

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: WEB2B LIMITED

Appellant's Address: 3B Priory Street, Wrexham LL11 1SU

Appeal number: 695530975500/285NV17/18

The Matter Appealed against: 2017 Non-Domestic Rating List

Date of Hearing: 26th November 2019

Appearances:

Mr M Caldwell - Agent for the appellant

Mr Darren Byrne – for respondent Valuation Officer

Date of Decision: 13th January 2020

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mr D Rh Prytherch(Chairperson)
Mr A Jones-Parry
Mr W P Bagnall

Tribunal Clerk: Mr Ll ap Glyn

Summary of the Case

1. This appeal arose from a proposal which the Valuation Officer (VO) received on 28 September 2018. The appellant proposal maker sought an alteration to an entry in the 2017 Non-Domestic Rating List regarding 3B, Priory Street, Wrexham. The appellant sought a reduction from the current Rateable Value of £47,500 to £1.00.
2. Since the VO had not agreed to alter the list the matter was remitted to the Valuation Tribunal for Wales as prescribed in the Non-Domestic Rating (Alteration of List and Appeals) (Wales) Regulations 2005, as amended.
3. This is a summary of the case 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.

Summary of the Case

4. Mr M Caldwell introduced the case and provided the panel with some background information. He explained that he sought a reduction to a Rateable Value of £31,250 based on a price per m² (Zone A) of £175.

5. Mr Caldwell explained that he had already agreed facts including floor areas with the Valuation Officer.
6. In evidence, Mr Caldwell presented an Expert Witness Report, which contained the following:
 - i. History of the Appeal
 - ii. Inspection and Measurements
 - iii. Description of the Hereditament
 - iv. Tenure
 - v. Issues in Dispute
 - vi. Supporting Legal Arguments
 - vii. Summary of Comparable & Rental Evidence
 - viii. Revised Valuation
 - ix. Conclusion
 - x. Declaration

Appendices:

1. Current 2017 rating assessment of the property
 2. Original Proposal
 3. Location plans of property
 4. Photographic Evidence
 5. Valuation Scheme
 6. Photos of Regent Street Comparable Properties
 7. Email Correspondence
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7. Mr Caldwell provided the Tribunal with information on the terms of the lease, along with a rental analysis which supported a devalued ppm² at £147.50.
 8. He provided a number of arguments in his submission which he felt supported a reduction in the Rateable Value. He believed that the effective rent of £26,745 which equated to £147.50/m² demonstrated this. He also felt that the reduction in rents on Hope Street demonstrated that in the 16 months between 1 April 2015 and the effective date of the rent, rental values fell by 15% on average. He felt that an adjustment to the rent provided a rounded figure of £175/m².
 9. In his report, he also pointed out that a number of properties on Regent Street: Numbers 35, 37, and 39 had all benefited from a reduction following RSA discussions, he explained that these properties were rated at £210/m², he believed these to be superior shops that were part of the main high street and within close proximity to a multi-storey car park.
 10. He also pointed out that on average, Zone A values for retail properties in Wrexham had fallen by 52% since the previous rating list. By applying this % reduction between lists, the Zone A value for the appeal dwelling would sit at £170/m².

11. He provided details of his revised valuation as follows:

Parts of the property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value
Ground	Retail Zone A	74.3	£175.00	£13,003
Ground	Retail Zone B	74.3	£87.50	£6,501
Ground	Retail Zone C	74.3	£43.75	£3,251
Ground	Remaining Retail Zone	179.98	£21.88	£3,937
Ground	Staff Toilets	3.66	£0.00	£0
Lower Ground	Internal Storage	94.06	£17.50	£1,646
Lower Ground	Staff Toilets	3.48	£0.00	£0
Lower Ground	Office	27.92	£17.50	£489
	Subtotal	532	Subtotal	£28,826

Additional details

Description	Area m ² /unit	Price per m ² /unit	Value
Air Conditioning System	358	£7.00	£2,506
		Subtotal	£2,506
		Total Value	£31,332
		Rateable Value	£31,250

12. In conclusion he asked the Tribunal to reduce the Rateable Value to £31,250 with effect from 01/04/2017.

13. The Valuation Office (VO) representative, Mr Darren Byrne, introduced himself and provided the Tribunal with a copy of his submission, which contained the following:

- Introduction
- Appeal History
- Issue(s) Before The Tribunal
- Legislation And Case Law
- Expert Witness Evidence
- Evidence To Be Spoken To
- Valuation
- Summary and Conclusion

- Decision sought by Respondent VO
- Appendix 1: Valuation
- Appendix 2: Location Map
- Appendix 3: External Photograph of property
- Appendix 4: Comparable Properties
- Appendix 5: Comparable Properties on Location Map

14. In his role as advocate, Mr Byrne referred to the statutory basis of valuation which was contained in Paragraph 2(1), Schedule 6 of the Local Government Finance Act 1988, as amended. This stated –

The rateable value of a non-domestic hereditament ... 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.*

15. With reference to the Rating Lists (Valuation Date) (Wales) Order it was pointed out that 1st April 2015 was the day by reference to which the rateable values of non-domestic hereditaments are to be determined for the purposes of the local and central non-domestic rating lists which are compiled for Wales on 1st April 2017.

