

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mrs S Davies

Appeal Property: Cottages at Moel-Yr-lwrch Isaf, Nebo, Llanrwst

Appeal number: 690533589075/285NV17/11

The Matter Appealed against: Non-Domestic Rating Appeal

Date of Hearing: 10th February 2021

Appearances: Mrs S Davies (Appellant) & Mrs T Davies (For Respondent Valuation Officer)

Date of Decision: 15th April 2021

Decision of Tribunal: Dismissed

Members of the Tribunal: Mr A G Hallett (Chairperson), Mr A E Sangster & Mrs K J Thomas

Tribunal Clerk: Mr J Evans

1. On 10th July 2019, the Valuation Officer (VO) received a proposal from Mrs S Davies in which she asserted that the Rating List entry in respect of Cottages at Moel-Yr-lwrch Isaf, Nebo, Llanrwst was incorrect and should be altered.
2. Having decided not to well-found the proposal and as Mrs Davies decided not to withdraw the proposal, the matter was remitted to the Valuation Tribunal for Wales as an appeal.
3. In making her proposal, Mrs Davies contended that the single bed space unit (SBU) price that the VO had adopted for her property was excessive and proposed that a lower level of SBU should be applied. She also pointed out that the appeal property's exposed location meant that they were susceptible to disruption caused by flooding and heavy snowfalls.
4. 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 Appellant's Case

5. Mrs Davies purchased Moel yr lwrch Isaf in July 2010. At the time of purchase, the appeal property comprised a 4 bedroom farmhouse, which

is the family home, and some redundant stone farm buildings. A successful planning permission ensured that two of the buildings, the old stable and a milking parlour, was converted into holiday cottages.

6. Once the conversion of the barns into two bedroomed holiday cottages was completed, the VO inserted the appeal properties into the Rating List on 18th August 2015. The combined Rateable Value was £6,000. Mr and Mrs Davies completed the conversion of a third cottage, “Ysgubor Iwrch”, in April 2018. Like the first two units, the new unit also slept four persons in two bedrooms. The VO inserted the property into the Rating List in August 2018. The three two bedroomed cottages were allocated a combined Rateable Value of £9,000, which devalued to £750 per single bed space.
7. Mr and Mrs Davies decided to appeal the revised value because they knew of other cottages local to their own property with similar bed space apportionment and which had been allocated a lower price per single bed space.
8. The VO offered to reduce the valuation to £8,400 which was based on an adjustment to the quality assessment of the property. An end allowance of 20% was subsequently made to the assessment which reduced the RV further to £6,720. The VO rounded to RV £6,700. Mrs Davies told her that the location aspect of the valuation was regarded as “good” and could not be altered.
9. Mrs Davies eschewed the offer advanced by the VO prior to the hearing and decided to pursue the appeal. In pursuit of a reduction to RV £6,000, Mrs Davies made the following points –
 - a. Although the appeal property is located in the popular tourist attraction of the Snowdonia National Park, it’s altitude of 900m above sea level generally meant more inclement weather caused problems, particularly during the off-peak months. Mrs Davies acknowledged that the location in which they were situated was rural and that access to it was done via narrow roads. However, she considered that this might deter prospective clients from visiting. The position and elevation of the subject property also meant that a reliable wi-fi connection could not be offered to their guests (see Comparison Evidence Table - row 14). Moreover, the prospect of taking bookings in the out of season period was hampered because they were unable to instal hot-tubs.
 - b. Mrs Davies considered that a location factor of ‘fair’ would be commensurate with the property’s rural setting.
 - c. Mrs Davies said that if the RV was reduced, the busines would be placed on a more level playing field with competing businesses in the same area. With regard to the ‘Quality’ element of the rating

assessment, Mr and Mrs Davies believed that the cottages were more closely aligned with those of her “Comparison Evidence Table”. The comparable properties contained in the schedule related to Llanerch Goch and Benar. Mrs Davies said that she could not understand why her cottages were allocated a higher RV than Llannerch Goch Luxury Cottages because the appeal properties were not of a higher standard. Furthermore, the location of Moel-Yr-lwrch Isaf was in a less favourable location to her comparable properties. However, when the valuations of the comparable properties were put to the VO, the response was that they had been under assessed. As a corollary, Mr and Mrs Davies alleged that by saying this, the VO had impugned the rating list.

