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

Case No: CHG101319774

Sitting remotely using Microsoft Teams

Date: 31 March 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — 2023 rating list; offices and premises; proposal seeking deletion from list; Newbigin (VO) v Monk [2017] UKSC 14; scheme of works; capability of beneficial occupation; appeal allowed.

Before:
MR SP WOOD
MS S BAINS

Between:

BEAU PROPERTY (MARLOW) LTD — **Appellants**

- and -

ANDREW MOULAND (VALUATION OFFICER) — **Respondent**

Regarding:
OFFICE A 3RD FLR, MARLOW INTERNATIONAL, PARKWAY, MARLOW, BUCKS SL7 1YL
(the “subject hereditament”)

Mr E Gutt of Colliers International for the **Appellant**
Mr A Aubrey of the Valuation Office Agency for the **Respondent**

Hearing date: 2 March 2026

DECISION AND STATEMENT OF REASONS

DECISION

1. The appeal is allowed. The Tribunal found that the subject hereditament was incapable of beneficial occupation on the material day and therefore its 2023 rating list entry is deleted with effect from 3 November 2023.

STATEMENT OF REASONS

Introduction

2. The appeal process began with a proposal made by the Appellants on 13 February 2025 in respect of the Respondent's list entry of the subject hereditament at £195,000 rateable value (RV) with effect from 1 April 2023. The Appellants proposed for the subject hereditament to be deleted from the 2023 rating list with effect from 3 November 2023 on the basis it was no longer a hereditament.

3. The Respondent issued a challenge case decision notice on 10 June 2025, which stated that on the basis of the evidence available, the proposal was not well-founded, and the rating list entry was reasonable. Mr Gutt appealed that decision to this Tribunal on 7 October 2025.

4. The subject hereditament was a third-floor office in a purpose-built office unit located on Parkway, Marlow in Buckinghamshire.

5. Mr Gutt appeared on behalf of the Appellants 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 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 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.

6. The panel accepted this expert witness on the above basis as the parties agreed the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of Valuation Tribunal for England (VTE) functions – general) of the Procedure Regulations and was allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 ("the Tribunal Procedure Regulations"), 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.

7. The issue for the panel to determine was whether the subject hereditament should be deleted from the 2023 rating list with effect from 3 November 2023.

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. 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.”

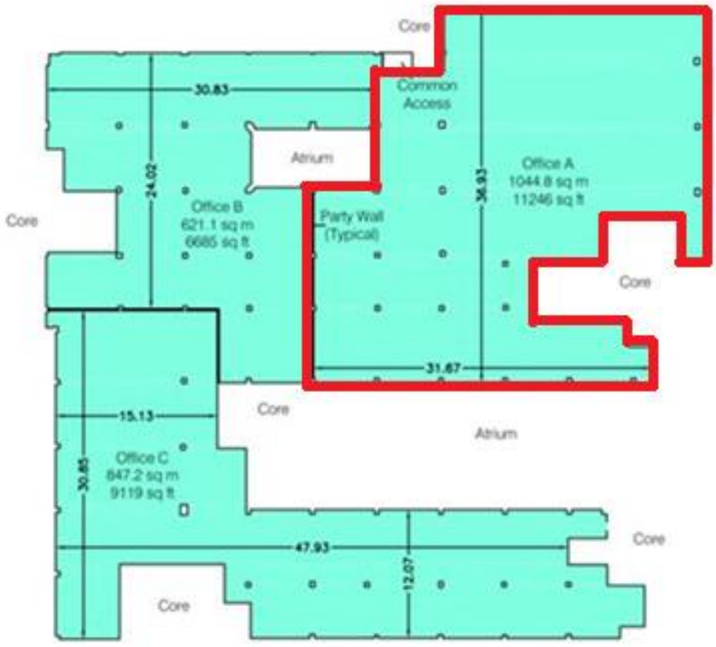
12. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992/556) as amended. In respect of the subject hereditament, the material day is 3 November 2023.

