

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Pizza Express (Restaurants) Limited

Appeal Address(1): Unit 20, Newport Retail Park, Spytty Road,
Newport. NP19 4QQ
Restaurant and Premises.

(2): Unit 21, Newport Retail Park, Spytty Road, Newport.
NP19 4QQ.
Restaurant and Premises.

Appeal number (1): 693534898686/285NV17. RV £88,500 wef 1st April 2017

(2): 693533469144/285NV17. RV £75,000 wef 1st April 2017

Date of Hearing: 2nd September 2021

Appearances: Mrs Smith representing the Valuation Officer,
Mrs Worthy representing Gerald Eve
Mr Alder representing AG&G

Date of Decision: 13th October 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 £300/m² that had been used to value the appeal properties was correct.
2. For the 2010 Rating List, the appeal properties along with restaurant premises to the south of the 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. For the 2017 Rating List, whilst restaurants to the south side of the retail park had been valued at £230/m², the appeal properties were valued at £300/m². Mrs Worthy and Mr Alder requested that the appeal properties be valued at £230/m², to fall in line with the 2010 Rating List plus 10% for fit out and to reflect the opening of Friars Walk on 12th November 2015.
3. Mrs Worthy submitted that the rent on Pizza Express had been agreed in 2012 as a pre-let agreement, days after planning permission was granted for Friars Walk and prior to the known effects the MCC would have; there had been failed developments where schemes were given planning but had never materialised in the past. The nil increase for the

2019 rent review on Pizza Express confirmed that the rent passing was too high and not the property's true rental value.

4. Mr Alder submitted that both the appeal properties formed "Cluster 1" of restaurants located on the retail park with "Cluster 2" of restaurants being a short distance away. Mr Alder did not believe that either cluster was in a better or worse location.
5. Both Mrs Worthy and Mr Alder informed the Tribunal that the businesses running from the appeal properties had seen their trade decrease significantly since the opening of Friars Walk and that this information had been requested from the Valuation Office when the 12.5% reduction to reflect the MCC was agreed for the 2010 Rating List.
6. Mrs Smith informed the Tribunal that the appeal properties were on the north side of the retail park and that rental evidence close to AVD suggested that this area had a higher rental value. As a result, the appeal properties had been valued at a rate of £300/m².
7. The established caselaw of *Lotus & Delta Ltd v Culverwell (VO)* and *Leicester City Council* sets out the principles regarding the hierarchy of evidence with the rent passing on the appeal properties being the starting point. Whilst the rent for Pizza Express was initially agreed in 2012, the rent was then re-negotiated when the lease was signed in January 2014, with only a six-month rent-free period. The Tribunal found this to indicate that the landlord and tenant had re-evaluated the market and had agreed the new rent in light of the fact that five big chain restaurants had been announced for Friars Walk in October 2013. This rent devalues to £318.89, whilst the rent passing on Nandos effective from July 2014; almost a year after the five big chain restaurants were announced, analyses to £346.66/m² when taking it to the second review due to the generous 15 months' rent-free incentive. This is a considerable amount above the £300/m² used to value the appeal properties.
8. Whilst *Lotus and Delta* does provide that where rents of similar properties are available they too are to be considered, having considered the rental evidence in relation to the restaurant premises to the south side of the retail park, the Tribunal determined that the appeal properties were of a superior nature being newly constructed as opposed to the 1995 units to the south and were situated in a better location, being surrounded by many good quality retail premises.
9. The appeal properties had been valued at the same rate as all other restaurants on the retail park for the 2010 Rating List and a 12.5% allowance had been made to reflect the MCC, however, the Tribunal did not consider arguments relating to relativities between Rating Lists to be very relevant, especially as the properties were not built until 2014. The Tribunal agreed with Mrs Smith and held that the appeal properties' entries in the current Rating List must be based solely on

the relevant rental evidence; as case law determines, accuracy should not be sacrificed for uniformity.

10. In conclusion, the Tribunal confirms the rateable value of £ 88,500 for Unit 20, Newport Retail Park, Spytty Road, Newport, NP19 4QQ with effect from 1st April 2017 and £75,000 for Unit 21, Newport Retail Park, Spytty Road, Newport, NP19 4QQ with effect from 1st April 2017.

Appeals Dismissed.