

Appeal Number: 684030745312/192NV17/43

Appellant: Mr Abdullah Aslan (Occupier)

Appellant's Address: Shop & Premises, 1 & 2 Priory Street, Monmouth NP25 3BR

The Matter Appealed against: Disputes the Rateable Value in the 2017 Non-Domestic Rating List

Date of Hearing: 5 March 2019

Appearances: Miss Ophelia Avent representing the Valuation Officer (VO)

Date of Decision: 15 March 2019

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mr B Fraser (Chair), Mr T Cook and Mrs M E Morris

Tribunal Clerk: Mrs S Gwilliam

Introduction:

1. The subject proposal, which was electronically submitted to the VO on the 18 May 2018 stated that the Rateable Value (RV) of £15,750, as shown in the 2017 Rating List entry in respect of Shop and Premises, 1 & 2 Priory Street, Monmouth should be amended to £9,750 with effect from the 1 April 2017 on the following grounds:

The Rateable Value(s) shown in the Rating List on the 1 April 2017 was/were inaccurate.

The premises is occupied as Take-away & Restaurant but it has been rated as shop and premises which we believe it is different valuation and rate base. Please can you consider the difference and accurate the rate list. Thank you in advance."

2. Mr Aslan submitted a written submission to the Tribunal Clerk on the 14 February 2019, part of which is reproduced below. The Tribunal Members were provided with copies of the submission at the hearing.
3. The following is a summary of the cases presented 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.

The Appellant's Case

4. Mr Aslan's submission included:
 - Emails to the Valuation Tribunal, Mr J Meyrick, the VO Caseworker;
 - Summary Valuation for the appeal property describing it as a shop and premises with a base rate of £250m2 effective from the 1 April 2017;

- Extracts from the VOA website showing the description, size and £m2 of other properties from within the locality;
- Current valuation for 9 Priory Street, Monmouth described as a restaurant and premises with a base rate of £180m2 effective 1 April 2017; and
- External and internal photographs of the appeal property.

5. Extract from email to the Tribunal Clerk received on the 14 February 2019:

"....I did submit the proposal form regards the base rate charged differently to our property where is charged a lot lower the other properties on same street/postcode. Apparently, the VOA valued the number 1-6 base rate £250 per metre square and the number 7 – onwards £180 per metre square.

I did appeal to that but was told they valued our property more because it was closer to town centre which does not make sense as we do not benefit from being closer 10-25 yards compare the other properties. Actually, number 7 and onwards benefit from free park spaces just opposite the shops but we do not at all. We are a Chippy and do not benefit from any park spaces or the Priority street is not high footfall that we would benefit. We are struggling to pay high rate as it is forcing us to close the business.

I believe it is not fair for VOA valued different base rate one to another. Therefore made a appeal and that followed by gone to Tribunal."

6. Extract from email to the VO Caseworker dated 3 October 2018:

"Thank you for the letter. I am current occupant 1-2 Priory Street and running as a Fish and Chip Shop.

I believe the base rate is wrong as it should have considered Take-away/Restaurant not Shop Premises. On VOA websites there are sample indicates that 9 Priory Street is a Restaurant premises and the base rate is £180 per metre square. Both the shop is located on same postcode so does the street."

7. Extract from VOA website:

7 Priory Street, Monmouth NP25 3BR	Shop & premises	30.1	£195
8 Priory Street, Monmouth NP25 3BR	Shop & premises	17.73	£180
9 Priory Street, Monmouth NP25 3BR	Restaurant & premises	52.7	£180
3 Priory Street, Monmouth NP25 3BR	Shop & premises	62.4	£250
Old Market Hall, Priory Street, Monmouth NP25 3BR	Takeaway food outlet	64.64	£180
Frost Antiques & Pine, Bell Lane, Monmouth NP25 3BR	Workshop & premises	76.7	£35
1 & 2 Priory Street, Monmouth NP25 3BR	Shop & premises	96.14	£250

4 Priory Street, Monmouth NP25 3BR	Shop & premises	52.59	£250
Basement 6 Priory Street, Monmouth NP25 3BR	Store & premises	58.6	£100
Gnd & 1 st Flrs 6 Priory Street, Monmouth NP25 3BR	Offices & premises	149.2	£195
2 nd & 3 rd Flrs 6 Priory Street, Monmouth NP25 3BR	Offices & premises	144.2	£80

The VO's Case

8. Miss Avent attended the hearing on behalf of the VO caseworker, Mr J Meyrick. She submitted to the Tribunal copies of his presentation which included the VO's case; Expert Witness statement; appeal history; issue before the Tribunal; legislation and case law; evidence; GOAD street plan detailing the position of the subject property and its close vicinity to the prime parts of Monmouth; a valuation; copies of the photographs supplied by the Appellant and the decision sought by the VO.
9. She described the appeal property as a purpose built shop located amongst other shops of a similar nature on Priory Street, Monmouth which was entered in the 2017 Rating List with a RV of £15,750 with effect from the 1 April 2017.
10. The VO reported that the valuation before the Tribunal was produced using the following statutory basis as defined in paragraph 2(1) of Schedule 6 to the Local Government Finance Act (LGFA) 1988 (as amended):

