

Appeal Number:	691536519260/537NV17
Appellant:	St George Property Sarl
Appeal Property:	Unit 1 Welsh Designer Outlet Village, The Derwen, Bridgend, CF32 9SU
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	11 December 2024
Appearances:	Ms Samantha Nicholls (on behalf of the appellant) Ms Jayne Berry (on behalf of the respondent, Valuation Officer)
Decision and its date:	Appeal Allowed – 8 January 2025
Tribunal Members:	Ms M Bailey (Chairperson), Mr S Hennah and Mr P M Jones.
Tribunal Clerk(s):	Mr R T Williams

Introduction - Issues in Dispute

1. This appeal was made via a proposal dated 2 February 2023 which challenged the entry of the appeal property in the 2017 Non-Domestic Rating List. The appellant sought a reduction in the Rateable Value (RV) to £0 from £75,000, effective 19 September 2022. The grounds of appeal as contained in the proposal are replicated as follows:

“The hereditament shown in the Rating List is incapable of beneficial occupation because the property is currently undergoing reconstruction. As such the existing entry should be reduced to £0 with effect from 19 September 2022. The entry is incorrect following the decision of the Supreme Court on the 1st March 2017. Details are as follows; Property in respect of Building: 1st Flr Avalon House, St Catherines Court, Sunderland, SR4 3XJ. Relevant court decision: Newbigin (VO) v SJ & J Monk [2017] UKSC 14. Reason relating to decision: the hereditament is incapable of beneficial occupation.”

2. The appeal property is currently entered into the 2017 Non-Domestic Rating List as a Shop & Premises.

Legislation & Case Law

- Local Government Finance Act 1988
- Rating (Valuation) Act 1999

- Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 (“2005 Regulations”)
- Newbigin (VO) v Monk [2017] UKSC 14
- Jackson (VO) v Canary Warf Limited [2019] UKUT 0136 (LC)

Evidence and Submissions

3. Ms Nicholls appeared on behalf of the appellant and provided background information regarding the appeal, the properties, the relevant case law and pictures of the property at or around the material day.
4. She explained that the appeal property was incapable of beneficial occupation as the property was shell and core, had a scheme of refurbishment works and the rateable value should be reduced to £0. She relied upon the Supreme Court case of *Newbigin v Monk*, which had examined the difference between reasonable repair and those properties which are incapable of beneficial occupation, which then had a nominal value attached. She also relied upon the Upper Tribunal case of *Jackson v Canary Warf*, which reaffirmed the principles of *Monk* and explained that the works at the appeal property go beyond those in *Canary Warf* as the appeal property was being reconfigured and converted into premises with a different intention.
5. Ms Nicholls confirmed that the appeal property had become capable of beneficial occupation as a Restaurant and Premises on the 20 February 2023.
6. On behalf of the respondent Valuation Officer, Ms Berry explained that she agreed with the information as presented by Ms Nicholls that there was a scheme of redevelopment in place at the material date and would not be seeking a dismissal of the appeal.
7. She concluded that the property had wrongly been re-inserted back into the 2017 Non-Domestic Rating List on the 19 September 2022 as they were, indeed, incapable of beneficial occupation, but as the 2017 Non-Domestic Rating List had now closed, had no mechanism to amend the rateable value, or delete the entry.
8. Both parties confirmed to the Tribunal that they were happy that an Order be issued in accordance with Regulation 34(6) of the 2005 Regulations to decrease the rateable value for a temporary period.

Decision & Reasons

9. The Tribunal was aware of its powers to Order the Valuation Officer to amend the 2017 Non-Domestic Rating List for a temporary period in accordance with Regulation 34(6) of the 2005 Regulations.
10. It also considered the arguments put forward by the appellant, and the agreement of the respondent, and agreed that on the material date, the appeal property was incapable of beneficial occupation, supported by the principles established in

Monk and reaffirmed by Canary Warf.

11. Accordingly, the Tribunal orders that the entry in the 2017 Non-Domestic Rating List for Unit 1 Welsh Designer Outlet Village, The Derwen, Bridgend, CF32 9SU, be amended to alter the Rateable Value to £0 for the period 19 September 2022 to 19 February 2023 and reinstated at £75,000 with effect from 20 February 2023. In view of the foregoing, the appeal was allowed.