13. The following cases are referred to in this decision:

Porter v Trustees of Gladman Sipps [2011] UKUT 204 (LC), [2011] RA 337
Thomas & Davies v Denly (VO) [2014] UKUT 0146 (LC)
Newbigin (Valuation Officer) (Respondent) v SJ & J Monk (a firm) (Appellant) [2017] UKSC 14
Jackson (VO) v Canary Wharf [2019] UKUT 136 (LC), [2019] RA 411
Aviva Investors v Bunyan (VO) [2022] VTE CHG100345300, [2023] RA 11
BNPPDS(J) Limited and BCI Limited (as Trustees of the Blackrock Industrial Trust) v Hitchings (VO) [2025] UKUT 401 (LC)

Analysis

14. The subject hereditament comprised 1044m^2 and the unit of assessment can be seen titled “Office A” with a red border on the following floor plan:



15. Mr Gutt contended that, due to radical works of alteration carried out as part of a wider scheme of works involving Office Suites A and C which were located on the same floor as seen above, the subject hereditament was incapable of beneficial occupation and therefore should be deleted from the rating list with effect from 3 November 2023.

16. Mr Gutt stated that the previous tenant vacated the subject hereditament in 2022. At that time, the suite comprised high quality office accommodation which included suspended ceilings, integral lighting systems and raised access flooring. A scheme of works commenced in July 2023 which Mr Gutt stated involved both the subject hereditament Office A and Office C. Those works were stated to comprise major refurbishment of Office C to Category A fit-out and its subdivision into two units. As part of the scheme, it was decided to reuse material from Office A as part of the refurbishment of Office C due to their excellent condition, which included the suspended ceilings, lighting systems and raised flooring. The works were undertaken by TDA Interiors South Ltd, with Colliers International as project managers.

17. The strip-out works at Office A commenced in September 2023, and by 17 October 2023, the suspended ceiling and lighting systems were stated to have been removed in their entirety, and a substantial proportion of the raised floor had been removed. The materials were reused in the refurbishment of Office C where, at that time, 75% of the suspended ceiling installation had been completed and 95% of the raised flooring had been installed, as reported in the scheme of works provided. Mr Gutt argued that the extent and the nature of the works demonstrated that the alterations to Office A were radical.

18. Mr Gutt contended that by 17 October 2023 and at the material day, the subject hereditament was incapable of beneficial occupation as offices due to the removal of essential elements, being lighting, ceilings and flooring which he argued, rendered the property unusable for its intended purposes. Mr Gutt had since inspected the property and confirmed its condition

remained the same as at the material day. He was asked what the plans were for Office A on the completion of Office C and confirmed that they were none.

19. Mr Gutt argued that the approach of the Respondent was inconsistent as Office C, which he stated formed part of the same scheme of works as the subject hereditament, had been deleted from the rating list from commencement of the works. He submitted that both suites were subject to the same overarching scheme and both were affected by substantial works. He contended it was therefore irrational for Office C to be deleted and Office A to remain in the list as a live assessment.

20. Mr Gutt contended that there was a distinction between disrepair, where the statutory repair assumption may apply, and works of radical alteration, refurbishment or reconstruction. In the present case, he argued that the removed elements were not in disrepair, rather, they were removed because they were in excellent condition and reused. As such, he contended that the statutory repair assumption should not apply. He compared the circumstances at Office A to fall in line to that in the subject property in *Canary Wharf*, where he stated it was held a stripped-out office was incapable of occupation and refurbishment need not be continuous. He referred to *Porter* and *Blackrock* and argued that physical realities must be considered, and physically identical properties should not be treated differently. He contended that the works, which formed a wider scheme of redevelopment and were radical in nature had rendered the subject hereditament lacking in essential components for occupation and therefore incapable of beneficial occupation at the material day.

21. Mr Aubrey maintained that the subject hereditament remained rateable at the material day. The Respondent had referred to Schedule 6, paragraph 2(1) of the Act, which requires the Valuation Officer to assume the hereditament is in reasonable repair at the start of the hypothetical tenancy, unless repairs are uneconomic. It was argued that the statutory assumption was mandatory and may only be displaced where repairs were uneconomic or where, referring to *Monk*, on an objective assessment, the works amounted to reconstruction, redevelopment, or radical alteration such that the property ceases to be a hereditament. The Respondent submitted that neither applied in the present case.

22. In relation to economic repair, Mr Aubrey referred to the decision in *Thomas & Davies* in which repair costs amounting to 5.6 times the RV of the property was held to be economic. In the subject appeal, the cost of the works was stated to be circa 2.3 times the rateable value. On that basis, the Respondent argued that the works fell comfortably within the range of what the Upper Tribunal has previously determined to be economic, and accordingly, the statutory repair assumption remained operative.

