

Appeal Number:	6855101349687/285NV23.
Appellant:	K Morgan, P&T Douglas Jones
Appeal Property:	5-7 Picton Arcade, Swansea, SA1 3BH.
Matter Appealed Against:	2023 Non-Domestic Rating List
Hearing Date:	1 ^{9th} August 2026
Appearances:	Mr K McAloon (Valuation Officer)
Decision and its date:	Appeal Dismissed 28 th August 2026
Tribunal Members:	Mr M Roberts (Chairperson) Mr J Pyrke Mr G Nechvatal
Tribunal Clerk(s):	Mr M Keylock

Introduction - Issues in Dispute

1. The subject appeal arose from a proposal submitted to the Valuation Office by Michael J Dawson on behalf of the owners, K Morgan, P&T Douglas Jones, in respect of the subject property 5-7 Picton Arcade, Swansea, SA1 3BH on the 27th March 2026. The proposal sought a deletion of the subject property from the 2023 Non-Domestic Rating List.
2. An email was received by the Tribunal office stating that the appellant would not be present and wished for the appeal to be heard in their absence. The appellant provided a written submission.
3. The following is a summary of the cases presented and is not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all the evidence was fully considered by the Tribunal when it arrived at its decision. Consequently, the absence of reference to any statement, or evidence, should not be construed as being overlooked.

Legislation and Case Law

- Schedule 6 of The Local Government Finance Act 1988
- Jackson (VO) v Canary Wharf Limited [2019] UKUT 136 (LC) RA/33/2018
- Prodorite Ltd v Clark (VO) LVC 8 1991
- Telereal Trillium v Hewitt (VO) [2019] UKSC 23

Evidence and Submissions

Appellant Submission:

4. The property comprised two former retail units which had been combined to form a single shop within Picton Arcade, Swansea. The accommodation consisted of 59.2m² of retail space at ground floor level and 66m² of storage accommodation at first floor level. The composition, description and situation of the subject property were not in dispute.
5. The Appellant stated that the City and County of Swansea Council resolved in December 2020 to acquire the property in connection with a proposed access route linked to the redevelopment of 71/72 The Kingsway, and that this proposal was first communicated to the owners' agents on 17th December 2020.
6. The Appellant further stated that prospective occupiers were informed of the Council's intention to acquire the property and that, as a result, no occupier was prepared to proceed.
7. The Appellant relied upon evidence of lettings within Picton Arcade in support of the contention that there was demand for retail property in the location and that the property would otherwise have been capable of being let. Those properties were:
 - 4 Picton Arcade. Let for a term of 5 years from March 2024 at a rent of £8,400 per annum with 2 months' rent free.
 - 10 Picton Arcade. Let for a term of 5 years from June 2023 at a rent of £4,800 per annum with 4 months' rent free.
 - 16 Picton Arcade. Let for a term of 5 years from November 2024 at a rent of £9,000 per annum.
 - 9 Picton Arcade. Lease renewal from 1st April 2025 at a rent of £10,000 per annum.
8. The Appellant referred to Schedule 6 of the Local Government Finance Act 1988, submitting that the statutory valuation assumptions could not be satisfied because of the Council's declared intention to acquire the property.
9. The Appellant contended that the property could not be let at the Antecedent Valuation Date (AVD) of the 1st April 2021, and that this was due to the Council's proposals rather than any lack of demand for premises in the locality.
10. The Appellant submitted that the decision in Jackson (VO) v Canary Wharf Limited was not relevant because the appeal property was capable of occupation and the issue in this appeal concerned its ability to be let in light of the Council's proposals.

11. The Appellant submitted that the reference to beneficial occupation in the Valuation Officer's decision did not address the issue of whether the property could be let and stated that the marketing evidence demonstrated that prospective tenants would not enter a lease because of the proposed acquisition.
12. The Appellant also submitted that the decision in *Prodorite Ltd v Clark* (VO) did not address the valuation requirements contained within Schedule 6 of the Local Government Finance Act 1988 and that those requirements could not be met in this case.
13. The Appellant further submitted that *Telereal Trillium v Hewitt* (VO) was distinguishable because the appeal did not concern a lack of demand. The Appellant stated that there was demand for the property but that prospective lettings did not proceed because of the Council's proposals.
14. The Appellant's statement sought either the deletion of the subject property from the 2023 Non-Domestic Rating List or alternatively a reduction to Zero Rateable Value (RV).

Valuation Officer Submission:

15. The VO agreed that the composition, description, situation and floor areas of the subject property were not in dispute, but the Appellant sought the deletion of the subject property on the basis that it had been affected by proposals from the City and County of Swansea Council to acquire and potentially demolish the property.
16. The VO submitted that, as the proposal sought deletion, a reduction in rateable value was outside the scope of the challenge and that the available outcomes were either deletion or refusal of the proposal.
17. When referring to *Jackson (VO) v Canary Wharf Ltd*, the VO submitted that a hereditament may be removed from the rating list where it is incapable of beneficial occupation but considered that the appeal property remained capable of beneficial occupation at the material date.
18. The VO stated that the property had been marketed as vacant to let and that no works had been undertaken which rendered it incapable of beneficial occupation.
19. The VO referred to *Prodorite Ltd v Clark* (VO) and submitted that the circumstances were comparable, in that no compulsory purchase order had been confirmed and no sale had taken place.
20. The VO also relied upon *Telereal Trillium v Hewitt* (VO), submitting that the rating hypothesis required consideration of a hypothetical landlord and tenant. It was contended that demand for retail property within Picton Arcade indicated that a hypothetical tenant would pay a positive rent for the property.
21. The VO concluded that the subject property did not satisfy the criteria for deletion from the rating list and disagreed with the proposal. He therefore

maintained that the 2023 Rating List assessment at a rateable value of £11,500, with effect from 1 April 2023, was correct and requested that the appeal be dismissed.

