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

Case No: CHG101335084

Sitting remotely using Microsoft Teams on 30 April 2026

Date: 20 May 2026

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988; offices and premises; request for one assessment to be split into multiple entries; appeal dismissed.

Before:

MS A KALU
MS K PETRECZKY

Between:

SHERRY LIMITED — **Appellant**

- and -

AMANDA HITCHINGS (VALUATION OFFICER) — **Respondent**

Regarding:

FIRST & SECOND FLOORS, TOWNELEY HOUSE, KINGSWAY, BURNLEY, BB11 1AA
(the "subject property")

Ms T Wassiljew-Jones for the **Respondent**

DECISION AND STATEMENT OF REASONS

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DECISION

1. The appeal is dismissed.

2. The Tribunal panel made no amendment to the number of entries in the rating list and concluded that one entry should remain effective from 1 August 2024.

STATEMENT OF REASONS

Introduction

3. This was a 2023 rating list appeal arising from a proposal made by the Appellant in respect of the subject property's entry in the rating list at £52,500 RV as 'offices and premises' effective from 1 April 2023. The Appellant sought a split of the subject property into fourteen separate hereditaments with effect from 1 August 2024. After considering the merits of the challenge, the Valuation Officer (VO) determined that it was not well founded and a decision notice to this effect was issued. The subject property remains one entry in the rating list.

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

<u>*Background*</u>

5. The appeal hereditament is situated on the first and second floors of a purpose built three-storey office block located close to Burnley town centre. It was constructed in 1995.

6. The Appellant did not dispute the overall rateable value but instead challenged the unit of assessment. He proposed that the office accommodation should be subdivided into smaller rateable units due to a reduction in demand for larger office spaces. He contended that creating fourteen separate hereditaments was the only viable means of attracting prospective tenants.

7. The Respondent maintained that there was no evidence of occupation at the material time and that, in the absence of actual occupation, the property could not be divided into multiple assessments.

8. The material before the panel included all evidence submitted and exchanged during the Challenge stage, including the parties' written submissions, photographs of the premises, extracts from the Valuation Office Rating Manual, and references to the following case law:

   - *Newcastle City Council v Royal Newcastle Hospital* [1959] AC 248
   - *Westminster City Council v Southern Railway Co Ltd* [1936] AC 511
   - *Crowther Smith v New Forest Union* [1890] 54 JP 324
   - *Cardtronics UK Ltd and Ors v Sykes and Ors (VO)* [2020] UKSC 21
   - *London City Council v Wilkins* (VO) [1957] AC 362

9. The appeal had originally been scheduled for a hearing on 15 December 2025 but was postponed due to operational reasons. Prior to that date, the Valuation Officer had submitted an inspection report, photographs from a joint inspection conducted on 19 February 2025, and a witness statement from the inspector. The Appellant did not object to the inclusion of these documents. Ahead of the rescheduled hearing, the Appellant was again asked whether

he had any objections; he responded by providing his own documents but did not raise any concerns regarding the Valuation Officer's materials.

10. The Appellant, who was not represented, requested that the appeal be determined in their absence on the basis of the evidence already submitted.

Relevant Law

11. Section 64(1) of the Local Government Finance Act 1988 defines a hereditament by referring back to the meaning that section 115(1) of the General Rate Act 1967 would have had if that Act were still in force, with the courts providing further clarification in line with established principles of rating law.

> "hereditament" means 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.

Discussion

12. The issue to be determined was whether the appeal property's current assessment should be split into fourteen hereditaments on the material day of 1 August 2024.

13. The Respondent inspected the premises on 19 February 2025 and found that minimal works had been carried out. While partitions were in place, the property remained vacant, with no evidence of separate occupation. At the dates of the Check, inspection, and Challenge, the Respondent maintained that there was only one occupier and accordingly, only one assessment should apply. The Respondent contended that legal possession alone is insufficient and that there must be evidence of actual use.