23. Having reviewed the schedule of works, photographs, and supporting documentation provided by the Appellants, the Respondent was not satisfied that the works to the subject hereditament constituted redevelopment or radical alteration of the whole premises. The Respondent considered that the works were limited in scope and consisted primarily of the removal of certain internal elements, namely raised flooring and suspended ceilings, which were subsequently reused elsewhere in the building. The Respondent further submitted that that the removal of those elements was more properly characterised as damage to, or partial stripping out of, the premises rather than redevelopment. Mr Aubrey argued that the property was previously in good condition and the removal of materials for use in another suite did not transform the nature of the works into reconstruction.

24. Mr Aubrey did not accept that the works to Office A formed part of a single scheme of redevelopment with Office Suite C. While works were undertaken to Suite C, he argued that

the evidence did not demonstrate that the subject hereditament itself was undergoing redevelopment. He contended that the mere fact that materials were removed for Office A for use elsewhere did not establish that Office A was itself subject to a scheme of reconstruction or redevelopment.

25. Mr Aubrey stated that the photographic evidence indicated that parts of the raised flooring remained in situ at the subject hereditament, elements of Category B fit-out remained within partitioned areas, and that there was no evidence of works affecting core facilities such as sanitaryware or kitchen areas. Emergency signage was also stated to remain in place.

26. Accordingly, the VO's position was that the works to the subject hereditament did not amount to reconstruction, redevelopment, or radical alteration. The statutory repair assumption therefore applied and required the hereditament to be valued as if in a state of reasonable repair. As such, it was argued that at the material day, the hereditament continued to exist and retained sufficient physical attributes to be capable of beneficial occupation, either in its existing state at the material date or following reasonable economic repair.

27. In *Monk*, the Supreme Court determined that before the statutory assumption of repair can be applied, the valuer must first consider the "logically prior" question of whether the property is capable of beneficial use and whether there was a hereditament in existence at all. The repairing assumption had no role to play in addressing that question. Lord Hodge endorsed the following analytical framework [23] —

> "23. In a helpful intervention, the Rating Surveyors' Association and the British Property Federation submitted that, where works were being carried out on an existing building, the correct approach was to proceed in this order: (i) to determine whether a property is capable of rateable occupation at all and thus whether it is a hereditament, (ii) if the property is a hereditament, to determine the mode or category of occupation and then (iii) to consider whether the property is in a state of reasonable repair for use consistent with that mode or category. The first two stages of that process involve the application of the reality principle. At the third stage the valuation officer applies the statutory assumption in para 2(1)(b) if the reality is otherwise. In my view, this is a helpful approach where a building is undergoing redevelopment. But it is subject to the useful practice, which I discuss in para 31 below, of reducing the rateable value of a building, which is incapable of rateable occupation because of such temporary works, to a nominal figure rather than removing it from the rating list altogether."

28. In *Canary Wharf*, the Upper Tribunal clarified the proper interpretation and application of *Monk* stating at paragraphs [35] and [40] that —

> "35. Before one considers the repair assumption in the context of a building undergoing redevelopment, the logically prior question is whether the property is capable of beneficial occupation at all, and thus a hereditament at all"; and

> "40. The question whether a building is incapable of beneficial occupation as a result of a programme of refurbishment is a matter of objective fact."

29. More recently in *Blackrock*, where the Upper Tribunal considered a scheme of works at a warehouse, it was held at [46] —

> "46 …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."

30. The panel found that, as at the material day of 3 November 2023, the subject hereditament had been subject to a deliberate and extensive programme of strip-out works forming part of a wider scheme of refurbishment. It considered that by mid-October 2023, the suspended ceilings and integral lighting had been entirely removed, and a substantial proportion of the raised access flooring had been taken up and reused in Office C. The panel found that these were not minor or incidental works but involved the removal of essential components necessary for the use of the premises as offices. The subject hereditament had remained in a period of stasis since that time.

31. Applying the approach set out in *Monk*, the panel considered the logically prior question of whether the property was capable of beneficial occupation at all. Consistent with the clarification in *Canary Wharf*, the panel determined as a matter of objective fact that the hereditament, in its physical state at the material day, was incapable of beneficial occupation. The absence of lighting, ceiling systems and flooring meant that the premises could not reasonably be occupied for its intended purpose without substantial reinstatement.

32. The panel considered that the works carried out were not properly characterised as disrepair. The evidence demonstrated that the removed elements were in good condition at the material time and were intentionally salvaged for reuse elsewhere within the building. This accorded with the distinction emphasised at paragraph [46] in *Blackrock* where the Upper Tribunal confirmed that the dividing line between repair and redevelopment is one of fact to be assessed objectively. In the present case, the panel was satisfied that the works formed part of a programme akin to alteration and refurbishment rather than the remedying of deterioration.

