TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appeal Number:	680539840286/521NV17/1 684539841708/521NV17/2
Appellant:	Stena Line Ltd
Appeal Property/s:	Dock Hereditament & Premises Holyhead Port, Holyhead Harbour, Holyhead LL65 1DQ Dock Hereditament & Premises Fishguard Port, Fishguard Harbour, Goodwick SA64 0BU
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	13-14 May 2025 and 8 December 2025
Appearances:	Mr T Morshead KC representing the appellant Mr J Denham, Avison Young (agent for the appellant) Mr T Stratton, Avison Young (observing) Ms A Breen, Stena Line Ltd (13 May 2025) Ms H L McCarthy KC representing the Valuation Office Agency Mr H Flanagan, Junior Counsel Mr R Coulson, Valuation Office Agency, Expert Witness Valuation Office Agency observers
Decision and its date:	Appeals dismissed – 17 July 2026
Tribunal Members:	Mr T W Jones (Chairperson) Mr S Hennah Mr N Edwards
Tribunal Clerk(s):	Mrs S Gwilliam Mr G Harris Mr M Keylock

Introduction - Issues in Dispute

1. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all the evidence presented was fully considered by the tribunal before

coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as being overlooked.

2. At the outset, the Chairperson explained that the Tribunal's decision would be reserved.

3. The appellant ratepayer instructed Avison Young (UK) Limited to make proposals to alter two entries which appeared in the 2017 Non-Domestic Rating List. The two entries in question were described as Dock Hereditament and Premises and known as –

    a. The Harbour, Goodwick, and
    b. Holyhead port, Holyhead Harbour, Holyhead

4. With the exception of minor differences, the details of the proposed alterations advanced in respect of these proposals were broadly the same and set out as follows –

    "*We propose that the rating list entry showed for the above should be altered as follows:13A. The rateable value altered to £1 with effect from 2nd January 2021. We have reason to believe that the rating list is inaccurate and that the alteration proposed in Part B of the form should be made because: 15D. Circumstances affecting the rateable value of the property changed on the 2nd January 2021*."

    In their detailed reasons for making these proposals, the appellant contended that –

    "…*the RV is incorrect, excessive and bad in law and should be reduced to £1 following a material change in a matter described by paragraphs 2(7) (d) of Schedule 6 to the Local Government Finance Act 1988. DFDS, a competitor to the ferry operator providing the service between the hereditament and RI created a new six times a week ferry service between Rosslare and Dunkirk on the 2nd January 2021 to replace the prior route through the UK using the hereditament as a waypoint to RI. This has resulted in a reduction in the amount of freight and passenger traffic using the service, the traffic using the port and therefore the revenue received by the port operator at the hereditament. The provision of the new ferry service is in response to the implementation of the UK/EU Trade and Cooperation Agreement [the "TCA"] which came into effect on the 1st January 2021. This marked the end of the transition period following the UK's formal withdrawal from the EU on the 1st January 2020.*

    In our opinion the start of a new ferry service in Rosslare falls within paragraph 27D as matters affecting the physical state of the locality in which the hereditament is situated all which though not affecting the physical state of locality and nonetheless physically manifest "gateway" event.

    TCA itself has resulted in significant increase in new tariff and non-tariff trade barriers for the UK and EU businesses with traders facing increased customs documentation, inspections and delays and industries having to replicate regulatory process is for the UK that only previously existed for the EU.

    These changes are an enforceable essential characteristic impacting any hypothetical tenant for the hereditament and affect the way in which the tenant is able to enjoy the hereditament [para 2 (7) (a) Sch 6, 1988 Act]. [see Port of London Authority v Orsett Union Assessment Committee and others (1920).

Restrictions have now also been extended within the UK requiring customer regulatory border between the UK and Northern Ireland. Goods must be cleared by customs moving between Northern Ireland and mainland UK.

