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

Case No: CHG101248453

Sitting remotely using Microsoft Teams on 31 March 2026

Date: 30 April 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 —2017 Rating List; paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988; material change of circumstances; end allowance; allowed in part and dismissed appeals.

Before:

MR G MCGILL
MRS PA CROWTHER-NEWMAN
MS S ELVES

Between:

LAUREL BROOK II LTD — **Appellant**

- and -

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

Regarding:

SEE SCHEDULE
(the "appeal properties")

Mr W Secrett of Knight Frank (Appellant's Representative)
Mr P Marano (Appellant's Witness)
Mr W Mak (Respondent's Representative)

DECISION AND STATEMENT OF REASONS

APPPEAL SCHEDULE

Appeal Number	Address	Rateable Value
CHG101248453	BST NORTH & SOUTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£69,500
CHG101248455	GND FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£43,250
CHG101248457	GND FLR SOUTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£114,000
CHG101248393	1ST FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£70,500
CHG101248433	2ND FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£74,000
CHG101248449	3RD FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£75,500
CHG101248451	4TH FLR 40, CLIFTON STREET, LONDON, EC2A 4DX	£162,000

DECISION

1. The panel confirmed an allowance for the following appeals meaning they were allowed in part with effect from 1 June 2021:

Appeal Number	Address	Allowance Granted
CHG101248455	GND FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	5.00%
CHG101248457	GND FLR SOUTH 40, CLIFTON STREET, LONDON, EC2A 4DX	5.00%
CHG101248393	1ST FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	3.00%
CHG101248433	2ND FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	2.00%

2. The following appeals were dismissed as the panel determined no allowance should be granted:

Appeal Number	Address
CHG101248449	3RD FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX
CHG101248451	4TH FLR 40, CLIFTON STREET, LONDON, EC2A 4DX

3. The panel did not accept that a 1.5% amenity allowance should apply to any of the appeals.

4. Both parties were in agreement that no allowance should be awarded to the basement. As the appellant's representative was not able to withdraw the appeal, it was dismissed by the panel.

Appeal Number	Address
CHG101248453	BST NORTH & SOUTH 40, CLIFTON STREET, LONDON, EC2A 4DX

STATEMENT OF REASONS

Introduction

5. The challenge proposals were submitted by the appellant's representative on the grounds that the Rateable Values (RV) shown in the 2017 rating list were inaccurate by reason of a material change of circumstances (MCC) which was having a negative impact on the appeal property.

6. The appellant's representative submitted the challenges on 19 July 2024. He was originally seeking end allowances of 9.5% for each appeal property for the disturbance of a street market which was directly in front of the appeal property with effect from 1 June 2021.

7. The VO made issued decision notices on 10 July 2025 stating that a reduction in RV's for each property was not warranted and consequently, the decisions were appealed to this Tribunal on 30 October 2025.

8. On 30 March 2026 Mr Secrett emailed the VO and the Tribunal requesting revised allowances as follows:

   - 15% to the ground floor
   - 11.5% to the first floor
   - 6.5% to the second floor
   - 1.5% amenity loss to all floors

9. This resulted in revised rateable values sought by the appellant's representative as follows:

Appeal Number	Address	Rateable Value Sought
CHG101248455	GND FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£34,250
CHG101248457	GND FLR SOUTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£95,500
CHG101248393	1ST FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£59,500
CHG101248433	2ND FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£66,000
CHG101248449	3RD FLR NORTH 40, CLIFTON STREET, LONDON, EC2A 4DX	£70,500
CHG101248451	4TH FLR 40, CLIFTON STREET, LONDON, EC2A 4DX	£155,000

10. Mr Secrett 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), he confirmed that he was instructed a contingency 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.

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

12. Mr Mak appeared before the Tribunal as advocate and expert witness.

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

Preliminary issue

14. On 26 March 2026, Mr Secrett had emailed the Tribunal and the VO seeking to include a schedule of the rents for the appeal property which the ratepayer had provided to him on 20 March 2026. Mr Secrett confirmed he had provided a copy of the rents to the VO on 23 March 2026.

15. Mr Secrett confirmed that the evidence provided was not available to the appellant at the time of submission. It was requested by him in his capacity as expert witness to ensure that the correct information was available. It was received late because it took the ratepayer time to put the information together. He considered the evidence to be materially relevant as the VO was arguing that no rental concessions were given in the building for the impact of the street market. Mr Secrett referred to the case of *Garton v Hunter* [1968] in which Lord Denning had said it was not for us to confine ourselves to only the best evidence we should allow for the admission of all relevant information. Mr Secrett argued that it was incredibly important to prove the point that the material change of circumstances was having a valuation impact. He considered it in the interest of justice and fairness that the evidence be included as the VO had denied the opportunity to provide the evidence at challenge stage due to closing the case without comment.

