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

Case Nos: VT00029159

Sitting remotely using Microsoft Teams

Date: 23 December 2025

Transitional certificate appeal; Local Government Finance Act 1988; The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016; Appeal dismissed.

Before:
MR D HOGG
MR W READ

Between:

The Ratepayer — **Appellant**

- and -

Andrew Mouland (Valuation Officer) — **Respondent**

Regarding:
Simon Elvin, Thomas Road, Wooburn Green HP10 0PE
(the 'subject property')

Appearances:
Mrs D Thorne and Mr L Warner, representing the Respondent

Hearing date: 17 December 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. The certified rateable value (rv) of £425,000 as at 31 March 2017 was not altered.

Statement of reasons

Introduction and background

2. This decision and statement of reasons is not a contemporaneous or verbatim record of the proceedings.

3. The appeal had been brought in respect of a transitional certificate which had been issued by the Respondent for the subject property in accordance with Regulation 20 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016. The Appellant disputed the Respondent's certified value of £425,000, arguing that it should be reduced to £372,500.

4. The Appellant was not represented at the hearing. The Respondent was represented by Mrs Thorne, as advocate and expert witness and she was assisted by Mr Warner, who appeared as a witness of fact. Mrs Thorne acknowledged that when presenting evidence as an expert witnesses, her duty was to the Tribunal irrespective of whether the expert evidence supported the Respondent's case.

Preliminary matters

First preliminary matter

5. At 10:49 on the morning of the hearing, the clerk received an email from the Appellant's representative, Mr Hawkins of Colliers, which sought a postponement. The hearing was scheduled to commence at 11:30. Mrs Thorne acknowledged receipt of the same email. In the event the application was refused, Mr Hawkins asked that the appeal was heard on the papers. The email stated:

> "I'm very sorry but I have to leave work to deal with a family emergency. Unfortunately, I will be unable to present at the hearing today.
>
> Given the circumstances, I would request a postponement to facilitate me being available to present as planned. In the event that is not able to be facilitated, I would ask that the case is considered on its papers.
>
> I apologise for the inconvenience caused."

6. When asked, Mrs Thorne expressed her objection to the postponement request, highlighting the fact the appeal had previously been postponed from a hearing on 2 July 2025 (although she acknowledged that the reason for the postponement differed). Mrs Thorne added that the only matter in dispute concerned the size of the subject property and there was no reason why there should be a further delay in the proceedings.

7. After retiring to consider the application, the panel decided to deny the postponement application and proceed to hear the appeal. In reaching this decision the panel was mindful that the only matter in dispute was the size of the subject property and postponing the proceedings for a second time was not found to be in the interests of justice or a good use of valuable Tribunal time.

Second preliminary matter

8. At 20:39 on 16 December 2025 (the evening before the hearing), the clerk received an email from Mr Hawkins. The same email was also sent to Mrs Thorne and Mr Warner. Attached to the email was an eleven page pdf document which contained a thread of emails which had been exchanged between Mr Hawkins, Mrs Thorne and Mr Warner on 15 and 16 December 2025. Mr Hawkins considered the exchanges to be pertinent to the appeal and he requested they be accepted as late evidence.

9. When invited to comment, Mrs Thorne stated that there had not been any contact from Mr Hawkins since the July 2025 postponement, adding that discussions could have taken place much earlier than they had (one or two days before the hearing). Mrs Thorne added that the email exchanges were nothing more than a discussion between the parties which she did not expect to become part of the proceedings.

10. It was also noted by the clerk that one of the emails from Mr Hawkins was marked, “WITHOUT PREJUDICE” which means that its contents cannot be used in legal proceedings.

11. After retiring to consider the matter, the panel decided to deny the application. Mr Hawkins had, since the postponement of the hearing on 2 July 2025, every opportunity to contact Mrs Thorne in an attempt to reach a settlement and there was no evidence before the panel that he had done so. To instigate a conversation so close to the hearing and to apply to have the conversation accepted into evidence was not considered appropriate. Furthermore Mr Hawkins had marked one of his own emails as being sent ‘without prejudice’ which, the panel assumed, demonstrated his intention for it to be excluded from proceedings. Not only was this somewhat contradictory, it also meant the panel was unable to view the submission without also viewing the email in question.

12. The late submission was therefore excluded from evidence which was not viewed by the panel at any time.

Discussion

13. The panel had been provided with submissions from the parties in support of their respective arguments. The rate to be applied had been agreed at £47.50 p/m^2, as had a fragmentation allowance of 10%. The only matter in dispute was the size of the subject property.

