

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: Mr M H Ashworth

Appellant's Address: Clynnog, Penybryn, Corwen LL21 0BD

Appeal number: 6830M181/CTL

Date of Appeal: 13 July 2020

The Matter Appealed against: Council Tax Liability

Date of Decision: 28 January 2021

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mr R Handy (Chairperson), Mrs J Worswick & Mr C Newman

Tribunal Clerk: Mrs C Jones

Introduction:

1. The appellant appealed to the Valuation Tribunal for Wales (VTW) against Denbighshire County Council's (DCC) refusal to allow a discretionary discount under *Section 13A of The Local Government Finance Act 1992*, in respect of Clynnog, Penybryn, Corwen.
2. With the agreement of both parties the appeal was dealt with by means of written representations as defined under *Paragraph 33 of The Valuation Tribunal for Wales Regulations 2010*.
3. 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 Appellant's Evidence

4. Mr Ashworth explained he understood and agreed with the logic for introducing the Empty Home Premium (EHP), in order to financially discourage house and flat owners from leaving their properties empty and unavailable to people seeking a place to live. He stated that in his case, from the moment he had purchased Clynnog, his aim was to rescue an uninhabitable house next door to his own home, which had been empty for over thirty years, and make it habitable again in order to either rent or sell.

5. DCC had sent their Housing Officer to the property to verify the need of renovation and had agreed to let him off paying council tax for 12 months up to the 1 May 2020. Mr Ashworth clarified that except for paying an electrician and gas fitter, his financial position required him to work by himself on the property. Due to being seventy-four years old he did not work full days; the coronavirus lockdown had affected the availability of supplies and consequently progress had been limited.
6. The appellant reported, at the time he submitted his evidence, that the house was now nearly finished but Welsh Water would not connect the new water supply until the 14 September and Wales and West Utilities would not connect the gas until the 20 October. Proceeding this, Scottish Power needed to come and fit a gas meter so that a gas fitter could commission the boiler. He predicted the house would not be finished until November, although he probably would be able to advertise it in October.
7. Mr Ashworth informed the Tribunal that DCC had written to him on 10 June 2020 with two arguments. Firstly, because the house had not been advertised for sale or rent it could not be exempt from EHP. He contended that he was unable to advertise the property because it was nowhere near ready. Secondly, he had confirmed on his appeal form that the renovation works would not put him into financial hardship. To him financial hardship would mean not being able to pay bills and not being able to continue with the renovation. He would not have started this work had he been so close to such impecunity. He could not see how his financial position was of any relevance to the EHP.
8. In conclusion of his evidence, the appellant explained that the renovation of Clynnog was a commercial enterprise that brought a neglected building back into use. This benefitted himself, the Council and whoever came to live there. Clynnog was not an empty home, but rather a work in progress for the benefit of all. Mr Ashworth felt, to a certain degree, that he was being penalised for not working faster. He could not afford a team of builders and the amount of renovation work had been considerable. Due to his age, he was not able to work as hard as he used to.

Summary of the Billing Authority's Evidence

9. Kerri Cooper on behalf of DCC stated that the basis of Mr Ashworth's appeal was that the property had been unoccupied since he purchased it on the 24 April 2019. Due to this, and the fact that the property had been unoccupied for several years, the Council Tax Premium was incurred from the 15 June 2020. Prior to this, the appellant received a Class A exemption and therefore did not have to pay Council Tax for 12 months.
10. Ms Cooper explained that DCC had initially refused the appellant's application for discretionary relief. Upon reconsideration they had decided to grant Mr Ashworth discretionary relief to prevent the Premium being incurred for the period the 1 May 2020 until the 15 June 2020. This was

decided due to the restrictions in place because of the Covid-19 pandemic. It was felt this was reasonable and reflected the impact on Mr Ashworth.

