

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: CBRE Ltd agent acting for B & M Retail Ltd

Appeal Property: Retail Warehouse and Premises, Homebase, Charlotte Road, Llandudno LL30 1RY

Appeal number: 690530645517/541NV17/2

The Matter Appealed against: 2017 Rating List

Date of Hearing: 14th February 2023

Appearances: Mr M Hayes of CBRE and Ms A Mills for the Valuation Officer

Date of Decision: 22nd February 2023

Decision of Tribunal: Appeal Allowed

Members of the Tribunal: Mr H Pattrick (Chair), Mrs K J Thomas and Mr R G Harris

Tribunal Clerk: Mrs M S Minty

Introduction:

1. The appeal before the Tribunal followed a proposal made by CBRE Ltd in respect of Homebase, Charlotte Road, Llandudno LL30 1RY, received by the respondent Valuation Officer on 21st March 2018. The appeal property is currently shown in the 2017 Rating List with a Rateable Value (RV) of £480,000 with effect from 1st April 2017, based on £150/m², on the grounds *“the subject property should be altered by reducing the RV to £10 with effect from 1st April 2017. The RV in the 2017 Rating List as at 1st April 2017 was inaccurate because it was incorrect, excessive and bad in law”*.
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 RV of the hereditament was to be determined, 1st April 2015 for the 2017 Rating List.
4. Reference was also made to the following case law:

Vines Ltd v de Mauny (Valuation Officer) (2010) UKUT 322 (LC) (20 September 2010) – This case set a general principle that the onus was on the appellant to prove its case.

Ladies Hosiery and Underwear Ltd v West Middlesex AC [1932] 2KB 679 – This case provides for correctness before uniformity.

Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council (1976) RA - This case provided guidance on the weight to be attributed to rental and assessment evidence, formulating six propositions as follows:

- 1) Where the actual hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.*
- 2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.*
- 3) Where rents of similar properties are available, they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.*
- 4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of the opinion.*
- 5) In the light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.*
- 6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances. It would be clearly more difficult to reject the evidence of the actual rent.*

Decision and Reasons

5. From the information provided, the issues to be determined by the Tribunal was to the approach used in the analysis of the 2016 lease assignment to B&M in relation to the treatment of the mezzanine floor and supported storage floor, and the £/m² in terms of main space (ITMS) of the appeal property with effect from 1st April 2017.
6. In taking guidance provided by the case law of *Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council (1976) RA* and on examination of the information provided, the Tribunal noted that the appeal property was let by way of assignment on 1st February 2016 at a passing rent of £439,500 per annum with a capital contribution of £329,625. A rent review was undertaken in March 2014 with a nil uplift.
7. This assignment had transferred all property and rights contained within the demise from Homebase to B&M and that the rent was fixed by the existing lease which could not be reduced due to a contractual restriction (no assigning / subletting at a lower passing rent). In view of this Homebase gave a capital contribution as an incentive to bring the rent to the true market level. In analysing its rent over the remaining term of 8.085 years both parties reached a RV of £387,000 per annum.
8. In their approach in analysing the rent of the appeal property, the Tribunal noted the following:
 - Ms Mills based her proposed valuation on a price of £128/m² ITMS, however, she considered the mezzanine floor, at a price of £25/m², and supported storage floor, at a

price of £15/m², to be taken as improvements, due to the lease having been taken out by B&M on assignment on old lease terms which had originally commenced in April 1989, and therefore should be included in the valuation as additional features giving a RV of £410,000.