14. The Respondent provided an inspection report and a witness statement from the inspector. A joint inspection with Mr Ansari was carried out on 19 February 2025, which confirmed that the premises were unoccupied. A full internal inspection was not undertaken, as the inspector stated that the lack of occupation was evident; however, photographs were taken. These showed a large empty open-plan office with no furniture, together with doors leading to smaller surrounding offices, which were also vacant.

15. The Appellant maintained that the absence of occupation was due to prospective tenants not knowing the rateable value for each office. He argued that occupation is not a legal or statutory requirement at the time of making the application. He further contended that any expectation of occupation had not been communicated earlier by the Valuation Officer, which hindered compliance, as potential tenants were unwilling to proceed without confirmed rateable values. He stated that delays in revaluation were the main barrier to occupation and that, once informed of the need for actual occupation, he acted promptly by contacting the tenants and requesting that they take up occupancy. As a result, several units were being occupied by 26 March 2025 when the Challenge was submitted. He also stated that all works were completed at the time of the inspection. The panel noted that no 'before' photographs had been provided to demonstrate the changes that had been made.

16. Finally, the Appellant submitted that the case law relied upon by the Valuation Officer was not relevant, as those cases involved disputes between parties to a property, whereas no such dispute exists in this instance.

17. In support of his case, the Appellant provided six lease agreements, evidence of rental payments, floor plans showing partitioned units, photographs of subdivided offices, and a marketing advertisement. The first-floor plan depicted a large central open office area with eight surrounding offices numbered 101 to 108, while the second-floor plan similarly featured a central open office area with six offices numbered 201 to 206 arranged around the perimeter. The Appellant also submitted a marketing advertisement for Towneley House, which had been prepared by Selecos Properties, a company associated with the Appellant.

18. Overall, the lease agreements showed a mix of earlier agreements (late 2024), with the earliest one dated 30 September 2024 and several leases agreed on 20 and 24 March 2025 with commencement from 1 April 2025 or 1 May 2025. The lease for Office 201/202 although dated 30 October 2024 for a two-year term had no commencement date. The lease for Office 102 was said to commence on 1 December 2024, accordingly, it would have been expected that this tenant was in occupation at the time of the inspection, yet the offices were vacant. The panel further noted that no lease had been provided which corresponded with the effective date of the split, being 1 August 2024.

19. The Appellant also provided a number of undated photographs, including an image of room 101, furnished with office equipment and displaying a company name on the door, a photograph of the door to room 102, and an image of room 108 showing a photocopier/printer, desk, office chair, two additional chairs, and folders on a table. Further photographs depicted empty rooms. The panel was not persuaded that this evidence demonstrated actual occupation. In particular, several rooms appeared vacant, with no clear indication of day-to-day business activity, and there was insufficient evidence to show that any identifiable company was in occupation or that the offices were actively being used.

20. The Appellant referred to the decision in *London County Council v Wilkins (VO)* [1957], submitting that it established the essential criteria for rateable occupation as being actual, exclusive, beneficial and not too transient. While the panel accepts that this case restated those well-known principles, it is more properly derived from the earlier Court of Appeal authority of *John Laing & Sons Ltd v Kingswood Assessment Committee* [1949] 1 KB 344, which established the four constituent elements of rateable occupation and was cited in the authority relied upon by the Appellant. Although not referred to by the parties, *John Laing* remains the foundational authority in this area, and the panel has had regard to those established principles when considering whether the requirements of rateable occupation were satisfied in respect of the purported separate units.

21. The Respondent argued that the Appellant's case failed at the first hurdle, as at the time of the inspection on 19 February 2025 there was no evidence of actual occupation, and therefore the assessment could not be split. It was noted that the lease agreements post-dated both the proposed effective date of 1 August 2024 and the submission of the check on 6 August 2024 and did not demonstrate occupation at the relevant time. Although the Appellant asserted that the premises were occupied by 26 March 2025, Ms Wassiljew-Jones stated that the inspection findings cast doubt on this.