The TCA has a pronounced effect on freedom of UK transport operators to provide transport services in the EU. Limits are placed on the services or number of additional operations they can provide in each other's territories. The TCA applies to road passenger transport operators in either the UK or EU where they operate "regular or special regular services which both start and terminate in the territory of the other party".

As a result of these changes the heritage amount has seen a permanent and significant drop in freight traffic volumes and passenger numbers using this route between the UK and the Republic of Ireland.

These matters, inter alia, are relevant matters required to be considered in determining the open market rental value under the rating hypothesis and in our opinion have a detrimental impact on the hereditament. Consequently, the current assessment should be reduced to Rateable Value £1, effective date 2nd January 21."

5. Upon receipt of these proposals, the VO concluded that they had been invalidly made. The validity of the proposals was subsequently considered by a tribunal in February 2025, which determined that they were in fact valid.

6. The issue before the Tribunal in the present instance was whether a material change of circumstance (MCC) had occurred, and if so, how this would affect the Rateable Value (RV) ascribed.

Legislation and Case Law

- Local Government Finance Act 1988, Schedule 6, para 1-2
- Non-Domestic Rating (Alteration of Lists and Appeals (Wales)) Regulations 2005 (as enacted)
- Chitty - Contracts 4.0003, 4.0004
- Phipson – Evidence 14.01
- Alliance Economic Investment Co v Berton [1923] All ER Rep 539
- Shrewsbury Schools v Shrewsbury Borough Council and Plumpton (1960) 7 RRC 313 (Lands Tribunal)
- Morton (VO) v Synor Electronics Ltd [1983] RA 204 (Lands Tribunal)
- Addis v Clement (1986) 85 LGR 489 (Court of Appeal)
- Addis v Clement [1988] 1 WLR 301 (House of Lords)
- Shearson Lehman Bros Ltd v Humphreys (VO) [1991] RA 125
- Gallagher (VO) v Church of Jesus Christ of Latter-Day Saints [2006] RA 1 (Lands Tribunal)
- Merlin Entertainments Group Ltd v Cox (VO) [2019] RA 101
- Wigan Football Club v Cox (VO) [2020] RA 81

Evidence and Submissions

7. Mr Morshead represented the Appellant and explained that the key issue was understanding the overall picture behind the rating appeals for Holyhead Port and Fishguard (Goodwick) Harbour. He began by using aerial photographs and maps to visualise the two hereditaments and their relationship to Irish ports.

8. He explained how both ports operate, their ferry services, their role in UK–Ireland transport, and their reliance on "land-bridge" freight—that being traffic travels from Ireland through Wales and England to mainland Europe.

9. He contended that the pivotal point was that freight patterns changed dramatically from 2 January 2021, when a new direct ferry route between Rosslare and Dunkirk began operation, and existing EU–Ireland routes increased capacity. This new route passed within 43 miles of Goodwick and 93 miles of Holyhead. These developments diverted freight away from Holyhead and Fishguard, reducing land-bridge traffic, while the total Roll-on Roll-off (RoRo) freight traffic for the Republic of Ireland remained largely unchanged.

10. In support, Mr Morshead referred the Tribunal to documentation showing decreased ferry traffic patterns and capacity changes. Welsh ports were being avoided in favour of longer, more expensive routes using ports in France and Spain.

11. In accordance with regulation 4(1)(b) of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 (the 2005 Regulations), a ratepayer may make a proposal to alter a list on the ground that the RV of a hereditament in the list is inaccurate by reason of a Material Change of Circumstances (MCC) which occurred on or after the day on which the list was compiled.

12. Regulation 3 defines a material change in circumstances as a change in any of the matters mentioned in para 2(7) of schedule 6 to the Local Government Finance Act 1988 (the 1988 Act).

13. Paragraph 2(5) of schedule 6 of the 1988 Act provides that where the RV of a hereditament is determined with a view to making an alteration to a list which has been compiled, the matters mentioned in paragraph 2(7) are to be taken to be as they are assumed to be on the material day. The Appellant's proposals rely on paragraph 2(7)(d):

    "(d) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there".

