

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mrs M White

Appellant's Address: 5 Pier Street, Aberystwyth SY23 2LJ

Appeal number: 682029875684/192NV17/10

The Matter Appealed against: 2017 Rating List

Date of Hearing: Friday 30th November 2018

Appearances: Mrs M White & Mr B White (appellants) & Ms V Crisp (for the respondent Valuation Officer)

Date of Decision: 19th December 2018

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mr TW Jones (Chairman), Mrs JM Jones & Mr WG Lewis

Tribunal Clerk: Mr G Harris

Introduction:

1. Mrs White made a proposal to alter an entry in the 2017 Rating List on 10th October 2017, in which she sought a reduction in the Rateable Value (RV) in respect of 5 Pier Street, Aberystwyth from an amount of £13,500 to £1 with effect from 1st April 2017, on the following grounds –

The footfall in Aberystwyth has fallen dramatically in recent years, the university has moved out of town, also council offices have moved which now means office workers are not around in day.

2. 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.

Summary of the Case

3. Mrs White explained that she ran a small independent shop selling art materials, gifts, handicrafts and cards. Aberystwyth had traditionally been a university town with the student population providing revenue for local businesses. However, footfall in Aberystwyth had fallen since the Local Authority and University had moved to out of town locations. A new supermarket within the town centre had failed to increase footfall. Shops

were leaving the town centre, with the appeal property being the only remaining shop out of three located on the corner of the main street.

4. Mrs White did not dispute having to pay business rates but contended that the amount had to be fair. She had to pay a separate amount for refuse collection and a levy towards the town BID fund, and was finding it difficult to pay. In light of this Mrs White requested that the tribunal reduce her RV.
5. Ms Crisp introduced her credentials as a representative of the Valuation Officer and presented the Tribunal with a background to the appeal. The appeal property was described as a traditional pre 1900's shop comprising ground floor retail areas with storage to the first and second floors. Ms Crisp provided the Tribunal with a plan of its layout, maps of its location together with an external photograph.
6. Ms Crisp explained that the RV of a non-domestic hereditament was defined under Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988, as amended by the Rating (Valuation) Act 1999, as –

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.*
7. The value was taken at the Antecedent Valuation Date (AVD). The property and its locality must be considered as they physically existed at the material day but at the level of rental values and in the economic climate that existed at the AVD. For Rating Lists compiled on 1st April 2017 the AVD was 1st April 2015.
8. Ms Crisp explained that in their grounds of appeal the appellants had suggested that rental levels had fallen due to a drop in footfall after the university and council offices had moved out of town. Ms Crisp accepted that the main driver of trade was the university however contended that the main campus had always overlooked the town from its establishment in the late 1800's.
9. Ms Crisp explained that a number of Material Change of Circumstances (MCCs) had occurred in Aberystwyth. However new student

accommodation had opened on the edge of town pre 2005 and the council had moved in 2008, both prior to the AVD.

10. Additional student accommodation had opened opposite the university between January and September 2015 and during November 2016 a new Tesco and Marks and Spencer's stores had opened. There was little, if any evidence available to assess their impact on rental values, either positively or negatively
11. Ms Crisp's valuation of the hereditament, based on a zone A value of £300/m² was as follows –

5 Pier Street, Aberystwyth SY23 2LJ

Floor	Description	Area m²	£/m²	Value (£)
Ground	Retail Zone A	28.60	300.00	8580
Ground	Retail Zone B	27.90	150.00	4185
Ground	Retail Zone C	12.30	37.50	461
First	Internal Storage	27.00	13.50	365
Second	Internal Storage	25.40	3.60	91
Total area		121.20		
Valuation sub-total				13682
Rateable Value				£13,500

12. Ms Crisp submitted to the tribunal a table of shops located on Pier Street where she stated that the analysed rental evidence supported her use of £300/m².
13. In conclusion, Mr Crisp stated it was her opinion that the rental evidence showed that the zone A rate adopted was fair and reasonable and requested that the tribunal dismiss the appeal.
14. At the conclusion of the hearing, the tribunal decided to reserve its decision.

The Reasons for Decision

15. Having considered all the evidence placed before it the tribunal decided as follows: -
16. In her proposal Mrs White the Rating List was inaccurate and her RV should be reduced to £1. In cases such as this higher court authorities had accepted the burden of proof rested with the appellant on the basis that 'he who asserts must prove'. Moreover, it was an accepted tenet of law that any assertions made before a Tribunal should be underpinned by evidence. 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 alter the Rating List.

17. The Tribunal empathised with Mrs White however was of the opinion that she had not been able to sustain her contention that the assessment was incorrect and had not provided any evidence to undermine the Valuation Officer's valuation of the property.
18. The Tribunal considered that the Valuation Officers adopted zone A rate of £300/m² was fair and reasonable taking into account the rental evidence. With this in mind the Tribunal dismissed the appeal.

Certified a true copy on 19th December 2018