

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant (1): The Restaurant Group (UK) Limited
(2): Mitchells & Butlers Plc

Appeal Address (1): Frankie & Bennys, Newport Retail Park, Spyttty Road,
Newport. NP19 4QQ
Restaurant and Premises.
(2): The Harvester, Newport Retail Park, Spyttty Road,
Newport. NP19 4QQ
Restaurant and Premises.

Appeal numbers:

(1): 693533528068/285NV17 – RV £83,500 wef 1st April 2017

(2): 693533485469/285NV17 – RV £93,000 wef 1st July 2017

Date of Hearing: 2nd September 2021

Appearances: Mrs Smith representing the Valuation Officer,
Mr Johnstone representing Colliers.

Date of Decision: 29th September 2021.

Decision of Tribunal: Appeals Dismissed.

Members of the Tribunal: Mr Uzzell (Chair), Mr Pyrke and Mrs Thomas

Tribunal Clerk: Mrs J Blizzard-Phillips

Decision:

1. The Tribunal had to determine whether the existing rate of £230/m² that had been used to value the appeal properties was correct.
2. For the 2010 Rating List, properties on Newport Retail Park were originally valued at a rate of £241/m², however, this was reduced to £211/m² (a 12.5% end allowance) as a result of a MCC; namely the opening of Friars Walk. Based on rental evidence, Mr Johnstone requested that the current rate of £230/m² used to value the appeal properties for the 2015 Rating List be decreased to £185/m² to reflect the same MCC.
3. Mr Johnstone submitted that the nil increase for the 2015 rent review on Pizza Hut confirmed the ceiling rent of that property and not its true rental value, which he had devalued to £221/m². Whilst the December 2010 rent review for Pizza Hut at £72,160 was agreed with no knowledge of Friars Walk, the Tribunal noted that the 2015 rent review was undertaken with full knowledge that new restaurants were coming to Friars Walk, yet parties had agreed to extend the lease by a further six years with the tenant benefitting from 12 months half price rent from July 2016 and then in December 2018, the rent being increased to £75,000. The Tribunal

agreed with Mrs Smith that due to the considerable incentive and the lease being extended for 6 years, it was appropriate to devalue this rent to 2025, which analysed to £234.77/m²; this being in line with the £230/m² used to value the appeal properties.

4. The established caselaw of *Lotus & Delta Ltd v Culverwell (VO)* and *Leicester City Council* confirms the hierarchy of evidence when considering a property's rental value, with the first step being to consider the rent of the actual appeal property. Planning permission had been granted for Friars Walk in March 2012 whilst five new restaurants were announced in October 2013. The Tribunal considered that Harvester (one of the appeal properties) would have taken this into account when considering its rental bid in November 2013. This rent devalues to £249.70/m²; some £20/m² less than the current rate adopted to value it.
5. A new lease had been signed in relation to Tiffins (Unit 27) on 13th November with the rent for years 1-5 being £65,000 with fixed uplifts in years 6,11 and 16. Mr Johnstone submitted that the fixed uplifts gave less of a reflection of the property's true market rent as they were fixed regardless of market conditions and had analysed this rent at £183/m².
6. Mrs Smith had analysed this rent over the whole term of the lease which equated to £207.85/m². Considering that the property is older than the appeal properties, is semi-detached to a retail unit and had to be refitted and converted into a restaurant, and has a restricted use, the Tribunal found the £230/m² used to value the detached, newer appeal properties not to be excessive.
7. The Tribunal considered the turnover evidence to be inconclusive as to the effect of the MCC and of limited assistance when rental evidence was available. Whilst *Barnard & Barnard v Walker (VO)* confirmed that the Valuation Officer can apply a different differential in a new list with good reason. The Tribunal found that the rental evidence provided was enough to rebut the previous List's end allowance.
8. In conclusion, the Tribunal confirms the rateable value of £ 83,500 for Frankie and Benny's, Newport Retail Park, Spytty Road, Newport, NP19 4QQ with effect from 1st April 2017 and £93,000 for The Harvester, Newport Retail Park, Spytty Road, Newport, NP19 4QQ with effect from 1st April 2017.

Appeals Dismissed.