

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Michael John Dawson agent for Arthur Llewellyn Jenkins

Appeal Property: Arthur Llewellyn Jenkins, Mwyndy Cross, Pontyclun CF72 9PN

Appeal number: 694029680605/541NV17

The Matter Appealed Against: 2017 Rating List

Date of Hearing: Tuesday 9th November 2021

Appearances: Mr A Habteslasie & Mr M Dawson (for the appellant) & Ms C Barlow & Mr N Holmes (for the respondent Valuation Officer)

Date of Decision: 2nd December 2021

Decision of Tribunal: Appeal allowed in part.

Members of the Tribunal: Mr S Hennah (Chairperson) & Mr G E Evans

Tribunal Clerk: Mr G Harris

Introduction

1. The appeal before the tribunal followed a proposal made by Michael John Dawson in respect of Arthur Llewellyn Jenkins, Mwyndy Cross, Pontyclun CF72 9PN which the respondent Valuation Officer received on 5th September 2017. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £432,500 to £325,000, amended to £257,000 at the hearing, with effect from 1st April 2017 on the following grounds –

The Rateable Value is excessive.

2. The appeal property comprised a retail warehouse built in 1995/6, of standard portal frame construction with brick and profile steel cladding, by the current occupiers to a good finish. The hereditament had a total area of 7192.24m² split over two floors. The ground floor used for retail and storage was 3614m² and the first floor comprising retail, storage and offices was 3578.24m². Externally there were 110 customer car parking spaces with delivery access and loading bays.
3. The matters for consideration by the Tribunal were the £/m² to be applied to the valuation in respect of the main space, the £/m² in respect of the mezzanine floor and its apportionment together with the value to be applied to the air conditioning system. In addition, the tribunal had to determine whether an end allowance was applicable to reflect any disadvantages.

4. The valuation under consideration had been produced in accordance with Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 which stated –

2(1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from 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.*

5. Schedule 6 also provided for the Antecedent Valuation Date (AVD), the date by reference to which the rateable value of the hereditament was to be determined, this was 1st April 2015 for the 2017 Rating List.

6. Case Law referred to in the appeal –

- Vines Ltd v Mauny (Valuation Officer) (2010)
- Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council (1974)
- Iceland Food Ltd v Berry VO (2016)
- Edma (Jewellers) Ltd v Moore (VO) (1975)
- Ladies' Hosiery and Underwear v West Middlesex Assessment Committee (1932)

7. 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.

Decision

8. Mr Habteslasie, referring to a schedule of comparable properties produced by Mr Dawson, explained that there had been a reduction in RV across the board between the 2010 and 2017 Lists, for example JH Leeks, Pontyclun had reduced by 67.53%, B&Q, Bridgend by 19.6%. This would have been reflected in the rental amount which the subject property would have achieved had it been vacant and to let. Mr Dawson contended in his submission that the 12.23% reduction between Lists, when compared to the comparables in better locations, was clearly unfair. Mr Dawson had adopted a value of £60/m², representing a reduction of 24% against the

2010 List in keeping with the schedule of evidence and reflecting the significant storage space.

9. Mr Habteslasie contended that the comparable properties used by the Valuation Officer were not truly comparable due to size and location, all except JH Leeke & Son were High Street retailers located on retail parks with better access and excellent infrastructure.
10. JH Leeke & Son, whilst not directly similar in terms of layout and size benefited from a clear advantage in terms of their assessment. Photographs highlighted that the approach for footfall and vehicle mirrored the subject property and it benefitted from a superior location. Although condition may be an issue, the assumption was that it was in a state of reasonable repair. There had been a reduction of 67.53% in its assessment from 2010 to 2017 and it benefitted from a 33% end allowance despite its access being superior to the appeal property. As the appeal property was not located in a recognised trading location, with a masked entrance and no prominence, Mr Dawson had adopted a 10% end allowance in his valuation.
11. A further schedule analysed the comparable percentage rates for mezzanine floors as a percentage of main space, ranging from between 11.53% to 33.33%. The substantial size of the mezzanine floor at the subject property would further reflect what a hypothetical tenant would pay. Mr Dawson had adopted a value amounting to 25% of the main space to reflect this. Mr Dawson had also discounted the rate applied to the air conditioning by 25% to reflect the fact that it was not a fully comprehensive system.
12. Mr Habteslasie contended that as the VOA had split the mezzanine floor into sales, storage and offices this should also be reflected in the valuation of the ground floor area. Mr Dawson's proposed valuation was as follows –

