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

Case No: CHG101184038

Sitting remotely using Microsoft Teams

Date: 3 October 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — offices and premises; proposal to delete; whether capable of beneficial occupation at the material day; appeal allowed in part.

Before:
MRS R HEALD
MS L OWUSU-AFRIYIE

Between:

ROCKSPRING TRANSEUROPEAN VI METRO **Appellant**

- and -

NICOLA JOHNSON
(VALUATION OFFICER) **Respondent**

Regarding:
PT 12TH F RMS 28-35, ST CLARE HSE, 30-33 MINORIES, LONDON, EC3N 1DD
(the "subject property")

Mr D Clarke from Colliers, representing the Appellant
Mr N Green for the Respondent

Hearing date: 11 September 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The Tribunal finds that the entry for the subject property should be deleted from the 2017 rating list with effect from 21 June 2021.

Introduction

3. This is a 2017 rating list appeal. Part 12th Floor Rooms 28-35, St Clare House, 30-33 Minories, London, EC3N 1DD, had been entered in the 2017 rating list as “offices and premises” at £84,500 rateable value with effect from 1 April 2017.

4. The challenge proposal was submitted by Colliers on behalf of Rockspring Transeuropean VI Metro, and was received by the Valuation Officer on 15 February 2024. It had been made on the grounds that the subject property should be deleted from the list with effect from 15 August 2017, as it was incapable of beneficial occupation due to a substantial programme of strip out works.

5. The Valuation Officer issued a challenge case decision notice on 12 December 2024, which disagreed with the proposed deletion, and stated that the rating list entry was reasonable based on the evidence and information available.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is inaccurate. The appeal was lodged by Colliers on behalf of the appellant, and received by the Tribunal on 11 April 2025.

7. Mr Clarke appeared on behalf of the appellant as both advocate and expert witness. He stated that his company was being paid on a contingency fee basis but was aware that in giving expert evidence his responsibility was to the Tribunal.

8. The panel accepted this expert witness evidence on the above basis, as 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 in England). The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

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

Relevant Law

10. The statutory definition of a hereditament is contained within section 64 of the Local Government Finance Act 1988. A hereditament is, by virtue of Section 115(1) of the General Rate Act 1967 a “…property which is or may become liable to a rate, being a unit of such property which is or would fall to be, shown as a separate item in the valuation list”

11. Paragraph 2 of Schedule 6 to the Local Government Finance Act 1988 contained the statutory hypothesis for determining the rateable value of a non-domestic hereditament. This provides that:

(1) The rateable value of a non-domestic hereditament property, 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 based 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.

12. Whilst the rateable value is determined having regard to the antecedent valuation date (1 April 2015), the valuation must reflect the physical facts relating to the subject property and its locality on the date the determination is made or amended (the material day). In this appeal, the material day was 15 August 2017, this being the date the appellant's representative had sought the deletion of the subject property from the rating list.

Discussion

13. The issue to be determined by the panel was whether the appeal property was incapable of beneficial occupation on the material day of 15 August 2017.

14. The case for the appellant was that the subject property was incapable of beneficial occupation due to strip out works which had commenced on 15 August 2017. In the event that the panel did not accept a deletion date of 15 August 2017, Mr Clarke requested deletion with effect from 21 June 2021.

15. Mr Clarke outlined that DTZ Investors Ltd had sold the freehold of St Clare House to Patrizia Immobilien in August 2019. At the date of acquisition, he submitted that the property was in a state which was incapable of beneficial occupation as strip out works had commenced. A JCT contract had been requested to protect the position of the contractor employed by the previous freeholder, and to detail the works that were to take place. The JCT contract, dated 29 November 2018, outlined Phase 2 of the refurbishment works on the 2nd, 3rd and 12th floors. Those works were then carried out and the 12th floor stayed in CAT A specification until Patrizia refurbished the floor and brought it into CAT A+ specification.

16. The appeal serves as a formal request to delete the assessment, as the subject hereditament underwent a scheme of works and refurbishment to fit out the space, rendering it incapable of beneficial occupation, in line with the Supreme Court decision of *Newbigin (VO) v Monk* [2017] UKSC 14.

17. Mr Clarke confirmed that as a result of the redevelopment of the 12th floor, the hereditament had been reconfigured to provide open plan office accommodation arranged over the entire floor. He therefore argue that the subject hereditament had ceased to exist and should be deleted.

