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

Case No's: CHG101152237
CHG101152231
CHG101152224

Sitting remotely using
Microsoft Teams

Date: 28 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non Domestic 2017 Rating List appeal; accuracy of the list; Challenge seeking reduction of list entries to nil; The Rating (Material Day for List Alterations) Regulations 1992 (S.I. 1992 No. 556); The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009 No. 2268); appeals dismissed.

Before:
MRS A FIELDER
MR A HUSSAIN

Between:

WIGAN METROPOLITAN DEVELOPMENT CO LTD **Appellant**

- and -

AMANDA HITCHINGS
(VALUATION OFFICER) **Respondent**

Regarding:
CAR PARKING SPACES (19) (20) AND (250) OPP, WIGAN METROPOLITAN DEVELOPMENT CO LTD, WIGAN WN3 5BA
(the "subject properties")

Mr J Hart from Hart Commercial Surveyors Ltd for the Appellant
Mr B Slater for the Respondent

Hearing date: 2 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeals were dismissed.

2. The Tribunal found that the current entries for the car parking spaces should remain in the 2017 rating list at their rateable values (RV's) with effect from 1 January 2021.

Introduction

3. These appeals have been brought in respect of car parking spaces of Opp, Wigan Metropolitan Development Co Ltd, Wigan WN3 5BA, which were entered into the 2017 rating list as 'car parking spaces and premises' at:

   Car Parking Spaces (19) £6,600 RV with effect from 1st January 2021.
   Car Parking Spaces (20) £7,000 RV with effect from 1st January 2021.
   Car Parking Spaces (250) £87,500 RV with effect from 1st January 2021.

4. Mr Hart appeared on behalf of the appellant 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 Hart declared that he was not instructed under any conditional fee arrangement. He 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. Mr Slater appeared on behalf of the respondent as both advocate and expert witness.

6. 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).

7. 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 proceedings.

<u>*Background*</u>

9. On 24 November 2022, a notice of alteration was issued to the appellant, which informed Wigan Metropolitan Development Co Ltd that the three entries of the subject properties had been entered into the 2017 rating list as new entries, each with its own RV. Mr Hart challenged the validity of these assessments by submitting a proposal, arguing that they should either:

   (1) Be reduced to an RV of nil; or
   (2) Be deleted, as they should have formed part of the main office assessment the occupied by the appellant company, Wigan Metropolitan Development Co Ltd

10. He also argued that the separate entries should be included within the main office assessment of Wigan Investment Centre and CT3 Building. However, this request was not for a merger of the subject properties into the same assessment as Wigan Investment Centre and CT3 Building, but a reduction in the RVs to nil or a deletion.

11. Originally, the VO had stated that the three car parking hereditaments had been created, as they were not a 'Property in Common Occupation' (PICO), not contiguous with one another.

Relevant Law

12. Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> *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.*

13. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No.2841).

14. The material day (the date by which physical factors have to be taken into account) was provided 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 1st January 2021.

15. The appeal 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 from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988).

Discussion

16. Mr Hart informed the panel that the car parks are contiguous with the main office hereditament. Therefore, they should not have been separately assessed. He referred the panel to Non Domestic Rating regulations (The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009), where the alteration made should have been to correct an inaccuracy. Mr Hart referred to the effective date of the subject properties' entries within the 2017 rating list, where the VO had used the occupation of a neighbouring office to backdate the car park entries, which Mr Hart argued was procedurally incorrect and not allowed under Schedule 6 2(1) of the Rating (Valuation) Act 1999.

17. He stated that the correct approach would have been to increase the main office assessment, not to create new entries. Since the entries in the 2017 rating list did not comply with the amended list regulations, Mr Hart stated that the entries should be deleted. However, due to the expiration of the time limits for submitting a deletion proposal, the Challenge now involved proposing a reduction of the RVs to nil, consistent with what was agreed upon in the 2010 rating list under similar circumstances.

18. The panel was also informed that the three car parks had been correctly merged into the main office assessment within the 2023 rating list, as the VO had acknowledged the car parks were contiguous.

19. Mr Slater, representative for the VO stated that the new entries within the 2017 rating list for the three subject properties had been an error. He stated that he was not the original caseworker and acknowledged the previous errors in both 2010 and 2017 rating list and stated that there was no case to argue for separate assessments now. Mr Slater stated that he agreed with Mr Hart that the RV's of the subject properties should be reduced to nil, but the car parks did have a value. Therefore, he held that if the panel was to reduce the entries to nil, but not being able to add the car parking spaces values into the main office assessment could cause the loss of values within the 2017 rating list, as clearly the car parking spaces did have value.

20. The panel found that the entries of the subject properties could not be merged, as this would have been outside the scope of the proposals submitted, which had requested a reduction in values. The panel noted that both parties had been in agreement that the assessments of the three car parking spaces should not have been entered separately within the 2017 rating list.

21. The panel noted that the main office assessment of Wigan Metropolitan Development Co Ltd was also under appeal but had not been listed to the same hearing. The panel found that the main office assessment included 55 car parking spaces, but that appeal was against a split, not a merger, deletion or a request for a reduction to nil for the car parking spaces.

22. The panel adjourned in order to seek legal clarity from the Deputy Registrar before making a final decision. The parties acknowledged the need for further coordination, particularly when dealing with the appeal on the main office assessment and whether or not the assessments of the three car parking spaces could be considered when the appeal for the main office assessment was heard.

23. The advice given by the Deputy Registrar was that due to the closure of the 2017 rating list, the tribunal cannot increase the main office assessment now to include them, as the appeal with regards to the main office assessment of the appellant company was not a merger of the three car parking assessment but a split appeal. The panel was advised to focus on the proposal at hand, which was a request for a reduction to nil for each of the car parking assessments.

24. The panel reconvened the hearing and informed the parties that as the appeal with regards to the main office was not a merger request to include the three car parking assessments, it would only be considering the reduction to nil request.

25. The panel found that each of the car parking spaces had values attributed to them of circa £350. If the panel did reduce the assessment of the subject properties to nil, this would impact the issue of the car parking spaces having values, as those values would not be reflected within the 2017 rating list.

26. The panel was aware that there was no automatic mechanism to merge the subject properties into the main office assessment or reallocate their values. The panel was aware that the VO had corrected this error within the 2023 rating list by merging the car parking spaces into the main office assessment, but no proposal had not been submitted to merge the subject properties assessments with the main office space for the 2017 rating list.

Determination

27. In view of the above findings and conclusions, the panel held that the subject properties did have value and as such, with no merger request, the panel confirmed the current RV's for each of the subject properties within the 2017 rating list. Therefore, the appeals were 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 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.

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/.

Mrs A Fielder, Senior Member (Presiding)

Mr A Hussain, Senior Member

28 May 2025

Clerk to the Tribunal: Ms R Muller
Date issued to the parties: 28 May 2025