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

Case No: CHG101129159

Sitting remotely using Microsoft Teams

Date: 6 November 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic 2017 Rating Appeal; Local Government Finance Act 1988; material change of circumstance; office and premises; was a reduction in rateable value warranted for repair issue to 7th floor of an office building; appeal allowed in part.

Before:
MR A HUSSAIN
MISS S STAPLETON

Between:

NCO EUROPE LTD — **Appellant**

- and -

(VALUATION OFFICER) — **Respondent**

Regarding:
NEW CITY HOUSE 57-63, RING WAY, PRESTON PR1 2QD
(the “subject property”)

Mr K Batty from Ken Batty Chartered Surveyors for the Appellant
Mr G Willetts for the Respondent

Hearing date: 8 September 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed in part.

2. The Tribunal found that a reduction within the assessment of New City House 57-63, Ring Way, Preston PR1 2QD (hereafter, known as the subject property) was warranted. Therefore, the rateable value (RV) was reduced to £275,000 with effect from 1 January 2023.

Introduction

3. The appeal arose in respect of a proposal to alter the 2017 non domestic rating list for a material change in circumstances (MCC). The check was submitted on 31 March 2023 and completed on 13 June 2023. The Challenge was submitted on 14 September 2023 and completed on 18 December 2023. An appeal to this Tribunal was received on 17 April 2024.

4. Mr Batty appeared on behalf of the appellant and Mr Willetts appeared on behalf of the respondent. Both appeared on a dual role as both advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Batty stated that he was instructed under a conditional fee arrangement and also declared that he understood and accepted that his duty was 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 or not the evidence supported the client’s case.

5. The panel accepted the 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).

6. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

7. During the proceedings, it became necessary to clarify the material day relevant to the appeal. Both parties had initially identified 31 March 2023, the date the check was submitted as the material day. However, in the context of MCC appeals, the material day was defined as the date on which the check was confirmed by the Valuation Officer. Accordingly, the relevant period for determining the material day spans from 31 March 2023 to 13 June 2023.

8. Having considered the matter, the panel concluded that the issues in dispute were unlikely to differ significantly between the date the check was initiated and the date it was confirmed. On balance, the panel determined that 31 March 2023 should be treated as the material day for the purposes of this appeal.

9. This was the date on which the physical characteristics of the property needed to be considered. The panel's task was to assess whether a reduction was warranted due to the seventh floor being deemed unsafe, and the fact that three of the eight floors lacked adequate heating and cooling. These factors may or may not have been reflected in the valuation of the property as of the material day. The panel also had to determine the appropriate level of any reduction, if applicable.

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

Background

11. Mr Batty sought a reduced RV of £272,500, effective from 6 January 2020. The MCC arose from a health and safety inspection which certified that approximately one third of the seventh floor was unsafe. Additionally, it was confirmed that three of the eight floors lacked an adequate heating and cooling system from that date.

12. Mr Willetts was of the opinion that no reduction was warranted, as no evidence had been provided to show that the current RV was excessive or unreasonable. Therefore, he requested that the panel dismiss the appeal.

Relevant Law

13. Matters affecting the physical state or enjoyment of the hereditament and the mode and category of occupation are, amongst other things, taken to be as they were on the "material day". The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 [SI 1992 No 556] (the "MD Regulations") provides for determining the material day. So far as is relevant for these proceedings, Regulation 3 of the MD Regulations provides –

> ***"3 Material day for list alterations***
>
> *(1) For the purposes of sub-paragraph (6) of paragraph 2 of Schedule 6 to the 1988 Act, the material day shall be determined in accordance with paragraphs (2) to (7) below.*
>
> *…*
>
> *(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);"*

14. When valuing having regard to the material day, the valuation arrived to, has to conform with the rateable value definition provided in paragraph 2(1) to Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999:

> "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. Case law detailed within the submissions were:

Newbigin (VO) v Monk [2017] UKSC 14
Jackson (VO) v Canary Wharf Limited [2019] UKUT 136 (LC)
Colour Weddings v Roberts (VO) [2019] UKUT 0385 (LC)

Discussion

16. 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 2015, whereas the physical factors are as they existed on the material date of 31 March 2023.

