approximately 65% of the warehouse, having physically defined the occupied area using Heras fencing. Nevertheless, the tenant was charged occupied rates for the entire warehouse, notwithstanding their right to only occupy part of the premises.

10. An earlier proposal was submitted to subdivide the warehouse into two separate units. Following an inspection conducted on 9 March 2023, the Rating List was amended on 24 May 2023 by way of a Valuation Officer's notice of alteration. As a result of the alteration, two new entries were inserted into the 2017 Rating List, relating to Units 12a and 12b. Notably, the subject property (12a), despite being neither occupied nor complete, was entered into the Rating List with a Rateable Value of £168,000, effective from 4 March 2022.

11. On 31 May 2023, a Check was submitted and in making the check submission, the Appellant indicated its intention to make a proposal requesting the deletion of the subject property from the Rating List, effective from 4 March 2022.

12. Subsequently, a proposal was submitted via the Valuation Office Agency's electronic portal on 24 August 2023. As can be seen below the proposed alteration was made against the 2023 Rating List, there was no reference to the 2017 Rating List. Furthermore, the proposed effective date for the deletion was 1 April 2023**,** which was clear and unambiguous in its intent in that it was only challenging the 2023 List entry.

Overview
Submission
Supporting information
Documents
Case notes
Case owner history
Assurance status
Correspondence
Initial response
Decision notice

Submission

CHG101116645
UNIT 12A WORLD CARGO CENTRE, BUILDING 332, GATWICK AIRPORT, GATWICK, WEST SUSSEX, RH6 0SQ

Data shown in this page was refreshed on 30 June 2025

Challenge submitted date	24 August 2023
Challenge submission ID	CHG-26Z6HQ7
Check reference	CHK101068620
ReasonCode / Grounds for challenge	IP requests deletion of assessment shown in the list
Rating list	2023
Amount of rent payable	
Time period for rent payable	
Start date of rent payable	
Rent free period	
Proposed rateable value	
Proposed effective date	01 April 2023
GPCR number	

13. The declaration made at the time of the check was purely academic with regard to any intention to make a proposal challenging on the 2017 list entry. The fact remains, as is unequivocally clear, that the proposal was made solely in reference to the 2023 list. It is also well established that the tribunal's jurisdiction is restricted to matters raised in the proposal. In this case, only the 2023 Rating List entry was being challenged. The proposal made no reference to the 2017 list entry.

Relevant Law

14. Section 41 of the Local Government Finance Act 1988 ("the 1988 Act") required the Valuation Officer to compile and then maintain the Rating List. In accordance with section 42, the Rating List must show each relevant non-domestic hereditament.

15. 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.

16. 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:

2

(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.

17. 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 1 April 2023, the date the subject property entered the 2023 Rating List.

18. Section 46A and Schedule 4A to the Local Government Finance Act 1988 empower Billing Authorities to treat certain properties as complete for the purposes of non-domestic rating. Historically, this provision applied exclusively to newly constructed hereditaments that had not previously been occupied.

19. However, with effect from 26 December 2023, the Non-Domestic Rating Act 2023 introduced a significant amendment. The definition of a "new building" was expanded to include existing buildings that have undergone substantial alterations. This legislative change enables Billing Authorities to issue completion notices in respect of such altered buildings, even where the property had previously been removed from the Rating List due to redevelopment or structural works.

20. Prior to this amendment, there was no statutory mechanism for serving a completion notice on an existing building that had been deleted from the Rating List following a scheme of works. The revised provisions now close this gap, ensuring that materially altered buildings can be brought back into rating in a timely and consistent manner.

Discussion

21. The panel was informed by Mr Jordan that circa 65% of the warehouse had been let to tenants on 4 March 2022, which included first floor offices and toilets. He also stated that Unit 12a, the subject property was considered to be incapable of occupation as a warehouse as it had not yet been occupied by a tenant and was incomplete due to lack of power and lighting.

22. The panel was presented with photographic evidence of the warehouse, which illustrated that the area occupied by the tenant had been partitioned using Heras fencing, rather than a permanent structural division. Mr Jordan submitted that the Valuation Officer had erred in reinstating a separate hereditament for the subject property, which at the time lacked both a power supply, lighting and toilet facilities.

23. He further argued that the creation of a separate entry in the Rating List for the subject property, following the split of the warehouse was contrary to established case law and inconsistent with the Valuation Office Agency's (VOA) internal guidance. In particular, the VOA's Rating Manual Section 2, Part 3 emphasises that a property must be capable of beneficial occupation before it can be validly entered into the Rating List. The absence of essential services such as power and lighting would typically render a property incomplete and therefore not rateable until such deficiencies were remedied.

24. The panel was informed by Mr Jordan that the tenant occupying Unit 12b had access to a separately metered and operational power supply within that portion of the warehouse. In contrast, the power supply to the subject property, remained non-operational at that time. It was subsequently noted that, during an inspection conducted by the Valuation Officer on 26 September 2024, it was confirmed that the occupier of Unit 12b had extended their occupation to include the entire warehouse, with this full occupation having commenced in July 2024.

25. Mr. Das believed that little or no substantial additional work had been carried out to facilitate the tenant's occupation of unit 12b, he therefore suspected that unit 12a was also ready for occupation. Mr Jordan confirmed that the cost associated with occupying the remainder of the warehouse had been minimal. On this basis, Mr Das concluded that the subject property had been capable of occupation at the same time as Unit 12b, notwithstanding the earlier lack of operational power.

