

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr Stephen Griffiths

Appeal Address: Retail Warehouse and Premises, Unit 2 Maesglas Retail Park, Port Road, Newport NP20 2NS

Appeal number: 693533470968/285NV17/49

The Matter Appealed against: 2017 Rating List

Date of Hearing: 19th February 2021

Appearances: Mr S Griffiths and Mr M Allen, the Valuation Officer (VO)

Date of Decision: 10th March 2021

Decision of Tribunal: Appeal Allowed – Proposal Valid

Members of the Tribunal: Mrs B C Martin (Chair), Mrs J Worswick and Ms E Jones

Tribunal Clerk: Mrs M S Minty

Introduction:

1. The subject appeal arose from a proposal submitted by the above-mentioned appellant, to alter the 2017 Rating List Entry in respect of the subject property, received by the VO on 10th May 2019, which the VO deemed to be invalid on the grounds that the appellant had not correctly identified the property in dispute in his proposal form.
2. The property details as shown in the proposal are as follows:

“Part A –

Unit 2A Port Road, Maesglas NP20 2NS

Warehouse under repairs renovation

Gilcrest Manufacturing Ltd/Vacant

Current Annual rent: £45,000

Date rent became payable: 09/05/2019

Billing Authority: Newport

Billing Authority Reference number: 020004225X27006.

Part C – Reasons for proposing changes to the rating list/property valuation:

The RV was inaccurate when the property was revalued in April 2017.

Circumstances affecting the RV changed on....

In respect of the following property: Unit 2A Port Road, NP20 2NS my reason for believing the rating list entry to be wrong in light of the decision is the property has taken on damage and flood water and damage so is not usable for business requirements and is undergoing substantial renovation – Area Land Registry address and Valuation address don't align.

My detailed reasons for believing the property value or details should be altered are: Property been repaired before usable; and Land Registry address and Valuation address differ, and property area is not correct with VO.

And under Part D – Mr Stephen Griffiths of Gilcrest Manufacturing Ltd signed the proposal form in the capacity of occupier”.

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 Valuation Officer's case

4. Mr Allen stated his qualifications and duties to the Tribunal. He explained his dual role of being both advocate and expert witness. The following is a summary of his case:
5. Having only taken over the subject appeal recently, Mr Allen explained that he considered this appeal to have been invalidly made in that the appellant did not occupy nor have an interest in the property against which the proposal form was made, Unit 2 Maesglas Retail Park, Port Road, Newport NP20 2NS.
6. Reference was made to Paragraphs 2 and 4(2) of The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, which gave the extracts for the phrase 'interested person' in relation to any other hereditament, and, if not met a proposal may not be validly made.
7. He then referred to Paragraph 6 – Proposals: General of the above Regulations which states that a proposal should be made in writing and meet specific criteria.
8. Mr Allen highlighted that even if a VO accepts a proposal as valid on receipt this did not prevent the VO or any other party appealing, deciding at a later date that it was not valid and contesting its validity at a Valuation Tribunal Hearing under Regulation 8 (11) of The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005.
9. Mr Allen explained that the subject proposal was made on a scanned manual paper form with an accompanying email message; this format of the VO's issued form is intended to guide the proposer with the relevant information necessary to successfully lodge a proposal as a legal document. In the course of discussions, the proposer had not shown that he was an interested person, nor had been an interested person, in respect of the property which has been appealed.
10. When a proposal against an entry in the Rating List is received, it is incumbent upon the VO to use a 'degree of common sense' in deciding whether the document received form a valid proposal.
11. In respect of the address specified in the proposal form under Part A, 2A Port Road, Maesglas, NP20 2NS, Mr Allen stated that there was no address in the Rating List that matched the address given. The only address shown in the 2010 Rating List was that of 2A Port Road Northampton NN5 6NL. In searching the live List entries on the VOA's database that specifically used the post code NP20 2NS, only 5 of those entries related to Port Road, Newport.
12. With no information provided in the proposal form relating to the RV and effective date of the assessment, this did not offer any assistance in the identification of the List entry which was the subject of the proposal.
13. In accordance with the List entry the Billing Authority reference number provided under Part A of the proposal form related to the property in respect of Unit 2 Maesglas Retail Park, Port Road, Newport NP20 2NS.