33. Whilst the panel acknowledged the Respondent's argument pertaining to economic repair, this analysis would only be relevant if the hereditament is first found to exist.

34. The panel found that the Respondent's reliance on the statutory repair assumption was fundamentally misplaced because the factual evidence demonstrated that this was not a case of mere disrepair but one of extensive strip-out works rendering the hereditament incapable of beneficial occupation, and as such it was no longer a hereditament. The panel was not satisfied with the Respondent's assertion that the premises retained sufficient elements of Category B fit-out as it found the photographs showed only remnants of such following substantial removal. There was no clear evidence of functioning toilet or kitchen facilities, and the presence of signage for temporary welfare provision during the works combined with the absence of any rebuttal from the Respondent, implied to the panel that essential amenities were not present.

35. Furthermore, the panel found that the air conditioning system appeared disconnected within the ceiling void, power points would have been disconnected as part of the removal of the flooring, significant sections of the ceiling itself were missing, and the only lighting was temporary lighting supplied and utilised by the contractors undertaking the works. Taken

together, the panel considered these were not minor or transient defects capable of remedy by assumed repair, but fundamental alterations to the fabric and services of the premises. As a matter of valuation principle, the hypothetical tenancy cannot assume the presence of elements that have been physically removed. On an objective assessment, the panel found that the property had been stripped of essential components required for occupation as offices and was incapable of beneficial occupation at the material day. In those circumstances, the Respondent cannot invoke the repair assumption to artificially reinstate a hypothetical state of repair; rather, the “prior question” arises and must be answered in the Appellants’ favour, namely that the subject hereditament was not a hereditament capable of rateable occupation at the material day.

36. In the President of the Valuation Tribunal for England’s judgment in *Aviva Investors,* an appeal for deletion was dismissed where the works primarily involved the stripping back of a kitchenette and toilet facilities and other items that were readily capable of being regarded as ordinary maintenance or repair, with the President finding that the hereditament remained capable of beneficial occupation for its intended use and that the statutory repairing assumption applied. By contrast, in the present case the panel found that the evidence demonstrated that essential elements necessary for occupation as offices, namely suspended ceilings, integral lighting and raised access flooring, had been removed almost entirely and reused elsewhere, such that the premises could not be beneficially occupied in their physical state at the material day without substantial reinstatement. Unlike in *Aviva Investors*, where the works were consistent with typical internal refurbishment that could be completed as part of the hypothetical tenancy, the panel found that the extent, nature and permanence of the removals in the subject appeal significantly surpassed incidental refurbishment and amounted to radical alteration with the effect that the hereditament was incapable of occupation at the material date. This factual distinction meant the statutory repair assumption was displaced and supported the conclusion that the hereditament did not exist in a state capable of beneficial occupation.

37. The panel found that the works to Office A were carried out contemporaneously with, and in functional connection to, the refurbishment of Office C. Materials were systematically removed from Office A and installed in Office C, and the panel was satisfied that both suites formed part of a single overarching scheme of works, which was undertaken by the same project manager. The panel had regard to the principle in *Porter* that rating must reflect the physical reality of the hereditament, and to the observation in *Blackrock* that physically comparable properties which were substantially in the same condition, should not be treated inconsistently without good reason. The panel considered it inconsistent for Office C to have been deleted from the rating list whilst Office A remained assessed, notwithstanding that both were subject to substantial and interrelated works affecting their ability to be occupied.

38. Having applied the framework in *Monk* as endorsed and applied in *Canary Wharf* and *Blackrock*, the panel concluded that at the material day the subject hereditament lacked the physical attributes necessary to constitute a hereditament capable of rateable occupation. The panel was satisfied that the works undertaken amounted to a programme of radical alteration, the effect of which was to render the premises unusable for office purposes. Accordingly, the appeal was allowed and the entry for the subject hereditament shall be deleted from the rating list with effect from 3 November 2023.

Conclusion

39. In view of the foregoing, the panel was satisfied that the subject hereditament was not capable of beneficial occupation on the material day, and it is therefore not a hereditament to be shown in the rating list with effect from that date. Accordingly, the appeal is allowed.

40. In view of this decision, under the provisions of Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, it is ordered that the Respondent must delete the subject hereditament's entry in the 2023 rating list with effect from 3 November 2023, and the Respondent must comply with this order within two weeks.

41. As the appeal has been successful, and in accordance with Regulation 13E of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009/2268) the Appellant's appeal fee shall be refunded.

Right of further appeal

42. 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.

43. 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