18. Following the completion of the initial scheme of works, the hereditament underwent CAT A specification improvements, which, as per *Jackson (VO) v Canary Wharf Limited* [2019] UKUT 136 (LC), rendered it incapable of beneficial occupation. Mr Clarke relied on the following supporting documents:

- Design and Build Contract (JCT Contract);
- Gantt Chart of the CAT A+ fit out works;
- Photographs of the subject property during the CAT A+ works;
- F10 certificate;
- Email confirmation from DTZ Investors that in accordance with the contract, Phase 2 works at St Clare House commenced on 15 August 2017.

19. The case for the Valuation Officer is that there is insufficient evidence to show works at the material day.

20. Mr Green stated that, based on the evidence provided in the challenge submission, the Valuation Officer was not satisfied that it had been demonstrated that no part of the subject hereditament was capable of beneficial occupation on the material day. No physical evidence had been provided that any works were undertaken to the hereditament on 15 August 2017, such as photographs and invoices, or any other documentation that would substantiate that any programme of works had begun.

21. The information that had been provided related to works that had subsequently been undertaken. While Mr Clarke suggested that this demonstrated that the property was in a CAT A condition at the commencement date of these works, Mr Green did not consider this to be compelling, and in his opinion, it did not support the material day sought. He referred to the fact that there are no photographs which show the property in a CAT A state, and no details of a Gantt Chart detailing the strip out works/period. The F10 provided shows the date of 21 June 2021 for the CAT A+ work, which is four years after the proposed deletion date.

22. In appeals of this nature, the burden is on the appellant to demonstrate that the property is not capable of beneficial occupation on the material day. In the absence of any compelling evidence to demonstrate that strip out works had commenced which rendered the subject property incapable of beneficial occupation, the panel found that the appellant's representative had failed to support his contention that the subject property should be deleted from the rating list, as at the material day of 15 August 2017.

23. The panel acknowledged that Mr Clarke had not been able to obtain photographs or a schedule of works, and so had sought to demonstrate that works had been undertaken on 15 August 2017 through other sources. The panel noted that the contract stated a start date of 15 August 2017, however, this was not compelling evidence to show that works had actually commenced, or whether the nature and extent of those works was sufficient to render the subject property incapable of beneficial occupation.

24. The panel referred to the email provided by DTZ Investors, which stated:

> *"Please find attached the JCT contract for the phase 2 works at St Clare House. According to the contract works started on the 15 August and completed on 21 December 2017."*

25. The panel was not persuaded that the email confirmed that works had begun, as it merely referred to the contract. It was also significant that the subject property was not specifically referenced. Consequently, the panel was not persuaded that there was sufficient evidence to support a deletion with effect from 15 August 2017.

26. In consideration of the evidence that had been provided in respect of the Phase 2 works, the panel found confirmation that the subject property had been in a CAT A state as at 21 June 2021. The F10 certificate stated:

> "Level 12 is currently a CAT A space and will go CAT A+ fit out to lease for future tenancy."

27. The panel noted that in the Gantt Chart for the phase 2 works, strip out was scheduled for Levels 4 and 10, but not for Level 12, which suggested that strip out works had already been completed. It had also been highlighted by Mr Clarke that the Valuation Officer had deleted the fourth floor with effect from 26 October 2022, based on the information provided in the Gantt Chart.

28. The panel found that there was sufficient evidence to support that, as at 21 June 2021, the subject property was in a CAT A state, and therefore incapable of beneficial occupation. The panel had heard from Mr Clarke that the 12th Floor had been reconfigured to provide open plan office accommodation arranged over the entire floor, and therefore the subject property had ceased to exist. Consequently, the panel determined that the subject property should be deleted with effect from 21 June 2021.

Determination

29. In view of the above findings, the panel concluded that the subject property should be deleted from the 2017 rating list with effect from 21 June 2021. The appeal was therefore allowed in part.

30. 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 delete the entry in the rating list with effect from 21 June 2021.

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

32. A refund of the paid fee will now be arranged provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Right of further appeal

33. 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.

34. 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 R Heald, Senior Member (Presiding)

Ms LA Owusu-Afriyie, Senior Member

3 October 2025

Mrs L Horne
Clerk to the Tribunal
Date issued to the parties: 3 October 2025