14. It was noted that under Part C of the proposal form, the appellant had referenced the difference between the Land Registry address and the VO address, and that the property area was not correct with the VO. The document however did not give the details which the proposer considered to be 'correct'.
15. Intrinsically, the details which are presented on the proposal forms are those that should be used at proposal registration. It is neither possible nor desirable to use any information that is not on the proposal, an element of second-sight, or details which later becomes available, to decide on the validity of the form on the day at which it was received and at which the latter must be considered. Hence, the VO having lodged the proposal against the list entry in respect of Unit 2 Maesglas Retail Park, Port Road, Newport NP20 2NS.
16. Mr Allen explained that Mr Griffiths had contacted the local authority, Newport City Council prior to making the proposal on 19th February 2019, asking:
- "Buyology are a couple of units down, but we have been into unit 2 on a number of occasions and it is unoccupied (website address provided).*
- It adjoins a carpet shop and used to house a haulage company. I believe the property has been empty for over 12 months now. Am I correct that the rateable value of this unit of £73,000? So, the maximum rate free period we would be able to have is 3 months even if there are 12 months that we are unable to use it for whilst we make it fit for purpose?"*
17. Newport City Council provided Mr Griffiths that same day with the following response:
- "Based on the information and photos on the website link you provided and using this in conjunction with other information available to us, I have determined that the property you are referring to is: R/O Unit 3 Port Road, Maesglas Retail Park, Newport NP20 2NS. Although Watts & Morgan have stated the address is Unit 2 Maesglas Retail Park, this cannot be correct as that is the unit Buyology occupy. The RV of R/O Unit 3 Port Road is 53000 (the property reference is 20004222X05008). So, you can see how I have determined the correct property, I have attached screenshots below showing what I believe is the property you are referencing, along with the property next door".*
18. The Proposer should have been aware from the message from the Billing Authority that the property he was intending to take on was in fact shown in the Rating List as R/O Unit 3 Port Road, Maesglas Retail Park, Newport NP20 2NS, originally in the List at £53,000 from the 1st April but since amended down to £50,500 from the date by a VO Report which was cleared on the 27th July 2020, after the correspondence with the Billing Authority and the lodging of the subject proposal.
19. On the basis that the details given in the proposal form were sufficient to identify a List entry, and that the proposer is not an interested person in respect of this identified List entry under the relevant Regulations, it was concluded that the proposal in question was therefore invalidly made, and there is no legal vehicle to consider either the assessment that has been referred to in the proposal, or the List entry that was actually occupied by the proposer and his ratepayer company at the date at which the proposal was lodged.
20. Should the Tribunal decide that the proposal was validly made, Mr Allen requested that a decision be issued as to identify the List entry to which the proposal correctly refers, being either the List entry identified by the Billing Authority reference number in the proposal form, Unit 2 Maesglas Retail Park, Port Road, Newport NP20 2NS, £73,000 with effect

from 1st April 2017, or in the alternative as the List entry identified by the Billing Authority as the property which the appellant referred to in his communication with them, R/O Unit 3 Port Road, Maesglas Retail Park, Newport NP20 2NS and which is actually occupied. This entry is currently shown at £50,500 from 1st April 2017 following a VO alteration that amended it from £53,000 by notice in July 2020, after the material day.

21. During cross questioning, Mr Allen responded as follows:

- His colleague met with Mr Griffiths at the property address he occupied, which the VO considers to be R/O Unit 3 Port Road, Maesglas Retail Park, Newport NP20 2NS.
- As a result of this appeal, Mr Allen stated that he would be contacting the Billing Authority to discuss the issues surrounding the anomalies of the correct addresses of the individual units within the vicinity of the appeal property.
- Should this proposal be found invalid, Mr Griffiths would have a right to make another appeal relating to a material change in circumstances; however, the issue of the flooding would not be able to be considered as it would not be an issue at the date of making a new proposal.

