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

Case No: CHG101230261

Sitting remotely using Microsoft Teams

Date: 31 March 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — 2017 rating list — car park and premises — multi-storey car park — proposal seeking deletion of hereditament from the rating list — section 66 domestic property — private garage — appeal dismissed.

Before:
MR SP WOOD
MS S BAINS

Between:

BALLYMORE PROPERTIES LIMITED — **Appellants**

- and -

NICOLA JOHNSON (VALUATION OFFICER) — **Respondent**

Regarding:
MULTI STOREY CAR PARK (EXC 6) AT LEAMOUTH PENINSULAR, ORCHARD PLACE, LONDON E14 0JH
(the “subject hereditament”)

Mr O Lane of Newmark Gerald Eve LLP for the **Appellant**
Mr R Read of the Valuation Office Agency for the **Respondent**

Hearing date: 2 March 2026

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is dismissed.

2. The Tribunal confirmed the 2017 rating list entry of the subject hereditament at £174,000 with effect from 15 September 2022.

STATEMENT OF REASONS

Introduction

3. The appeal process began with a proposal made by the Appellant on 13 June 2024 in respect of the Respondent's list entry of the subject hereditament at £139,000 with effect from 15 September 2022. The Appellant proposed for the subject hereditament to be deleted from the 2017 rating list on the basis it was domestic.

4. The Respondent issued a challenge case decision notice on 6 June 2025, finding the proposal not well-founded and refused to delete the property from the list. The Appellant appealed that decision to this Tribunal on 27 October 2025, on the grounds that the list was inaccurate.

5. The subject hereditament was entered into the 2017 rating list as a car park and premises which comprised 174 car parking spaces. It was located off Orchard Place on London City Island (LCI).

6. Mr Lane appeared on behalf of the Appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobold LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), the representative confirmed that he was not instructed under a conditional fee arrangement, and he declared that he understood and accepted 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 whether or not the evidence supported the client's case.

7. The issue for the panel to determine was whether the subject hereditament should be deleted from the 2017 rating list with effect from 15 September 2022.

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

Relevant Law

9. Section 41 of the Local Government Finance Act 1988 ("the Act") requires the Valuation Officer for a billing authority to compile and maintain a local non-domestic rating list for the authority's area. By section 42 the rating list must show each relevant non-domestic hereditament.

10. The expression "hereditament" is defined by section 64(1) of the Act by reference to its meaning under section 115(1) of the General Rate Act 1967, as follows:

> "Hereditament means property which is or may be liable to a rate, being a unit of property which is, or would fall to be, shown as a separate item in the valuation list."

11. Section 66 of the Local Government Finance Act 1988 ("the Act") sets out the provisions for property which is considered domestic. Relevant to this appeal is subsection (1)(c):

(1) Subject to subsections (2), (2B), (2BB) and (2E) below, property is domestic if—

…

(c) it is a private garage which either has a floor area of 25 square metres or less or is used wholly or mainly for the accommodation of a private motor vehicle, or…

12. Rateable value is defined in paragraph 2(1) of Schedule 6 of the Act, as amended by the Rating (Valuation) Act 1999, as:

"… 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 the usual tenant's rates and taxes and bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state fit to command the rent mentioned above."

13. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day is 15 September 2022.

Analysis

14. The Appellants contended that the subject hereditament should not be assessed for Non-Domestic Rates and should be deleted from the 2017 Rating List. It was argued that the property constituted a residential appurtenance pursuant to section 66(1)(c) of the Act, namely a private garage used wholly or mainly for the accommodation of a private motor vehicle.

15. Mr Lane stated that the subject hereditament hereditament comprised a multi-storey car park situated within the residential-led development known as LCI, which was held within the same continuous freehold ownership as the surrounding residential buildings. The Appellants were the freeholders who owned the subject hereditament. PCM (UK) Limited were the service providers responsible for the management of the car park, and it was contended that the occupiers of the car park were residential tenants of several tower blocks in the LCI development through "Right to Park".

16. Mr Lane stated that the subject hereditament was not open to the public and it was controlled by gated access operated by the service provider. He explained that residential leaseholders

of the surrounding tower blocks could use the car park if they have purchased a “Right to Park”, which was usually acquired at the time of purchasing their residential flat. The right was said to be attached to and registered against the leasehold title and transferred with the property. Vehicles registered to residents are granted access through an Automated Number Plate Recognition (ANPR) system. Guest parking was permitted where linked to a resident and was subject to a fee. Such parking was not publicly advertised, and access was controlled through an on-site security team.

