

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Ms Emma Percival

Appeal Property: Havana 12, Church Street, Flint CH6 5AD

Appeal number: 683530853463/192NV17/23

The Matter Appealed Against: 2017 Rating List

Date of Hearing: 13th February 2019

Appearances: Ms Emma Percival (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 Percival in respect of Havana 12 Church Street which the respondent Valuation Officer received on 23rd 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 £150/m² on the grounds that –

- 1) *All Delyn House (council) are paying £165/m²*
- 2) *Parking charges in town and not at retail park*
- 3) *Asda paying £150/m², unit A2 £110/m², B1 £135/m², C £110/m², D1 £135/m², D2 £135/m², G £110/m², H £110/m², Jollyes Pet £135/m², K £110/m², Sainsburys £140/m²*

Why is Sainsburys, Jollyes Pet and Asda paying less than Church Street. We are paying £200/m²

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 Percival explained that the appeal property used to be a Post Office. In 2016 she had started an online petition which had featured in the local newspaper and on television. As a result, her unit value of £300/m² had been reduced to £200/m² by the Valuation Office Agency (VOA) without the need for a site visit.
4. Ms Percival explained that her property was located on a one-way street, unlike Chester Road which was two way and where shops were valued at £165/m². Ms Percival did not believe this to be a fair reflection of rental values in such a small town. Other shops, including the unit next door had closed or were closing due to not being able to pay their rates. Customers were parking for free in the retail park, and not visiting the town centre where they would have to pay for parking.
5. A shop located on the retail park, Temptations, was the same size as her property and valued using £130/m² and benefited from no parking fees. Church Street now consisted of charity shops and gyms with no passing trade. Ms Percival confirmed that the retail park had opened in 2006. A council property, Delyn House, on Chester Road, which she had been told was a prime location, had shops on the ground floor which had been valued using £165/m².
6. Mrs Nash introduced the appeal property and described it as a 3-storey building dating from circa 1900, the upper floors had been assessed for council tax purposes. The property was situated in the centre of Flint in a row of shops, all of which had been valued at the same level as the subject property. Mrs Nash provided the Tribunal with an external photograph of the appeal property and of Church Street, together with a map of its location and plan of its layout and survey details. It had been entered into the 2017 Rating List at a RV of £11,000 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 £10,000 per annum however this was not an open market rent as it had been agreed between connected parties, with Ms Percival being a director of the landlord company. Mrs Nash explained that the base price was £200 however both retail zone A and retail zone B had allowances of 7.5% applied to reflect that the property had a nonstandard shop frontage. A further 5% had been applied to each element of the survey to reflect the property's shape. Mrs Nash's valuation of the property was as follows –

Floor	Description	Area m ² /unit	£/m ² unit	Value (£)
Ground	Retail Zone A	58.80	175.75	10,334
Ground	Retail Zone B	2.61	87.88	229
Ground	Staff Toilet	N/A	0.00	0
Ground	Kitchen	3.48	19.00	66
Ground	Beauty Room	17.13	23.75	407
Valuation Sub Total				11,036
Rateable Value				£11,000

10. Mrs Nash explained that units based on Flintshire Retail Park, referred to by Ms Percival 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 Ms Percival's submission that properties located on other town centre streets had been valued using different rates, Mrs Nash explained that it was not possible to have a uniform rate for a whole town as rental values would vary based on location, even on the same street. For example, the council property Delyn House was on the way out of town hence the lower £/m² value. Mrs Nash observed that there was a low vacancy rate on Church Street meaning that potential tenants were prepared to pay the rents.
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 Percival had contended that the Rating List was inaccurate and that her RV should be reduced using an alternative unit value of £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. In addition, the Tribunal noted that shops located in different areas would be valued in accordance with rental values pertaining to their location. With this in mind, the Tribunal dismissed the appeal.

Certified a true copy on 4th March 2019