

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mrs J Dale

Appeal Property: Sids Supermarket, 9B Heol Bryngwili, Cross Hands, Llanelli SA14 6LR

Appeal number: 682933181667/285NV17

The Matter Appealed Against: 2017 Rating List

Date of Hearing: Friday 9th July 2021

Appearances: Mrs TS Davies (for the respondent Valuation Officer)

Date of Decision: 27th July 2021

Decision of Tribunal: Appeal dismissed

Members of the Tribunal: Mr B Al-Khanchi (Chairperson), Mrs L Thomas & Mrs J Worswick

Tribunal Clerk: Mr G Harris

Introduction:

1. The appeal under consideration followed a proposal made by Mrs Dale in respect of Sids Supermarket, 9B Heol Bryngwili, Cross Hands, Llanelli SA14 6LR which the respondent Valuation Officer received on 13th November 2017. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £22,250 to £10,250 with effect from 1st April 2017.
2. The appeal had previously been postponed from a hearing on 29th January 2021 at the appellant's request in order that additional evidence could be provided to the Valuation Officer. Mrs Dale was unable to attend the hearing to present her case and requested that the Tribunal hear and determine the appeal in her absence.
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. Mrs Dale did not provide a written submission or additional evidence to the tribunal in support of her proposal, as such the clerk presented her proposal to the tribunal for consideration. In her proposal Mrs Dale wrote –

Firstly our postal address is incorrect on the website. The correct post code is SA14 6LR.

Our property details show our retail area b has been valued at £70 per m whilst other properties are only paying half the price. As were we in previous years. Our retail area c has been charged to £70, previously only paying a quarter at only £20.

I have included sheet A which shows our breakdown in 2014 and sheet B shows our breakdown in 2017.

Our internal storage has gone up to £70 but we were previously paying £7.60.

Our total rateable value has gone up from £10,250 to £22,250. This substantial jump has made our business rates double and we are struggling to afford this. I have also included sheet C, D and E which are on the same road. I am including sheet F which is a comparable shop and premise (convenience shop)

We feel the changes made are unreasonable, and we would have to consider losing staff to make these additional payments.

5. To support her proposal, Mrs Dale included valuations relating to the 2010 and 2017 Rating List entries of the appeal property, together with the valuations of 1, 3 and 5 Heol Bryngwili and that of Upper Tumble Stores.
6. Mrs Davies explained that the appeal had been reinstated on 23rd November 2018 following a dismissal at a previous hearing under Paragraph 30(4) of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005. She provided the tribunal with a timeline outlining correspondence sent to the appellant and explained that despite numerous attempts by the Valuation Officer to initiate discussions none had taken place between the parties. Although the case had previously been postponed for the appellant to provide new evidence, this had not been received and Mrs Davies stated that she would therefore be responding based upon the information provided in Mrs Dale's proposal.
7. Mrs Davies provided the tribunal with a photograph of the appeal property together with plans of its location and layout. It was located on Heol Bryngwili, Cross Hands a short distance from Cross Hands Square shopping centre. The property had an area of 319.92m² and was occupied as a convenience store.

8. Mrs Davies explained that the property had been valued as a convenience store in line with Section 6, part 3 of the Rating Manual with trading area of less than 280m². It had been measured to GIA in line with the Code of Measuring Practice, the retail space equated to 145.50m². As there was no rent passing on the subject property regard had been given to settlements on comparable properties and the tone of the list. A basket of evidence had been considered.
9. The comparable properties provided by Mrs Dale with her proposal were smaller units valued on a retail basis using a zonal method. Mrs Davies explained that the original valuation of the appeal property had also been undertaken using a zoned basis however this had been corrected to an overall basis, both valuations were provided in her evidence.
10. To support her valuation Mrs Davies referred to the following schedule of rental information which she contended fully supported the unit value of £70/m² used in the valuation of the appeal property.

Address	Total area m ²	Effective date of rent	Passing rent (£)	Adjusted Rent (£)	RV (£)	Analysed rent £/m ²	Unit Value £/m ²
62/62A Heol Morlais, Trimsaran	242.22	22-Sep-12	42,890	38,890	19,250	160.56	80.00
Premier Stores, Southgate	161.40	13-Dec-14	12,000	11,580	14,000	94.86	90.00
Co-op, 30 High St, Llandybie	283.59	15-Aug-15	50,000	48,011	42,500	180.31	160.00
Unit 1, 43-47 Eaton Rd, Brynhyfryd	242.19	31-Mar-14	23,210	20,552	20,500	84.86	80.00

11. Mrs Davies provided the tribunal with a table of settlement evidence highlighting similar sized convenience stores within the locality, with unit values of £55-90/m² which had been subject to appeals and either settled prior to a tribunal hearing or dismissed at a tribunal which she contended further supported the tone of the list.
12. Mrs Davies contended that it was for the appellant to prove her 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.”

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 her proposal the appellant had contended that the Rating List was inaccurate and that her 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.
16. In her proposal Mrs Dale had referred to differing values being applied to the valuation of various areas within the store. Mrs Davies had contended that rather than being valued on a zonal basis the property should be valued on an overall basis as a convenience store. After considering the evidence provided by Mrs Davies to support her valuation, the tribunal decided that the Valuation Officer had been correct to value the property as a convenience store as defined in The Rating Manual and on an overall basis using GIA measurements.
17. The Tribunal accepted that the overall value of £70/m² used by Mrs Davies in her valuation of the property was in line with similar properties in the locality and had been supported by rental and settlement evidence. The appeal was dismissed.

Certified a true copy on 27th July 2021.