17. Mr Lane stated that the car park was managed by the service provider, whose costs were met through the residents’ service charge. He stated that any income derived from guest parking was used to offset management costs and reduce residents’ service charge liabilities. He therefore submitted that the car park was not operated as a commercial venture and that any income generated was de minimis.

18. At the hearing, Mr Lane confirmed that the parking spaces were not allocated to individual residents or properties. Instead, the “Right to Park” was allocated to a vehicle’s registration number. He stated that many of the spaces, on the occasions he had visited the property, were unused. He stated that employees of commercial ventures present on LCI, and the visiting public, were unable to use the car park, and instead required to park in separately allocated off-street parking areas. Mr Lane stated that owners of a “Right to Park” were able to sell that right, but only to another resident of LCI. An owner was also able to lease out the “Right to Park” but only to another resident of LCI, not the general public. He stated that residents were able to park and pay a fee without a “Right to Park”, but generally this would be on a temporary basis and at the discretion of PCM (UK) Ltd. This was the same for guests of a resident of LCI without a “Right to Park”, and users of residences let as an Airbnb.

19. The Appellants submitted that, although the property exceeds 25 square metres, the statutory test was satisfied if the hereditament was a private garage used wholly or mainly for the accommodation of private motor vehicles. Reference was made to the VOA Rating Manual (Section 2, Part 5, paragraph 5.4), which states that “private” denotes use for personal or domestic purposes rather than commercial or business purposes. In defining the term ‘garage’, the Appellants referred to *Barnet & Block v National Parcels Insurance Company Ltd* [1942] 1 All ER 221, in which it was argued the Judge applied the test to determine a garage “as a place providing reasonable protection and shelter for a car.” The Appellants also referred to the dictionary definition of a garage, as either a building or indoor area for parking or storing motor vehicles, or a commercial establishment for repairing and servicing motor vehicles.

20. The Appellants argued that the relevant statutory test, whether the property is used “wholly or mainly for the accommodation of a private motor vehicle” required consideration of whether the use is predominantly domestic rather than commercial. On this basis, the Appellants contended that the subject hereditament satisfies the requirements of section 66(1)(c) because the property can reasonably be described as a private garage, and it is used wholly or mainly for the accommodation of private motor vehicles which belonged or were connected to the occupiers of the residents of LCI. The Appellants further submitted that section 66(1)(c) did not require the garage to form part of the common parts of a residential building or to be physically contiguous with it. It was also argued that the statute did not require individual parking spaces to be separately defined, and that although LCI is private land, the grant of public access to certain roads did not break the curtilage between the residential properties and the subject car park.

21. Mr Lane submitted that maintaining the assessment results in non-domestic rates being levied on residents' parking facilities, which he contended was inconsistent with the proper application of section 66(1)(c) and should therefore be corrected.

22. The Respondent submitted that the subject hereditament was correctly entered in the Rating List as a non-domestic multi-storey car park and argued it did not fall within the definition of domestic property under section 66(1) of the Act**.** The Respondent contended that in determining whether land forms part of domestic property, the relevant hereditament must be identified, in this case being the subject hereditament, and consideration given to physical contiguity, occupation and functional dependency to the residential dwellings. It was argued that the car park was physically separate from the residential blocks and not contiguous with any individual flat, with other properties and occupiers lying between the residential buildings and the car park. The hereditament was contended to therefore not be geographically part of the domestic dwellings, and that there was no functional dependency between them.

23. The Respondent considered that the curtilage of the residential properties was broken in relation to the location of the subject hereditament. It was stated that the car park was accessed from a public road entering the wider development, and that the site contained a number of other commercial and non-residential occupiers, which included retail and institutional uses. It was argued that public access to parts of the development further indicated that the car park did not form part of the domestic curtilage of any dwelling.

24. The Respondent further argued that the subject hereditament cannot be considered a "private garage" within section 66(1)(c) of the Act. It was stated that the property was a multi-storey car park significantly larger than 25 square metres which comprised numerous shared parking spaces rather than individual garages and argued that the fact that vehicles parked may be private motor vehicles was not considered sufficient to bring the hereditament within the statutory definition. Mr Read stated that no parking spaces within the car park were individually demised or allocated to any particular residence.

25. Mr Read referred to the four ingredients of rateable occupation identified in *John Laing & Son Limited v Assessment Committee for Kingswood Assessment Area & Others* [1949] 1 KB 344**,** actual occupation, exclusive occupation, beneficial occupation and transience and contended that that the multi-storey car park was under overall control of PCM (UK) Limited, and therefore constituted a separate hereditament in its own right, rather than forming part of the common parts of the residential buildings. He argued that residents purchase a "Right to Park", rather than having exclusive occupation of a defined parking space. He contended that the absence of defined spaces meant that no part of the car park can be ring-fenced or identified as being occupied with a particular dwelling.

