

Appellant: Geoffrey Blackmore

Appeal Address: Public House and Premises, Gadlys Arms, Bridge Street, Aberdare, CF44 8EU

The Matter Appealed against: 2017 Non-Domestic Rating List

Date of Hearing: 6 February 2020

Appearances: Mr B Davies representing the Valuation Officer (VO)

Date of Decision: 2 March 2020

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mr K Curry (Chair), Mrs G Owen and Mr J R Pyrke

Tribunal Clerk: Mr R Williams

Introduction:

1. The subject appeal arose from a proposal dated the 12 September 2018 challenging the entry of the Public House and Premises, Gadlys Arms, Bridge Street, Aberdare, in the 2017 Non-Domestic Rating List as a result of a material change of circumstances (MCC).
2. The grounds of appeal as contained in the proposal were: *“The Rateable Value altered to £5,500 with effect from 04-09-2018. Circumstances affecting the rateable value changed on 01-12-2017.”*
3. A letter accompanied the subject appeal, copies of which were provided to the Members of the Tribunal and is reproduced in full as follows:
4. *“I wish to request a rates reduction for the above premises due to a fall in our turnover. Since the end of 2017 we have found that people are just not socialising as much as they used to, they can now obtain alcohol and readymade foods from the supermarket cheaper than we can purchase them from our suppliers, takeaways have also helped with the lack of trade.*
5. *The lack of work in the Cynon Valley plays a large part and we are last in the list of priorities.*
6. *All the industry we had in the area that supported us have either moved on or closed. Our afternoon trade is now null and as people tend to eat in town or at the supermarkets while they shop, cannot compete with their prices. Trade has at least halved in 2018 and we have cut down on staff to the bare minimum and trying to struggle on ourselves to keep heads above water.*

7. *I do hope this letter will help in your decision to somehow reduce this outgoing."*
8. On the 6 January 2020, the Tribunal Office received an e-mail from Mr Blackmore containing a proforma confirming his non-attendance at the Hearing along with a written submission which the appellant requested be considered in his absence, copies of which were provided to the Tribunal and is reproduced in full as follows:
9. *"Our trade has been badly affected by the Supermarkets selling cheaper alcohol than we can actually purchase from our suppliers. The cheaper prices encourage people to drink at home, thus keeping them away from us, so the art of socialising has well and truly died. We now have no industrial works in our area; offices are reallocating to the big cities; even our own local town council has moved to Tonypany and our law courts to Merthyr. Our teachers trade has been stopped due to them being confined to school during their lunch break, the office workers tend to eat in Aberdare as there are so many licensed premises opened as well as eating places. The hospital trade we had has now stopped due to our local hospital closing and moved to Mountain Ash 5 miles away. We are finding that people are tending to eat and drink in town or in the supermarkets while shopping so are losing out that way big time.*
10. *We have been struggling to hold our heads above water for a few years now so any help will be well appreciated."*
11. In addition, the appellant also included dry and wet trade figures for the years 2012 – 2019 for the Tribunal's consideration.
12. The following 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 VO's Case

13. Mr Davies informed the Tribunal that the appellant disagreed with the appeal hereditament's valuation of £11,500 Rateable Value (RV).
14. He referred to the definition of RV and the basis of valuation as defined in the Local Government Finance Act 1988 (the 1988 Act), as amended by the Rating (Valuation) Act 1999. He explained that the RV of a non-domestic hereditament shall be taken to be an amount equal to the rent at which it was estimated the hereditament might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and other expenses, if any, necessary to maintain the hereditament in a state to command that rent.

15. The VO added that statute further requires the appeal hereditament be valued by reference to values pertaining as at 1 April 2015 whilst having regard to the physical state of the subject property and its physical setting as at the Material Day, 1 December 2017.
16. Mr Davies confirmed the item of dispute was whether a MCC had had a material effect on the rental value of the appeal hereditament as at 1 December 2017.
17. He explained that to warrant a MCC a major event that had affected the local area was required and he intended to demonstrate that no such events had occurred and that the reduction in trade was primarily due to a change in economic circumstances and not as a result of a MCC.
18. To assist the Tribunal the VO clarified what constituted and identified as a MCC. He explained that a MCC was defined by reference to those matters referred to in Paragraph 2(7) of Schedule 6 of the 1988 Act, as amended.
19. Schedule 6, Paragraph 2(7) broadly described matters as falling within the two established limbs of the Rebus principle: "physical" matters and matters concerning mode or category of use, with the intention that economic matters such as level of interest rates, state of the economy, propensity to spend, together with attitude matters such as fashion, were taken as they were in the AVD setting. However, a Schedule 6, Paragraph 2(7) matter was not to be disregarded on account of the fact that its cause is economic.
20. Such matters were:
 - matters affecting the physical state or physical enjoyment of the hereditament,
 - the mode or category of occupation of the hereditament,
 - the quantity of minerals or other substances in or extracted from the hereditament,
 - the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,
 - 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, and
 - the use or occupation of other premises situated in the locality of the hereditament.
21. Furthermore, Mr Davies contended that those conditions could only have been considered if they had occurred on the 1 December 2017.
22. He opined that the appellant's contentions did not support a MCC from the 1 December 2017, as the events raised by the appellant were not date specific and were merely changes in the wider economy along with change in consumer habits. Consequently, he intended to demonstrate that the reduction in trade at the appeal hereditament was as result of wider economic and social changes and not as a result of a MCC.

