

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Robert Kinsey

Appeal property: Units 2, 3 & 4 Compass Court, Merthyr Tydfil Industrial Park, Troedyrhiw, Merthyr Tydfil

Appeal number: 692534481613/285NV17/1

The Matter Appealed against: Non-Domestic Rating List Appeal

Date of Hearing: 7th July 2022

Appearances: Mr R Kinsey (Appellant) & Mrs K Crane-Davis

Date of Decision: 19th July 2022

Decision of Tribunal: Dismissed

Members of the Tribunal: Mr N R J Edwards (Chairperson) & Mrs C A Green

Tribunal Clerk: Mr J Evans

Tribunal's Decision and Written Reasons

1. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the tribunal before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.
2. The hearing proceeded on the basis that both parties had agreed that it could do so with two members.
3. On 17th July 2021, the Valuation Officer (VO) received Mr Kinsey's proposal in which he asked that the existing Rating List entry (the "list") should be split into three separate units with their own Rateable Values (RV). The appeal property currently appears in the list as Units 2, 3 & 4 Compass Court, Merthyr Tydfil Industrial Park and is described as a Warehouse and Premises. Its current RV is £18,000 which is effective from 29th June 2018. As the VO was not prepared to well found the matter raised in Mr Kinsey's proposal, its details were remitted to the Valuation Tribunal for Wales as an appeal.
4. The subject property is a purpose-built industrial unit that comprises a portal steel frame, a combination of brick and profiled metal sheet walls and profiled sheet roof. The front elevation comprises three large roller shutter entrances. Both parties had introduced photographs of the property's internal layout which depicted Mr Kinsey's use of the premise.
5. The statutory definition of RV, which underpins a rating valuation is prescribed by Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988, as amended. Mrs Crane-Davis had included an extract of this and also of the Rating Lists (Valuation Date) (Wales) Order 2014 (which introduced the Antecedent Valuation Date) in her bundle of evidence. In brief, the definition of RV required one consider what rent a property such as the appeal property could reasonably

have been expected to realise had it been let on the open market as at the 1st April 2015 (AVD), that being the antecedent valuation date for the purposes of all entries in the 2017 Rating List. Such an assessment was subject to various assumptions which related to the terms of the presumed letting, and the date at which various, mainly physical factors relevant to the property and its locality, must also be considered.

6. In making his proposal, Mr Kinsey had disclosed that the passing rent was £24,000 pa. Payment of rent for the appeal property was broken down into quarterly instalments and the first was due on 29th June 2018. This was confirmed in an invoice which “K Investments” had sent Mr Kinsey for £7,200 in respect of the period 1st October 2020 – 31st December 2020 which was based on £2,000 paid on each unit and allowing for an addition in respect of VAT of 20%. The date of the invoice was 30th September 2020. Mr Kinsey confirmed that there was only one lease.
7. The entire building comprised four elements of which his company (Crossfit470) occupied three. Mr Kinsey used each unit for different fitness related activities or products. The admitted photographs depicted one large open unit in which smaller sections are separated by temporary wooden divides or partitions. The photographs also showed the property in its “split” appearance as well as a more opened arrangement. The tribunal understood that Mr Kinsey could move or remove these partitions in accordance with the specific needs of the business. Giving an example of this, Mr Kinsey explained that a more open arrangement could be adopted when he held annual competitions. On these occasions the removal of the partitions was necessary. The Tribunal understood that if Mr Kinsey was successful in his appeal to separate the units into three distinct parts so that they were in effect separate hereditaments, then he could expect to receive a considerable reduction in his liability to rates because they would have fallen within thresholds contained by the small business rate relief.
8. In addition to the partitions, Mr Kinsey confirmed that the yellow lines which could be seen on the floor and around the apparatus only served to ensure that social distancing rules were adhered to whilst coronavirus restrictions had been in force. They did not serve as any other type of demarcation of the type that might identify the extent of a hereditament.
9. Although Mr Kinsey queried why his property’s valuation had contained three elements the Tribunal understood that the units were originally assessed based on floor areas obtained from the letting particulars. The units could have been added together and a single line entry generated but the outcome in terms of value would have been the same.
10. From the admitted facts, Mr Kinsey clearly occupied the appeal property in its entirety and was in sole control as to how the premises and its relative parts was to be used. Whilst Mr Kinsey had made a business case for splitting the unit into three parts, the Tribunal was mindful that rating case law, to which Mrs Crane-Davies had referred *Woolway (VO) v Mazars LLP*, went a considerable distance explaining the requisite criteria necessary to split a hereditament. Such matters involved the geographical test, property’s contiguity, the extent of interconnection with other units and whether or not one rateable occupier is present. In this regard, Mrs Davies had explained that units were next to one another, the partitioning was temporary in nature, there was sufficient connectivity between the partitioned spaces and Mr Kinsey was in occupation of all of it.

11. Having considered these facts the Tribunal agreed with Mrs Crane-Davis' stance which was that the circumstances at the premises which must be evident in order to justify the splits were not evident. It was clear that the purpose behind the appellant's contention to split the assessments was motivated by the company's business needs and requirements. The partitioning did not reveal any other ratepayer's interest in respect of those parts as Mr Kinsey occupied all of it.
12. Whilst the Tribunal had considerable sympathy for Mr Kinsey, the Tribunal could not for the reasons given above justify the split in the unit he had sought for in his evidence. The Tribunal finds that the Rating List entry for the subject property is correct and it dismissed the appeal.