

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr Steve Hopkins

Appeal Property: The Bed Shop, 14 Market Street, Haverfordwest SA61 1NH

Appeal number: 684533445170/285NV17

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: 6th August 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 Mr Hopkins in respect The Bed Shop, 14 Market Street, Haverfordwest SA61 1NH which the respondent Valuation Officer received on 30th April 2019. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £6,300 to £5,800 with effect from 1st April 2017.
2. Mr Hopkins did not attend the hearing but requested that the Tribunal hear and consider the appeal in his 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. Mr Hopkins did not provide any supplemental evidence to the Tribunal in support of his contentions but requested that the Tribunal consider the evidence provided with his proposal. In an email to the VTW on 25th January 2021, Mr Hopkins wrote –

My attachment to the VOA of the 26th April 2019 forms the basis of my appeal. My reference to "highlighted in red" I no longer have access to; however the VOA will have the original showing the appalling state of some of the empty properties particularly those nearest me.

*Essentially within 50 metres of my property, 14, Market Street, the following properties are unoccupied, some now for nearly **14 years**:*

1, Market Street, 2, Market Street, 3, Market Street, 5, Market Street, 7, Market Street, 8, Market Street, 10, Market Street, 12, Market Street, 26, Market Street.

Whilst I have recently been sent alleged rentable values of properties in my area by the VOA, no consideration has been given for the obvious negative affect of the physical state of the locality which, with close to 50% of the available stock being empty, would have on any chance of us obtaining a notional rental value for my property as they have decreed.

The VOA "Information To Be Used In Evidence" is further flawed as they maintain that 2, Market Street has a rateable value of £7516.00, when in fact it has never been occupied since it's construction in 2006.

I would be most grateful therefore for your consideration that our Rateable Value of £5,800 be reinstated.

5. Mr Hopkins' detailed reasons for believing that the RV of his property should be altered were –

26th April 2019

My detailed reason for challenging this revaluation, is that there has been no improvement in trading circumstances or take up of vacant property to let, since the last revision, to warrant any increase in rateable value.

If anything, there has been a decline in the local economy, and I fail to understand what viable criteria has been employed to arrive at a near 10% increase. Even the Charity shop at the top of the street has a sale on!

As can be seen from the attached photographs, 4 properties, either adjacent or opposite to mine, have been vacant and not let for over 12 years. 3 of those have been actively marketed by a local estate agent for that period. I have also listed others below, most within 50 metres.

Properties unlet for 12 years highlighted in red on attached map.

The revaluation from £5800 to £6300 has cynically moved us into a band where we are not automatically eligible to avail ourselves of The Welsh Assembly 100% Rate Relief.

I would, therefore, be grateful for a pragmatic approach to this matter, and have our Rateable Value returned to £5800

6. In addition, Mr Hopkins provided a map of the locality together with a list and photographs of unoccupied properties along Market Street. Those unoccupied for over 12 years included numbers 2, 8, 10/12, 7-7a, 1 and 7-11 Market Street and had been highlighted in red. 11, 26, 34, 13 and 15 Market Street were also unoccupied, 20 Market Street was a Pop-up shop occasionally open for 1 day a week.
7. Mrs Davies explained that the appeal had been postponed from a previous hearing in January 2021 at the VO's request due to the late notification of the appellant wishing his appeal to be heard, however since that date there had been no discussions between the parties despite attempts by the VOA to initiate contact. A list of correspondence sent to the appellant was provided to the Tribunal. Mrs Davies stated that although there had been no discussions, she had undertaken a full review of the available rental evidence.
8. Mrs Davies provided the tribunal with a photograph of the appeal property together with plans of its location and layout. It was located on Market Street, Haverfordwest, and comprised retail, office, and ancillary stores.
9. Mrs Davies explained that Schedule 6 of the Local Government Finance Act 1988 (LGFA) set out the main provisions in relation to valuation for non-domestic rating. To determine the RV of a hereditament for both the compilation and maintenance of a rating list, the day by reference to which the determination is to be made (the valuation date) is by paragraph 2 sub-paragraphs (3) and (4) of Sch 6 either
 - (a) the day on which the list must be compiled, or
 - (b) such day preceding that day as may be specified by the Secretary of State by order in relation to the list.