- d. The offer that the VO had put to them in October 2019 to reduce the Quality Aspect of the cottages from an ‘A’ to a ‘B’, thus reducing the Single Bed Space from £750 to £700 did not, in Mrs Davies’ opinion, correlate with the revised valuation that the VO awarded to Llannerch Goch Luxury Cottages in October 2019. Mrs Davies said that she had been told that the 20% ‘End User Allowance’ would be applied until the end of this current Rating List.
- e. Since in their view the Cottages at Moel yr lwrch Isaf were in a less advantageous position than Llannerch Goch Luxury Cottages suggested that the SBU should be reduced to £500.

10. Mrs Davies said that the cottages at Llanerch Goch, were almost identical to the subject properties in term of the following aspects:

- a. Two of the units were rated at five stars whereas the other was rated as a four star unit.
- b. Each cottage sleeps four people in two bedrooms.
- c. Each cottage has two bathrooms.
- d. The price range of the cottages are similar to ours.
- e. The four star cottage in Llannerch Goch was unable to achieve a five star rating due to the size of the twin bedroom. She added that her four star cottage did not attract a five star rating due to the size of the bedrooms, especially as the king size bed has had to have it’s legs removed to fit under the eaves. The size of the en-suite bathroom is also a factor in not achieving a five star rating. This has affected the rate we are able to charge for this cottage for a number of reasons (eg accessibility)

11. Mrs Davies said that the differences between these properties were –

- a. Mrs Davies maintained that guests at the subject property had to walk half a mile up the road where a signal could be found in order to check for mobile phone signal.
- b. Llannerch Goch provide a reliable broadband connection for guests. Mrs Davies explained that they were unable to receive broadband

via the telephone line because of its distance from the exchange. However, to circumnavigate the problem, Mr and Mrs Davies installed equipment at great expense so that a wi-fi service, albeit unreliable, and sometimes non-existent could be offered to clientele.

- c. Mrs Davies explained that bookings are limited in winter due to the fact that people can be put off by the narrow, steep roads leading to our property which are regularly flooded due to poor Conwy Council maintenance of culverts and drains. While the thought of staying out in the sticks may appeal to some people the reality of driving on a steep, narrow, un-gritted road in the winter will put a lot of people off!

12. In view of the foregoing, Mrs Davies asked the Tribunal to reduce the RV to £6,000.

13. In her evidence, Mrs Davies established her qualifications and years of experience as a professional valuer. She said that her case would be given in a dual role as advocate and expert witness.

14. In the role as advocate, Mrs Davies outlined the scope of the proposal, the nature of the dispute which existed and referred to the statutory definition of Rateable Value which begins at the valuation of a non-domestic hereditament.

15. With this in mind, Mrs Davies outlined the issues that were in dispute. They were –

- a. The price of £750 per single bed space that the VO had adopted for the subject property was inaccurate.
- b. properties located off unclassified road between Capel Garmon and Nebo
- c. Poorly maintained Council road
- d. No street/road lighting
- e. unfairness in paying similar business rates as other businesses which are better serviced.
- f. Private water supply
- g. Located close to Orsedd Wen Fawr and Llwynau so expectation that the subject would be valued the same.
- h. Comparable properties that had been provided included the following:-
 - i. Ty Gwyn Cottages, Llangwm, LL21 0PU Sleeps 18 - £425/unit
 - ii. Orsedd Wen Fawr, Nebo, LL26 0TF Sleeps 6 - £450/unit
Llwynau, Capel Garmon, LL26 0RR Sleeps 9 - £500/unit
 - iii. Pennant Farm, Carmel, LL26 0PD Sleeps 14 - £500/unit

- iv. Cottages at Benar, Penmachno, LL24 0PS Sleeps 12 - £500/unit
- v. Arwel, Capel Garmon, LL26 0RW Sleeps 7 - £550/unit Bryn Gwnog, Nebo, LL26 0RT Sleeps 5 £600/unit
- vi. Penrhyddion, Betws y Coed, LL26 0RU Sleeps 9 - £600/unit
- vii. Llannerch Goch, Capel Garmon, LL26 0RL reclassified from £725/unit to £560/424/unit

16. The statutory basis on which a rating valuation is undertaken is made in accordance with Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 (the Act) 2(1). This stated –

The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from local 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.*

And if subject is a composite property or partially exempt –

(1A) The rateable value of a composite hereditament none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of subparagraph (1) above, would reasonably be attributable to the non-domestic use of property.

(1B) The rateable value of a non-domestic hereditament which is partially exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of subparagraph (1) above, would, as regards the part of the hereditament which is not exempt from local non-domestic rating, be reasonably attributable to the non-domestic use of property.

