

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Stevens & George

Appeal Property Address: Advance Factory 2, Goat Mill Road, Dowlais, Merthyr, CF48 3TD

Appeal number: 692530736427/285NV17/4

The Matter Appealed against: Non-domestic rating appeal

Date of Hearing: 30th November 2021

Appearances: Mr A Sharkie (for appellant) and Mr M Allen (for respondent Valuation Officer)

Date of Decision: Allowed to the extent conceded by the Valuation Officer

Decision of Tribunal:

Members of the Tribunal: Mr D K Jones (Chairperson), Ms A C Frow & Mrs M Griffith

Tribunal Clerk: Mr J Evans

Introduction

1. On 15th May 2019, the Valuation Officer (VO) received a proposal which disputed the accuracy of the Rateable Value (RV) in the 2017 Rating List in respect of the appeal property Advance Factory, 2 Goat Mill Lane. The ratepayer contended that the current entry of RV £228,000 with effect from 1st April 2017 was *“incorrect, contrary to law and a disproportionate reflection of the change in rental values in the locality between the dates 1st April 2008 and 1st April 2015”*. The appellant sought a reduction of the assessment to RV £1 with effect from 1st April 2017.
2. The appeal property comprised a mixed age industrial unit that was originally constructed in the 1940/50's but had been extended in 1995 and again in 2004. The property was held by the ratepayer on a freehold basis and no rental information on other properties had been relied upon by either party. The only issue still in dispute concerned the underlying level of value the VO had adopted for the property.

Evidence and Submissions

3. Both parties referred to the statutory definition of RV in Schedule 6 of the Local Government Act 1988, as amended, which sets the parameters under which a valuation for rating purposes should be undertaken. It was also pointed out that the property had to be considered as it existed at the Material Day, which in this case was 1st April 2017, and in accordance with

rental values which prevailed at the Antecedent Valuation Date (AVD) of 1st April 2015.

4. Mr Sharkie's bundle of evidence included a submission in which his case for a reduction beyond that conceded by the VO was contained, his valuation of the subject, a list of comparable properties in which he also referenced the per centage drops in value that transpired between Rating Lists, maps and plans of the area in which the subject and comparable properties were situated and a number of photographs that depicted these properties.
5. Mr Sharkie's included references to the following statutory authorities –
 - a. *K Shop Shops Ltd v Hardy (VO) & Westminster City Council (1980) (Lands Tribunal) (1980) RA 333 at 353 (court of Appeal) (1983) RA 26; 3 All ER 609*, which had regard to the "locality" of the hereditament.
 - b. *Oldschool & Oldschool v Coll (VO) (1995) RA/312/1994* which referenced matters associated with the burden of proof.
 - c. *BPP Holdings Ltd v Revenue and Customs Commissioners [2016] 227 – 245* which had regard to the visibility of the HMRC's case in advance of the hearing.
6. Mr Sharkie also referred to an extract from *Lotus and Delta v Culverwell (VO) [1976] RA 141* and its hierarchy of evidence, which is relied upon to assist in the determination of a property's rateable value.
7. Since factual matters were not disputed Mr Allen did not consider that an internal inspection of the property served any purpose. With regard to his evidence, Mr Allen reminded the Tribunal that the issue in dispute related to the basic price per square meter that should be applied to the subject property. The question was, what price should be applied to derive the rental figure that could reasonably be expected?
8. To support his valuation of the subject, Mr Allen referred to the basis on which his valuation of the subject had been derived as well as commenting on the usefulness or otherwise of the comparable properties Mr Sharkie had relied upon in his bundle. He also produced photographs of the subject and included maps of the area in which the subject was situated. Mr Allen referred to a schedule of comparable properties which were the subjects of agreements reached on other appeals with the Altus Group and with CVS Ltd.
9. Mr Sharkie explained that the 2017 rating list entry unadjusted rate for the subject was £21.50/m² which contrasted with that of £25/m² which the VO had applied to the comparable property at *Units 1 – 3*. He said that the smaller, newer property was valued at some 21% lower than the subject despite being 16% higher when it was valued for 1st April 2010. He

believed this was anomalous because such differences in value were easily discernible especially since both properties were located in the same area (Merthyr Tydfil).

