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

Case No: CHG101170183

Sitting remotely using
Microsoft Teams

Date: 4 November 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — Newbigin (VO) v S J & J Monk [2017] — deletion sought — whether the redevelopment comprised of works significantly over and above repairs — appeal allowed

Before:
MR A RAMSAY
MISS S BALLENTINE

Between:

AVIVA LIFE & PENSIONS UK LTD Appellant

- and -

ANDREW MOULAND
(VALUATION OFFICER) Respondent

Regarding:
UNIT 1, THE ORBITAL CENTRE, WOODFORD GREEN, IG8 8HH
(the "appeal property")

Mr G MacKenzie (Francis Taylor Building), counsel for the appellant
Mr M Harkin, expert witness / witness of fact for the appellant
Mr M Pavlou, advocate and expert witness for the respondent

Hearing date: 7 October 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed. The entry in the rating list was deleted with effect from 20 March 2023.

Introduction

2. The appeal property was entered in the 2017 rating list as “warehouse and premises”. Its rateable value (RV) was £82,500 effective from 1 April 2017. The appellant sought a deletion of the entry in the rating list from 20 March 2023 while there was a scheme of works ongoing which rendered the appeal property incapable of beneficial occupation.

3. The appeal property is located on Southend Road, Woodford Green. The property is located close to the motorway network via A406/M11 and M25. The unit comprises a detached warehouse of steel portal frame construction dating back to the late 1990s.

4. Mr Harkin appeared in the roles of witness of fact and expert witness for the appellant. He confirmed he was not engaged on a conditional fee basis and his firm, Ryan, was not on a success related fee.

5. Mr Pavlou appeared in a dual role of advocate and expert witness for the respondent. 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. During the hearing, there were a couple of minor glitches with the internet connection involving both the respondent’s representative and the panel’s presiding senior member. However, after checking with those involved, the panel was satisfied that no-one had missed any of the dialogue in the proceedings.

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

Relevant law

8. The parties referred to the definition of rateable value provided in Schedule 6 to the Local Government Finance Act 1988 and the following judgments:

   - *Newbigin (VO) v S J & J Monk* [2017] UKSC 14

[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.

- *Jackson (VO) v Canary Wharf Ltd* [2019] UKUT 136 (LC)

- *Colour Weddings Ltd v Roberts (VO)* [2019] UKUT 0385 (LC)

- *Aviva Investors v Bunyan (VO)* [2022] VTE CHG100345300

- *Carey Group Plc v Ricketts (VO)* [2024] UKUT 356 (LC)

- *BNPPDS(J) Ltd and BCI Ltd (as Trustees of the Blackrock Industrial Trust) v Hitchings (VO)* [2025] UKUT 104 (LC)

Discussion

9. The issue in dispute was whether the scheme of works in progress on the material day (20 March 2023) was to be classified as repair work or whether the work went further than that and comprised redevelopment, radical alterations, significant remodelling and the like.

10. It was agreed between the parties that the appeal property was incapable of beneficial occupation on the material day. However, if the panel found that the work was confined to repair work then the property would not be deleted from the rating list because of the second assumption in the statutory definition of rateable value, namely that immediately before the hypothetical tenancy begins the hereditament is assumed to be in a state of reasonable repair. The assumption requires the facts to be ignored. This was applied in a recent Upper Tribunal decision in *Carey* where offices with a flooded basement were not deleted even though it was accepted that they were incapable of beneficial occupation.

11. For a deletion to be permitted, the work had to be more than repair work. Referring to *Monk* and subsequent judgments, Mr MacKenzie stated that phrases to describe this work included redevelopment, a programme of radical alterations, significant remodelling, alteration and modernisation, or a substantial programme of works.

12. Amongst other things, the actual work at the appeal property included the following:

    - The removal of a ground floor office of 195m^2 which reverted back to warehouse use.

    - The removal of a mezzanine floor of 174m^2.

    - Toilets and sanitaryware were stripped back to a shell with new first fix and second fix facilities installed.

    - Two windows from the mezzanine office area were removed and blocked up.

