

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr Richard Davies (Occupier)

Appeal Property: Shop & Café, Whitesands, St Davids, Haverfordwest SA62 6PS

Appeal number: 684533336695/285NV17

The Matter Appealed Against: 2017 Rating List

Date of Hearing: Friday 29th January 2021

Appearances: Mr Richard Davies (appellant) and Mrs Tina-Suzanne Davies (for the respondent Valuation Officer)

Date of Decision: 17th February 2021

Decision of Tribunal: Appeal dismissed

Members of the Tribunal: Mr M Mason (Chairperson) & Mrs LM Thomas

Tribunal Clerk: Mr G Harris

Introduction:

1. The appeal under consideration followed a proposal made by Mr Richard Davies in respect of Shop and Café, Whitesands, St Davids, Haverfordwest SA62 6PS, which the respondent Valuation Officer received on 6th March 2019. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £19,000 to £10,000 with effect from 1st December 2018 on the following grounds –

During the months of Nov-Dec 2018 the building underwent significant changes internally and we have a reduced retail zone due to the toilet installation & kitchen extension into the retail area. We also sacrificed the large storeroom and some retail space to the construction of the toilets and turned the other small storeroom into an office. We also no longer operate primarily as a shop but more as a café so the retail space is now occupied with tables and chairs. The price for restaurant area per m² is a lot less than as that for retail. Having looked at larger properties in the area we feel the valuation set for here is extremely high and therefore we feel our proposal is justified.

2. With the agreement of both parties the appeal was decided by two members. Both the appellant and 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. Mr Davies explained that due to the location of the appeal property it had been hard to find comparable properties. However, he had found some similar properties that either provided food or were by the sea and had provided these to the VO. Mr Davies contended that the VO had not taken these into account, only referring to the Refectory in St Davids which Mr Davies believed to be in the best position in the town centre next to the bus stop.
5. Mr Davies explained that the appeal property was contractually obliged to open 7 days a week over the period 1st March to 31st October, and weekends from 1st November to 28th February. He opened over winter as he employed full time staff. Other properties, such as the tea rooms in Stackpole closed over the winter. Mr Davies contended that his rent was high as trade was busy over the summer months, however he ran at a loss over the winter.
6. Mr Davies questioned, as the VO had used the rent to calculate his RV, would his RV be so high if he was the owner of the appeal property. Mr Davies confirmed that he paid an annual rent to St Davids Town Council and that no allowance was made during the winter period.
7. Mrs Davies described the appeal property as being located at Whitesands Car Park which sat on the Pembrokeshire Coastal Path. It was 10 minutes from St Davids from where a shuttle bus operated during the summer months. The property comprised a café/sales area, kitchen, stores, public and staff toilets and a mezzanine floor. It was entered into the 2017 Rating List at RV £19,000. The property had been inspected on 1st December 2018 and copies of the pre- and post-inspection property plans had been included in Mrs Davies' evidence, together with a photograph of the appeal property, maps of its location and copies of the relevant Legislation.
8. Mrs Davies explained that the appellant had requested that the property be entered into the Rating List as a new entry with effect from 1st December 2018 on the grounds that there had been a Material Change of Circumstances (MCC). As the property was already entered into the Rating List Mrs Davies had been unable to create a new entry as this would have created a duplicate entry. She had however considered the MCC and proposed a revised valuation, which was as follows –

Floor	Description	Area m²	Line Factor	£/m²	Value £
Ground	Retail overall	82.03	1.00	140.00	11484
Ground	Public toilets	6.09	0.50	70.00	426
Ground	Kitchen	33.07	0.70	98.00	3241
Ground	Internal store	2.32	0.50	70.00	162
Mezzanine	Retail overall	40.69	0.50	70.00	2848
Ground	Staff toilets	1.91	0.00	0.00	0
Total area		166.11			
Subtotal					18161
Adopted RV					£18,000

9. Mrs Davies explained that the renovation works had reduced the sales area and increased the kitchen area, this had resulted in a small reduction in RV. Having reviewed the rental evidence, including the passing rent on the appeal property Mrs Davies was satisfied that the tone of £140 was correct. Mrs Davies was unable to amend the Rating List back to 1st April 2017 as the grounds of the proposal prevented this.
10. Mrs Davies explained that although the appellant had referred to several other comparable properties within the locality with lower RVs, she was required to maintain a fair and accurate list. Mrs Davies referred to the case Ladies Hosiery and Underwear Ltd v West Middlesex Assessment Committee (1932), which set out the principle that when determining a property's value, correctness must not be sacrificed for uniformity.
11. Mrs Davies explained as the property was unique in its location it had not been possible to find a like for like comparable and as such reference had been given to the rent passing on the subject. To support her valuation Mrs Davies provided the Tribunal with rental analysis based on the original survey and based on a rent review dated 31st October 2013 which had resulted in an amount of £159.24m². Another based on the incorrect survey details and a lease effective from 1st December 2018 had analysed at £167.48m². A revised analysis based on the survey amendments had analysed at £177.52m². Mrs Davies believed the analysis based on the 2013 rent review should be the starting point. As a comparison the rent passing at 18 High Street, St Davids had analysed at £208.95 with an adopted value of £200/m².
12. Mrs Davies believed £140/m² to be fair and reasonable however was an issue to be looked at should Mr Davies decide to appeal against the compiled list. As the property already existed in the Rating List Mrs Davies requested that the Tribunal confirm the revised RV of £18,000 with effect from 1st December 2018.
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 the tribunal decided as follows: -
15. In his proposal the appellant had requested that the property be entered into the Rating List as a new entry with effect from 1st December 2018 at RV £10,000 following a Material Change of Circumstances.
16. The Tribunal decided as the appeal property already existed in the Rating List it could not be entered as a new entry, therefore had to determine whether a reduction in the RV to £10,000 was warranted. As the appeal related to a MCC the Tribunal were unable to decide on the compiled list figure of £140/m², although were grateful to Mrs Davies for providing rental analyses pre- and post-inspection as a starting point. The Tribunal noted that Mr Davies could initiate a new proposal against the compiled list figure should he wish, under which his reference to comparable properties could be fully considered.
17. Although Mr Davies had questioned if his RV would be as high if he paid no rent, the Tribunal noted that Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 stated that the RV of a hereditament was an estimate of the rent that the hereditament might reasonably be let from year to year. Hence, should Mr Davies be an owner/occupier an estimate of the rent would still have to be undertaken.
18. As the amended survey details following the inspection was not in dispute, the Tribunal decided that Mrs Davies's revised valuation had considered the change of use to primarily that of a café having reverted to calculating the RV on an overall basis rather than using a zonal basis used for valuing shops, and was fair and reasonable. Therefore, the Tribunal dismissed the appeal confirming the revised RV of £18,000 with effect from 1st December 2018.

Certified a true copy on 17th February 2021