Summary of the Appellant's case

22. With the use of a Lease agreement backed by Land Registry searches and the link for initial property advert, Mr Griffiths explained that he made it clear from the initial application that the VO held incorrect records for the property occupied by Gilcrest Manufacturing Ltd against the property record held by the Land Registry.
23. The rental contract, solicitor information including land registry searches all suggested the property occupied by Gilcrest Manufacturing Ltd was that of Unit 2A Port Road, Maesglas Estate, Newport NP20 2NJ.
24. The property advert and online information available suggested Unit 2 Port Road, Maesglas Estate, Newport was the property of Gilcrest Manufacturing Ltd.
25. In completing his proposal form, Mr Griffiths stated that he used the VO's online service. In using this service, he found it difficult in entering the details of the property he wished to make a proposal against. This was the reason why he had indicated on the proposal form that the addresses held by the VO and the Land Registry did not match and hoped that the VO would use a degree of common sense.
26. Mr Griffiths explained that since 2019 he had been in discussion with Mr Allen's colleague for over nine months and believed his appeal was progressing, this was until July 2020 when the VO informed him that his proposal had been invalidly made.
27. On questioning the reasons why the VO considered his proposal invalid, Mr Griffiths stated that he would not be using his common sense by submitting a proposal form to the VO on a property that he had no interest in.
28. Furthermore, the VO managed to send a representative to the property he occupied so knew exactly what property was under discussion. From the claim date to July 2020 the VO did not query the proposal's validity.

29. Mr Griffiths believed it very unfair for the VO to raise the issue of validity at such a late stage and requested the Tribunal to find the proposal as valid.

30. During cross questioning, Mr Griffiths responded as follows:

- In completing the proposal form online, the only options available to enter the Billing Authority reference was what was provided in a drop-down menu, to which he tried his best to match up to the nearest address. He knew the address was not what was on the Land Registry. Mr Griffiths hoped common sense would have been used.

31. At the conclusion of the Hearing, the Tribunal decided to reserve its decision.

The Reasons for Decision

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

33. The issue to be determined by the Tribunal was the validity of the subject proposal as to identify the List entry to which the proposal correctly refers, being either the List entry identified by the Billing Authority reference number, which referred to the address of Unit 2 Maesglas Retail Park, Port Road, Newport NP20 2NS, or the List entry identified by the Billing Authority as the property which the appellant referred to in his communication with them being R/O Unit 3 Port Road, Maesglas Retail Park, Newport NP20 2NS.

34. Being mindful of the legislation governing the making of a proposal, the Tribunal paid particular attention to Paragraphs 4 and 6 of The Non-Domestic Rating (Alterations of Lists and Appeals) (Wales) Regulations 2005, as referred to by the VO.

35. From the evidence provided, the Tribunal noted that both parties had identified the same property on their maps as the property occupied by Gilcrest Manufacturing Ltd. Therefore, the Tribunal concluded that the address of Unit 2A Port Road, Maesglas Estate, Newport NP20 2NJ, as referred to in the Land Registry / proposal form and R/O Unit 3 Port Road, Maesglas Retail Park, Newport NP20 2NS identified by the VO and by the Billing Authority, as the property communicated to the appellant, was in fact in relation to the same property.

36. With the VO having visited Mr Griffiths at the property shown on the maps provided and the discrepancy of the addresses mentioned in the proposal form, the Tribunal found that Mr Griffiths had made his intention clear as to what property he wished to appeal against.

37. Furthermore, the Tribunal noted that Mr Allen had highlighted the fact that there appeared to be anomalies with the addresses of individual units within that vicinity and he was arranging to discuss and resolve this issue with the Billing Authority for Newport.

38. In view of the above, the Tribunal determined that the proposal had been validly made in accordance with the List entry identified by the Billing Authority, R/O Unit 3 Port Road, Maesglas Retail Park, Newport NP20 2NS.

39. Appeal Allowed – Proposal Valid.

Certified a true copy on 10th March 2021.