

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Ms Ellen Jones

Appeal Property: 17 Church Street, Flint CH6 5AD

Appeal number: 683530870500/192NV17/22

The Matter Appealed Against: 2017 Rating List

Date of Hearing: 13th February 2019

Appearances: Ms Ellen Jones (Appellant) & Mrs Sarah Nash (for the respondent Valuation Officer)

Date of Decision: 4th March 2019

Decision of Tribunal: Appeal dismissed

Members of the Tribunal: Mr DK Jones (Chairperson), Mrs J Angell & Mr LH Robinson

Tribunal Clerk: Mr G Harris

Introduction:

1. The appeal under consideration followed a proposal made by Ms Jones in respect of 17 Church Street which the respondent Valuation Officer received on 31st July 2018. The proposal sought a reduction in the unit Zone A value used in the calculation of the Rateable Value (RV) of the appeal property from £200/m² to £130-150/m² on the grounds that –

Asda is paying 130, Sainsbury paying 150, no car parking fees. Why are we paying 200m² plus parking?

All building work, one-way system, parking fees. Cut all parking with double yellow lines. Charging us more than the retail park, also higher than Chester Street and top half of Church Street.

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. Ms Jones explained that the appeal property was used as a beauty salon with 3 separate treatment rooms, a kitchen and toilet. Her RV of £7,400 was based on a calculation which had used a zone A unit value of £200/m². She questioned why this amount had been used when properties located at the bottom of the same street had RVs based on a lower amount of £160/m² and £165/m². Properties located on Chester Road had been valued using £160/m² as had properties situated on the retail park.
4. Ms Jones explained that the retail park benefited from free parking unlike Church Street where on street parking was only free for the first 30 minutes. The town centre car parks had been free until 2018 when the Local Authority had introduced pay and display. Church Street had also been closed for 3 months just before Christmas due to roadworks and prior to this had closed every Friday for a market. Although, this had now stopped following complaints from traders after the market had reduced to one stall.
5. In light of this, Ms Jones contended that her zone A value should be the same as that used in the calculations of the rest of the street.
6. Mrs Nash introduced the appeal property and described it as a 2-storey building dating from the 1920s, the upper floor had been assessed for council tax purposes. The property was situated in the centre of Flint in a row of shops the majority of which were independent retailers, all of which had been valued at the same level as the subject property. Mrs Nash provided the Tribunal with external photographs, a map and plan of its layout and survey details. It had been entered into the 2017 Rating List at a RV of £7,400 with effect from 1st April 2017.
7. She explained that the basis of valuation for the appeal property had been defined under Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 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.*

8. Mrs Nash explained that she had adopted a unit rate of £200/m² based on an analysis of rental evidence. To support her valuation Mrs Nash provided the Tribunal with a summary of rental evidence in the following table of comparable shops on Church Street –

Address	Total area m ²	Area ITMS m ²	Effective date of rent	Adjusted Rent (£)	RV (£)	Analysed rent £/m ²	Unit Value £/m ²
5-7 Church Street	125.03	62.75	1 st Dec 2015	14,440	12,500	230.12	200.00
Cresta, 11 Church Street	250.49	77.30	1 st Oct 2015	16,000	15,750	203.10	200.00
Iceland, 23/25 Church Street	728.26	162.56	28 th Feb 2015	67,156	34,000	413.12	200.00
24 Church Street	43.56	32.62	1 st Feb 2015	6,228	6,660	187.86	200.00
32A Church Street	59.15	24.93	1 st Feb 2014	6,318	4,950	253.43	200.00
58 Church Street	401.38	121.45	1 st Apr 2014	34,016	26,750	280.08	200.00
19/21 Church Street	311.79	107.82	22 nd Jun 2015	34,000	22,750	302.23	200.00

9. Mrs Nash explained that the passing rent on the appeal property was £12,000 per annum with effect from 1st June 2015 which she contended supported the RV. Mrs Nash's valuation of the property was as follows –

Floor	Description	Area m ² /unit	£/m ² unit	Value (£)
Ground	Retail Zone A	22.14	200.00	4,428
Ground	Retail Zone B	22.14	100.00	2,214
Ground	Retail Zone C	8.00	50.00	400
Ground	Internal Storage	21.34	20.00	427
Ground	Staff Toilets	N/A	0.00	0
Valuation Sub Total				7,469
Rateable Value				£7,400

10. Mrs Nash explained that units based on Flintshire Retail Park, referred to by Ms Jones in her evidence, were not comparable on a like of like basis. The units were purpose-built retail warehouses, which were significantly larger than the subject property and valued on the overall basis unlike the shops located on Church Street which had been valued using the zoning method. Mrs Nash explained that in determining RV she had to compare properties on a like for like basis, in that she had to compare rents for shops with other shops, specifically in this case with shops located on Church Street.
11. Mrs Nash explained that there had been 4 appeals against the Rating List regarding properties located on Church Street. In addition to the current

appeal, another was due to be heard by the panel today. The remaining 2 appeals had been withdrawn following discussions, one by an agent representing the ratepayer and the other by the ratepayer. In both cases the parties had accepted the zone A value to be correct.

12. Referring to the issues relating to car parking Mrs Nash considered this to be a separate matter that could not be considered by the Tribunal as it had happened after the compilation of the Rating List on 1st April 2017. As such the issue would have to be addressed via a separate appeal as a material change of circumstances.
13. In conclusion Mrs Nash requested, in view of the available rental evidence and settled appeals reflecting acceptance of the adopted tone, 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 Ms Jones had contended that the Rating List was inaccurate and that her RV should be reduced using an alternative unit value of £130-150/m² in the calculation. In cases such as this higher court authorities had accepted that 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 maintain the Rating List.
17. The Tribunal was of the opinion that the appellant had not been able to sustain her argument that the assessment was incorrect and had not, with reference to evidence, undermined the Valuation Officer's valuation of the property. The Tribunal accepted that the zone A value of £200/m² used by Mrs Nash in her valuation of the property was in line with similar neighbouring properties on Church Street and had been supported by rental and settlement evidence. With this in mind, the Tribunal dismissed the appeal, noting that a separate appeal relating to a material change of circumstances affecting the appeal property could be made considering the implementation of town centre car parking charges.

Certified a true copy on 4th March 2019