

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Ellen Jones

Appeal property: 17 Church Street, Flint CH6 5AD

Appeal number: 6835334444288/285NV17/4

Date of Appeal: N/A

The Matter Appealed against: 2017 Rating List Appeal

Date of Hearing: 13 February 2020

Appearances: Mrs T S Davies for the respondent Valuation Officer (VO)

Date of Decision: 13 March 2020

Decision of Tribunal: Dismissed

Members of the Tribunal: Mr D Subacchi, Mr J Roberts & Ms S Wheldon

Tribunal Clerk: Mr Ll ap Glyn

1. This appeal arose from a proposal which the Valuation Officer (VO) received on 15th March 2019. The appellant proposal maker, sought an alteration to an entry in the 2017 Non-Domestic Rating List regarding 17 Church Street, Flint. The appellant proposed a “£1000 drop” in Rateable Value. The reasons for seeking a reduction was that:

“Parking, pay & display all double yellow lines, Sydney street, behind Tesco. Pay and display, every small car park around the high street, put yellow lines, Sydney Street, Duke Street, Feather street, allowing only 30 mins in the high street. There’s nowhere for staff never mind customers. Free parking on the retail who has low business rates. No one can park close to the high street. This was also mentioned at the tribunal on the 13th Feb ’19.”

2. Since the VO had not agreed to alter the list to the extent the appellant had sought for in his proposal, 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. Mrs Tina-Suzanne Davies appeared for the respondent VO as both advocate and expert witness. She distributed a pack of evidence to support her case and provided the tribunal with a brief history of the appeal.
5. She explained that the appeal arose from a proposal seeking a reduction in Rateable Value with effect from 29th May 2018.
6. In her role as advocate, Mrs Davies 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.*
7. With reference to the Rating Lists (Valuation Date) (Wales) Order Mrs Davies 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.
8. In her expert witness statement, Mrs Davies referred to a location plan, a description of the appeal hereditament and the appeal history
9. The Valuation Officer provided the Tribunal with some background information on the decision-making process in cases such as this one, this particular appeal being a 'Material Change of Circumstances' appeal.
10. She clarified that there were several matters to consider in a Material Change of Circumstances case. The first being the event that gave rise to the appeal. It was agreed that there had been a change in the parking arrangements in the locality.

11. The other matters to consider were the severity of the event/disability. The VO explained that she had, on several occasions sought clarification from the appellant on the effect that the parking situation had on her business. In particular she sought evidence of altered turnover/trade.
12. She explained that she had not been provided with any evidence which she believed demonstrated that the altered parking arrangements had not had any effect on the trade of the business. Due to the lack of evidence on reduced trade, she felt that her hands were tied, and she was unable to make a change to the Rateable Value.
13. She therefore requested that the Tribunal dismiss the appeal.
14. The appellant introduced herself and provided the panel with further information on the appeal and the reason for making the appeal. She explained that the Car parking situation in the town had changed dramatically and had a negative effect on her business.
15. She went on to explain that there were permits available to purchase, at a cost of £300 each. She explained that the car parking on the high street was limited to 30 minutes, which was not enough time for her customers to visit the beauty Salon. The customers were therefore inconvenienced when visiting the salon as a result of the Parking restrictions.
16. At the conclusion of the hearing, the Tribunal decided to reserve its decision.

Decision of the Tribunal

17. 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 –
18. 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.
19. 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.

20. In arriving at its decision, the Tribunal had regard to the evidence presented by both parties.
21. Although sympathetic to the appellants situation, and while it accepted that there may have been a change in customer habits as a result of the new parking arrangements in the town centre, it had not been provided with any firm evidence to demonstrate that this had any impact on the trade or turnover of the appellant's business.
22. 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.
23. The Tribunal therefore decided to dismiss the appeal.

Certified a true copy on 13 March 2020