16. He explained that there had been a reduction in Rateable Value from the 2010 list of 30%. He also explained that both Regent Street and Hope Street were both the subjects of Rating Surveyors Association discussions and had seen reductions in their Rateable Values. These reductions had not been applied to premises on roads and streets that were accessible to Hope Street and Regent Street, such as Hill Street, Egerton Street and Priory Street.

17. Although the Valuation Officer accepted that the appeal property was located in an area that was not as attractive as the main pedestrianised areas, he felt that Priory Street was better positioned than the outer streets.
18. He also believed that the modern frontage of the appeal property would make this a more attractive location for tenants, in comparison to other similar locations in Wrexham.
19. He believed that the unit price of £270/m² was a fair valuation based on the fact that there were other units rated at up to £440/m² in close proximity to the appeal property.
20. He accepted that the unit price for Hill Street properties was lower but felt this was a fair reflection based on the fact that this area was further away from the main pedestrianised area and of an older build.
21. He believed that discussions had been held between the VOA and ratepayers for the neighbouring unit 3A and felt that this suggested that the rental evidence in the area supported this rateable value.
22. He provided details of his valuation as follows:

Component Parts of the Property

Floor	Description	Area m ² /unit	Price per m ² /unit	Value (£)
Ground	Retail Zone A	74.3	270.00	20,061
Ground	Retail Zone B	74.3	135.00	10,031
Ground	Retail Zone C	74.3	67.50	5,015
Ground	Remaining Retail Zone	195.37	33.75	6,594
Ground	Staff Toilets	N/A	0.00	0
Lower Ground	Internal Storage	94.06	27.00	2,540
Lower Ground	Staff Toilets	N/A	0.00	0
Lower Ground	Office	27.92	27.00	754

Additional Features of the Property Included in the Valuation

Description	Area m ² /unit	Price per m ² /unit	Value
Air Conditioning System	358.42	£7.00	£2,509
Valuation sub-total			£47,504
Rounded down to			£47,500

23. He believed that the Rateable Value of £47,500 based on a Zone A ppm² of £270 was correct and asked that the Tribunal confirm this.
24. At the conclusion of the hearing, the Tribunal decided to reserve its decision.

Decision of the Tribunal

25. Having considered the issues placed before it the Tribunal decided to dismiss this appeal. In arriving at its decision, the Tribunal gives the following reasons –
26. In arriving at its decision, the Tribunal had regard to the evidence presented by both parties. The Tribunal was grateful to both parties for presenting their cases in a professional, and structured manner.
27. The Tribunal was governed by the rating legislation which required that the rateable value of a property is the amount that the hypothetical tenant coming fresh to the scene would pay in rent on an annual basis assuming that the tenancy began on the material day and that the property was put into reasonable repair prior to the tenancy beginning, excluding any repairs that the hypothetical landlord would consider uneconomic. It had to be assumed that the tenancy would have a reasonable prospect of continuance and that the tenant would be responsible for all repairs and insuring the property. Moreover, in rating, all hereditaments must be assumed to be vacant and available to let on the statutory terms of the hypothetical tenancy.
28. The property and its locality must be considered as they physically existed at the material day but at the level of rental values and in the economic climate that existed as at the antecedent valuation date (AVD). The AVD was set by the Rating Lists (Valuation Date) (Wales) Order 2014 –
- 1st April 2015 is specified as the day by reference to which the rateable values of nondomestic hereditaments are to be determined for the purposes of local and central non-domestic rating lists which are compiled for Wales on 1st April 2017.*
29. Rating case law had established in many judgements that two aspects to the burden of proof existed: the persuasive or legal burden, which is general and is surmised in the maxim he who asserts must prove: and the evidential burden which is specific and requires a party wishing to put a fact before the tribunal to prove it, usually by evidence. The persuasive burden in this appeal was placed on the appellant and not on the Valuation Officer by virtue of a statutory duty to prepare and alter the Rating List.
30. Whilst the Tribunal accepted that the actual rent paid on a property should be the starting point in determining the correct Rateable Value, it considered that little weight could be attached to it due to the lengths of time which had elapsed since AVD. The adjustments required in order to

arrive at an effective rent figure also led to the Tribunal reducing the weight it could attach to this evidence.

31. The Tribunal felt that applying the general percentage reduction figure of 52% based on reduction in local values since the previous list was too general. It believed that the modern frontage would be considered as a positive feature by the hypothetical tenant, who would make a rental bid accordingly.
32. Although the appellant sought a reduction from the 2010 list of 52% the Tribunal did not feel that this could be justified without substantive evidence. The Tribunal noted that there had been a 30% reduction in the new list and felt that this demonstrated that the Valuation Office Agency had considered and appreciated the reduction in rents in the locality since the previous list.
33. Due to the location of the property, away from the main pedestrianised areas, it believed that the VOA was correct to apply a lower Rateable Value than for the more desirable properties on the main streets.
34. Although there were properties on Regent Street that were rated at 210m² the Tribunal felt that these were located at the end of the street, in an area that was less desirable than the location of the appeal property.
35. The Tribunal accepted that Priory street was more desirable than Hill Street due to being closer to the main shopping area and benefited from a modernised shop frontage.
36. In light of the foregoing, the Tribunal did not consider that the appellant had demonstrated that the Rateable Value adopted by the Valuation Officer was excessive or unfair.
37. The Tribunal therefore decided to dismiss the appeal.

Certified a true copy on 13th January 2020