14. Mr Morshead stated that the "matter/those matters" were physically manifest in the locality in (a) the new route being used by RoRo traffic on ships, (b) the presence of increased numbers/capacities of ships and RoRo traffic within them on pre-existing routes, (c) the reduction of RoRo traffic within ships serving the previous "land-bridge" routes, and (d) the reduction of RoRo traffic on the roads, including local roads, which connect the Ratepayer's hereditaments to the rest of Wales and England and onwards to/from the Kent coast.

15. The matters described above caused a reduction in the trade at the Appellant's hereditaments and accordingly a reduction in the RV of those hereditaments was

sought. The RVs shown in the 2017 Rating List (the List) for the Appellant's two hereditaments (£224,000 Goodwick initially, later reduced to £206,000, and £1.82m Holyhead, later reduced to £1.51m) were based on traffic levels achieved at the ports prior to the opening of the new route. In view of the matters mentioned above, the Appellant contends for a reduction to £116,000 and £1,200,000 respectively with effect from 2 January 2021.

16. Mr Morshead maintained that if the Tribunal accepted that the matters specified amount to an MCC, then those numbers are agreed. He referred to a proposal by email on 18 November 2024 and a telephone call on 25 February 2025 between Mr Coulson and Mr Denham, arguing that the subsequent withdrawal of the offer after acceptance was legally impermissible, citing Chitty on contracts.

17. As the Freight Commercial Manager for Stena Line Irish Sea services, Ms Breen explained that she has over 30 years' experience of the Irish Sea ferry industry. She oversees 12 ships over 7 routes, which amounts to approximately 890,000 freight units annually. Ms Breen is closely involved in customer negotiations, competitor analysis, regulatory considerations, commercial planning and network development.

18. Ms Breen confirmed that since 2 January 2021 freight between the EU and Ireland had shifted from land-bridge routes to direct EU–ROI sea routes with increased capacity. Total ROI freight is broadly unchanged, but it is being carried via a different route, thereby avoiding the Welsh ports. In support she referred to documentation including the Irish Sea Freight Market Development Spreadsheet and accompanying tables/graphs. She emphasised that this data was created for commercial decision-making, not litigation and was critical for the operator's business.

19. Mr Morshead explained that *Merlin* did not attempt to define "locality", and the issue was not analysed in detail. Its relevance lay instead in the legislative purpose of para 2(7), illustrated by the Hansard extracts discussed at paras 125–126 and analysed at para 134. Those passages show that the statutory distinction is not about geographical distance but about separating physical factors affecting a hereditament from general economic conditions that have no physical manifestation and operate across broad, undifferentiated areas. "Locality" functions as part of that distinction. It is not a rigid spatial test and does not require a physical matter to be "near enough" in any dictionary sense; it simply ensures that only physically manifested changes, rather than abstract economic trends, can qualify as MCCs.

20. As a recap from the validity appeal hearing, reference was made to the cases of *Morton* and *Shearson Lehman Bros Ltd*, which all point in the same direction.

21. Against that background, the VO's sudden reliance on a dictionary definition of "locality" was inconsistent with established VOA practice. VOA casework has long treated locality as a contextual, valuation-driven concept rather than a narrow linguistic one.

22. The Appellant stated that the MCCs it has identified fully explain the reduction in trade it experienced and the corresponding reduction in the rateable value of the hereditaments, whereas the VO offered no explanation for the loss of trade.

23. Mr Morshead did not dispute that the matters relied upon by the Appellant would not have occurred without Brexit; however, it merely stimulated the increased competition which gave rise to those matters. The fact that Brexit acted as a catalyst was not

relevant and did not mean that the Appellant sought to revalue the hereditaments merely because of changed economic circumstances. What mattered was whether the test in para 2(7)(d) was satisfied. The test did not depend on what stimulated the material change; the question of what stimulated the change is irrelevant, except in a case such as *Merlin*, where this would undermine other parts of the statutory scheme. There is no such exception in this case.