23. The VO responded as follows to the appellant's contentions regarding MCC:

- Historically supermarkets have supplied cheaper alcohol than public houses and therefore cannot be attributed to a MCC on the 1 December 2017.
- There were no notable industrial closures or relocations in Aberdare at 1 December 2017 and therefore does not support a MCC.
- The appellant had not provided specific dates as to when the local council offices relocated and therefore does not support a MCC.
- The law courts relocated to Merthyr in 2011 and therefore would not have contributed to the reduction in trade post 1 December 2017.
- It was unlikely that the lack of local teachers' lunch time trade had caused a reduction to trade. In addition, the appellant failed to provide specific dates as to when this event occurred.
- In relation to the issued raised that office workers including the general public eat elsewhere as there were many new licensed properties and restaurants in Aberdare. The appeal hereditament was located on the outskirts of Aberdare's central business district and therefore had always faced competition from Aberdare town centre.
- Similarly, the subject property had always been a destination pub experiencing competition from town centre restaurants and shops. The appellant had failed to identify any specific event and dates that had directly resulted in a MCC and loss of trade
- The local hospital moved to Mountain Ash in 2012 and therefore as at the 1 December 2017 cannot be considered a MCC.

24. In summary, Mr Davies reminded the Tribunal that the crux of the subject appeal was whether a MCC had occurred. He opined that he had proven that the stated changes referred to by the appellant were not a result of a MCC on the 1 December 2017.

25. Notwithstanding the decision to be made in respect of the subject appeal and out of common courtesy to the appellant, the VO reviewed the appeal hereditament's compiled list assessment.

26. He informed the Tribunal that the appeal hereditament was primarily a dry led public house and that the trade information received from the appellant indicated that dry trade had remained consistent for the years 2017, 2018 and 2019 at approximately £120,000. Whilst there had been a steady decline in the wet trade at the subject property, the wet trade had historically been this public house's secondary revenue stream.

27. In conclusion, Mr Davies opined that the trade information provided by the appellant supported the fair maintainable trade level adopted by the VO at the previous revaluation and demonstrated that the RV of the Gadlys Arms, Bridge Street, Aberdare, was correct as at the 1 April 2015. Accordingly, he requested that the subject appeal be dismissed.

28. At the conclusion of the hearing, the Tribunal decided to reserve its decision.

The Reasons for Decision

29. Having considered all the evidence placed before it the Tribunal decided as follows: -

30. In accordance with the basis of valuation as contained in Schedule 6 of the Local Government Finance Act 1988 as amended by Section 1(2) of the Rating (Valuation) Act 1999, the Tribunal must assume that the subject property was “vacant and to let” and cannot have regard to the actual trade of the occupier.

31. Statute further requires that a property must be valued by reference to values pertaining as at the Antecedent Valuation Date whilst having regard to the physical state of the property and its physical setting as at the Material Day.

32. Accordingly, rental value were required to be assessed at rental levels that were in existence at the 1 April 2015, whilst having regard to the physical circumstances as they affected the appeal hereditament as at 1 December 2017.

33. The Tribunal was aware that the general level of value in respect of the Public House and Premises, Gadlys Arms, Bridge Street, Aberdare, was not the dispute in hand and that the sole issue to be determined was whether a reduction in the Rateable Value was warranted due to a Material Change of Circumstances on the 1 December 2017

34. Having regard to the evidence presented, the Tribunal was persuaded by the Valuation Officer that the appeal hereditament’s open market rental value had not been affected by a Material Change of Circumstances.

35. The Tribunal was aware that to warrant a Material Change of Circumstances a specific and major event that had affected the local area needed to be identified.

36. In the absence of a specific major event and dates to identify a Material Change of Circumstances, the Tribunal accepted the Valuation Officer’s explanation that the events raised by the appellant were merely changes in the wider economy along with change in consumer habits, resulting in the decrease of takings attributed to the economic climate, a factor which the Tribunal was aware it cannot take into consideration.

37. Accordingly, as there was no material evidence to suggest that the appeal hereditament's open market rental value had been affected by a Material Change of Circumstances, the Tribunal dismissed the subject appeal.

Certified a true copy on 2 March 2020