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

Case No: CHG101175190

Sitting remotely using Microsoft Teams

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non-Domestic Rating; 2023 Rating List; Local Government Finance Act 1988; Offices and premises; Deletion; Jackson (VO) v Canary Wharf Ltd [2019] UKUT 136(LC); Porter (VO) v Trustees of Gladman Sipps [2011] RA 337; Aviva Investors v Dawn Bunyan (VO) (2022); Appeal dismissed.

Before:

MS C EDWARDS
DR SALLY PENNI

Between:

TOOTING BEC ESTATE LTD — **Appellant**

- and -

THE VALUATION OFFICER — **Respondent**

Regarding:

ADJ. ST PETERS CHURCH HALL, 5 BEECHCROFT ROAD, WANDSWORTH, LONDON SW17 7BU

Mr Daud Sadiq of Stiles Harold Williams Partnership LLP for the appellant,
Mr Tom Bleasdale for the respondent.

Hearing date: 8 MAY 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was dismissed. The entry in the 2023 rating list with a rateable value of £25,000 remains.

Introduction

2. This 2023 rating list appeal had been brought in respect of the following: the appellant was the non-domestic ratepayer of the appeal property Adj. St Peters Church Hall, 5 Beechcroft Road, London SW17 7BU.

3. The property had been entered in the 2023 rating list as Offices and premises based on a rate of £160.00/m^2 giving an RV of £25,000 with effect from 1 April 2023.

4. A challenge proposal was submitted by the appellant’s representative on 18 January 2024 to delete the appeal property from the rating list from 23 May 2023 due to it undergoing a scheme of works.

5. The valuation officer (VO) issued a challenge decision notice on 5 November 2024 stating that the rating list entry was reasonable based on the evidence and information available and disagreed with the challenge. The rating list entry was to remain as offices and premises RV of £25,000 with effect from 1 April 2023.

6. The appeal property Adj. St. Peters Church Hall was purchased by the appellant on 16 May 2023 and planning permission was granted to turn the property into flats on 15 December 2023.

7. The property was an office and premises 212.8m^2 in area built between 1900 and 1918.

8. The appellant was represented by Mr Daud Sadiq of the Stiles Harold Williams Partnership, Chartered Surveyors who appeared 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) he confirmed that he was instructed under a conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

9. 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).

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

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

Preliminary Issue

12. The appellant's representative had submitted additional evidence on 30 April 2025. This was the case of *BNPPDS(J) Ltd and BCI Ltd and Amanda Hitchings (VO)* [2025] UKUT 104 (LC) where the determination was made on 26 March 2025, after the appellant's representative had submitted his challenge. The VO's representative was in agreement that it could be submitted and the panel therefore proceeded accordingly.

Relevant Law

13. Local Government Finance Act 1988.

Issue

14. The issue in dispute was whether the appeal property should be deleted from the 2023 rating list from 23 May 2023.

Discussion

15. The bundle comprised all of the documents exchanged between the parties as part of the challenge process including the appellant's challenge submission, initial response to the challenge and the VO's challenge case decision notice. The billing authority's "Permission for development" letter of 15 December 2023 was also included as well as the Design and Access report of Nissen Richards.

16. The appellant's representative stated that Tooting Bec Estate owned the freehold of the appeal property and sought its deletion on 23 May 2023 as it was stripped out and undergoing redevelopment from offices and premises to residential use. It was incapable of beneficial occupation on 23 May 2023.

17. He stated that the scheme of works carried out were not works of repair, they were works to redevelop the building in line with the planning documents. He stated that the redevelopment works had started and had so far included the removal of internal non-structural partitions, the removal of kitchen welfare facilities and that the water supply had been capped off.

18. He provided photographs of the interior and exterior of the property during the works that showed that the ceiling, lighting and wiring had been removed leaving a shell ready for demolition.

19. He had referred to the VO's own Rating manual and that the Supreme Court had decided that the application of the repairing assumption was not appropriate for a building under reconstruction and which was consequently incapable of beneficial occupation.

20. He felt that the case of *Jackson (VO) v Canary Wharf Ltd* [2019] UKUT 136(LC) was relevant as the appeal property had been stripped out due to a scheme of redevelopment works to change it from office to residential use and should therefore be deleted from the material day 23 May 2023.

21. He also referred to the case of *Porter (VO) v Trustees of Gladman Sipps* [2011] RA 337 and felt that this supported his case for deletion. The property was a purpose built office but was stripped out and therefore no longer an office and no longer a hereditament.

22. On questioning, he stated that the photos were taken some time in late May / June 2023 but was not sure of the exact date. Further, that the appeal property had not yet been

demolished as there had been some delays over finance. The planning permission only required that the works had to start within three years of 15 December 2023.

23. The panel noted the photographs and found that the appeal property was indeed in a poor state. The panel also noted that the planning permission allowed for the demolition of the appeal property followed by the building and erection of a three-storey building to provide seven residential units. The Design and Access statement included a photograph of how the new residential buildings might look.

24. The panel noted that the VO's representative referred to a variety of case law that supported his view that it must be shown that works were being undertaken on the entire property. In *Aviva Investors v Dawn Bunyan (VO)* (2022) it was found that works must be of major reconstruction to have rendered a property incapable of beneficial occupation.

25. The panel was aware that the burden of proof to delete a property from the Non-domestic rating list was high. The panel found that one year after the works had started the appeal property had still not been demolished. The panel found that the photos showed that the water had not been capped off and that partition walls were still present as were all the external walls. Further, that no evidence was provided to show the date that the photos were taken.

26. On the whole, the panel found that the facts as presented were not identical to those in the case law presented to it. The appeal property remained in a state where it could easily be refitted as an office and so be returned to its previous use.

27. In respect of the works themselves as noted in the Gantt chart at the end of the Nissen Richards papers, the panel found that they were generally of a minor nature. They included:

    Strip out kitchen and W/C
    Strip out partitions and previous tenants fit-out
    Strip out internal electrical wiring and tenant power sockets

28. The panel noted that these works had generally been completed but no further works were being undertaken. The panel found that the photos did not evidence that the appeal property had been stripped out to the degree of that in the *Jackson v Canary Wharf* case.

29. The panel also noted the VO's reference to the case of *The Restaurant Group v Lucy Formela-Osborne (VO)* where it was stated that where sanitary ware had been removed and plumbing was merely capped off, this was unlikely to support the deletion of a property when considering this item only. The panel took this into account and found that it informed its decision-making rather than was central to it.

30. The panel also noted that the appellant had not provided an itinerary of the cost of the works that had been undertaken or that were to be undertaken and there was no evidence that the Gantt chart had been followed. Further, that there was no structural report of the appeal property at the material date. The panel found that these facts supported the VO's case.

31. The panel was also aware that there had been no overt act at the material date, the works started at the material date but the appeal property appeared to still be in a state of poor repair some time after.

Decision

32. The panel found that the appeal property appeared to remain in a state of repair, it had not become incapable of beneficial occupation. The appellant's representative had stated there was an intention to demolish and the planning permission allowed for that in which case the panel would have expected the property to be completely stripped back, however, that was not the case here.

33. In cases such as this the onus was on the appellant to provide sufficient evidence to support his case that the property was incapable of beneficial occupation and had ceased to be a hereditament. However, the panel found that the evidence and facts as presented did not support the property being deleted from the rating list.

34. The appeal was therefore dismissed.

Right of further appeal

35. 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.

36. 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/.

Ms C Edwards, Senior Member (Presiding)
Dr S Penni, Senior Member
2 June 2025

Mr D Adamson
Clerk to the Tribunal
Date issued to the parties: 2 June 2025