24. Furthermore, the factors mentioned by the VO's expert were not merely economic matters; they were changes in law. Those changes affect the physical enjoyment of the Appellant's hereditaments, and he referred the Tribunal to paragraph 2(7)(a) and *Addis*.

25. If the matter relied upon must be something physically manifest in the area, that test is satisfied. There is no legal requirement to identify a cause. The diversion of trade from the Appellant's ports had nothing to do with the way the occupier has conducted themselves at the hereditaments.

26. The additional requirement the VO has added is wrong in law. Mr Morshead requested that the Tribunal allow the appeals.

27. Ms McCarthy representing the respondent VO argued that the appeals were not well-founded for two main reasons. First, referring to the statutory definition of an MCC, the VO maintained that even if the matters relied on in the proposals comprised an MCC falling within paragraph 2(7)(d), the Appellant was unable to demonstrate that it was value significant. The reduction of new ferry routes alone is not the cause of the reduction in value.

28. The VO contended that the DFDS ferry service is far removed from the localities of Holyhead and Fishguard. It is a ferry service between Rosslare and Dunkirk, which are in different countries to the appeal hereditaments. This new route gets no closer than 59.5 miles from Fishguard and 98.5 miles from Holyhead.

29. Secondly, the VO argued that the reduction in value was attributable to Brexit, in particular the more onerous customs arrangements and the loss of free movement, which have made Fishguard and Holyhead less attractive as routes between the Republic of Ireland and France. If Brexit had not occurred, the longer and slower Rosslare–Dunkirk route would not attract custom away from the appeal hereditaments. Brexit is an economic and regulatory factor and as such should be taken as at the AVD and left out of account in determining value. Furthermore, the Respondent argued that the Appellant was unable to show those matters to be value significant.

30. Ms McCarthy argued that if the Tribunal accepted the first or second limb of the VO's case, there would be no change to the RV of either hereditament. However, if the Tribunal rejected the VO's argument in full, the RVs should be as detailed in point 15 above.

31. The VO disputed that the aforementioned valuations should follow even if an MCC is established. The submitted that the Appellant must show both that the matters relied upon fall within paragraph 2(7), and that any reduction in value arises "by reason of" that MCC in accordance with regulation 4(1)(b) of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, and is not caused by

economic, regulatory and/or other intangible circumstances which must be taken at the AVD.

32. In relation to the cited agreement, the VO clarified that the provisional agreements were reached on the basis that the Appellant was successful in full on the appeals and the VO was unsuccessful in full. The VO made it clear in the Statement of Case dated 21 February 2025 that it does not accept that the values should be reduced simply because an MCC has been identified without the Appellant having to show that MCC to be value significant.

33. Referring to *Merlin*, the VO considered authoritative guidance on para 2(7)(d) particularly important (para 48):

    Any matter which falls outside the ambit of para.2(7) “is taken as at the valuation date, the AVD, and not…. any later date”.

34. The VO submitted that paragraph 2(7)(d) is concerned with physical matters and does not permit a valuer to take into account economic, regulatory, legal or other intangible factors merely because those factors have resulted in some physical consequence. It relied on Merlin at paragraph 146 in support of that proposition.

35. Turning to locality, the VO submitted that any reduction in freight traffic using either of the appeal hereditaments did not fall within the scope of paragraph 2(7)(d). It further submitted that fluctuations in footfall, passing traffic, or traffic using the hereditaments are not physically manifest there for the purposes of paragraph 2(7)(d), citing Merlin at paragraphs 156–158 and *Wigan* at paragraphs 61–69.

36. Although the VO accepted that transport services, such as a bus service, may constitute physically manifest matters within paragraph 2(7)(d), as recognised in *Merlin* at paragraph 148, it maintained that the new Rosslare to Dunkirk route was not within the same locality as Holyhead or Fishguard. Rosslare is located in the Republic of Ireland and Dunkirk in France, both being separated from the appeal hereditaments by international, geographical and economic boundaries.

