

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Greg Lamerton agent for the occupier Muhammed Ibrahim Hamasalih

Appeal Property: Unit 7 Killay Shopping Precinct, Gower Road, Killay, Swansea SA2 7AN

Appeal number: 685533960961/285NV17

The Matter Appealed Against: 2017 Rating List

Date of Hearing: Friday 4th December 2020

Appearances: Mr Alan Morse (for the respondent Valuation Officer)

Date of Decision: 11th December 2020

Decision of Tribunal: Appeal dismissed

Members of the Tribunal: Mr B Al-Khanchi (Chairperson), Mr N Edwards & Mr T Sangster

Tribunal Clerk: Mr G Harris

Introduction:

1. The appeal under consideration followed a proposal made by Mr Lamerton in respect of Unit 7 Killay Shopping Precinct, Gower Road, Killay, Swansea SA2 7AN, which the respondent Valuation Officer received on 30th December 2019. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £13,750 to £1 with effect from 1st April 2017 on the following grounds –

The rateable value is incorrect and bad in law.

2. Mr Lamerton was unable to attend the hearing to present his case and requested that the Tribunal hear and determine his appeal in his absence by way of a written submission, the respondent Valuation Officer (VO) 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. To support his proposal, Mr Lamerton provided the following written submission, which the clerk read out before the tribunal –

Statement for Valuation Tribunal 4/12/2020

This premises is divided by a solid brick wall between front and rear and is two separate rooms. The rear room is empty and used purely for storage. In addition the stairway to the first floor is unusable and therefore the first floor is unused and in a very poor state of repair (photographs of the rear room and the first floor have been submitted to the Valuation Office, together with the measurements).

The rateable value of the ground floor should be reassessed to reflect the usage and the first floor should be removed from the assessment completely.

In addition the annual rental figure for the property is £7,500.

5. Mr Morse believed that the premises had been correctly valued in terms of both survey data and the levels of value employed and maintained that the RV of £13,750 was correct.
6. Mr Morse provided the tribunal with photographs of the appeal property together with plans of its location. It was located within a small 1970s shopping precinct. The precinct was reasonably well occupied and consisted of around 10-12 shops which included a public house and pharmacy. A layout plan, dating from the VOA's last inspection of the premises during May 2014, highlighted the whole of the ground floor being classed as retail space. There was a wall in situ, but Mr Morse was satisfied that it was non-structural and had remained so since it had been identified as such during the inspection.
7. Referring to a table of assessments, Mr Morse explained that all the units within the precinct had been valued using the same Zone A value of £275/m² and that the 2 units which faced Gower Road had been valued using a slightly higher Zone A value of £315/m². Three units within the precinct had been subject to appeals but both had been withdrawn following discussions.
8. Mr Morse 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.*

9. Mr Morse contended that, although Mr Lamerton had stated that part of the property was unusable, he did not believe the amount of repairs necessary would be considered uneconomic by a reasonable landlord. Mr Morse's valuation was as follows –

Floor	Description	Area m ² /unit	Line factor	£ m ² /unit	Value (£)
Ground	SZA	31.3	1.000	275	8608
Ground	SZB	32.5	0.500	137.5	4469
First	ASI	55.85	0.050	13.75	768
Valuation subtotal					13845
Adopted Rateable Value					£13,750

10. Mr Morse explained that the passing rent of £7,500 per annum had not been set until 2019, which was some 4 years after the antecedent valuation date when the economy had been in the doldrums. In addition, the lease seemed to be an informal arrangement with no fixed term and therefore for both reasons the rent passing was of secondary value.

11. Mr Morse contended 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. Although not enshrined in Legislation, authority could be found in the case *Vines Ltd v de Mauny (Valuation Officer)* (2010) where the member 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 £200 per m is too high, not on the VO to prove the opposite.”

12. In summary, Mr Morse, explained that Unit 7 had been valued at £275/m² which had been supported by the rental evidence and assessment summary and was in line with the remainder of the shops in the precinct which were of a similar size and shape. Appeals on 3 of the units had been discussed and withdrawn, therefore it was his view that the tone of valued had been established at £275/m². In light of this Mr Morse requested that the tribunal confirm the RV of £13,750 with effect from 1st April 2017.

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

The Reasons for Decision

14. Having considered all the evidence placed before it and in accordance with Paragraph 2(1) of Schedule 6 to the Act the tribunal decided as follows: -

15. Although in his proposal Mr Lamerton had contended that the Rating List was inaccurate and that the RV of Unit 7 Killay Shopping Precinct, Gower Road, Killay, Swansea SA2 7AN should be reduced to £1, he had failed to provide the tribunal with an alternative valuation of the appeal assessment, nor had he presented any evidence to support his contention that the repairs he had referred to in evidence were uneconomic to undertake by a reasonable landlord.

16. Considering the foregoing and bearing in mind that *Vines Ltd v de Mauny* had established in rating case law that the burden of proof rested with the appellant on the basis that 'he who asserts must prove', the tribunal found no basis upon which to disturb the existing valuation for the subject property which, it appeared, had been derived from the same underlying level of value used elsewhere in the precinct and was supported by a raft of settlement evidence.

17. In view of this, the appeal was dismissed.

Certified a true copy on 11th December 2020