10. Mr Sharkie explained that the value of this property contrasted sharply with the £21/m² which the VO relied on in support of his initial valuation of £228,000 for the subject. Moreover, the scheme to which the subject belonged related to industrial units situated throughout south Wales and which were 10,000m² or greater in size.
11. In support of his valuation of the subject, Mr Sharkie relied on a series of agreements that was reached on several industrial units, but he made specific reference to *Unit 1 – 3, Triangle Business Park* (in scheme 434209) because it was near to the subject, it was built in the 1990's and therefore newer. It was approximately 3,000m² smaller than the subject, it sat in a scheme adopted for units whose size was between 5,000m² and 10,000m² and its underlying value had been agreed at £16.50/m². Mr Allen considered that the agreement reached on this property was in some way anomalous and suggested that the ratepayer had acquired a good deal.
12. The Tribunal observed Mr Sharkie's comments made in respect of another property at *A Schulman*, which had been valued at £14/m² and whose size exceeded 10,000m². This property was one of other units contained within a different VO scheme (434212) which related to properties in south Wales which, as mentioned above, had been the subject of agreements with the VO. In view of the foregoing, he believed that the subject's value should be £14/m² which was in line with other properties referenced in his table of comparable evidence.
13. Mr Sharkie also referred to a smaller property situated near to the subject at *Unit 2, Mill Court* which was also smaller (5,683m²) but had been valued at £17/m². In light of this evidence, Mr Sharkie concluded that the value of the subject would have been lower than this and suggested the evidence revealed the existence of a quantum step at 10,000 m². Moreover, the subject's 2010 Unadjusted Rate (UAR) of £21.50/m² against that of *Units 1 - 3 Triangle Business Park* of £25/m² reinforced his belief that its 2017 list entry was excessive, particularly as the newer property had been valued some 21% lower than that of the subject.
14. Mr Sharkie had undertaken a similar analysis in respect of *Unit 2, Mill Court; Nuaire Ltd Block A, Western Industrial Estate, Caerphilly; Norgine Ltd 7, Tir-Y -Berth Industrial Estate, Hengoed; A Schulman Inc Ltd, Maes-yr-Haf, Newport; O P Chocolates Specialities Ltd, High Street, Dowlais* and the subject property. The percentage changes ranged between 16% (for the subject) and 47% for Unit 2 Mill Court, Goat. These properties had also been the subject of agreements which the Altus Group Ltd had negotiated with the VO. By way of an example of these percentage changes the underlying level of value adopted for the comparable *Unit 1 – 3 Triangle Business Park* in the 2005 rating list was £28/m². However,

when this property was assessed for the 2017 Rating List, its level of value had decreased to £16.50/m².

15. With regard to allowances granted in respect of mixed ages, Mr Sharkie explained that earlier in 2020 he had agreed a 5% allowance in respect of *T B Davies, Waterton Industrial Estate, Bridgend* and to Units 1 & 2 Moor Road. The latter property's 2010 appeal was heard by the Valuation Tribunal for Wales where it decided to apply the same allowances for both.
16. In his response to Mr Sharkie's reference to properties in VO schemes, Mr Allen said that this information referred to specific combination of prices which were adopted for valuation and comparison purposes. He said that the majority of industrial units may belong to one or two schemes and these might cover small geographic locations or industrial estates where values were directly connected to a local market. He explained that both the "*Nuaire*" and "*Norgine*" properties which Mr Sharkie had cited, were larger than the subject but their respective values which were agreed at £14/m² and £15/m², respectively. These values reflected issues such as age and, in the case of the latter, its proximity to others in the locality which were similarly valued at £14/m².
17. With regard to *Cranberry Food Ltd*, which Mr Sharkie had also referenced in his evidence, Mr Allen pointed out that this turkey processing plant was situated in a rural location. Its agreed value of £20/m² reflected good access to main road infrastructure and was also larger than the subject. Mr Allen attached little weight to the property known as *Freudenberg Oil & Gas Technologies* because although similar in size to the subject, it was situated in Port Talbot on well laid out site and not near to Dowlais. He argued that if someone chose an alternative to Dowlais they would be unlikely to select Port Talbot. He also attached less weight to the *O P Chocolates* site because he felt its adopted value appeared anomalous and required further scrutiny.
18. Mr Allen explained that the valuation of the subject could be done in one of a number of ways: the first being an application of a single rate of value which reflected all the advantages and disadvantages. The second was to recognize that there are different ages to a property and take account of the older property and then predict age positive factor on the new parts. He also suggested that one bears in mind that the newer parts of a property was the focus and then apply a minus factor in. He said that one would have to consider the relative proportions of all parts versus the new parts.
19. The approach that Mr Allen favoured was the application of different values which reflected the subject's inherent advantages such as improved insulation, better construction technique and greater headroom, which was evident in the newer areas. With this in mind, Mr Allen decided that a reduction from £21/m² to £17/m² was warranted, minus the retained factor of 7.5% which derived a figure of £15.73m² and reflected different floor levels and being comprised of a number of buildings.