22. During cross examination of the VO's evidence, the Tribunal asked whether the redevelopment of 71/72 The Kingsway, which had prompted the proposed acquisition of the appeal property, had been completed. The VO replied that the redevelopment had been completed. He stated that the Council had now recently acquired the appeal property but had abandoned its earlier plans to demolish it and intended for it to remain in retail use.
23. The Tribunal asked whether the original proposal to create a route from Picton Arcade into the redevelopment had been abandoned and the VO confirmed that the proposal had been scrapped.
24. The Tribunal asked whether the VO was aware of the terms upon which the property had been marketed, including the rent sought by the owner's agent. The VO stated that he did not know the marketing terms or the rent sought. He added that the lettings evidence relied upon by the Appellant related to transactions in 2023, 2024 and a renewal in 2025 and questioned their relevance to an appeal which concerned the AVD in 2021.
25. In closing, the VO reiterated that the Council's planned proposals had never been certain, that no requirement existed for the property to be demolished, and that those proposals did not form part of the statutory hypothetical tenancy. He maintained that there was demand for retail property within Picton Arcade, as identified by the Appellants agent, and that the subject property did not meet the criteria for deletion from the rating list.

Decision and Reasons

26. The sole issue for the Tribunal to determine was whether the appeal property should be deleted from the 2023 Non-Domestic Rating List. The composition, description, situation, and floor areas of the subject property were not in dispute.
27. The Tribunal considered all of the evidence submitted by the parties together with the provisions of Paragraph 2(1) Schedule 6 of The Local Government Finance Act 1988 which states:

2(1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from non-domestic rating] shall be taken to be 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 usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

28. The Tribunal noted that, in determining this appeal, it was required to apply the statutory assumptions prescribed by Schedule 6 of the Local Government Finance Act 1988. Those assumptions required the subject property to be treated as "vacant and to let". The Tribunal also noted that assessments appearing in the 2023 Non-Domestic Rating List are made by reference to an Antecedent Valuation Date of 1st April 2021 and with regard to the physical circumstances of the hereditament at the material day. The material day for the purposes of this appeal was the compiled list entry date of 1st April 2023.
29. The Tribunal accepted that there had been proposals by the City and County of Swansea Council to acquire the property and that such proposals were known to the appellant and prospective occupiers. However, the Tribunal found that no evidence had been presented to show that the subject property was incapable of beneficial occupation at the material day or otherwise no longer capable of constituting a rateable hereditament.
30. The Tribunal attached considerable weight to the fact that the property remained intact and capable of beneficial occupation throughout the relevant period. The evidence before the Tribunal confirmed that the redevelopment which prompted the proposed acquisition had been completed, that the Council had subsequently acquired the property, and that the earlier proposal for demolition had been abandoned. The Tribunal also noted the evidence that the property was intended to remain in retail use.
31. In applying the statutory assumptions contained in Schedule 6 of the Local Government Finance Act 1988, the Tribunal was required to consider a hypothetical letting of the subject property at the Antecedent Valuation Date and the physical state of the property at the material day. The Tribunal was satisfied that the existence of proposals relating to a potential future acquisition constituted an external circumstance affecting the property rather than a physical characteristic of the hereditament itself. Those proposals did not demonstrate that the subject property was incapable of beneficial occupation at the material day or that the statutory requirements for deletion from the Rating List had been satisfied.
32. The Tribunal also considered the authorities relied upon by both parties, namely *Jackson (VO) v Canary Wharf Limited*, *Prodorite Ltd v Clark (VO)*, and *Telereal Trillium v Hewit (VO)*. Having regard to the facts of the present appeal and the statutory assumptions contained within Schedule 6 of the Local Government Finance Act 1988, the Tribunal did not consider that those authorities supported the deletion of the hereditament from the 2023 Non-Domestic Rating List.
33. The Tribunal accepted that the appellant had produced evidence suggesting demand for retail units within Picton Arcade. However, that evidence did not

establish that the subject property had ceased to be rateable or that the statutory requirements for deletion from the 2023 Non-Domestic Rating List had been met.

34. The Tribunal was mindful that the burden of proof rested upon the appellant to demonstrate that the 2023 Non-Domestic Rating List entry was incorrect. Having carefully considered all the evidence before it, the Tribunal was not satisfied that sufficient evidence had been presented to establish that the hereditament should be deleted from the 2023 Non-Domestic Rating List.
35. Accordingly, the appeal was dismissed.