16. On 27 March 2026, Mr Mak confirmed that he objected to the late evidence. He stated that it was only served seven days before the hearing and it did not satisfy the requirements of Reg 9(10), named *"evidence was not known…and could not reasonably have been acquired... before the proposal was made."* He argued that the rental evidence was known to the appellant at the time of the submission. Furthermore, Mr Mak stated that he was unable to verify the accuracy or reliability of the figures provided.

17. The panel referred to *Practice Statement PS2 Non-Domestic Rating (NDR) appeals* which set out the timescale on relation to further evidence as follows:

    Further evidence

    1) No later than four weeks before the date of the hearing, a party must make written application to the Tribunal (with a copy to the other parties) if they intend to include at the hearing any new evidence which:

    a) was not included within the notice of appeal but which all parties have subsequently agreed in writing to include (together with a copy of the written agreement); or

    b) relates to the grounds on which the proposal was made, was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations.

18. As the appellant's representative had submitted further evidence less than four weeks before the date of the hearing, the panel first held that it must consider whether the appellant's representative had given sufficient reasons as to why he was making the application late. In doing so the panel had regard to the Upper Tribunal decision in Simpsons Malt Ltd and Other v Jones (VO) UKUT [2017] 460 and had regard to Denton v TH White Ltd [2014] 1 WLR

3926 which dealt with the non-compliance to directions. This laid out the three-stage test which the panel had to consider.

19. The panel held that there had been a significant breach as the appellant's representative was making a late application, only a week before the hearing for additional evidence to be included. The appellant's representative confirmed that a request for this information from the ratepayer had initially been made for the original challenge, which was submitted on 19 July 2024. Mr Secrett confirmed he had picked this case up from a colleague in June 2025 and had asked for the information again, but it had not been provided by the ratepayer until a week before the hearing date.

20. Under stage two of Denton, the panel were not persuaded to grant relief for the failure to make a request to submit additional evidence four weeks prior to the hearing. There had been no compelling reasons provided by the appellant's representative for the lateness of the application to submit additional evidence, such as illness. There had been ample time for the evidence to be included given that the first request for the rental evidence was back in July 2024.

21. The panel held that inadequate reasons had been provided for making the application late. The rental evidence could have been provided in a timely manner and the panel did not accept that providing such key evidence a week before the hearing was acceptable. By providing new evidence late, including such a detailed spreadsheet containing various information it would cause a disadvantage to the VO and likely cause significant cost and delays as the appeals would need to be adjourned. The panel considered the interest of justice and held that if they were to allow the application to submit late evidence, it would unlikely pass the requirements set out under Reg 17A which states that the Tribunal may only admit evidence under specific circumstances. Therefore, having considered all the circumstances of the late application to submit new evidence, the panel denied the request.

Relevant Law

22. Matters which constitute an MCC are defined in paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988.

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

24. Therefore, having regard to the above, in reaching its decision, the panel considered, would the MCC affect the hypothetical tenant's bid? In doing so, economic factors must be considered as at the antecedent valuation date of 1 April 2015, whereas the physical factors are as they existed on the material date. In accordance with the Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No.556) and 4c of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No. 2268), the material day is the date on which the ratepayer confirms the accuracy of the information included in check. For this appeal, the parties agreed that the material date was 30 March 2023.

Discussion

25. The appellant's representative was seeking end allowances for the disturbances caused by the opening of the Street market which was directly in front of the appeal property. As a result

of the market the appellant was having difficulty letting the property fully. Videos were provided showing one of the stalls on fire and photographs from July 2022 had been provided to show the impact on the appeal property.

26. A site inspection was conducted on 13 March 2026 with the Appellant, Mr Secrett and Mr Mak in attendance. At the time of inspection, the market was open and trading. During the inspection the parties visited all floors of the appeal property, and the majority were vacant and had been for several years. The 4th Floor North had been vacant since 2021 as had the 4th Floor South, Gnd Floor North and First Floor South. At the time of inspection, the 3rd Floor North and South were fully let with one tenant that took occupation in late 2025. The market stalls were parked over the top of cycle parking spaces, and several food vans were left on premises all day and night rather than being removed at the end of the day. The stallholders were blocking access to the parking spaces as well as leaving rubbish on the pavement and there was issues with anti-social behaviour. The occupier of the 3rd floor explained during the inspection that his business was being impacted by the disruption from the market, from the smells, waste, and sound pollution. He had negotiated a reduction in rent with the landlord.

27. Mr Secrett stated that the appellant had a pest control contract which since had increased significantly from previous years due to the increase in rodents due to the rubbish left laying about due to the market.

28. An Independent Observations Report had been conducted by Mark Halton of MJH Licensing Consultants Ltd. He had visited the site on 23 -25 May 2023 from 8am to 4pm and on 17-19 October 2023 from 8am to 4pm.