26. Mr Read stated that the purchase of parking rights was optional and many residences within LCI were sold without parking. Mr Read argued that this indicated that the parking was not inherently part of the residential demise when considered holistically. Further factors which were argued to support that the subject hereditament was non-domestic were that the car park was managed and controlled by a third party, with residents required to obtain permits through the management company. Signage and management arrangements were argued to further indicate that the facility operated as a managed parking asset rather than as individual domestic garages. Guest parking was also charged for, which Mr Read argued was not typical of domestic appurtenances.

27. The Respondent submitted that the appeal should be dismissed and the current assessment confirmed.

28. The panel first considered whether the subject hereditament can properly be described as a "private garage" within the meaning of section 66(1)(c). It was common ground between the parties that the structure exceeded 25 square metres, and therefore the Appellant must establish that the property is a private garage, and if so, that it is used wholly or mainly for the accommodation of private motor vehicles.

29. The panel determined that the subject hereditament cannot reasonably be described as a private garage. The Panel considered that the natural and ordinary meaning of the words "private garage" in section 66(1)(c) refers to a garage of a domestic character associated with a particular dwelling, rather than a large, shared parking structure serving multiple occupiers. The panel would expect features of a typical domestic garage to be ordinarily small in scale, associated with a particular dwelling, capable of being secured and used exclusively by its occupier, and have a clear functional relationship with that dwelling. The panel was not satisfied the subject hereditament comprised any of those features. In contrast, it found it was a large multi-storey car park which comprised several floors, 174 car park spaces, ramps, no defined spaces with any individual enclosures, no degree of privacy in terms of the use by other residents, guests or persons were allowed to park without a "Right to Park", semi-open sides and no individually assigned spaces. In essence, the panel found it was a parking facility of which the character was fundamentally different from that of a private garage. The panel therefore was satisfied that the property did not fall within the scope of section 66(1)(c) to be considered domestic.

30. The Panel considered the established principles of rateable occupation derived from *John Laing & Sons Ltd* namely that occupation must be actual, exclusive, beneficial and not too transient. The Panel noted that residents are not granted exclusive occupation of particular parking bays. Instead, they acquire a right to park within the facility generally, which the panel concluded remained under the overall control and management of PCM (UK) Ltd, as it exercised control over the entirety of the car park, including management, enforcement, and allocation of parking rights. The Panel therefore found that the car park was capable of beneficial occupation as a single unit, and that PCM (UK) Ltd, by virtue of its control and management of the facility, appeared to be in paramount rateable occupation of the facility. The panel concluded that individual residents with a "Right to Park" do not enjoy exclusive possession of identifiable spaces and therefore cannot be said to be in rateable occupation of any part of the structure.

31. The panel also considered the established principles in identifying a hereditament, set out by the Supreme Court in *Woolway (VO) v Mazars LLP* [2015] UKSC 53, which emphasised that in identifying a hereditament the geographical and physical characteristics of the property are of primary importance. Functional connection between areas of property will not ordinarily justify treating them as a single hereditament where they are physically separate and self-contained. The panel therefore considered whether the physical characteristics and occupation of the car park justified treating it as forming part of the residential hereditaments.

32. Applying the *Mazars* principles to the present case, the panel found that the subject hereditament was a physically separate structure capable of occupation independently from the residential flats. It was capable of being let separately to the dwellings occupied by residents of LCI. The fact that the car park provided a facility used primarily by residents did not alter its physical and operational separation from the residential accommodation. The panel was satisfied that the residential dwellings and the car park did not form a single contiguous property capable of being treated as one hereditament as it found they were in

separate rateable occupation and were separated by other hereditaments in separate occupation.

33. The panel concluded that the subject hereditament was a substantial multi-storey car park operated as a managed facility under the control of a parking operator. Residents of LCI acquire rights to use the facility but do not occupy identifiable areas within it. The panel was not satisfied that the property can be properly described as a private garage within section 66(1)(c). The car park constituted a separate hereditament capable of beneficial occupation in its own right and did not fall within the statutory definition of domestic property. The fact that residents of LCI may benefit from the availability of parking does not alter the character of the property as a separate non-domestic hereditament.

Conclusion

34. In view of the foregoing, the appeal is 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 Valuation Tribunal for England (Council Tax Rating and 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) using Form T385 (Notice of appeal) within **four weeks** of the date this decision and statement of reasons was 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/.

Mr SP Wood, Senior Member (Chair)
Ms S Bains, Senior Member
31 March 2026

Mr S Fletcher
Clerk to the Tribunal
Date issued to the parties: 31 March 2026