

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr Howard J E Morris

Appeal property: 15, Chalybeate Street, Aberystwyth, SY23 1HS

Appeal number: 682030645062/541NV17/6

The Matter Appealed against: Non-Domestic Rating List Appeal

Date of Hearing: 10th May 2022

Appearances: Mrs Crane-Davies on behalf of the Valuation Office Agency & Mr Leyshon (Agent)

Date of Decision: 8th June 2022

Decision of Tribunal: Dismissed

Members of the Tribunal: Mr D R Prytherch (Chairperson), Mr L H Robinson, Mr A T Guinn

Tribunal Clerk: Miss Eluned Thomas

Introduction

1. The appeal under consideration followed a proposal made by Mr Iestyn Leyshon on behalf of Mr and Mrs Morris on 26th March 2018 which sought to alter an entry in the Non-Domestic Rating List in line with paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 and the Rating List (Valuation Date) (Wales) Order 2014 (SI 2014/1370 W139). The proposal sought a reduction in the appeal property's existing rateable value (RV) of £12,750 to £10,500 with effect from the 1st April 2017. In making the proposal Mr Leyshon referred to the following grounds:-

Zone B is not retail area and is used as a walkway through to the staff area. The owner has also included a staff toilet. The understairs area is now a storage and not part of Zone A.

2. 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-

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- (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.*
3. 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, which was 1st April 2015 for the 2017 Rating List.
4. 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

1. Providing a background to the appeal Mrs Crane – Davies explained that the appeal hereditament, 15 Chalybeate Street was in a secondary retail location within Aberystwyth town centre, positioned opposite the juncture with Cambrian Place and comprised a ground floor retail area and was currently used as a store.
2. In support of his contentions, Mr Leyshon provided the Tribunal with a covering letter, 3 photographs and a layout plan of the appeal property. He contended that the Zone B area within the subject property should not be of retail value as it was only being used as a passageway to service the cool store and toilet and therefore should not be valued as a retail area and therefore the rateable value (RV) should be decreased to £10,500.
3. Mrs Davies provided the Tribunal with location and layout plans of the subject property, rental evidence and both the current and proposed valuations. Disputing the contentions of Mr Leyshon, she explained that if the property was vacant to let then although the Zone B area was not currently being used as retail space, a hypothetical tenant may choose to use it as such in the future.
4. Mrs Crane-Davies provided the Tribunal with the following valuation of the appeal property;

Floor Description		Area	£/m2	Value
Ground	Retail Zone A	24.50	425.00	10,413
Ground	Retail Zone B	9.50	212.50	2,019

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Ground	Internal Storage	11.00	42.50	468
Total				12900.00
			RV	£12,750.00

The Valuation Officer contended that the current rateable value of £12,750 was fair and was current with the tone of the locality, as supported by the tonal and rental evidence included in her submission.

5. Mrs Crane-Davies contended that it was for the appellant to prove his case, on the assumption that the appeal had been made on the basis that the appellant had evidence to suggest the assessment was incorrect. Although not enshrined in Legislation, authority could be found in the case *Vines Ltd v de Mauny (Valuation Officer)* (2010) where the member NJ Rose commented-

"It is, however, important to bear in mind that this is an appeal by the ratepayer, not the VO. The onus, therefore, is on the ratepayer to show that the base rate of £200 per m is too high, not on the VO to prove the opposite."

6. Mrs Crane-Davies also contended to the Tribunal that for Rating purposes the property is valued vacant to let and current usage of the premises is ignored. She concluded by highlighting to the Tribunal that the rental evidence in the locality and passing rents on the subject property at the time of AVD supports the current Rateable Value of £12,750.

The Reasons for Decision

7. Having considered all the evidence placed before it the Tribunal decided as follows:-
8. The appeal hereditament must be valued for the purpose of non – domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions, as set out in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 (The Act). Schedule 6(2) (7) sets out a list of factors that must be taken into consideration on the Material Day. For the purpose of this appeal the Material Day was 1st April 2017. The date of the hypothetical rent was 1st April 2015 (antecedent valuation date or AVD).
9. The Tribunal did not support Mr Leyshon's reasons for disregarding Zone B as a retail area and agreed with Mrs Davies' contentions that in consideration of Schedule 6 of the Local Government Finance Act 1988, when valuing a property, they must be considered vacant and to let. Although Mr Morris did not use the Zone B space for retail, a hypothetical tenant fresh to the scene may.
10. It appeared that a body of evidence had been reached in respect of other properties on Chalybeate Street, Aberystwyth. In the Tribunal's opinion, the evidence presented by Mr Leyshon was not sufficient to disturb the accepted

tone. The Tribunal accepted that the overall value of £425pm² used by Mrs Crane Davies in her valuation of the appeal property was in line with similar properties, as identified within evidence.

11. In view of the foregoing, the Tribunal dismissed the appeal.