For all rating lists compiled post 1990 a day preceding the compilation date had been set, in all cases the date preceded the compilation date by 2 years and had become known as the antecedent valuation date (AVD). It was assumed that the hypothetical tenancy began on the day by reference to which the determination is to be made, i.e. the AVD. Whilst the tenancy was assumed to commence on the AVD and the rental value determined at that date, under the provisions of Schedule 6 par 2 (5) and (6) certain specified matters are taken as they exist at the compilation date, or 1st April 2017.

These matters, which are the only factors not to be taken as at the AVD, were typically referred to as 'physical factors' and were set out in paragraph 2(7) -

- (a) matters affecting the physical state or physical enjoyment of the hereditament
- (b) the mode or category of occupation of the hereditament
- (c) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there, and
- (d) the use or occupation of other premises situated in the locality of the hereditament

10. Mrs Davies explained that the vacant units referred to by Mr Hopkins within his proposal had been reflected within the tone adopted, the tone having been derived from passing rent at or near the AVD for secondary retail areas of Haverfordwest. The rents passing on nearby units supported the tone of £120/m² and as such Mrs Davies stated she was unable to agree to the reduction requested by the appellant. As the RV reflected the hypothetical value she was unable to consider matters which were not physical as detailed above.
11. To support her valuation Mrs Davies referred to the following schedule of rental information relating to properties situated on Market Street and High Street, Haverfordwest, which she contended fully supported the unit value of £120/m² used in the valuation of the appeal property. She noted that all the comparable properties consisted of ground floor retail space, with some having offices above

Address	Total area m ²	Effective date of rent	Passing rent (£)	Adjusted Rent (£)	Analysed rent £/m ²	Unit Value £/m ²	RV (£)
28 Market St	107.1	1/4/14	7,800	7,137	125.23	120.00	6,800
22 Market St	93.1	20/5/14	5,000	4,750	117.52	120.00	4,800
17a High St	47.7	1/3/15	4,200	3,989	103.40	120.00	4,600
30 Market St	39.3	1/8/15	5,400	4,671	145.51	120.00	3,850
2 Market St	89.3	1/1/16	7,516	6,879	105.67	120.00	7,800
6 High St	47.51	1/1/16	4,800	4,392	158.16	120.00	3,300
32 Market St	19.34	1/5/16	3,480	3,356	173.53	120.00	2,300

12. Mrs Davies empathised that the number of empty properties may have a detrimental effect on trade but noted that under the Legislation she had to consider the rental information available when valuing the appeal property. As such Mrs Davies was of the opinion that the current tone of £120/m² was fair and reasonable and supported by the available rental evidence and requested that the Tribunal dismiss the appeal.
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 Mr Hopkins had contended that the Rating List was inaccurate, and his RV should be reduced to £5,800. In cases such as this higher court authorities had accepted the burden of proof rested with the appellant on the basis that 'he who asserts must prove'. Moreover, it was an accepted tenet of law that any assertions made before a Tribunal should be underpinned by evidence. 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 alter the Rating List.
16. The Tribunal emphasised with Mr Hopkins in that the large number of empty properties may affect his trade however noted that he had not provided any evidence to substantiate this, nor had he provided any evidence to undermine the Valuation Officer's valuation of the property.
17. Although Mr Hopkins had contended that the empty properties would negatively affect the rental value of his property the Tribunal believed that this had not been reflected in the passing rents highlighted by Mrs Davies in her evidence.
18. The Tribunal considered that the Valuation Officers adopted unit value of £120/m² was in line with similar properties in the locality and saw no reason to depart from this. With this in mind the Tribunal dismissed the appeal.

Certified a true copy on 6th August 2021.