    - There were a series of translucent roof lights that were removed and replaced by new reinforced plastic translucent roof lights.

- The creation of new kitchen (a kitchen did not exist before).
- Lower cladding sheets to the rear elevation were removed and replaced.
- A new coating was applied to the existing metal roof to extend its life.
- A new and complete photovoltaic system installation was installed to the roof with metering.
- The whole of the existing concrete warehouse floor was removed by way of diamond grinding with a new Flowcrete flooring surface installed.
- The false suspended ceilings in all areas excluding the warehouse space were replaced with new.
- Large roller shutter doors and steel external fire doors were replaced with new.
- The lighting system (including emergency lighting) was completely removed with a new system installed.
- All small power, cabling and the distribution board were replaced.
- The fire alarm system was replaced.

13. The construction works cost £507,496, which equated to 6.15 times its rateable value.

14. The works commenced on 6 March 2023 and were completed on 7 June 2023. Deletion was sought from 20 March 2023 (the material day). On the material day, the office and mezzanine had just been removed, and there was no heating/cooling, lighting, plumbing and toilets in the building.

15. As mentioned already, both parties agreed that on the material day the property was incapable of beneficial occupation. The respondent had sought to rely on *Aviva Investors v Bunyan*, which was a decision made by this Tribunal's President. In that case the only changes to the property were more modern lighting, a kitchen, toilet and a perimeter fence and gate (which were installed around the front of the property). The President summarised the work as being a programme of repair works, with the addition of the strip out of the kitchenette and toilet facilities which needed replacing.

16. The panel noted that in *Aviva Investors v Bunyan*, the President stated that the stripping back of the kitchenette and toilet facilities was something that could happen in an occupied property and the work was generally of a short duration. It was not enough to stop the property being used as a warehouse. At [56], the President stated there is a higher bar for deletion appeals as opposed to material change of circumstances (MCC) appeals because it has to be shown that no part of the building was capable of beneficial occupation. At [60], the

President stated that he may have allowed a reduction in rateable value had it been an MCC appeal rather than a deletion appeal.

17. The panel did not consider the appeal property to be like the building in *Aviva Investors v Bunyan* because it was accepted that the appeal property was incapable of beneficial occupation during the period of the works.

18. Mr MacKenzie argued that there were similarities between the circumstances at the appeal property and the warehouse in *Blackrock Trustees*. The panel noted that at [47] of *Blackrock Trustees* it was acknowledged that some of the work had been to remedy disrepair, but other work involved the removal of items which were not replaced and a significant remodelling of the interior parts. The work included the provision of new services and a substantial reduction in the useable floor area. In that case, there had been a change of use from warehouse to a "black kitchen" for McDonalds Restaurants. Mr Pavlou highlighted this last point as an important distinction from the present case.

19. Mr Pavlou also referred to *Colour Weddings*, where a conversion was taking place from a warehouse to a wedding venue. The Upper Tribunal considered that the property remained capable of occupation as a warehouse while work had started at stages 1 and 2, which included repairing cracks and making a wooden frame around the inside of one of the buildings, to be insulated and lined with plasterboard. It was not until stage 3, when work was underway to change the mode or category of occupation of the building, with the construction of customer toilets, a bridal suite, drainage and central heating, that the Upper Tribunal decided that occupation of any part of the building became impossible.

20. It was interesting to note that *Colour Weddings* was not referred to in the more recent decision of the Upper Tribunal in *Blackrock Trustees*, despite both cases resulting in a change to the mode or category of occupation of those buildings. Following the Supreme Court's judgment in *Monk*, it was clear that the case law on deletions was still evolving. It was also clear to the panel that there does not have to be a change to the mode or category of occupation for a deletion to occur. This was demonstrated by the decisions in *Monk* and *Canary Wharf*, where there was never any intention to change the use from offices (although it is appreciated that in *Monk* a single office was in the process of being split into three smaller offices).

