

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr Mike Stubbs

Appeal Property: 56 Penybryn, Wrexham, LL13 7HU

Appeal number: 695529842134/192NV17/82

The Matter Appealed Against: 2017 Rating List

Date of Hearing: 13th February 2019

Appearances: Mr Mike Stubbs (Appellant) & Ms Lorraine Arrowsmith (for the respondent Valuation Officer)

Date of Decision: 11th March 2019

Decision of Tribunal: Appeal allowed in part

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 Mr Stubbs in respect of 56 Penybryn which the respondent Valuation Officer received on 5th October 2017. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £12,000 to £6,300 on the grounds that –

The current rating value is based on an increase from the previous rateable value before it was reduced from £11000 to £8700 that rateable value is based on the property previously being a public house which would now be reduced by £1000 anyway retail businesses in the vicinity include takeaways, second hand shops, a shop which has been for sale for 5 years, a business now closing for conversion into a HMO, specialist foreign food shops....The rateable value of this property does not reflect what would be achievable as rent in this area. We are paying the same m²/unit for our office, storage space and a room off the main shop which cannot be used as a shop floor due to fire regulations as our main shop area. Shops near us are paying between 1/10th and 1/20th of the main area. Shops near us and their previous rateable value, ours is no. 56 no. 12 491.7m² £6,300 no.10 152.19m² £2,900 no. 7/9 126.34 £2,700

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. Mr Stubbs explained that his business, selling hi-fi goods, had been established around 30 years ago. He had purchased the appeal property, a former public house, 4 years ago. Mr Stubbs contended that his RV, compared with surrounding businesses was higher than was sensible, there were properties in the same location 4 times larger than the appeal property with half the RV. The appeal property was surrounded by HMOs and other businesses on the street had closed in order to be converted into HMOs. Mr Stubbs believed that potential tenants would not rent his property when there were other shops on the same street with half the RV. To support his contention Mr Stubbs provided the following table –

Address	Description	Total Area (m ² /unit)	Price per m ² /unit	Current RV
12 Penybryn	Shop and premises	491.7	£90	£6,900
62 Penybryn	Showroom and premises	157.19	£125	£5,400
10 Penybryn	Hairdressing Salon	152.19	£90	£4,350
56 Penybryn	Shop and premises	126.71	£110	£12,000
Unit 114 Penybryn	Shop and premises	124.39	£90	£8,000
48 Penybryn	Betting shop and premises	83.59	£90	£3,350

4. Mr Stubbs had requested that the VOA value the appeal property using a zonal method, which he believed would reduce his RV by 60% but had been told that this could not be done as his property was not a traditional shop. Mr Stubbs argued that the VOA had not given him a satisfactory explanation of the description of a traditional shop, however they had provided him with examples of that they described as other non-traditional shops.
5. One example was Majestic Wine, Mold Road which was the main road into Wrexham, located close to the University, opposite the train station and next to the Premier Inn. Mr Stubbs did not believe this to be a comparable property as his business was not located on a bus route and his neighbours were HMOs.
6. Other examples included 13 Charles Street and The Sleepy Panda, both with a basic £/m² value of £110. Mr Stubbs explained that the other 24 properties on Charles Street with the same post code had been valued using £200/m². Similarly, the 4 businesses next to The Sleepy Panda had also been valued at £200/m². Mr Stubbs believed the reason for this was that as non-traditional shops, which were unable to be zoned, the RV had to be 60% that of the surrounding shops to make the overall RV comparable and a fair indication of the achievable rent.

7. Mr Stubbs contended that the appeal property should be rated in line with what would be achievable as rent in comparison with the shops located in his locality, and in line with the examples of other non-traditional shops provided by the VOA in relation to their surrounding shops. Alternatively, the appeal property could be valued using a zonal basis. Either way would result in a RV 40% less than the current value.
8. Ms Arrowsmith introduced the appeal property as being a former public house which had retained a traditional pub frontage. She provided the Tribunal with external and internal photographs, together with a map of its location and plan of its layout. It had been previously entered into the 2010 Rating List as a public house at £10,250 RV however following changes, the property had been valued as a shop and premises at an agreed figure of £8,700 with effect from 24th December 2014. It had been entered into the 2017 Rating List at a RV of £12,000 with effect from 1st April 2017.
9. 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.*

10. Ms Arrowsmith argued that it was for the appellant to prove their case, on the assumption that the appeal had been made on the basis that the appellant had evidence to suggest the assessment was incorrect. In the case *Vines Ltd v de Mauny (Valuation Officer)*(2010) NJ Rose commented –

"It is, however, important to bear in mind that this is an appeal by the ratepayer, not the VO. The onus, therefore, is on the ratepayer to show that the base rate of £160 per m is too high, not the VO to prove the opposite."

