**IN THE VALUATION TRIBUNAL FOR ENGLAND**
**IN THE MATTER OF A NON-DOMESTIC PENALTY-FOR APPEAL**

Case No: VT00027494

Sitting remotely using Microsoft Teams

Date: 16 May 2025

**SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988**

*Non-domestic rating penalty appeal; Local Government Finance Act 1988; information sought by the valuation officer had not been provided within 56 days; no extension of time had been requested by the appellant; proof of postage was out of time; appeal dismissed.*

**Before:**
**MRS LR MCDERMOTT**
**MR M NWOSU**

**Between:**

**THE PUB AT GROUP LTD** — **Appellant**

**- and -**

**LUCY FORMELA-OSBOURNE (VALUATION OFFICER)** — **Respondent**

**Regarding:**
**THE RAILWAY,8 PEDMORE ROAD, STOURBRIDGE, WEST MIDLANDS DY9 8DJ**
(the “subject property”)

**Sarah Gough, for the Appellant**
**Melanie Deacon for the Respondent**

Hearing date: 24 April 2025

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**DECISION AND STATEMENT OF REASONS**

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## Decision

1. The appeal is dismissed. The panel decided not to mitigate or remit the penalty.

## Introduction

2. This appeal has been brought in respect of the following: The appellant had on 26 June 2024 been served a notice by the Valuation Officer (VO) in which information was sought with regards the 2026 non-domestic rating revaluation in respect of Railway Inn, 8 Pedmore Road, Stourbridge, West Midlands DY9 8DJ which is shown in the 2023 rating list.

3. On 29 November 2024, the respondent served a penalty notice for the amount of £100. Such notice can be appealed to this Tribunal within 28 days. An appeal was received on 13 December 2024.

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

## Relevant Law

5. For non-domestic properties, paragraphs 5, 5A and 5B of Schedule 9 to the Local Government Finance Act 1988, as inserted by section 72 of the Local Government Act 2003, provides the VO with the power to levy civil penalties on the owners or occupiers of hereditaments who fail to provide the information requested, which the officer reasonably believes will assist him in carrying out his functions, within 56 days.

6. Paragraph 5C of Schedule 9 allows an appeal against the imposition of a penalty to the VTE within 28 days of the notice. The VTE may mitigate or remit a penalty if it is satisfied on either or both of the following grounds:

   (a) that the appellant had a reasonable excuse for not complying with the request, or

   (b) that the information requested is not in the possession or control of the appellant.

## Discussion

7. The respondent had requested information from the appellant on 26 June 2024, with reminders being sent on 26 July 2024 and 9 August 2021. The information sought concerned rental evidence and trade information.

8. The respondent submitted that they allow four days for posting (having regard to the Interpretation Act 1978), as such, the request for information was issued on 26 June 2024 but the deemed service date was 30 June 2024. The deemed service date plus 56 days was 25 August 2024. A partial returned form was received by the respondent on 28 August 2024. Following receipt of this, a standard letter was sent to the appellant enclosing the incomplete form. This was not returned to the respondent until after the service of the penalty notice. The respondent's position was that the penalty noticed issued on 29 November 2024 was correctly issued. The penalty imposed a charge of £100.

9. The appellant lodged an appeal against the penalty notice on the grounds that the form had been returned to the respondent and proof of postage was provided. At the hearing, she further commented on the fact that when post is sent directly to the property, as opposed to the correspondence address, it can sometimes be difficult for post to reach the administrator in a timely manner, as they are reliant on staff passing it on. On the returned form, it requested that further mail be posted to the correspondence address provided. It was acknowledged that one year of accounts was missing as she did not have this information to hand but this was later provided in December 2024.

10. The panel considered the proof of postage. This was in the form of a confirmation email from Royal Mail acknowledging a payment of £1.35 on Tuesday 27 August 2024 at 09:24. It confirmed the destination address as Valuation Office Agency, Wycliffe House, Green Lane, Durham DH1 3 UW.

11. The appellant could not tell the panel exactly when the form had been passed to her, but submitted it would have likely been in the August when it was returned.

12. The returned form did specify a different correspondence address so the panel accepted that further exchanges regarding the missing information could have been sent there. This appears to have been flagged up on call between the parties in December 2024. However, this was more of an administrative complaint that occurred after the fact.

13. The facts were that the form was sent to the property in which the information related to and it clearly had been received as this had been returned. It may have not been passed to the appropriate person in a prompt fashion by was received and returned nonetheless.

14. The appellant's appeal was made on the ground that the form had in fact been returned to the respondent so a penalty should have not been imposed. The return of the form was not disputed, however, it was due to the respondent by 25 August 2024 and the proof of postage shows that it was not posted until 27 August 2024. Even if the form was fully complete at this time, it was returned over the 56 days stated in the governing legislation. There was no evidence to show that the appellant had contacted the respondent to ask for an extension or to notify them of any difficulty in obtaining part of the information. The information must have been obtainable as it was later provided. The penalty notice was issued in November 2024, having still not received the completed form. The panel found that the respondent was permitted to issue a penalty notice after 56 days and ultimately, the evidence provided confirmed that the form was not returned within this time frame.

15. In conclusion, for the reasons stated, the panel was not persuaded to remit or mitigate the penalty.

## Determination

16. In view of the above findings and conclusions, the appeal is dismissed.

## Right of further appeal

17. 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.

18. 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 LR McDermott, Senior Member

Mr M Nwosu, Member

16 May 2025

Mrs Charlotte McAvoy
Clerk to the Tribunal
**Date issued to the parties:** 16 May 2025