- Mr Hayes had provided two proposed valuations, one which included the mezzanine floor at a price of £25/m² and supported storage floor at £15/m² and ITMS at £120/m². The second valuation was based on £0/m² for the mezzanine floor and supported storage floor and ITMS at £128/m².
9. The Tribunal noted that the mezzanine floor and supported storage floor had to have a value assigned and that value was at £25/m² and £15/m², which was agreed between the parties. In the circumstances, the Tribunal disregarded Mr Hayes' second valuation - Proposed valuation 2.
10. On further considering Mr Hayes' first valuation – Proposed valuation 1 and Ms Mills proposed valuation with regard to the price ITMS, the Tribunal examined the comparable properties supplied of other units within the subject retail park (Mostyn Champneys Retail Park) and noted the following:
- Ms Mills referred to two units - Unit C2 (939.9m²) which had a new 15-year lease effective from 13th April 2015 at £208,244 which analysed to £180.29/m². Unit D3A1 (676.40m²) had a new 10-year lease effective from 14th August 2015 at £150,000 which analysed to £196.10/m². She contended that these properties which had lettings pre and post AVD were a good indication of the rental value as of 1st April 2015.
 - Ms Mills also provided three agreed settlements for the 2017 Rating List to which she had carried out a further analysis as a stand back and look approach. Harveys Unit D3 agreed at £180/m², Iceland at £195/m² and Pets at Home at £195/m².
 - Ms Mills contended that her proposed rate of £128/m² supported a level of quantum applied to reflect the difference in size of the subject unit and which she considered to be fair and reasonable.
 - Mr Hayes referred to B&Q (3665.39m² internal accommodation, 1950m² land) with a RV of £352,500 at a rate of £95.00/m² ITMS and various units (all below 2000m²) with a rate between £175/m² to £195/m². He contended that this unit is similar size to the appeal property which are only attractive to a limited number of occupiers. The lack of demand for this type of larger unit is reflected in the rents achieved and therefore rates adopted by the Valuation Office Agency. Less weight should be applied to the smaller units as they sit within a completely different market.
11. The Tribunal decided not to place too much weight on those comparable properties as, with the exception of B&Q, were much smaller than the appeal property, and, although B&Q was of similar size and situated some 50 metres distance from the appeal property it did have its own car park and access. With these properties analysing between £180/m² to £195/m² and the proposed valuations ITMS being £128/m² and £120/m², the Tribunal found that they did not provide much assistance in determining the appeal property's level of value ITMS.
12. Having examined the rental analysis and comparable properties, the Tribunal concluded that a rate of £120/m² ITMS would be fairer and more reasonable.

13. The Tribunal noted that Mr Hayes stated that there was an address change in regard to the subject assessment, and therefore requested that this appeal be linked to the revised assessments. Consequently, the Tribunal orders the amended address and link to the assessment in accordance with Mr Hayes' Proposal Valuation 1 as provided in Point 14 below.
14. In view of the above information, the Tribunal determined that Mr Hayes had proved his case and was correct in his approach, and therefore confirmed a RV of £387,000 with effect from 1st April 2017 for the appeal property. Accordingly, the Tribunal allowed the appeal and orders the 2017 Rating List to be amended in accordance with Mr Hayes' proposed valuation 1, as follows:

Address: Unit B1, Mostyn Champneys, Charlotte Road, Llandudno LL30 1RY

<i>Line</i>	<i>Floor</i>	<i>Description</i>	<i>Area m²</i>	<i>Price £/m²</i>	<i>Line factor</i>	<i>ITMS</i>	<i>Value £</i>
1	Ground	Ground Floor Sales	2,767.23	£120.50	1	2767.23	£333,451
2	First	Office	115.29	£120.50	1	115.29	£13,892
3	Ground	Canopy	167.69	£24.10	0.2	33.538	£4,041
4	Ground	Outdoor Display/ Seating area	682.31	£18.07	0.15	102.3465	£12,329
<i>Total Area:</i>			2,732.52				
<i>Sub Total Value:</i>							£363,714
<i>Additional Items</i>	<i>Description</i>	<i>Area m²</i>	<i>Price £/m²</i>	<i>Line factor</i>	<i>ITMS</i>	<i>Value £</i>	
	Hard Surfaced, Fenced Land	190	4.5	0.04	7.0954357	£855	
	Mezzanine Floor	867	25	0.21	179.87552	£21,675	
	Supported Storage Floor	114	15	0.12	14.190871	£1,710	
<i>Total Value:</i>							3219.5663 £387,954
<i>Rateable Value:</i>							£387,000