11. Ms Arrowsmith explained that as the property had previously been a public house it had been valued on an overall basis. She had been unable to zone the property as it did not have a traditional shop frontage. Ms Arrowsmith valuation of the property was as follows –

Floor	Description	Area m ² /unit	£/m ² unit	Value (£)
Ground	Retail Area	93.97	110.00	10,337
Ground	Internal Storage	21.46	55.00	1,180
Ground	Staff Toilets	N/A	0.00	0
Ground	Office	7.41	77.00	571
Total Area		126.71		
Subtotal				12088
		Spaces		Value (£)
Car Parking		4		0
Total Value				12088
Adopted Rateable Value				£12,000

12. Ms Arrowsmith explained that the appeal property was not in the same character as other shops in the locality, for example numbers 10,12, 48, 50, 58 and 60 Penybryn which were all traditional shops valued on a zonal basis using a zone A rate of either £90/m² or £125/m² based on an analysis of rental evidence.
13. To support her valuation of the appeal property using an overall basis, Ms Arrowsmith presented the Tribunal with the valuation of a number of comparable properties in the Wrexham area. 13 Charles Street, also a former public house, was situated in an area consisting of traditional shops but had been valued on an overall basis using a value of £110/m² which had been supported by the passing rent. Unit 1 Counterpoint, using a value of £145/m² was in line with the passing rent and, The Sleepy Panda using a value of £110/m² based on the annual rental value. Ms Arrowsmith contended that the 3 properties demonstrated the appropriate method of valuation for non-traditional shops was by way of an overall basis and provided a summary of the rental evidence supporting her valuation of the properties.
14. Ms Arrowsmith had reviewed her valuation of the appeal property, looking at the hereditament and its location in comparison to Charles Street and believed £110/m² was excessive. As such she proposed that £90/m² was a more suitable amount. Ms Arrowsmith's revised valuation, which she asked the Tribunal to confirm, was as follows –

Floor	Description	Area m²/unit	£/m² unit	Value (£)
Ground	Retail Area	93.97	90.00	8,457
Ground	Internal Storage	21.46	45.00	966
Ground	Staff Toilets	N/A	0.00	0
Ground	Office	7.41	63.00	467
Total Area		26.71		
Subtotal				9890
		Spaces		Value (£)
Car Parking		4		0
Total Value				9890
Adopted Rateable Value				£9,800

15. At the conclusion of the hearing, the tribunal decided to reserve its decision.

The Reasons for Decision

16. Having considered all the evidence placed before it the tribunal decided as follows: -

17. In his proposal Mr Stubbs had contended that the Rating List was inaccurate and that his RV should be reduced. In line with the case *Vines Ltd v de Mauny* 2010 the Tribunal accepted that the burden of proof rested with the appellant on the basis that 'he who asserts must prove.' 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.

18. The Tribunal believed the appellant had not been able to sustain his argument that the assessment was incorrect and had not, with reference to evidence, undermined the Valuation Officer's valuation of the property. Referring to Mr Stubbs contention that the appeal property should be valued by way of zoning the Tribunal, looking at the hereditament empty and to-let, decided that the Valuation Officer had been correct to value the property on an overall basis in line with similar properties and due to its non-traditional shape and layout.

19. The Tribunal was of the opinion that the evidence supplied by Ms Arrowsmith was both logical and compelling and supported the revised unit value of £90/m² used in her valuation of the property. With this in mind, the Tribunal allowed the appeal but only to the extent conceded by the Valuation Officer in her valuation. As such, the Tribunal orders the Valuation Officer to amend the Local rating List to accord with its decision.

Certified a true copy on 11th March 2019