17. The panel noted that Mr Batty had proposed a reduction in value based on one third of the seventh floor being unsafe for occupation. He calculated this by applying the rate of £61.50 per m^2 to an area of 140.30 m^2, which represented one third of the total seventh floor area. This resulted in a proposed reduction in Rateable Value (RV) of £8,628.

18. In addition, Mr Batty suggested a further reduction of £3,986, which represented 5% of the RV for floors 1, 2, and 6, where heating was deemed inadequate. The RV for these floors had been assessed at £79,723.

19. Mr Batty informed the panel that there had been ongoing issues with the roof, resulting in the property being declared dangerous and part of it being sealed off. These problems had persisted for over two years, and the necessary repairs had not yet been carried out by the landlord. Health and Safety authorities had been involved and certified that one third of the seventh floor was unsafe as of 6 January 2023. However, the panel noted that no staff had been removed from the seventh floor prior to this date. Mr Batty confirmed that the tenants vacated the seventh floor and relocated to the second floor in January 2023.

20. Mr Batty also stated that three of the eight floors had inadequate heating and cooling systems. He explained that this issue had been ongoing since 6 January 2020, as the landlord had failed to address the necessary repairs.

21. The panel noted that within the evidence documents, that it was stated that the appellant had submitted three photographs to the Valuation Officer. These images showed small sections of the internal roof in varying states of condition. However, the photographs were not included in the documentation submitted to the Tribunal.

22. The panel noted that the appellant had submitted several maintenance reports and service sheets concerning the air conditioning system, along with a quotation for repair works, to the Valuation Officer. Mr Batty initially believed these documents had also been submitted to the Tribunal. However, he later acknowledged that they had been omitted and accepted that, due to their absence, it was now too late for them to be considered by the panel. Furthermore, Mr Batty did not request an adjournment to allow for the submission of the photographs, maintenance reports, or service sheets.

23. Mr Willetts referred to the statutory definition of RV and the three assumptions that underpin it. He noted that no costings had been provided with regards to the condition of the roof, nor any evidence to demonstrate that the property had fallen into disrepair. Consequently, based on the statutory definition and the lack of supporting documentation, Mr Willetts stated that he could not support the proposed reduction in RV for the subject property.

24. Mr Willetts also highlighted that there had been no agreement regarding a reduction in rent paid by the appellant to the landlord. As of the material day of 31 March 2023, Mr Willetts considered that the burden of proof had not been met by the appellant.

25. The panel noted that Mr Willetts had not conducted an internal inspection of the subject property, although he had carried out an external inspection. He explained that he had attempted to arrange an internal inspection, but no appointment had been granted by the appellant. Mr Willetts stated that the dispute largely stemmed from a lack of supporting evidence. He confirmed that, had the evidential threshold been met, it may have been appropriate to remove the affected areas of the seventh floor from the property’s RV assessment. However, any allowance granted would have depended on the extent of the damage.

26. Having considered both parties’ submission, agreed that as of the proposed effective date of 6 January 2020, insufficient evidence had been submitted to support a reduction in the assessment of the subject property in relation to either the condition of the seventh floor or the lack of heating / cooling on the affected floors. The panel held that as there had not been any proof of a reduction in rent for the lack of heating / cooling with those floors, a reduction for this part of the appeal was not warranted.

27. However, with regard to the seventh floor and the fact that the appellant had moved out in January 2023 and into the second floor due to the ongoing condition, a reduction was warranted from January 2023. The panel held that the proposed reduction in RV with regards to the seventh floor and the dangerous roof was reasonable.

Determination

28. In view of the above findings and conclusions, the Tribunal found that given Mr Batty’s revised valuation, the panel was satisfied that the valuation of the subject property was unreasonable, but only to the extent in relation to the seventh floor. Accordingly, the appeal was allowed in part to the extent that the current RV of the subject property of £285,000 was reduced by £8,628 which resulted in a revised RV of £276,372 rounded down to £275,000 with effect from 1 January 2023.

Order

29. 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 to rateable value £275,000 with effect from 1 January 2023.

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

Amended decision in accordance with Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 due to a clerical error. The RV is amended from £276,000 to £275,000 within the decision.

Refund of appeal fees

31. 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

32. 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.

33. 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 Hussain, Senior Member (Presiding)

Miss S Stapleton, Senior Member

6 November 2025

Ms R Muller
Clerk to the Tribunal
Date issued to the parties: 6 November 2025