21. In *Blackrock Trustees* it was stated at [46]:

> "We agree with Mr Donmall [the valuation officer's representative] that, following *Monk*, the distinction between works to remedy a lack of repair and redevelopment works is critical in cases like this. The distinction is one of fact, which must be assessed objectively, taking account of the condition of the building and the works which are being undertaken to it. Mr Donmall asserted that an end of tenancy refurbishment did not come close to justifying deletion because it did not involve reconstruction or redevelopment, which were the activities considered by Lord Hodge in *Monk*. But redevelopment, in the sense that a surveyor might deploy the word, generally refers to the construction of new buildings after

clearing a site of whatever occupied it before. There is no doubt that such buildings would not be rateable until they were complete and capable of occupation (or deemed to be). Similarly, reconstruction is not a word of precise meaning and might involve different degrees of rebuilding, repairing or restoring a building or property. Rather than debating semantics we consider it is necessary to focus on the known facts about the condition of the building." (Emphasis added)

22. Both parties agreed that "repair" for the purposes of Schedule 6 meant a rectification or remedy of defects or a state of disrepair. It was argued by Mr MacKenzie that the appeal property had not been in disrepair and none of the matters referred to above were defective. The landlord had carried out a capital refurbishment and improvement programme in order to secure a higher rental value. He accepted that some other works carried out had been repairs and this included clearing the guttering out and repairs to the tarmac in the car parking area.

23. Mr Pavlou argued that the fire doors and suspended ceilings may have been damaged with wear and tear. He suggested that the holes in the floor from the removal of the mezzanine floor might be classified as disrepair and that the new floor included an element of improvement as a side effect, which was not unusual. He argued that the air conditioning system would probably have been at the end of its life and replaced. He contended that the appeal property would have been in disrepair at the end of the tenancy and that it had subsequently been put back into repair with the addition of some improvements.

24. The panel noted the before and after photographs and were unable to discern any obvious disrepair as suggested by Mr Pavlou.

25. Having regard to the photographs, reports and other available evidence the panel noted the following:

(a) The energy performance certificates showed that the floor area of the appeal property had changed from 1047m^2 to 826m^2.

(b) Despite a lack of floor plans in the evidence submitted, the panel was nonetheless able to establish that the layout of the appeal property had substantially changed:

(i) A ground floor office of 195m^2 had been removed.

(ii) A mezzanine floor of 174m^2 had been taken away (Mr Pavlou conceded during the hearing that this went beyond repair).

(iii) Toilets had been moved within the building (including the creation of a new room).

(iv) Two windows from the mezzanine office area were removed and blocked up.

(v) A new kitchen had been installed (none existed before).

(c) A new Flowcrete flooring surface was installed throughout the warehouse space. This is a polished concrete system which involved the use of diamond grinding to create a smooth, glossy, appearance. The panel considered that this clearly made the appeal property unusable while the work was being carried out and it was clearly work over and above repair work.

(d) Many features of the appeal property had been renewed even though they were not in a state of disrepair. This included all external doors, electrics, plumbing, heating, toilets, lighting and the alarm system.

(e) The opportunity was also taken to add new features including solar panels and car charging points.

26. Both parties agreed that the panel needed to consider the whole package of works. Having regard to the totality of the work, it was clear to the panel that the works went far beyond repair. The result of the work has been to create a fully modernised warehouse which had increased its quality and to an extent, future-proofed it. New features had been added to the building, the floor area had decreased, the layout had significantly changed and all of the building's mechanical, electrical and plumbing had been replaced along with a new concrete floor system in the warehouse space. On the facts, the panel concluded that the work carried out was far greater than end of tenancy repairs and fell into the category of redevelopment work involving the whole of the appeal property (not just part of it). It therefore fell within the ambit of *Monk* and should be deleted.

Determination

27. In view of the above findings and conclusions, the appeal was allowed.

Order

28. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to delete the entry in the 2017 rating list with effect from 20 March 2023.

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

Refund of appeal fee

30. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Right of further appeal

31. 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) within **four weeks** of the date this decision and statement of reasons is issued.

32. 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)

Miss S Ballentine, Senior Member

4 November 2025

Mr D Mulgrew
Clerk to the Tribunal
Date issued to the parties: 4 November 2025