

Tribunal Decision

Appellant: SF 247 West Ltd T/A Snap Fitness

Appellant's Address: Other Leisure, Unit 3 The Pumphouse, Hood Road, Docks, Barry CF62 5QN

Appeal number: 695029741877/192NV17/77

The Matter Appealed against: 2017 Rating List

Date of Hearing: 20th December 2018

Appearances: Ms J Playle (for the Appellant) and Mr M Pearson (for the respondent Valuation Officer (VO))

Date of Decision: 29th January 2019

Decision of Tribunal: Appeal Allowed in Part

Members of the Tribunal: Mrs B C Martin (Chair), Ms E Jones and Mr D M Roberts

Tribunal Clerk: Mrs M S Minty

Introduction:

1. 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 were made aware that the Tribunal makes its determination on the evidence that is presented during the Hearing.
2. Having been given time to discuss and exchange any evidence prior to the commencement of the Hearing, parties wished to continue with the Hearing of the subject appeal.

Summary of the Case

3. With reference to his documentation, provided to the Tribunal, Mr Pearson explained that the subject property had been entered in the 2017 Rating List at a rateable value (RV) of £61,500 with effect from 1st April 2017. A Proposal was served on the Valuation Office on the 18th September 2017 by the Appellant, requesting a reduction in the RV to £55,000 with effect from 1st April 2017 on the grounds that *"Property's RV has gone up from £45,000 to £61,500. I believe the RV should fall in line with our rent which is a true reflection of market value. Any more and we will suffer financial hardship"*. Mr Pearson stated that the current valuation consisted of a base rate of £105/m² applied to the ground floor areas, in addition to rateable Plant and Machinery.
4. Reference was then made to the agreed issues, as follows:
 - Floor Areas (NIA): Total Area of 550.7 m² following remeasurement.
 - Mode or Category of use: Gym and Premises.

- 15 CCTV Cameras as rateable plant and machinery.
 - £55,000 per annum Headline Rent for subject property shell unit:
 - including effective date of rent of 1st November 2015
 - Landlord responsible for external repairs and shared portion of Building Insurance.
 - Tenant responsible for internal repairs and shared portion of Building Insurance (50% split between ratepayer and landlord).
 - 6 months' rent-free period for fit out works
 - £220,000 fit out works, excluding cost of cardio or weight training gym equipment.
5. Mr Pearson explained that the issue to be considered by the Tribunal was the basic £ rate per m² and referred to the definition of RV, as provided under Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 (the Act), and to the specified Antecedent Valuation Date (AVD) of 1st April 2015, as the day by reference to which the RVs of non-domestic rating hereditaments are to be determined.
 6. With the use of a location plan, photographs and floor plan, Mr Pearson described the subject property as a single storey non-purpose built gym. The Pumphouse was built in the 1880s and was recently refurbished in 2016. The property is a Grade 11 listed building, and has a planning use class of D1, Non-Residential Institutions. Above the unit are 15 live/work spaces. The unit is located in Barry, within an area that has benefitted from regeneration in recent years. It is fitted out to a high specification, with 10 air conditioning cassettes, suspended ceilings and raised floors.
 7. In assessing the current valuation, Mr Pearson stated that he first noted the headline rent of £55,000 per annum; as per '*Lotus & Delta*'. The VO informed the Tribunal that the rent is not a 'clean' rent, as the Landlord is liable for some of the insurances and agreed 5 months after the AVD. He was unable to identify any relevant rental evidence of comparable properties despite a wide search on gyms valued on the same basis. Mr Pearson explained the subject hereditament is a bespoke and unique property, which is not comparable to other smaller gyms or offices, and as such it needs to be valued as it stands. As a result, the best indication of rental value is viewed as the subject property rent. Consequently, the rent was adjusted to equate with the statutory definition of RV.
 8. In his rental analysis, Mr Pearson referred the Members to the following:
 - The 6 months' rent-free period was ignored as it was utilised for fit-out works.
 - As the appellant was unable to provide a full breakdown of the costs, other than that it included ceiling grids, flooring and overall decoration, a figure of £110,000 was adopted for the fit-out costs to be adjusted in line with the rent. This was a conservative figure adopted in favour of the ratepayer.
 - The rent was also adjusted for the Landlords' role in undertaking external repairs and the shared contribution to Building Insurance which resulted in an adjusted rent of £62,081.
 - This adjusted rent analyses at £107.71/ m² based on the smaller agreed gym areas.
 - He acknowledged that the market was more buoyant 6 months prior to the effective date of this rent and therefore rents may have been higher at AVD.
 9. In relation to his proposed valuation, Mr Pearson explained the analysed rent of £107.71/ m² supports the current basic rate of £105/ m², as applied to the subject hereditament for the subject valuation. Therefore, the proposed valuation is at £60,527,

which is then rounded down to give a RV of £60,500. The revised valuation has decreased from £61,500 due to factual area corrections.

10. Based on the evidence provided, Mr Pearson requested the Tribunal to confirm a RV of £60,500 with effect from 1st April 2017.
11. In stating her case, Ms Playle considered the RV of £61,500 not to be a fair reflection for the subject property and believed £50,000 to £55,000 to be more appropriate based on the business:
 - having recently broken even for the last 3 years;
 - in providing a service to the community;
 - paying an open market premium rent of £55,000, which Ms Playle considered the RV of £61,500 to be unacceptable; and
 - the gym was the first occupier on the site and therefore the RV should fall in line with the rent.
12. At the conclusion of the Hearing, the Tribunal decided to reserve its decision.

Reason for Decision

13. Having considered all the evidence placed before it, the Tribunal decided as follows: -
14. The matter to be determined by the Tribunal was the accuracy of the appeal property's RV within the 2017 Non-Domestic Rating List.
15. The Tribunal was mindful that it had to have regard to the definition of RV as set out in Schedule 6 (2)(1) of The Local Government Finance Act 1988, as amended by Section 1(2) of the Rating Valuation Act 1999, which states that 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, subject to the statutory assumptions.
16. The Tribunal is required to value all properties for the 2017 Rating List by reference to the Antecedent Valuation Date (AVD) of 1st April 2015 but considering the physical circumstances as at the material date. The material date for the subject appeal was the compiled list entry date of 1st April 2017.
17. From the information provided, with no other rental evidence, other than the appeal property, having been presented as evidence, the Tribunal found that the VO was correct in the appeal property's valuation being based on its rent, and, with the analysed rent supporting £105/m² for the basic rate of the Ground Floor area, with the exception of the gym at £110.25/ m². Furthermore, it was noted that the parties had agreed on the revised floor area which the VO had also reflected in his proposed valuation.
18. In view of the above, the Tribunal determined and ordered the 2017 Rating List entry for the appeal property, Other Leisure, Unit 3 The Pumphouse, Hood Road, Docks, Barry CF62 5QN to be amended in accordance with the VO's proposed valuation, a RV of £60,500 with effect from 1st April 2017.

Certified a true copy on 29th January 2019.