The Appellant

14. The Appellant contended that the size of the subject property was recorded as being 10,629.67m^2 in the 2010 rating list which, in terms of main space (ITMS) was 8,362.8m^2 and was the same for the original 2017 rating list entry.

15. An appeal against the 2017 rating list entry was subsequently agreed at £392,500 with effect from 1 April 2017, with the Respondent adopting an area of 11,696.72m^2 and an ITMS of 7,887.5m^2.

16. The Appellant therefore contends that the certificated value should be £395,000, based upon an ITMS of 8,362.8m^2 (8,362.8 x £47.50 = £397,233 rounded down to £395,000).

17. The Appellant also submits that the Respondent should have certified the 31 March 2017 value of the subject property soon after the inspection on 16 August 2023 once the

discrepancies in terms of size had become known. Therefore, the transitional certificate should not have been issued or had been issued in error.

The Respondent

18. Mrs Thorne stated that checks had been submitted on behalf of the Appellant (not Colliers) which had accepted the size of the subject property as recorded by the Respondent. Mrs Thorne added that the Respondent had no reason to believe that it was actually larger and she speculated that the agent in question may have known this but had chosen to stay silent.

19. A report was subsequently received from the billing authority which sought a split of the subject property into six separate properties with effect from 5 October 2023. This necessitated an inspection which was undertaken by Mr Warner on 16 August 2023. Mr Warner stated that he was, for some of the time, accompanied by the Appellant.

20. Mr Warner explained that his inspection had established many differences between the information held by the Respondent and what was physically present. Mr Warner calculated a total area of 11,696,72m^2 with an ITMS of 9,976.68m^2. The Appellant informed Mr Warner that the subject property had been the same in terms of its size prior to 1 April 2017.

21. The Respondent was prevented from altering the 2017 rating list because it was statutorily closed and could not be altered. In light of this, the Respondent certified the rv at 31 March 2017 at £425,000 as follows:

9,976.68m^2 x £47.50 = £473,892

then:

£473,892 – £47,389 (10% fragmentation allowance) = £426,503 (rounded down to £425,000)

22. The settlement in respect of the 2017 rating list entry at £392,500 from 1 April 2017 had been made without an agreement as to the facts on the material day and was without prejudice as to its breakdown. Mrs Thorne submitted that alterations made following the inspection meant that the total area of 11,696.72m^2 and the ITMS of 9,976.68m^2 were mirrored on 31 March 2017 and 1 April 2017 (i.e. the last day of the 2010 rating list and the first day of the 2017 rating list).

23. Mrs Thorne explained that a dispute had developed between the parties concerning the provision of plans or, as she put it, a “I’ll show you mine, if you show me yours” situation. Mrs Thorne conceded that this was a regrettable development. However, the Respondent’s measurements were, she said, set out within the appendices of its submission and they were also viewable on the .gov.uk website. Mrs Thorne asserted that the duty rests with the Appellant to demonstrate that the certified value is incorrect and, in this regard, no plans or other evidence had been provided to show that this is the case.

Conclusion

24. In terms of the validity and timing of the transitional certificate, the panel concluded that it did not have jurisdiction to consider either point. In reaching this conclusion, the panel was mindful of the Upper Tribunal judgment in *The Dog & Gun (Oxenhope) Ltd v Catherine Howarth (VO)* [2015] UKUT 0475 (LC) where, at paragraphs 55 and 56, it was stated:

> “55. In my view the VO did not issue the certificate as soon as practicable after the circumstances calling for the certification came to his attention. This caused undue hardship on the ratepayer, which backdated a significant rate liability.
>
> 56. However, having considered the parties’ further submissions I find that I do not have jurisdiction to alter or order the withdrawal of the certificate on the grounds that it was not issued as soon as practicable after the circumstances calling for the certification came to the VO’s attention. The Regulations are clear that the appeal is against the “value so certified”, and I find that it is only against the value itself that an appeal can be successful. I therefore now turn to the valuation issue.”

25. The panel had no cause to doubt the veracity of the submissions made by Mr Warner or the accuracy of the measurements he had calculated following his inspection on 16 August 2023 which had been used to certify the rv. Whilst the panel understood the point made by Mr Hawkins regarding the disclosure of the Respondent’s plans it was nevertheless incumbent upon him (or the Appellant directly) to provide compelling evidence to substantiate any alleged inaccuracies. In this regard, the panel finds that the Appellant has not done so.

26. This appeal is therefore dismissed.

Mr D Hogg, Presiding Senior Member
Mr W Read, Senior Member

Mr A Johnson
Clerk to the Tribunal

Date issued to the parties: 23 December 2025