

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr Harminder Sandhu

Appeal Property: Queens Fish and Chips, Unit 4 Stradey District Centre, Maesycloed, Stradey SA15 4EB

Appeal number: 682930948457/192NV17/10

The Matter Appealed Against: 2017 Rating List

Date of Hearing: 16th May 2019

Appearances: Mr M Dolben (for the respondent Valuation Officer)

Date of Decision: 24th May 2019

Decision of Tribunal: Appeal allowed in part

Members of the Tribunal: Mr H Patrick (Chairperson), Mr JG Edwards & Mr JM Griffiths

Tribunal Clerk: Mr G Harris

Introduction:

1. The appeal under consideration followed a proposal made by Mr Sandhu in respect of Queens Fish and Chips, Unit 4 Stradey District Centre, Maesycloed, Stradey which the respondent Valuation Officer received on 14th September 2018. The proposal sought a reduction of the Rateable Value (RV) of the appeal property from £14,000 to £4,200 on the grounds that –

Currently the payable annual rent is £10,500 so the rating of £14,000 should be sufficiently lower. I am aware larger similar premises are paying in the region of £4,200.

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 Sandhu was unable to attend the hearing and requested that the appeal be heard in his absence. As such, the Clerk read out Mr Sandhu's written submission before the panel which stated –

I apologise I was unable to attend the hearing today but wish to submit a written submission for consideration. Our current rateable value is £14,000 which I believe is too high and wish to appeal because of the following reasons:

- 1. Our neighbour unit (Co-Op, Unit 1 Stradey District Centre, Maesyrcoed, Stradey, Llanelli SA15 4EB) is being charged £100 per m²/unit whereas my much smaller unit is being charged £150 per m²/unit. Based on their much higher turnover this I would deem unfair.*
- 2. The other units along our parade are currently closed and not trading so the footfall in the area is much smaller and a contributing factor to the hardship we are currently facing.*
- 3. I believe the flat rate which has been calculated for our unit is for the whole site and not just the retail area. The unit is split into a traditional fish and chip shop take away so there is a small customer waiting area, then serving area with the majority of our unit floor space being dedicated to our kitchen/food preparation area.*
- 4. Our current rent is £833.33 per month so annually this is approximately £10,500*

I urge you to review our appeal and reduce the rate.

4. Mr Dolben introduced the appeal property and provided the Tribunal with external photographs and a map of its location. He explained that it originally been valued in line with Dominos and Subway, both located in the centre of Llanelli, adopting a unit value of £150/m². This had been supported by the Form of Return (FOR) rent given as £14,322.24 with a 6-month rent free period, the landlord responsible for external repairs and £5,250 paid to secure the lease.
5. Mr Dolben stated that the appellant had clarified that the subject property was not located within the town centre of Llanelli but on a primarily residential street in the district of Stradey. In addition, the FOR rent had mistakenly included a management charge and insurance. The actual rent figure was £10,000 with a 6-month rent free period, with the landlord responsible for external repairs and £5,250 paid to secure the lease. The adjusted rent was £10,714 per annum which adjusted to £114.47/m².
6. Mr Dolben explained that he considered the subject rent to be the best evidence in line with the Upper Tribunal case Lotus and Delta. He had adopted a unit value of £115.00/m², and proposed the following revised valuation -

Floor	Description	Area m ² /unit	£/m ² unit	Value (£)
Ground	Ground Floor Sales	93.60	115.00	10,764
Valuation Sub Total				10,764
Rateable Value				£10,750

7. Mr Dolben did not believe Mr Sandhu's comparison between the appeal property and the Co-operative located next door to be helpful as the appeal property was much smaller, 93.6m² compared to 342.88m². In addition, the subject property had been valued as a restaurant/food unit and the Co-operative as a convenience store.
8. In conclusion, it was Mr Dolben's opinion that the current tone adopted was incorrect and having regard to the evidence he requested that the Valuation Tribunal confirm a revised rateable value of £10,750 with effect from 11th May 2018.
9. At the conclusion of the hearing, the tribunal decided to reserve its decision.

The Reasons for Decision

10. Having considered all the evidence placed before it the tribunal decided as follows: -
11. In his proposal Mr Sanhu had contended that the Rating List was inaccurate and that his RV should be reduced to £4,200. 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.
12. The Tribunal was of the opinion that 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. The Tribunal believed that Mr Dolben had correctly valued the property on an overall basis, considering the whole floor area on the assumption that the property was empty and to let, and had not restricted his valuation to the retail area as contended for by Mr Sandhu.
13. The Tribunal accepted that the unit value of £115/m² used by Mr Dolben in his valuation of the property was in line with the adjusted rent, and that the resulting revised assessment of £10,750 was fair and reasonable.
14. With this in mind, the Tribunal decided to allow the appeal but only to the extent conceded by Mr Dolben in his valuation. As such, the tribunal orders the Valuation Officer to amend the Rating List with its decision.

Certified a true copy on 24th May 2019