22. At the hearing, the Respondent further submitted that the lease agreements appeared to be between connected parties, as similar names were used for the landlord company, which undermined their reliability. However, the panel noted that this point had not been raised in the Valuation Officer's original submission, and the Appellant was not present to respond or challenge that assertion. Accordingly, the panel disregarded this argument. Reference was also made to an email of 27 April 2026 indicating that the premises were empty and

unoccupied. Ms Wassiljew-Jones stated that the layout of the office remained largely unchanged, with the main office space in the centre and smaller offices around the perimeter.

23. The Respondent further submitted that the Appellant's position changed over time, later asserting that only the first floor was occupied as at 26 March 2025, with the second floor remaining unoccupied. The plans indicated that a significant portion of the premises remained under the operator's control, which had not been properly reflected in the ratepayer's calculations when proposing rateable values for the individual units. The panel also observed that the intended use of the larger open-plan areas on both floors was unclear.

24. The Valuation Officer relied on established case law to support the principle that actual occupation, not merely legal entitlement, is required for rateable occupation. In summary, *Newcastle City Council* v *Royal Newcastle Hospital* [1959], which established that occupation is a matter of fact, and is distinct from legal possession. *Westminster City Council v Southern Railway Co Ltd* [1936], which confirmed that rateable occupation is tied to real use and enjoyment, not just legal title and *Crowther Smith v New Forest Union* [1890], which reinforced that legal possession alone is insufficient to create rateable occupation. She also referred to the Valuation Office Rating Manual (Section 2 – Valuation principles) which summarises the legal position: there must be evidence of actual use "on the ground", and occupation depends on what is physically happening in practice rather than what is permitted by lease or agreement. Overall, she argued that the authorities collectively established that rateable occupation is a question of fact, requiring evidence of actual occupation on the ground; legal entitlement or the existence of lease arrangements alone is insufficient to demonstrate the existence of a separate hereditament.

25. In relation to *Westminster City Council v Southern Railway*, *Cardtronics UK Ltd v Sykes [2020] UKSC 21*, and *London County Council v Wilkins*, the Appellant submitted that these authorities supported his contention that, "where there is no rival claimant to occupation, no difficulty can arise," and that the question of "paramount occupation" should be determinative. He further argued that the possession of the units was lawful and uncontested. However, the panel considered that the issue of paramount or exclusive occupation only arises once actual occupation has first been established. In the absence of any evidence demonstrating actual occupation of the units, the panel found it unnecessary to consider the question of paramount control.

26. The relevant date in this case was 1 August 2024, when the Appellant sought a split of the assessment, and the panel was obliged to consider the circumstances as they existed at that time. In reviewing the evidence, including the inspection photographs, the Appellant's statement that the property was occupied at a later date, and the fact that many of the individual lease agreements were not in place on the material day, the panel found that insufficient evidence had been provided to demonstrate that tenants were in occupation of the offices. As a result, the panel was not satisfied that all the elements necessary for rateable occupation were present on the material day. Furthermore, the panel was not persuaded that sufficient evidence had been submitted to justify the adoption of any alternative effective date for the proposed split.

27. The panel was mindful that the burden of proof lay with the Appellant. To succeed, he was required to demonstrate, on the balance of probabilities, that each of the fourteen units constituted a separate hereditament within the meaning of section 64 of the Local Government Finance Act 1988. The Appellant had not discharged the burden of demonstrating that fourteen distinct hereditaments existed.

Conclusion

28. In view of the above findings and conclusions, the panel determined that as at 1 August 2024 the appeal property was correctly assessed as one hereditament and the appeal was dismissed.

Right of further appeal

29. 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.

30. 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 A Kalu, Senior Member (Chair)
Ms K Petreczky, Member
20 May 2026

Mrs K Edhouse-Thomas
Clerk to the Tribunal
Date issued to the parties: 20 May 2026