20. In their respective submissions, Mr Sharkie sought a value of Rateable Value £152,000, whereas Mr Allen proposed a revised valuation of £188,000. Both valuations proposed that the respective alterations should take effect from 1st April 2017.
21. At the conclusion of the hearing, the Tribunal decided to reserve its decision.

Written Reasons for Decision

22. The statutory basis under which a valuation for rating purposes is to be undertaken is prescribed by Schedule 6 to the Local Government Finance Act 1988, as amended. Under Paragraph 2(1) of this schedule, the rateable value of a non-domestic hereditament is 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 certain specified assumptions although none of these were in dispute.
23. Whilst the Tribunal accepted the general premise outlined in the evidence that smaller properties attracted higher levels of value than larger ones, it considered that Mr Sharkies’ use of unit sizes circa 10,000m² at, what he termed, a quantum step, was not substantiated to the Tribunal’s satisfaction. Although the parties had come to agreements on individual cases, the Tribunal considered that what had gone before did not necessarily follow when a case such as this was tested at a subsequent hearing because each case had to be determined on its own merits. In the absence of rental evidence, it did not appear to the Tribunal that the admitted evidence supported the appellant’s reference to the quantum step. Moreover, there was no evidence before the Tribunal which indicated that the market had accepted that such a change in value should occur on properties whose size was around 10,000m².
24. Whilst the reference Mr Sharkie had made to properties made in certain VOA schemes was useful, the Tribunal was mindful of comments made by Mr Allen who pointed out that the scheme merely accommodated a specific combination of prices which were adopted for the ease of comparison and valuation. The Tribunal accepted that the purpose of the scheme appeared to be to collect evidence based on properties in various geographic areas and in respect of certain characteristics inherent in the properties. However, it did not consider that it served a greater purpose.
25. The Tribunal attached no weight to the per centage changes in value to the comparable properties in between revaluations. The purpose of a Non-Domestic Rating Revaluation was to value each hereditament appearing in the List completely afresh taking into account the rental values and economic factors at the antecedent valuation date of 1st April 2015 and the physical factors at the material date. The valuation of a hereditament for rating purpose was not a mathematical exercise whereby every entry is uplifted by the same degree. The reason for this was that the 2017 was not

underpinned by the relative difference between rating lists. The Tribunal then considered that any per centage changes between lists were irrelevant as evidence because rents and other information would be considered afresh at a revaluation.

26. Upon closer scrutiny of the settlement evidence, the Tribunal considered that the settled levels of value merely reflected the advantages and disadvantages of each. The Tribunal did not conclude from the settlement evidence that a particular level of value had been reached in respect of size. As the Tribunal had rejected the appellant's analysis of previous list entries and the per centage changes that mathematically appeared to have transpired between lists, it was left to examine the actual underlying levels were adopted after they had been adjusted. On this point, the Tribunal was not convinced that the analysis of comparable properties was decisive enough to have undermined the respondent's revised valuation. Moreover, the Tribunal were also sceptic of some of the particulars of the comparable evidence because the value appeared very low, as was the case for *O P Chocolates* or in the process of being reviewed as the VO is statutorily required to do.
27. With regard to the mixed ages of the subject and the level to be applied in respect of them, the Tribunal preferred Mr Allen's approach which decided that different values should be applied to reflect the advantages of the 2004 constructed part of the subject. By contrast it rejected the approach adopted by Mr Sharkie which was to apply a single rate throughout.
28. Having considered the cited cases advanced by Mr Sharkie, the Tribunal also considered the implications of *Vines Ltd v de Mauney (VO) UKUT 322 (LC)* in which it pointed out that in cases of this nature the burden of proof rested with the appellant. In this case, the Tribunal was not persuaded by the strength of the appellant's case that the VO's revised value of £188,000 based on an underlying value of £17/m² less and allowance of for the old and new parts was unreasonable. As a corollary, the Tribunal allowed the appeal but only to the extent conceded by Mr Allen in his valuation for RV £188,000 with effect from 1st April 2017 and orders the Valuation Officer to amend the entry in the Rating List accordingly.