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

Case No: CHG101124878

Sitting remotely using Microsoft Teams

Date: 11 March 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — material change of circumstances — unoccupied property had two parts separately owned — a proposal should have been made seeking a split — appeal dismissed

Before:
MR W HUSSAIN
MS P JARRETT

Between:

STOREY GROUP Appellant

- and -

JO MOORE (VALUATION OFFICER) Respondent

Regarding:
86 - 88 VICTORIA STREET, GRIMSBY, DN31 1BG
(the "appeal property")

Mr M O'Donoghue (Colliers) for the appellant
Mr A Gausden for the respondent

Hearing date: 24 February 2026

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed. No change was made to the rating list entry.

STATEMENT OF REASONS

Introduction

2. The appeal property was entered in the 2017 rating list as “bank and premises” at rateable value £48,500 effective from 1 April 2017. The initial proposal was made on the grounds of a material change of circumstances from 1 July 2018. Specifically, that upon vacation of the appeal property by the tenant, the hereditament owned by the appellant only extended to part of the appeal property. The outgoing tenant had held the property on two leases for two distinct parts which were owned by two different landlords.

3. The appeal to the tribunal was then made on the grounds that the valuation for the appeal property was not reasonable. This was made in accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. At the hearing Mr O’Donoghue clarified that he sought rateable value £21,750 from 2 April 2019 (rather than 1 July 2018). Mr Gausden agreed that was the date the appeal property became unoccupied.

4. Both Mr O’Donoghue and Mr Gausden appeared in a dual role of advocate and expert witness for the appellant and respondent, respectively. Both representatives confirmed that their primary duty was to the tribunal. Neither was engaged on a conditional fee basis nor were their employers on a success related fee.

5. The dual role is allowable in this tribunal’s proceedings having regard to procedure regulations[1] and rules regarding admissibility of evidence[2]. However, it was necessary to consider the “expert” evidence and assess what weight, if any, to give it in the context of the matters in issue.

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

Relevant law

7. The term “rateable value” was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance.

[1] Regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.
[2] Regulation 17(2)(a) (Evidence and submissions) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

8. Under regulation 3(7)(b)(i) of the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended), the material day for this appeal is the date on which the interested person confirmed the check information with the Valuation Officer. That specific date was not provided to the Tribunal. However, the Valuation Office Agency's (VOA) decision notice records that the check was submitted on 31 March 2023 and completed on 17 May 2023. The panel therefore concluded that the material day must fall somewhere between those two dates. Following the hearing, the panel requested further information from the parties regarding the material day.

9. In response, Mr Gausden expressed the view that the material day was the date on which the check was submitted, namely 31 March 2023.

10. Mr O'Donoghue argued instead that the material day should be the date of the material change itself, being the date the property was vacated: 1 April 2019. The panel found that this date could not be adopted because of regulation 3(7)(b)(i), which provides:

    (7) In any other case—

    …

    (b) where the determination is with a view to making an alteration to a list compiled on or after 1st April 2005, the material day is—

        (i) where the alteration is made in pursuance of a proposal, the date on which the VO received a confirmation under regulation 4C of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (as stated in an acknowledgement served by the VO under regulation 4D(1) of those Regulations);

11. Regulation 4C of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 is concerned with the process for confirming the accuracy of the information held by the VO at the check stage. The panel noted that the material day was the date in regulation 4D(1):

    4D Acknowledgment of receipt of confirmation

    (1) On receiving a confirmation, the VO must serve on the person who made the confirmation a written acknowledgement of receipt which must state—

        (a) the date on which the VO received the confirmation; and

        (b) the date of the acknowledgement.

(2) For the purpose of these Regulations, the date on which the VO received a confirmation is the date stated in the acknowledgement in accordance with paragraph (1)(a).

12. Given that the hereditament remained unoccupied throughout the entire period from the effective date sought for the reduction (2 April 2019) until the end of the 2017 rating list on 31 March 2023, the panel concluded that identifying the exact material day would not affect the outcome of the appeal. In the absence of an acknowledgement of receipt of confirmation from the VO, the panel therefore adopted 31 March 2023 as the material day for the purposes of determining the appeal.

13. Under Schedule 6 to the 1988 Act, paragraph 2(7), a number of matters are referred to which have to be taken into account on the material day. So far as is relevant to the appeal property, the matters are:

(a) matters affecting the physical state or physical enjoyment of the hereditament,

(b) the mode or category of occupation of the hereditament,

…

(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, and

(e) the use or occupation of other premises situated in the locality of the hereditament

Discussion

14. The appeal property had been continuously occupied by a single tenant, the Royal Bank of Scotland (RBS), from at least 1987 until they vacated on 1 April 2019. Although RBS occupied the whole premises throughout that period, the building comprised two separately owned parts:

- 86 Victoria Street and 1 George Street, owned by the appellant; and
- 88 Victoria Street, owned by Oyster Ventures Ltd.

15. These two areas were distinguished on the floor plans produced by Mr O'Donoghue, with the appellant's area marked in red and 88 Victoria Street in blue. The leases expired in 2017, and RBS remained in occupation on a holding-over basis until April 2019.