26. The panel recognised that, in accordance with established rating principles, a property cannot be reinstated into the Rating List following deletion unless it ready for occupation, in the absence of a completion notice being served. The panel referred to a recent decision made by its President on 11 July 2024, concerning a different property owned by the same appellant. In that case, the Tribunal allowed the appeal on the basis that, although the property had been deleted from the Rating List due to renovation works, it had not been fully completed at the time the Valuation Officer reinstated it. Despite the outstanding works being relatively minor, it was held that, in the absence of both a tenant in occupation and the lack of service of a completion notice, the property should not have been re-entered into the Rating List1.

27. The panel observed that the circumstances in the present case were materially similar. Although power and light fittings had been installed, until they were connected, they were not capable of use. The power unit serving Unit 12b had been activated due to tenant occupation, but it was separately metered and did not extend to the subject property. As such, the panel concluded that the subject property was not in a state of completion or occupation sufficient to justify its entry into the Rating List.

28. In the present matter, the Billing Authority was unable to issue a completion notice until the amendment to Section 46A of the Local Government Finance Act 1988, introduced by the Non-Domestic Rating Act 2023, came into effect on 26 December 2023. This legislative change now permits the service of a completion notice in respect of an existing building that has undergone a programme of works, such as the subject property in this case.

29. In the present case, the Valuation Officer faced a constraint in reinstating the subject property into the Rating List, as the property could not be considered for re-entry unless it was deemed to be 100% complete.

30. The panel accepted that the outstanding works were relatively minor in nature. Specifically, the warehouse area lacked power and lighting to the vacant part of the warehouse. The remainder of the warehouse had already been completed and occupied. As such, while the subject property was arguably 99% complete, it did not meet the threshold of full completion as required by established case law for reinstatement in the Rating List.

31. Mr Jordan referred the panel to paragraph 66 of the Upper Tribunal's judgment in *Porter (VO) v Trustees of Gladman SIPPS* [2011] RA 33:

> "*The authorities, in our judgment, establish the following. A building is only a hereditament if it is ready for occupation, and whether it is ready for occupation is to be assessed in the light of the purpose for which it is designed to be occupied. If the building lacks features which will have to be provided before it can be occupied for that purpose and when provided will form part of the occupied hereditament and form the basis of its valuation it does not constitute a hereditament and so does not fall to be shown in the rating list. There is in consequence no scope for including in the list a building which is nearly, even very nearly, ready for occupation unless the completion notice procedure has been followed."*

32. In *Gladman SIPPS*, the Upper Tribunal considered a speculative office development that had been completed to a Category A specification, awaiting tenant-specific Category B fit-out before the premises could be occupied. The Tribunal held that such properties were not capable of immediate occupation and therefore required the service of a completion notice before being entered into the Rating List.

33. A subsequent and more directly comparable case is *Aviva Investors Property Developments Ltd v Whitby* (VO) [2013] UKUT 0430 (LC), which concerned newly constructed warehouse units. In that case, the Tribunal found that the absence of small power distribution, lighting, and other essential services rendered the properties incomplete for rating purposes. The Tribunal concluded that such features were necessary for the buildings to be considered ready for occupation, and therefore, in the absence of a valid completion notice, the properties could not be entered into the Rating List1.

34. Within the judgment of *Aviva Investors Property Developments Ltd v Whitby,* the Upper Tribunal reaffirmed the principles it had previously set out in *Porter (VO) v Trustees of Gladman SIPPS* [2011] RA 337. At paragraph 89 of that judgment, the Tribunal emphasised the importance of a property being fully capable of beneficial occupation before it can be entered into the Rating List, particularly where essential services or tenant-specific installations are absent.

> *"In conclusion we would reiterate what the Upper Tribunal said in paragraph 66 of Porter, namely that the issues which have arisen in these cases would have been*

avoided, if each of the billing authorities had served completion notices at the time the units reached practical completion. There is simply no need for disputes of this kind when the statutory scheme provides a reliable method of deeming a new building to be complete and capable of being entered in the rating list. If the views expressed by Mrs Whitby in her letter of 1 August 2008, and by Mr Mills in his evidence to the VT, had been properly considered in the light of the Tribunal's observations in paragraph 66 of Porter, the time and expense incurred in connection with these appeals could readily have been avoided."

35. Although the scope of outstanding works in *Aviva v Whitby (VO)* [2013] UKUT 0430 (LC) was greater than in the present appeal, the Tribunal held that the absence of power within the subject property's area constituted a critical deficiency. This feature was deemed essential for the property to be considered complete and capable of occupation.

36. It was evident by the panel that, as of the material date of 1 April 2023, the subject property was neither complete nor ready for occupation for the intended use. At that time, the Valuation Officer reinstated the property into the Rating List despite the fact that the subject property's part of the warehouse area lacked power**,** a feature deemed essential by the Upper Tribunal in *Aviva v Whitby (VO)* [2013] UKUT 0430 (LC). The prevailing legal authorities did not support the Valuation Officer's position, and the reinstatement was therefore inconsistent with established case law regarding the criteria for completion.

Determination

37. In view of the foregoing, the appeal is allowed, and the entry must be deleted from 1 April 2023.

Order

38. 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 delete the appeal property's entry from the Rating List with effect from 1 April 2023.

39. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Refund of appeal fee

40. The Appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Right of further appeal

41. 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.

42. 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 Ramsay, Senior Member (Presiding)

Mrs H Newman-Newing, Senior Member

25 July 2025

Clerk to the Tribunal: Ms R Muller
Date issued to the parties: 25 July 2025