29. In the report he detailed that he observed the general local environment including footfall, criminality, anti-social behaviour. He detailed that the market situated on Clifton Street was 400 foot in length and the stalls were set up in the road next to the pavements on both sides. At 8am the stalls were being set up, there is rubbish and food all over the floor from the previous day that no one was attempting to clear up prior to setting up. At 12.25pm the street is at its busiest. There are long queues of people trailing down the market and the footpaths are blocked. Overall, he reported that there was a disregard for the street, with food and rubbish left with pigeons inside the untied rubbish bags. As well as fats and oils being cleaned from the pans in the street and down the drains. Footways were blocked during the busiest periods with people leaning up against the front of office windows. The report concluded that the market was not suitable for the location.

30. A complaint had also been received from one of the tenants confirming he would not be renewing the lease if nothing was done regarding the impact of the market describing it as a pre-war slum.

31. Mr Secret confirmed that he considered the remaining tenants above the 2nd Floor of the building to have been less heavily impacted by the market as they had remained in residence and was therefore seeking a lower amount of allowance. He considered the loss of parking at the front of the building, loss of cycle bays and access to the building a loss of amenity to the tenants and a 1.5% allowance should be granted to reflect that.

32. In response the VO argued that no allowance was warranted as the appellant’s representative had not provided any evidence of rental reductions of properties on Clifton Street due to the street market. He stated that during the inspection he noted that the building had modern glazed windows with air conditioning meaning that the disturbance from the street windows was limited. The noise penetrating the appeal property was almost

entirely from the adjacent building works and not the street market. Furthermore, the operational time of the market was between 11am and 3pm with the busy period limited to between 12pm and 1.30pm. Mr Mak stated that during the peak hours the pedestrian footfall was not excessive.

33. Mr Mak submitted comparable evidence regarding Fenchurch Street market which began operating in 2018 and runs Monday to Friday from 10am to 3pm in a comparable city location. He argued that no proposal had been submitted seeking an end allowance.

34. Finally, Mr Mak addressed the appellants request for a 1.5% allowance for the loss of amenity, specifically referring to the loss of the bicycle facilities. He did not consider this to be reasonable as the bicycle space was not part of the hereditament. It was a public facility located outside the building and was not provided exclusively nor guaranteed use for the occupiers of the appeal property. He also stated that during the inspection he observed other public spaces in the locality

35. At the hearing the VO had argued that he did not consider the street market to constitute an MCC. However, this argument was not included within the VO's decision notice. In the decision notice the street market had been accepted as an MCC; however, it was the opinion that no allowance had been warranted as there had been no evidence of rental reductions. Therefore, the panel went on to determine whether or not an allowance should be granted for the impact of the market.

36. Having carefully considering the evidence presented, the panel were satisfied that the market had a negative impact on the appeal property. The panel accepted the witness statement, along with the letters provided from previous tenants that the landlord had given a rent reductions due to the impact of the market. It was clear that he was struggling to let the offices as potential tenants were put off by the market situated directly outside the appeal property. It was clear from the independent reports provided that there was a rodent problem with the additional rubbish left laying around.

37. However, the panel were not persuaded that the appeal property was impacted by the market as severely as indicated by the appellant's representative to award a 15% allowance. The panel held that this would mean the market was more severe than the demolition and building works of the adjacent building. Having regard to that, the panel felt 5% allowance for the market was more appropriate, with the ground floor being the most affected as it was on street level. 3% was granted for the first floor and 2% for the second floor.

38. The panel were not in agreement that a 1.5% amenity allowance should apply as it had not been evidenced how the loss of the parking spaces on the street impacted the appeal property, given that it had its own basement parking. The panel accepted the VO's argument that there was plenty of other parking and parcel spaces within a close distance that the appeal property could utilise, if any of the tenants had been using them, given that most of the building was vacant.

Conclusion

39. In view of the above findings and conclusions, the panel allowed the appeals in part for the ground floors, applying a 5% allowance for the market, a 3% allowance for the first floor and a 2% allowance for the second floor.

40. The remaining appeals were dismissed.

41. 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 reduce the entry in the rating list as directed with effect from 1 June 2021.

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

Right of further appeal

43. 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) using Form T385 (Notice of appeal) within **four weeks** of the date this decision and statement of reasons was issued.

44. 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 G McGill, Senior Member (Chair)
Mrs PA Crowther-Newman, Member
Ms S Elves. Member
29 April 2026

Miss K Hendry
Clerk to the Tribunal
Date issued to the parties: 29 April 2026

Addendum

Following the release of the panel's decision on 29 April 2026, the respondent drew the tribunal's attention to a clerical error in paragraphs 1, 2 and 4 of the decision.

The original decision incorrectly recorded the wrong rateable values.

The decision record was accordingly altered, following authorisation by the Chairman under Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, to remove the incorrect rateable values.

Reissued to parties: 30 April 2026