

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr Piritpal Singh

Appeal Property: Spar, 1-3 Water Street, Kidwelly SA17 5BX

Appeal number: 682933250404/285NV17

The Matter Appealed Against: 2017 Rating List

Date of Hearing: Wednesday 21st October 2020

Appearances: Mr Parvinder Batth & Mr Piritpal Singh (appellants) and Mrs Helen James (for the respondent Valuation Officer)

Date of Decision: 11th November 2020

Decision of Tribunal: Appeal dismissed

Members of the Tribunal: Mrs B Martin (Chairperson), Mr M Roberts & Mr R Henley

Tribunal Clerk: Mr G Harris

Introduction:

1. The appeal under consideration followed a proposal made by Ellis & Co in respect of Spar, 1-3 Water Street, Kidwelly SA17 5BX, which the respondent Valuation Officer received on 21st January 2019. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £16,500 to to £1 on the following grounds –

The rateable value shown in the list by reason of an alteration made by the valuation officer on 30th May 2017 is inaccurate.

The Rateable Value applied is incorrect and excessive.

2. Since making the proposal the agents representing the ratepayers had gone into liquidation, as such the appellants represented themselves at the hearing. Both the appellant and respondent Valuation Officer attended the hearing via video link.
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 Batth explained he had purchased the shop during April 2016, at that time no business rates had been payable. However, they had come to be payable with effect from 1st April 2017. He described the property as being located not far from the town centre but on the outskirts of Kidwelly. The shop provided a valuable service for the community and he employed local people.
5. Mr Batth explained that the appeal property had been valued at a rate of £80/m², which was double that used to value similar premises in Kidwelly. All areas in the shop had been included in the valuation at the same rate including the retail area, storage, office and kitchen. Other valuations attributed to shops in the locality had included storage areas valued at £4/m².
6. Mr Batth referred to the Factory Shop, located a 5-minute walk from the appeal property in the town centre, it sold similar merchandise to his shop apart from alcohol. The retail area had been valued at 50% less than his property at £40/m² and the storage area had been valued at £3.90/m². Another, Parc Y Box Farm Shop, also sold similar groceries but the retail area had been valued at £40/m² and the storage area at £28/m².
7. Mr Batth explained that the previous year's accounts had showed a £13,500 loss for the financial year and contended that he would go bankrupt if his business rates remained as they were. He agreed that the appeal property should be referred to as a convenience store but arguably the comparable properties should also be classed the same. To support his contentions, Mr Singh provided the Tribunal with copies of his accounts together with the valuations of the comparable properties.
8. Mrs James explained that the appellant considered his valuation to be excessive, she had reviewed the valuation having regard to properties of similar characteristics and was of the opinion that the price per square metre of £80 should be revised to £55 which would produce a valuation of £11,250 from the 1st April 2017.
9. To support her revised valuation Mrs James referred to a table of rental evidence of similar properties, noting that the rents were quite high and analysed to an amount greater than the £80/m² used in their valuation.

Address	Total area m ²	Effective date of rent	Passing rent (£)	Adjusted Rent (£)	RV (£)	Analysed rent £/m ²	Unit Value £/m ²
27 Gwscwm Road, Burry Port	239	1-Nov-2015	35,000	35,000	21,500	137.74	80.00
62/62A Heol Morlais, Trimsaran	242.22	22-Sep-2014	45,502	24,502	19,250	101.16	80.00

10. Properties further away, 67 Panteg Road, Llanelli and 67 Waterloo Road, Ammanford had been valued using £80/m² and £70/m² respectively. An appeal relating to the later had been withdrawn following discussions.

11. Mrs James' proposed valuation, using £55/m² due to its location and lack of parking, was as follows –

Floor	Description	Area m ² /unit	£/m ² unit	Value (£)
Ground	Ground floor sales	149.24	55.00	8,208
Ground	Internal storage	39.43	55.00	2,169
Ground	Office	5.00	55.00	275
Ground	Office	6.88	55.00	378
Ground	Kitchen	6.59	55.00	362
Valuation sub-total				11,392
Adopted Rateable Value				£11,250

12. Mrs James provided the tribunal with photographs of the subject property and its comparables, together with maps of their locations. She described the appeal property as a convenience store as defined in the Rating Manual as –

a trading area less than 280m² (recognised in the industry as 3000 ft²)

this is not subject to restricted opening hours under the Sunday Trading Act 1994. The Sunday Trading Act 1994 allows shops with a retail area less than 280 m² to open for unrestricted hours on a Sunday

it usually stocks at least seven of the following categories of product; alcohol , bakery, canned and packaged grocery, chilled food, confectionery, frozen food, fruit/vegetables, health and beauty, hot food - to- go, household, national lottery, milk, newspapers/ magazines, non-food, sandwiches, savoury snacks, soft drinks, tobacco

13. Mrs James contended that the properties referred to by the appellant were not traditional Convenience Stores as defined in the Rating Manual as they were significantly larger than the subject property with areas in excess of the trading area stipulated above. The Factory Shop was a general store as characterised by the wider range of goods provided but was not a convenience store as described in the Rating Manual. Parc Y Box Farm Shop provided items sourced directly from farms to sell to the

public. The building consisted of a portal framed structure with a profiled metal roof, with a retail area in excess of 280m².

14. Mrs James explained that the basis of valuation for the appeal property had been defined under Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 as –

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.*

15. Mrs James argued that it was for the appellant to prove his case, on the assumption that the appeal had been made on the basis that the appellant had evidence to suggest the assessment was incorrect. In the case *Vines Ltd v de Mauny (Valuation Officer)* (2010) NJ Rose commented –

“It is, however, important to bear in mind that this is an appeal by the ratepayer, not the VO. The onus, therefore, is on the ratepayer to show that the base rate of £160 per m is too high, not the VO to prove the opposite.”

16. At the conclusion of the hearing, the tribunal decided to reserve its decision.

The Reasons for Decision

17. Having considered all the evidence placed before it the tribunal decided as follows: -

18. In the proposal the appellant's agent had contended that the Rating List was inaccurate and that his RV should be reduced. In line with the case *Vines Ltd v de Mauny* 2010 the Tribunal accepted that the burden of proof rested with the appellant on the basis that 'he who asserts must prove.' Therefore, in the case under consideration the persuasive burden of proof rested with the appellant ratepayer and not the respondent Valuation Officer by virtue of a statutory duty to prepare and maintain the Rating List.

19. The Tribunal believed the appellant had not been able to sustain his argument that the Valuation Officer's revised assessment was incorrect

and had not, with reference to evidence, undermined the Valuation Officer's valuation of the property. The Tribunal did not consider the comparable properties put forward by Mr Batth to be truly comparable as they could not be considered to be convenience stores as described in the Rating Manual due to their size.

20. The Tribunal empathised with Mr Batth and Mr Singh but noted that the Valuation Officer had a duty to maintain the correctness of the Rating List. The Tribunal believed the Valuation Officer's revised valuation to be fair and reasonable considering the subject property's location and lack of parking. Therefore, the Tribunal orders the Valuation Officer to amend the RV of Spar, 1-3 Water Street, Kidwelly SA17 5BX from £16,500 to £11,250 with effect from 1st April 2017.

Certified a true copy on 11th November 2020