16. Although the premises were occupied and used as a single banking operation, the valuation adopted a retail valuation. A zone A rate of £350/m² was applied, and this valuation basis was not disputed.

17. Mr O'Donoghue expressed frustration that the VOA had not engaged at the check stage regarding facts, namely the floor areas. The appeal property was subsequently sold as a whole on 23 July 2023. Neither Mr O'Donoghue nor the VOA had inspected the premises. As a result, Mr O'Donoghue's revised valuation relied on estimated apportionments of floor area, which could not be checked by the VOA's valuation nor the decision notice which lacked floor plans.

18. A key element of the appellant's case was that access to the entire hereditament could only be gained through 86 Victoria Street. It was argued that the accommodation at 88 Victoria Street was therefore "sterile" and did not satisfy the statutory requirements for a rateable hereditament.

19. Mr O'Donoghue further argued that a billing authority could not lawfully raise a rate demand where multiple ratepayers existed within a single hereditament. The panel recognised the practical difficulty this would cause in respect of an unoccupied property with dual ownership. However, Mr Gausden referred to section 50 of the Local Government Finance Act 1988, though neither party was familiar with the procedure under that provision. The panel was therefore unable to explore the matter fully.

20. The panel noted that although the only front entrance was situated at 86 Victoria Street, the floor plans indicated two external doors at the rear of 88 Victoria Street. Mr O'Donoghue accepted this during questioning. Without an inspection by either party, it was unclear whether these doors served as fire exits, staff access, or both.

Panel's findings

21. This was an unusual case, and the panel appreciated the reasoning behind the appellant's approach. However, after careful consideration, the panel dismissed the appeal. The panel's key considerations were as follows:

(a) Continuous single occupation

The strongest factual indicator was the historic pattern of occupation. For more than 30 years, until April 2019, the entire property was occupied and operated as a single banking unit by RBS. Eventual re-occupation in 2023 by a new occupier, as a single unit, reinforced this.

(b) Marketing as a single property

The appellant placed significant emphasis on the fact that the building had two separate owners. However, the panel was not persuaded by the available evidence and argument that ownership was a determining factor. When the premises became vacant, they were marketed as a whole. No attempt was made to let the two ownership elements separately.

(c) Rateable occupation during vacancy

The panel was not persuaded by the argument that the “four ingredients” of rateable occupation were relevant for a period during which no occupation existed. As no party was in occupation, the question over exclusivity of occupation never arose.

(d) Insurance responsibilities

Mr O’Donoghue was unable to confirm how the building was insured during the relevant period. This information might have supported the appellant’s argument by showing each owner insured their respective areas separately. Alternatively, it may have supported the VO’s argument if one owner assumed responsibility for the whole.

(e) No overt act to separate the hereditament

For a single hereditament to become multiple hereditaments, there must generally be a physical alteration or other overt act clearly dividing the occupation or capability of occupation. Here:

- No walls were inserted.
- No services were divided.
- No attempt was made by either owner to create distinct units for letting.

The appellant’s suggestion that the “overt act” occurred when RBS vacated was not supported. Vacancy alone does not divide a hereditament; a physical or functional change must occur.

Material change of circumstances (MCC)

22. The proposal was made on MCC grounds. When asked at the hearing, Mr O’Donoghue stated he was relying on:

- “matters affecting the physical enjoyment of the hereditament”, and
- “the mode or category of occupation”.

23. The panel did not accept that the mode or category of occupation changed merely because the property became vacant. The potential to re-let the entire premises as a single banking unit remained unchanged. In an email from Mr O’Donoghue received after the hearing (in response to a material day query) he confirmed he no longer relied on that basis.

24. While it could be argued that dual ownership might be a matter affecting physical enjoyment, the panel had concerns that the MCC route was not the appropriate mechanism. The hereditament remained physically unchanged, functionally intact and capable of the same use. Mr O'Donoghue acknowledged in his submission that the correct course would ordinarily have been to split the assessment. He believed this was not possible due to the lack of physical access to 88 Victoria Street. However, his assertion that it was "sterile" depended on proving that it was incapable of separate rateable occupation due to lack of access. This had not been satisfied because:

- The floor plan indicated two external doors serving 88 Victoria Street.
- The appellant's representative conceded the presence of those doors during questioning.
- No inspection by either party provided contrary evidence.

25. Given this, the panel concluded that the appropriate route would have been a proposal under regulation 4(1)(l) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009:

> "property which is shown in the list as one hereditament ought to be shown as more than one hereditament".

Conclusion

26. For the reasons set out above, the panel found that the initial challenge proposal was brought on the wrong grounds and that no material change of circumstances had been demonstrated.

27. The appeal is therefore dismissed.

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 Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009. A party does not require permission to appeal from the Tribunal. Any appeal must be made directly to the Upper Tribunal (Lands Chamber) using Form T385 (Notice of appeal) within **four weeks** of the date this decision and statement of reasons was 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 W Hussain, Senior Member (Chair)
Ms P Jarrett, Senior Member
11 March 2026

Mr D Mulgrew
Clerk to the Tribunal
Date issued to the parties: 11 March 2026