Description	Area/m ²	£/m ²	Value
Ground floor	3614.1	60.00	216,846
Mezzanine floor	3578.0	15.00	53,670
Air Conditioning	5026.99	3.00	15,078
Plant & Machinery			256
Subtotal			285,850
Less end allowance 10%			(28,585)
		RV	£257,000

13. Ms Barlow, responding to the appellant's case, explained that there was limited direct comparable rental evidence for similar properties in the locality. However, she had taken into account a schedule of retail warehouses as her starting point as they provided useful evidence in considering rental values at the AVD. Ms Barlow had also considered settlement evidence relating to assessments for the 2017 Rating List.
14. Ms Barlow had considered the disabilities highlighted by Mr Dawson in his contentions relating to a 10% end allowance but believed the nature of the

building, its location, size and standalone situation had been reflected within the revised rate of £65/m².

15. Referring to Mr Dawson's contentions relating to the mezzanine floor, Ms Barlow explained that such floors were constructed to varying standards of quality and finish, comprising typically of tenant's additions or improvements frequently built over large areas of available ground floor space. Therefore, they were valued on the quality of build rather than on a tonal basis. The Rating manual stated that in the absence of reliable evidence a 'backstop' approach is made, as illustrated within all the comparable assessments.
16. Ms Barlow was of the opinion that the appeal property fell within the category of best quality sales which attracted a backstop figure of £40/m², a 10% reduction had been applied for quantum which was appropriate for areas over 1750m², resulting in a rate of £36/m².
17. Ms Barlow did not believe a reduction in the unit rate applied to the air conditioning had been warranted as it had been working, with no indication that it was insufficient, when inspected. Hence, she had applied the backstop rate of £4/m².
18. Ms Barlow explained that the assessment J H LeeKe & Sons Ltd, Pontyclun had been appealed and agreed at £38/m². The building had previously been a factory built approximately 60 years ago and extended to an area of 13,332.66m², or 10,883.55m² in terms of main space with an end allowance applied for quantum. The property had been developed over a number of years resulting in a unique unit with elements of different age and quality. As such Ms Barlow did not believe the same percentage reduction was applicable to the appeal property as contended for by the appellant. The appeal property could not be considered to be a like for like comparable as it was considerably more modern and not subject to extensions of different quality.
19. Having regard to her evidence, Ms Barlow was of the opinion that the revised rate of £65/m² was correct and that the allowances for quantum to the upper floor and stores were appropriate. This resulted in a revised valuation of £372,500 with effect from 1st April 2017.

Description	Area/m²	£/m²	Value
Ground floor	3614.10	65.00	234,917
Air Conditioning	5026.99	4.00	20,108
First Floor stock	831.42	20.00	16,628
Mezzanine floor	2290.95	36.00	82,474
First floor office	455.67	40.00	18,227
Plant & Machinery			256
Subtotal			372,610
		RV	£372,500

20. Referring to the Case Ladies' Hosiery and Underwear v West Middlesex Assessment Committee, the Tribunal believed that the appellant's

argument referring to the percentage decrease between the 2010 and 2017 Lists should be taken into account when determining the value to be applied in the valuation to be flawed, on the principle that when determining a property's value correctness must not be sacrificed for uniformity. The tribunal considering the propositions established under *Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council* believed that the Valuation Officer had taken the correct approach in taking a schedule of rental evidence as her starting point in estimating value.

21. After considering the photographs and plans, the tribunal did not consider J H Leeke & Sons to be truly comparable as it had been constructed as an industrial unit and extended by the addition of various units of differing quality over an extended period. Unlike the appeal property, which was a purpose built retail unit, hence a similar end allowance was not applicable.
22. The Tribunal saw no reason to depart from the backstop method applicable to mezzanine floors as described in the Rating Manual and universally applied and decided that no adjustment had been warranted in relation to the air conditioning as Mr Dawson had not provided any evidence to support his contentions. The Tribunal noted that Mr Habteslasie had argued that the valuation in respect of the ground floor sales area should be split between sales and storage but noted that this had not been reflected in Mr Dawson's valuation nor had any supporting evidence been supplied. The Tribunal considered the evidence supplied by Ms Barlow to be both logical and compelling and supported her contentions in relation to the unit rates applicable in the valuation.
23. Considering the above, the Tribunal believed the Valuation Officer's revised valuation to be fair and reasonable. Therefore, the Tribunal orders the Valuation Officer to amend the RV of Arthur Llewellyn Jenkins, Mwyndy Cross, Pontyclun CF72 9PN from £432,500 to £372,500 with effect from 1st April 2017.