17. Mrs Davies referred to the Rating Lists (Valuation Date) (Wales) Order 2014, which established 1st April 2015 as the day by reference to which the rateable values of non-domestic hereditaments are to be determined

for the purposes of local and central non-domestic rating lists which are to be compiled for Wales on 1st April 2017.

18. Mrs Davies explained that for the 2017 Revaluation List, the VOA worked closely with the English Self-Catering Industry to develop schemes of valuation that can be more easily understood by the ratepayer. From this collaboration, self-catering single units and complexes for up to four units in size were considered in respect of their location and quality.

19. With regard to location properties were placed into one of the following categories –

- a. Category 1 – is regarded as a prime location, being a highly sought after area or 'hot spot' for self-catering. It may have tourist attractions and areas of outstanding natural beauty, seaside or historic market towns and cities. Properties in a prime location will command very high tariffs and have very high occupancy levels, even at off-peak times.
- b. Category 2 – related to property in which the majority of self-catering properties will be situated and may be described as good. It will offer a wide range of popular and well established amenities and may be near tourist attractions and areas of natural beauty. Vacancy rates will be low at 'peak' times.
- c. Category 3 – relates to locations that are usually situated further away from tourist attractions and amenities. Tariffs will be lower than prime and good locations and generally properties will be slightly harder to let.
- d. Category 4 – relates to location which will usually have a low number of self-catering properties. The location may have close proximity to non-residential buildings or have other inherent factors which impact on its appeal. In these locations, properties will be difficult to let, have low tariffs and achieve low numbers of lets.

20. Mrs Davies pointed out that valuers must take care to ensure that self-catering properties are properly determined in respect of their location categories.

21. With regard to quality, Mrs Davies pointed out that the valuer must make a judgment on the physical attributes of the property in accordance with the following –

- a. Category A - A High quality modern or modernised properties significantly above average attractiveness/value for the type/location. The property may be detached, offer parking, additional bathrooms, additional reception rooms, very well-

maintained gardens and facilities significantly above standard accommodation. A comparatively high level of investment in maintaining and presenting the property will be required to achieve maximum tariffs.

- b. Category B - Most properties will fit into this category, which may be described as 'standard'. These properties will have the typical range of facilities for a self-catering property, without the distinguishing features of Category A. They will usually have central heating and double glazing and a reasonable quality kitchen and bathroom.
- c. Category C - These are basic properties below 'standard' quality. There will be a low level of investment in maintaining and presenting the property. Room sizes will typically be smaller, with shared facilities. There will be a lack of all standard facilities such as heating, double glazing and an absence of any modernisation. Very few properties will meet the criteria of this category.

22. In view of the foregoing, Mrs Davies said that the percentage to be adopted for categories A, B and C were 11%, 13.5% and 16%, respectively. Consequently, Mrs Davies proposed a reduction to £6,700 Rateable Value.
23. Mrs Davies said that for self-catering complexes that comprised three to four units, the same approach as that referenced above should be used although an end adjustment of 30% for four-bedroom units and 20% for three bedroomed ones, should be adopted so as to smooth transition between valuation schemes. However, for larger complexes, which tended to be more efficient to operate, those with more than four units – she said that the correct approach was by reference to an analysis of gross receipts.
24. Upon review of the appeal, Mrs Davies said that she had re-classified the units as average which reduced the price per bed space to £700. Moreover, due to the complex nature, that is multiple units on site, an end allowance of 20% had also been applied in line with the guidance in the rating manual and established tone for 3 unit complexes.
25. The values applied reflects the location, number of bed spaces and overall quality of accommodation and has been derived from analysing Fair Maintainable receipts of all self-catering properties that were entered into the rating list as at 1st April 2015.
26. A cross reference simplified receipts valuation is not possible on the subject as the third unit only became rateable in August 2018 and not enough trade data is available.

