

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr E Hikary

Appeal property: Hiks Restaurant and Takeaway, Llangyfelach Road,
Brynhyfryd, Swansea, SA5 9LE

Appeal number: 685529797093/192NV17/100

Date of Appeal: N/A

The Matter Appealed against: Disputes accuracy of RV in 2017 Rating List

Date of Hearing: 14th February 2019

Appearances: Mr E Hikary
Mr M Rees (for respondent Valuation Officer)

Date of Decision: 7th March 2019

Decision of Tribunal: Appeal dismissed

Members of the Tribunal: Mr K Leighfield (Chairperson), Mr A E Sangster &
Mr D R Shopland

Tribunal Clerk: Mr J Evans

Introduction

1. On 28th September 2017, the Valuation Officer received a proposal from the appellant ratepayer to alter an entry in the Non-Domestic Rating List in respect of a "Shop and premises" known as Hiks Restaurant and Takeaway, Llangyfelach Road, Brynhyfryd,
2. In making his proposal, Mr Hikary sought a reduction in the existing level of Rateable Value (RV) of £8,500 to £5,000 RV with effect from 1st April 2017 on the grounds that the "the rateable value was inaccurate because of an alteration made by the Valuation Officer"
3. Since the VO did not agree to alter the list to the extent the appellant had sought for in his proposal, the matter was remitted to the Valuation Tribunal for Wales according to Regulation of the Non-Domestic Rating (Alteration of List and Appeals) (Wales) Regulations 2005, as amended.
4. 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.

5. Since the appellant's proposal challenged the accuracy of the Valuation Officer's alteration, Mr Rees presented the Valuation Officer's case first.

Summary of the case

6. In his case Mr Hikary gave a potted history as to how the property came into existence. He drew attention to that fact that it was previously used as a public house. He purchased the property because he needed bigger premises from which to operate. When the restaurant and takeaway opened in June 2017, he did not expect the demand for rates to be as high as it was. He added that the property was still licensed to sell alcohol.
7. Mr Hikary said the cost of the refurbishment was about £300,000 and the business employed some 17 members of staff. He said that any reduction in RV that could be achieved as a result of this appeal would benefit his business.
8. In his schedule of evidence Mr Rees referred to the definition of Rateable Value (RV) as set out in Paragraph 2 of Schedule 6 to the Local Government Finance Act 1988, as amended. This section stated –

The rateable value 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 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.

9. Prior to its conversion into a restaurant and takeaway premises, the appeal property was previously a derelict public house known as the *Three Ferrets*. Mr Rees said that the new property "*Hiks Restaurant and Takeaway*" had been inserted into the Rating List as a new property.
10. Mr Rees said that the appeal property had been valued on a shop basis and attributed an underlying level of value for Zone A of £100/m². His calculation for Zone B, public toilets and stores less 5% to reflect its depth to width ratio, came to RV £8,585 which he rounded down to RV £8,500. The valuation scheme applied to the subject property was the same as

that applied to other similar properties situated within the immediate area as well as Manselton, Treboeth, Fforestfach, Ravenhill, Penlan and Waunarlwydd. He added that rental information was mixed which resulted in Zone A values fluctuating between £100/m² and £160/m².

11. Mr Rees said that he adopted the lower rate of £100/m² which extended to £150/m² as one moved towards the more built up area near Brynhyfred Square. He added that the Zone A value applied to the unit that adjoined the appeal property was £100/m². However, the Valuation Officer applied £120/m² to nos 293, 303, 306, 314, 315, 323, 325 and 387 Llangyfelach Road; £125/m² was applied to 448, 449 and 455 Llangyfelach Road and £150/m² applied to nos 462, 468, 475, 479, 485, 492 and 493 Llangyfelach Road.
12. With regard to the characteristics of the appeal property, Mr Rees said that it was a standalone business that adjoined a small pizza takeaway premises and was situated on a main road in Brynhyfred. The area in which the property was situated was densely populated with domestic properties.
13. Mr Rees said that the appeal property comprised a ground floor, restaurant, servery, kitchen, stores and W.C's. It had a good glass frontage which overlooked the main road and had sufficient car parking for five or six cars at its side aspect.
14. Mr Rees also stated that his valuation did not include a line for air conditioning. This may have amounted to a value of £700.
15. In view of the foregoing, Mr Rees asked the Tribunal to dismiss the appeal.
16. At the conclusion of the hearing, the Tribunal decided to reserve its decision.

Decision of the Tribunal

17. Having considered all of the evidence placed before it, the Tribunal decided to dismiss the appeal. In arriving at its decision, the Tribunal gave the following reasons –
18. The Tribunal was not persuaded by the strength of his contentions that a reduction in his property's value to RV £5,000 was justified. The reason for this being that Mr Rees had identified the underlying levels of value for a number of properties in the vicinity which ranged from £100/m² to £160/m². The level of value attributed to the appeal property was £100/m². This represented the lowest level of underlying value the Valuation Officer had applied to retail units in the area and there was no evidence before the Tribunal which suggested that the adopted Zone A level should be disturbed.

19. Moreover, Mr Hikary had not presented the Tribunal with details of disadvantages in the property which might have justified certain end allowances.
20. Whilst the Tribunal accepted that Mr Hikary had expended a considerable sum of money to start and maintain his business, it was unable to reduce the RV to help sustain it.
21. In conclusion, the Tribunal was not in receipt of any evidence that could show that the adopted level of value was wrong or that an end allowance should be factored into the final figure. The Tribunal also recognised that the Valuation Officer had also not added in an amount to reflect the presence of air condition which it understood would normally be applied.
22. In view of the foregoing, the Tribunal considered that there was insufficient evidence before it to justify a reduction in the appeal property's RV. As a corollary, the Tribunal decided to dismiss the appeal.

Certified a true copy on 7th March 2019