"The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local 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.*

11. Further, the Rating Lists (Valuation Date) (Wales) Order specifies the day by reference to which the RV of non-domestic hereditaments are to be determined for the purposes of local and central non-domestic rating lists compiled for Wales on the 1 April 2017, as the 1 April 2015.
12. With relation to the Appellant's contention that the subject property should be valued at a lower price per metre square (m2) and also valued as a restaurant, the VO considered each contention separately.

13. Miss Avent referred the Tribunal to the photographs provided by the Appellant and added that they exemplify that the subject property, vacant and to let, is fundamentally a standard retail shop. Miss Avent added that many properties are run as takeaways or restaurants within a standard purpose built retail unit and that the appeal property operates as such a property.
14. She clarified that the one of the commercial properties specified within the Appellant's submission, 9 Priory Street, whilst described as a restaurant, was valued as a shop. Another property described as a takeaway food outlet at the Old Market Hall in Priory Street had also been valued as a shop. Miss Avent explained that the caseworker disregarded the details regarding workshop and premises as he did not consider them to be comparable.
15. In relation to the price per m2 applied to the subject property, the VO maintained that it had been valued in line with rental evidence for that part of Monmouth; accordingly the lower rate m2 applied to number 7 onwards was supported by rental evidence.
16. The VO referred to the case of Lotus and Delta v Culverwell (VO) & Leicester (1986) where it was determined that the starting point for any rating valuation is the rent passing, where there is one. The annual rent for the appeal property of £20,000 was agreed as a new letting on the 7 February 2017 and compares to the RV of £15,750.
17. Referring to a GOAD plan, the VO pointed out the location of the subject property to that of other properties in the vicinity:

ADDRESS	RENT	EFFECTIVE DATE	ANALYSED RENT	REMARKS
6 Priory St		08-03-2015	£198.25	
4 Priory St		01-01-2015	£250.39	CLOSE TO SUBJECT
1-2 Priory St		07-02-2017	£290.02	SUBJECT PROPERTY

18. In addition, the VO then referred the Tribunal to the valuation applied to the appeal property which detailed the £m2 applied.
19. To conclude, the VO requested that the Tribunal dismiss the appeal.

Decision of the Tribunal

20. The Tribunal is aware of the definition of Rateable Value and the basis of valuation for the appeal hereditament as contained within paragraph 2 (1) of Schedule 6 to the Local Government Finance Act 1988, as amended by Section 1(2) of the Rating (Valuation) Act 1999.
21. The definition determines that 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, if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and other expenses, if any, necessary to maintain the hereditament in a state to command that rent.
22. The Appellant proposed that the Rateable Value should be reduced from £15,750 to £9,750 with effect from the 1 April 2017 and valued as a restaurant and premises as opposed to a shop and premises.
23. However, the Valuation Officer maintained that the £250m2 applied to the appeal property was fair and in line with other comparable properties within the vicinity.
24. The Members firstly considered the issue of whether the subject property should be valued as a shop and premises, or, as a restaurant and premises as suggested by the Appellant.
25. The Tribunal considered the photographs provided and is aware that the appeal property must be assumed to be vacant and to let. The Members agreed with the Valuation Officer that the photographs clearly depict the property as a standard retail shop and that it is not uncommon for such standard purpose built properties to be utilised in such a way.
26. With relation to the issue concerning the base rate of £250m2 as applied to the subject property, the Members noted that the Valuation Officer provided two rents of properties located within close proximity of the property which were agreed close to the Antecedent Valuation Date, and, the Tribunal considered that they gave a fair indication of the letting requirements of both the landlord and the tenant close to the 1 April 2015. These analysed rents of properties situated further from the prime area of the town centre clearly supported the £m2 ascribed to the appeal property.
27. In addition, in accordance with *Lotus and Delta Ltd v Culverwell (VO)* (1986), the new analysed rent of £20,000 pa agreed, albeit agreed sometime after the Antecedent Valuation Date, clearly supported the Rateable Value of £15,750.
28. Whilst the Tribunal Members sympathised with the Appellant's financial circumstances, they are unable to take this information into account.
29. In conclusion, whilst having regard to the statutory definition of Rateable Value and evidence overall, the Tribunal was persuaded by the Valuation Officer that the Shop and Premises, 1 & 2 Priory Street, Monmouth should remain entered in the 2017 Non-Domestic Rating List at £15,750 Rateable Value. Accordingly, the subject appeal was dismissed.
30. Certified a true copy on 15 March 2019