37. The VO contended that, while “locality” is not a precise term and is necessarily a matter of fact and degree, that flexibility does not remove the geographical limitation inherent in its ordinary meaning. It submitted that physical proximity and geographical connection are central considerations when determining locality for the purposes of paragraph 2(7).

38. Ms McCarthy submitted that there was no basis for departing from Parliament’s use of ordinary language. It argued that, if the Appellant’s interpretation were correct, the statutory wording limiting MCCs to “matters affecting the physical state of the locality in which the hereditament is situated” would be deprived of practical effect.

39. The VO also referred to circumstances in which a professional valuer may draw on comparables from different areas for valuation purposes. It submitted that locality remains a question of fact and degree in each case. While the 1988 Act does not prescribe a precise measurement or methodology for identifying the boundaries of a locality under paragraph 2(7), the assessment requires a factual judgment informed by professional common sense.

40. In further support of its submissions, the VO relied on *Alliance Economic Investment Co v Berton [1923]* in relation to the concept of neighbourhood, and on *Gallagher (VO) v Church of Jesus Christ of Latter Day Saints [2006]* concerning Mr Denham's observations about the VOA's practice of accepting MCC appeals even where the matters relied upon arise at some distance from the hereditament under consideration.

41. Expanding on its earlier reference to the second basis for dismissal, the VO argued that any alleged reduction in value attributable to Brexit or its economic consequences must be disregarded, as such factors did not exist at the AVD and therefore cannot lawfully be taken into account.

42. The VO further submitted that, even if an MCC were established, the Appellant cannot demonstrate that any fall in value was caused by that MCC. In the VO's view, any reduction in value stems from Brexit-related economic effects rather than from a qualifying MCC.

43. The new DFDS ferry route between Rosslare and Dunkirk was a direct response to Brexit, thereby avoiding the increased customs and regulatory burdens to which Brexit gave rise. This route is longer and slower than using the land bridge.

44. Ms McCarthy reiterated that Brexit and its consequences are not physical matters within the scope of para 2(7)(d) but intangible matters which must be taken as at the AVD. Any drop in freight traffic must therefore be disregarded.

45. The VO argued that even if there had been an MCC, the Appellant was unable to prove that the reduction in value was caused by the alleged MCC.

46. To conclude, the VO requested that the appeals be dismissed.

Decision and Reason

47. This case concerned whether the diversion of freight traffic from routes passing via Holyhead or Fishguard and the UK land bridge, to direct Republic of Ireland–European Union ferry routes following the end of the Brexit transitional period on 31 December 2020, constituted a material change of circumstances within paragraph 2(7) of Schedule 6 to the Local Government Finance Act 1988.

48. The Appellant contended that the diversion represented a qualifying change affecting the locality of the hereditament, whereas the Valuation Officer argued that the change reflected no more than the economic consequences of Brexit and the commercial decisions of operators, and therefore fell outside the scope of paragraph 2(7).

49. The issue for the Tribunal was how that change should be properly characterised having regard to the relevant rating principles as explained in the authorities, including Merlin Entertainments v Cox (VO). The Tribunal noted that paragraph 2(7) permitted alteration of the rating list only where there had been a material change affecting the physical state of the hereditament or its locality. It was well established that the provision did not extend to all changes affecting value; rather, it was confined

to a restricted class of circumstances, typically involving physical or locality-based alterations.

50. The Tribunal was aware that general economic conditions, including changes in demand or market sentiment, fell outside the concept of an MCC. Such matters were to be reflected at the antecedent valuation date (AVD) during revaluation, rather than through ad hoc list alterations. This principle ensured stability and prevented the rating list from fluctuating in response to wider economic forces.