27. Mrs Davies added an end allowance of 20% and will remain for the life of the 2017 Rating List.
28. Larger units or those providing more bed spaces are valued at a lower rate as the evidence indicates that quantum should be applied. This is due to the larger number of voids for the larger units.
29. With regard to the comparable properties advanced by the appellant, Mrs Davies said that those large units which provided more single bed spaces in a single unit benefitted from a quantum element to the single bed space price brought about by the amount of “voids” during the peak season and throughout the year. She also pointed out that the trade information that was available to the VO supported such an approach.
30. Whilst she appreciated there was a disparity between assessments, Mrs Davies said that several of the comparable properties had not been inspected by the Valuation Officer for some time, and it was possible that refurbishment had taken place, which might have improved its quality. She also drew to the Tribunal’s attention the VO’s reliance on information advanced by ratepayers in the statutory forms of return notices. However, she pointed out that these forms were not always accurately completed.
31. In VO6 of her evidence, Mrs Davies referred to a number of other self-catering comparable properties situated in Conwy Borough Council. These demonstrated a difference in price per bed space dependent on the number of single bed spaces in a single unit. Mrs Davies confirmed that the two properties that the appellant had referred to in her evidence were not referred to in the VO’s bundle of evidence because they have not been appealed. However, she said that the ratepayer’s concerned had requested a review of the valuation, which was undertaken on a valuation office report. As a corollary, they were not included in her schedule of settlements which she produced at the hearing.
32. With regard to the subject property, Mrs Davies said that she was unable to undertake a simple cross reference or a sensitivity valuation check because trading information to reflect the period that the additional unit came into existence (in 2019) was unavailable.
33. Mrs Davies supplied the valuation of comparable properties as well as details of settlements that had transpired on other competing properties. One of the settlements that Mrs Davies highlighted was of a ten roomed property at 40 Trinity Avenue, Llandudno. She explained that whilst this property was not comparable with the appeal property in terms of its location, its adopted bed space of £800 reflected how the VO dealt with issues related to quantum. She said that by way of a comparison the bed space value attributed to a smaller four bedroomed property was £1,100.

34. Mrs Davies accepted that there was a scarcity of “like for like” comparable properties which made producing an exact price difficult. To this end, she referred to VO6 of her schedule of evidence which showed valuations of Ty Gwyn, Ty Nant; Orseddwen Fawr, Nebo; Llwynau, Capel Gamon; Pennant Farm, Carmel; Cottages at Bennar, Penmachno and Arwel, Capel Garmon; Bryn Gwynog, Nebo; Penrhyddion Pellaf, Capel Garmon and Llanerch Goch. Dependant upon location and quality, the bed space values for these properties were between £425 to £850.

35. Mrs Davies made the following comments about each of these properties

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Ty Gwyn

3 x units valued as location category 3 - good quality accommodation and £425 for unit 1 reflects quantum. large properties have higher vacancy rates than smaller units. last inspected 2016

Orseddwen Fawr, Nebo

1 x unit valued on location category 2 and on basic quality last inspected 1999.

Llwynau, Capel Gamon

1 x unit valued on category 2 location and on basic quality, last inspected 1999.

Pennant Farm, Carmel

1 x unit valued on category 2 location on good quality price reflects quantum larger units have higher vacancy rates. Property brought into Council tax with effect 20-Apr-2020 as no longer commercially let.

Cottages at Bennar, Penmachno

3 x units valued on category 2 location and basic quality last inspected 1999

Arwel, Capel Garmon

1 x unit valued on category 2 location and good quality last inspected 2014 (larger unit element of quantum reflected in price)

Bryn Gwynog, Nebo

1 x unit valued on category 2 and good quality - desktop review to bring into rating list in 2018

Penrhyddion Pellaf, Capel Garmon

3 x units valued on category 2 location and good average quality

Llanerch Goch, Capel Garmon

3 x units valued on category 2 location and average quality - reduction due to 20% allowance for 3 x units to reflect complex (The quality for the Coach House is noted as being basic on office records, hence the reduced price per single bed space). Its first floor bed space valuations to the

“Coach House”, “Siabod” and “Tryfan” were £424, £560 and £560, respectively.

36. Mrs Davies valuation for the subject property was set out as follows –

Floor	Description	Area m2/unit	£ per m2/unit	Value (£)
Ground	Single bed space	4	700	2,800
Ground	Single bed space	4	700	2,800
Range of Floors	Single bed space	4	700	2,800
Valuation sub total				8,400
Adjustments made to sub total				
3 unit self catering accommodation			-20%	-1,680
Total				£6,720

If a 20% allowance was given at the survey unit, the valuation was set out as follows –

Floor	Description	Area m2/unit	£ per m2/unit	Value (£)
Ground	Single bed space	4	560	2,240
Ground	Single bed space	4	560	2,240
Range of Floors	Single bed space	4	560	2,240
Valuation sub total				6,720
Total				£6,720

37. Mrs Davies considered that her valuation for the subject property was done having had regard to location, quality and overall size. As a corollary she asked the Tribunal to confirm a revised valuation for the subject property of Rateable Value £6,700 with effect from 1st April 2017.

