

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Christine Sandbrook

Appeal Property: Ground Floor York Chambers, York Street, Swansea SA1 3LZ

Appeal number: 685535355464/537NV17/4

The Matter Appealed Against: 2017 Rating List

Date of Hearing: Wednesday 14th February 2024

Appearances: Mr G Allen (for the respondent Valuation Officer)

Date of Decision: 23rd February 2024

Decision of Tribunal: Appeal dismissed

Members of the Tribunal: Mr H Patrick (Chairperson) & Mr S Hennah & Mr G Sullivan

Tribunal Clerk: Mr G Harris

Introduction

1. The appeal before the Tribunal followed a proposal made by C Sandbrook in respect of Ground Floor York Chambers, York Street, Swansea SA1 3LZ. The proposal sought that the entry in the 2017 Rating List be reduced from £23,500 to £16,371 with effect from 1st April 2017 on the following grounds –

I believe the base rate is incorrect and should be the same as Food Net Noodle Bar Green Dragon Lane SA1 1DG where the base rate is £150 as oppose to £200 being charged for Ground Floor York Chambers. There is also no allowance for a reduced rate for the kitchen area.

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-

- (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, this 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.

Parties' submissions & decision

5. In her written submission the appellant provided plans of the appeal property and highlighted the dining area measured 150'3" and the kitchen/prep – toilets 146'12" i.e., 50% each of the total area. A comparison between the appeal property and that of Food Net Chinese Noodle Bar had been provided to the VOA, noting the difference between the base rates used to calculate the relevant rateable values, £200/m² for the appeal property and £150/m² for the Noodle Bar.
6. Mrs Sandbrook also noted the Noodle Bar had a reduced rate applied to the valuation of the kitchen area, whereas a similar allowance had not been applied in respect of the appeal property. Mrs Sandbrook, in her response to the Valuation Officer's case, contended the middle station kitchen area was effectively a structural separation.
7. Mrs Sandbrook provided the Tribunal with copies of the 2023 Valuation List calculations for both properties, highlighting a reduction in the RV between the 2017 and 2023 Lists. However, the Tribunal noted that as the subject appeal was against an entry in the 2017 List it could only consider matters affecting the property at the relevant AVD, in this case 1st April 2015.
8. Mr Allen described the appeal property as being centrally located in Swansea just off the A4607, with good access and close to local amenities such as a soft play area, cinema, hotel and car parks, with a potential large customer base. It was a pre 1900s building of traditional brick construction, refurbished in 2007 and in keeping with local buildings of the same description. Photographs were provided both of the appeal property and comparable properties.
9. It had a current RV of £23,500 and had been valued in line with restaurants in the locality at £200/m². Mr Allen highlighted Juniper Place and Old Havana which were both on the same street, together with Unit 1

Quadrant Gate, Chiquito and Nandos which had all remained unchallenged during the life of the 2017 List. He considered that as the List had now closed the 'tone' had been set. A map was provided highlighting the location of the appeal property and that of the comparables.

10. Mr Allen did not consider the Food Net Chinese Noodle Bar to be truly comparable as it was located further away and situated in a small, restricted side street.
11. Mr Allen explained that the rental evidence in both 2012 and 2021 of £30,000pa and £31,200pa had been analysed to £260.80/m² and £234.62/m², comfortably supporting the RV. An external inspection, together with the plan provided by the appellant had shown the kitchen to be an open kitchen rather than being behind a structural wall and had been valued accordingly in line with Section 5a of the Rating Manual at 100% of the base rate.
12. In conclusion Mr Allen, having regard to the available evidence, was of the opinion that the Rateable Value of £23,500 with effect from 1st April 2017 was correct, and requested that the tribunal dismiss the appeal.
13. In her proposal the appellant had contended that the Rating List was inaccurate and that her RV should be reduced to £16,371. In line with the case *Vines Ltd v de Mauny* (2010) the Tribunal accepted that the burden of proof rested with the appellant on the basis that 'he who asserts must prove.' Therefore, in the case under consideration the persuasive burden of proof rested with the appellant ratepayer and not the respondent Valuation Officer by virtue of a statutory duty to prepare and maintain the Rating List.
14. In her contentions Mrs Sandbrook had referred to Food Net Chinese Noodle Bar and its valuation based on £150/m². The Tribunal placed little weight on this evidence due to its distance from the appeal property and location, instead placing greater weight on those comparable provided by Mr Allen, being in the same locality.
15. The Tribunal noted that Mrs Sandbrook, in her response to Mr Allen's submission, contended that his statement in respect of his comparable properties '*all had remained unchallenged*' to be irrelevant. However, it remained a matter of fact that the RVs in respect of these properties had not been challenged. The Tribunal had to consider all evidence and have regard to the tone of comparable properties.
16. The Tribunal accepted that the overall value of £200/m² used by Mr Allen in his valuation of the property was in line with similar properties in the locality and had been supported by rental and tonal evidence, and that the valuation had been produced in line with relevant guidance with respect to the kitchen area. The appeal was dismissed.