TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appeal Number:	692536347904/537NV17/27
Appellant:	Ms Claire Thomas
Appeal Property:	Thomas and Davies, Pentrebach Road, Merthyr Tydfil, CF48 1YA
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	5th September 2024
Appearances:	Ms Claire Thomas (represented by Mr Neil Bevan) Mr Richard Read (representing the VOA)
Decision and its date:	Appeal Dismissed – 3rd October 2024
Tribunal Members:	Mr J Uzzell (Chairperson) Mr J Pickering Mrs K Thomas
Tribunal Clerk(s):	Miss Emily Rowlands Mr Jonathan Evans

Introduction - Issues in Dispute

1. The subject appeal dated 22nd November 2022 challenged the entry of the appeal property in the 2017 Non-Domestic Rating List at £83,000 Rateable Value (RV) with effect from 1st April 2017. The appellant proposed a revised RV of £65,500, effective from 1st April 2017.

2. The following is a summary of the cases presented 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.

Legislation & Case Law

- Paragraph 2(1) Schedule 6 of the The Local Government Finance Act 1988

- The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 No. 758 (W.63)

- The Rating Lists (Valuation Date) (Wales) Order 2014 SI No 2014/1370 W139

- Ladies Hosiery and Underwear Ltd v West Middlesex A.C (1932) 2 KB 679 – *"correctness over uniformity"*

- Scottish & Newcastle Retail Ltd v Williams (VO) [2000 RA 119] – *"rebus sic stantibus"*

Evidence and Submissions

3. The appeal property was a car showroom located on Pentrebach Rd in Merthyr Tydfil with a total area of 1826.61m². The property was built in the 1950's and was substantially redeveloped in 2013 to bring it in line with competitors who occupy the same road.

4. Mr Bevan explained that he felt that the property's valuation should be subjective based the functionality of each area. He disputed Mr Read's measurement of the showroom area at 621.9m² as the area was not wholly used as a showroom. In his opinion, it was insufficient to be used as such. Mr Bevan proposed a reduction of 240m² in the measurement of the showroom and suggested that that 240m² area should be reclassified as internal storage, therefore attracting a lower £ per m².

5. Mr Bevan suggested that the 240m² showroom area should be reduced to £50m², on the basis that it was functioning merely as internal storage. No evidence was provided to support these figures, as opposed to the VO's valuations which were calculated against comparable assessments in the area.

6. Mr Bevan added that in previous years both the MG and Ssangyong franchises had terminated their Dealer Agreements with Thomas & Davies, because they could not provide a showroom which could accommodate more than two cars. No evidence was provided to corroborate that the size of the showroom was the main reason for the withdrawal of these franchises.

7. When queried by the VO what evidence they had to support the lower suggested tone of £50m², Mr Bevan stated that the ability for the area to earn money should determine if it was rateable. Mr Bevan felt that a non-revenue producing area should attract a lower £ per m². The VO contended that if the area was moved around, it would then become an area capable of producing revenue, and that there was no difference in quality between the agreed showroom and the suggested internal storage areas. The VO explained that

the area has been, and could be used, as a showroom, as this space was available.

8. The VO referred to three comparable properties:

Capitol Motors, Pentrebach Road, Merthyr Tydfil, CF48 1YA.

Total area: 879.90m². Age/refurbishment: Built in 1998. Tone: £70m²

Evans Halshaw, Pentrebach Road, Merthyr Tydfil, CF48 1YA

Total area: 2959.60m². Age/refurbishment: Built in 1950's refurbished in 1988. Tone: £60m²

Southern (Merthyr) Ltd, Pentrebach Road, Merthyr Tydfil, CF48 1YA

Total area: 888.80m². Age/refurbishment: Built in 1974, refurbished in 2016. Tone: £60m².

9. Capitol Motors was a superior assessment that warranted the higher tone as a double glass fronted, purpose-built car showroom. Evans Halshaw, although larger, had not undergone any significant changes since 1988 and was considered inferior to the appeal property which warranted the lower tone.

10. Southern (Merthyr) Ltd was deemed the most comparable property aside from its size. This site was equally matched to the appeal property in terms of style, location, and refurbishment timings. The VO felt that this and the appeal property should have the same tone, but, referring to *Ladies Hosiery (correctness must not be sacrificed for uniformity)*, this does not suffice to say that the appeal property should be reduced.

11. The VO had corrected the tone of the current rating list to place Southern (Merthyr) Ltd at the same tone as the appeal property (£65m²), sitting them in between the superior Capitol Motors and the inferior Evans Halshaw.

12. Mr Bevan referred to a 2018 market report to argue that the property should be considered less valuable because of its use as a Citroen Car Showroom, when considering the market share of other manufacturers in the area. The VO reminded the appellant that it was the property that was valued, not the business. For the purposes of rating, the property should be considered *vacant, in reasonable repair, and available to let on the open market.* Had a more profitable manufacturer taken on the tenancy, the same RV would apply.

13. Whilst contending the appellant's argument that the signage was restrictive regarding its use as a Citroen showroom, the VO referred to Scottish & Newcastle Retail Ltd. This determined that there was an allowance to envisage minor changes in the hereditament when considering a hypothetical tenancy as part of *rebus sic stantibus* (as it stands). Signage was not structurally integral to the assessment property nor fundamental to its trading as a car showroom. Moreover, if the agreement between Citroen and the appellant was terminated then all signage would need to be removed with immediate effect.

14. Additionally, the VO noted that Thomas & Davies renewed their Dealer Sales Agreement with Citroen in 2023. The VO felt that if the agreement with Citroen was disadvantageous, an alternative Brand Partner would have been sought.

Decision & Reasons

15. When arriving at its decision, the Tribunal was aware that the appeal property 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 based on a number of assumptions, in accordance with Schedule 6 of the Local Government Finance Act 1988.

16. The Tribunal was mindful that the hereditament had to be valued under the statutory terms *"vacant and to let".* It agreed that the functional arrangements of the property are immaterial, as is the signage assigned to the property through dealer agreements.

17. Although the appellant valued the property based on the functional needs of the property, they could not justify £50m² as this did not appear anywhere else in the local area. No evidence was provided to substantiate this figure.

18. The Tribunal acknowledged that there were disadvantages to the subject property, but also that this property was significantly larger than its closest comparable. The Tribunal observed that £65m² was the mid-point between the comparable properties and that this tone reflected their qualities. The disadvantages to the property had also been addressed by the VO's proposal to reduce the RV from £83,000 to £79,000.

19. Having considered all the evidence placed before it, the Tribunal was not persuaded by the appellant's case and accepted the VO's proposed RV of £79,000. The Tribunal therefore dismissed the appeal.