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

Decision of the Tribunal

39. Having considered all of the evidence placed before it, the Tribunal decided to allow the appeal, but only to the extent that the VO had conceded in her case. In arriving at its decision, the Tribunal gave the following reasons:
40. For the purposes of Rating, the hereditament must be valued on the assumption that the whole was vacant and to let on 1st April 2015; this being the Antecedent Valuation Date. The Tribunal was mindful of the statutory basis of valuation as prescribed by the definition of Rateable value as set out in the respondent's case and is referenced in paragraph 16, above.
41. Whilst matters associated with locality were generally regarded as subjective, there was little doubt that, as remote as the subject property appeared to be, it was in a picturesque location. Despite this, the Tribunal recognised that there were certain issues which the appellant considered were detrimental to her business, such as the poor broadband coverage and access, it was, for rating purposes, required to have regard to the hypothetical tenancy rather than those of the actual ratepayer.
42. The basis on which the subject property's appeal was made was on an analysis of trade from competing properties in and around the area of the subject property. The Tribunal accepted that the figures derived from form of return information supplied by ratepayers was not always accurate and that from time to time, an examination of RV, brought about through rating appeals, would be expected. To this end the VO's statutory duty to maintain the Rating List should not be confused with it being impugned. In any event, Mrs Davies had explained how the alterations came to be made and given her duty to maintain a compiled list, the Tribunal was not persuaded that the list had been impugned in this instance.
43. There was also no dispute between the parties on the information that was relied upon to determine the appeal property's value. The issues that separated them was the value of the SBU that was used by the VO when the entry was first inserted into the Rating List. In this case, the VO had relied on a SBU value of £750 but had proposed a reduction of £700 per DBU and an additional 20% to be applied, which if applied at the survey unit, provided an SBU value of £560. Either way, the resultant and revised RV was £6,720 which Mrs Davies rounded down to RV £6,700, to be effective from 1st April 2017.
44. The appellant's main thrust for a reduction beyond that which the VO had conceded was that the valuation did not adequately reflect its location, amenities or description. The appellant considered that had the VO properly considered such matters, then the conclusion would have been to

regard the property as “fair”. The appellant had also pointed out that competing properties, most notably Llanerch Goch, was described as luxury but was valued at a lower bed space value than the subject property. In her evidence for the respondent, Mrs Davies had confirmed that previous categorisation of the property at “A” in respect of Quality had been reduced to “B” (see point 23). However, in terms of location, the VO had ascribed “Category 2 which, the Tribunal considered, adequately described the nature of the appeal property’s location.

45. In order to undermine the VO’s revised assessment, the appellant was required to show that the basis on which it was made was, in some way, flawed. Whilst both parties had referred to comparable evidence to support their respective position, the Tribunal accepted the point the respondent had made about them in that due to their composition and it was difficult to make a comparison purely on a like for like basis mainly because they did not sit within the same location or that they might be further away from tourist attractions. The Tribunal had noted that in the instance of Llanerch Goch, the quality of the “Coach House” had been recorded as being “Basic” and the valuation in terms of its SBU value simply followed such an assessment.
46. With regard to the Cottages at Benar, the Tribunal did not consider these made an appropriate comparison with the appeal property because the three units were described as basic and their values reflected that, whereas the subject properties were deemed to be better.
47. Whilst the issues Mrs Davies referred to in her schedule of evidence that compared the appeal property with Llanerch Goch and the Cottages at Benar, the Tribunal did not think that, apart from Broadband coverage, that the subject property was particularly disadvantaged. It appeared to the Tribunal that guests at the subject property could expect to drive to the village as they too were between 2.3 and 3.9 miles away. The appeal property was shown to be 4.2 miles away. However, the appellant had stated that she and her husband had upgraded the broadband, whilst also accepting that it was not as good as other offerings made elsewhere.
48. In its conclusion, the Tribunal considered that the VO’s revised valuation of the appeal property, which factored in a reduction of 20% to the survey price that effectively reduced the price to £560 per bed space value was on a par with what it considered was on a level with those properties immediately near it.
49. The Tribunal had not been persuaded by the strength of the appellant’s case that the disadvantages had not already been factored into the VO’s revised valuation for the subject property. The Tribunal considered that the evidence advanced by the VO fairly reflected its location and amenities. To find further fault in the VO’s valuation ventured into the realms of

subjectivity because a person's likes and dislikes will vary. In light of this, the Tribunal did not consider that a reduction by a further £600 RV was merited in this case.

50. In view of the foregoing, the Tribunal allowed the appeal to the extent the VO has sought for in this appeal and orders that an alteration is made to the Rating List commensurate with this decision.

Decision of the Tribunal: £6,700 Rateable Value with effect from 1st April 2017.

Certified a true copy on 15th April 2021