51. Case law emphasised that commercial decisions taken by operators, including route choices or changes in patterns of use, were not ordinarily to be treated as changes in the locality. It was clear that the focus must be on the hereditament and its physical or situational context, rather than the fortunes of the business conducted upon it.

52. However, the Tribunal accepted that these authorities did not entirely exclude the possibility that changes in how a transport node was utilised might, in certain circumstances, cross the threshold into a change in the locality itself. It was within this narrow space that the Appellant's case was advanced.

53. The Tribunal considered it important to distinguish between Brexit as a general economic and legal event and the subsequent diversion of ferry traffic. Neither the 2016 referendum nor the United Kingdom's formal withdrawal from the European Union in 2021 constituted an MCC. These were general economic and political changes forming part of the background conditions at the AVD and did not, of themselves, amount to an MCC.

54. The Appellant therefore focused on the post-2020 diversion of freight traffic, whereby operators avoided the UK land bridge in favour of direct routes between the Republic of Ireland and continental Europe. This change was said to have materially reduced traffic at the hereditament and altered its operational context.

55. The Tribunal therefore had to determine whether this diversion was properly to be regarded as a change in the locality itself, or merely a reflection of altered trading conditions and commercial choices.

56. The Tribunal recognised considerable force in the Valuation Officer's submission that the change fell outside paragraph 2(7). The diversion of traffic was the direct consequence of customs requirements, increased regulatory burdens, and the resulting economic incentives for operators to adopt alternative routes.

57. In that sense, the change could be characterised as a response to economic conditions, analogous to declining footfall in retail properties or reduced demand in other sectors. Such changes, even where visible in practice, had consistently been held not to constitute MCCs.

58. The Tribunal also noted that the decision of freight operators to bypass the UK could be seen as comparable to airline route decisions considered in *Heathrow*. On that analysis, the reduction in traffic reflected nothing more than the choices of market participants, rather than a change in the locality itself. The essential character of the port remained unchanged; it was simply less used.

59. Against this, the Appellant advanced a more structural interpretation. The hereditament was a transport interchange whose value depended fundamentally on its role within a network of routes. The removal or diversion of a significant route could therefore be said to alter the functional character of the locality, not merely the volume of trade conducted. The Tribunal distinguished *Heathrow* on the basis that the present case involved not merely fluctuations in usage but the effective withdrawal of a transport function from the locality. If the diversion was enduring and systemic, it might be said to change the pattern of activity in the locality in a real and objective sense.

60. The Tribunal accepted that although the change was not physical in the sense of bricks and mortar, it might nonetheless be physically manifest in the operation of the locality, for example through reduced movements, underutilised infrastructure, and altered patterns of transport activity.

61. A key point of analysis concerned the relationship between the AVD and the material day. The Appellant's argument implicitly asked what the value would have been at the AVD if these later conditions had been known. The Tribunal emphasised that the AVD fixed the assumptions as to the general level of economic activity, including conditions brought about by Brexit. Those matters could not subsequently be introduced through the MCC provisions.

62. Nevertheless, if a qualifying MCC existed, the Tribunal was entitled to consider the state of the hereditament and its locality at the material day and assess how that change affected value. The Appellant's case therefore depended upon first establishing that the route diversion was itself a qualifying locality change, distinct from the underlying economic causes. Even if the diversion was accepted as an MCC, the appeal could not succeed unless the Appellant demonstrated that it had affected the rateable value.

63. The Tribunal noted that the burden fell upon the Appellant to establish a correct alternative valuation, consistent with the principles derived from *Lotus and Delta*. It was not sufficient to show that trade had declined; the Appellant had to demonstrate how that decline translated into the hypothetical rent that a tenant would pay.

64. The Tribunal therefore concluded that although the diversion of freight traffic constituted a material change affecting the locality, it was not persuaded that the change was value significant.

65. Whilst the Tribunal noted from the Appellant's submission that a provisional agreement had been reached, the VO did not advance or rely upon any such agreement in its case.

66. The appeals accordingly failed, and the appeals were dismissed.