

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Xia Smalley

Appeal Property: 2 The Arcade, Cwmbran NP44 1PQ

Appeal number: 694533903434/285NV17/33

The Matter Appealed against: 2017 Rating List

Date of Hearing: 23rd June 2022

Appearances: Mr & Mrs Smalley and Mrs T Anstey, Valuation Officer

Date of Decision: 24th June 2022

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mrs B C Martin (Chair), Mr W D Weeks and Mr W G Lewis

Tribunal Clerk: Mrs M S Minty

Introduction:

1. The appeal before the Tribunal followed a proposal made by Xia Smalley in respect of 2 The Arcade, Cwmbran, received by the respondent Valuation Officer on 2nd December 2019. The proposal sought a reduction in the Rateable Value (RV) to £1,200 with effect from 6th September 2019 on the following grounds –
“Circumstances affecting the RV of the property changed on 6th September 2019. The Arcade is now operating as an Acupuncture centre. The floor space has been divided to provide 2 consultation / treatment rooms and a reception area. There is only a small area now being used to display goods for sale to patients. (Patients visits are all by appointments only)”.
2. The appeal had been validly served in accordance with the statutory definition of Rateable Value (RV) and reference was made to the Statute Law and the Definition of RV that is found within Paragraph 2(1) Schedule 6 to the Local Government Finance Act (LGFA) 1988.
“2(1) The RV of a non-domestic hereditament 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 if the tenant undertook 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 that rent.”
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, the 1st April 2015 for the 2017 Rating List.

Decision and Reasons

4. The matter to be determined by the Tribunal was whether a material change in circumstance had occurred by the placing of partitioning walls within the appeal property and, whether it affected the property’s RV, with effect from 6th September 2019.
5. On examination of the information provided and internal photographs of the appeal property, the Tribunal noted that the appeal property was an end of terrace ground floor unit with glazing to the front and side. Partitions had been installed to provide two treatment rooms, a small sales area displaying products and a reception area. Mr

Smalley explained that the Council required a corridor to be incorporated for persons in wheelchairs to have access to the fire exit and toilet. In his opinion, the partition wall providing a corridor should be excluded when consideration is given to the extract of the RICS Code of Measuring Practice 2012 edition, as submitted by Mrs Anstey. Mr Smalley confirmed that the appeal property was open plan when he and Mrs Smalley took up occupancy and that the unit was built to their specification using partitioning walls to divide the rooms.

6. The RICS Code of Measuring Practice 2012 edition provides:

Net Internal Area (NIA) – the usable area within a building measured to the face of the internal finish of perimeter or party walls ignoring skirting boards and taking each floor into account.

NIA will include: partition walls or similar dividing elements

Essential access: This will not include reception areas or areas of use and situated within entrance halls, atria and landings etc.

Permanent essential nature: Apart from areas used in common with other occupiers, corridors excluded from NIA are those of a permanent essential nature, ie internal corridors between structural walls – but only where they are permanent and essential to any prospective tenant of the property and do not merely serve the needs of the actual occupier. If the latter, they should be included.

Partition Walls: With one exception partition walls (and any other non-structural elements used to divide accommodation) should be ignored for the purposes of measurement. However, the space on which they stand, and any small or awkward areas created (eg corridor) should be included in the NIA. The one exception is where a partition wall defines an excluded area, such as that required for permanent essential access. In those instances, NIA should be taken up to the partition wall and the area of the partition should be excluded.

7. In considering the RICS Code of Measuring in whether the 'corridor' area created within the appeal property should be excluded from the NIA, the Tribunal concluded that this area in providing access to the fire exit and toilet did not meet the criteria of 'Permanent essential nature'. The Tribunal was not persuaded that, with the partitioning having been built to Mr & Mrs Smalley's specification to suit their business needs, the partitioning of this area was not permanent as it was not a structural wall or embedded into the fabric of the building, and therefore, would not be essential to any prospective tenant of the property when considering the hypothesis of vacant and to let; it merely served the needs of the actual occupier.
8. In such cases, the burden of proof rests with the Appellant and having examined all the evidence submitted, the Tribunal concluded that Mr & Mrs Smalley had failed to discharge their burden of proof in this instance.
9. Mr Smalley had mentioned that there had been a drop in footfall within the area of the appeal property since 2019, however, this matter was not considered as it did not fall within the scope of this Proposal. Mr Smalley was advised to discuss this matter with the Valuation Officer to see whether he was able to make a valid proposal.
10. In view of the above information, the Tribunal determined that Mrs Anstey was correct in her approach and confirmed that the appeal property, 2 The Arcade, Cwmbran should remain in the 2017 Rating List with a RV of £11,500 with effect from 1st April 2017, as no material change in circumstance had been identified, and accordingly dismissed the appeal.