11. Ms Cooper told the Tribunal that the Long-Term Empty Premium was an additional 50% charge where properties had been unoccupied and unfurnished for more than 12 months. A further 12 months could be provided before the premium was incurred if the property were on the open market for sale or to let.
12. The Council Tax Premium was introduced by Welsh Government under Section 139 of the Housing Act Wales 2014. This legislation provided a provision for Local Authorities to raise a premium of up to 100% additional Council Tax on long term empty properties (unoccupied for 12 months or more) and second homes. DCC decided on the 4 December 2017 that a 50% premium would be raised on long term empty properties from the 1 April 2018 and second homes from the 1 April 2019.
13. Ms Cooper stated that Mr Ashworth had already had 17 months in which to complete the renovation works, with 12 months of this being at a zero charge for Council Tax. She provided the Tribunal with a timeline of events for the appeal, as reproduce below: -

<u>DATE</u>	<u>EVENT</u>
12 June 2019	CT team made aware by previous owner Clynnog had been sold to appellant on 24 April 2019
5 July 2019	Appellant calls CT team requesting Class A exemption. This was awarded for 12 months (1 May 2019 to 1 May 2020)
1 May 2020	50% CT Premium commenced
18 May 2020	Appellant called CT team requesting the Premium be removed due to carrying out renovations on property and unable to finish works due to Covid-19
	Discretionary discount considered, refused due to the appellant not experiencing financial hardship, circumstances not preventing renovation and fact he had already had 12 months in which to complete works
	Decision overturned upon reconsideration – 50% premium waived from 1/5/20 until 15/6/20 when lockdown restrictions in Wales were relaxed

14. She explained that Mr Ashworth believed he should not be charged the Premium until he had completed the renovation works on his property. The appellant was advised that he could have a further 12 months, where the Premium would not be charged once the property was on the open market for sale or to let.
15. In summing up her evidence, Ms Cooper stated that DCC had a statutory duty to issue Council Tax demands in accordance with The Local Government Finance Act 1992 and the Council Tax Administration and Enforcement Regulations 1992 and to collect taxes within this legal framework.

16. The appellant had purchased the property as a commercial property and did not intend to occupy the property when the work was complete. He would have been aware upon purchasing the property, the work it would require making it suitable to let out. DCC had referred the appellant to Denbighshire's long term empty property assistance team, who offer support in the way of grants to help bring properties back in to use sooner as well as project management support. The appellant had also been referred to the authority's landlord offer where he could receive further support regarding letting his property.
17. She asked the Tribunal to dismiss the appeal, on the grounds that the authority had acted reasonably in waiving the 50% premium for the period where the Covid-19 lockdown restrictions were in place. The appellant had also been awarded a 12-month class A exemption. It was felt the charge in place now should be paid by Mr Ashworth, until such time as the property was occupied or on the market for sale or to let.

The Reasons for Decision

18. Having considered all the evidence placed before it, the Panel decided to dismiss this appeal. It does so for the following reasons.
19. An amount of Council Tax has always been due on this property in the past. In the first instance, this is because the property is shown in the Council Tax Valuation List as a chargeable dwelling. The Billing Authority has no authority over the matter of inclusion of properties in the Valuation List. It remains the fact then that this property is currently in the Valuation List and it is not an exempt dwelling under any other part of Council Tax legislation. Accordingly, the property is a chargeable dwelling; and Council Tax is payable in respect of it unless the amount due is reduced to zero in accordance with other legislation.
20. Under the relevant legislation as it currently stands the property is subject to a Second Home Premium. Ms Cooper explained fully in her evidence why the premium had been applied in this case. The Tribunal understands and accepts this explanation, as does Mr Ashworth. For the Council Tax payable in respect of the dwelling to be reduced (either to zero or a lesser amount than the full charge based on the Second Home Premium), the billing authority would have to exercise the discretion given to it under section 13A(1)(c) of the Local Government Finance Act 1992. The discretion is wide in that it allows the authority to reduce the amount as "it thinks fit", considering all the relevant circumstances.
21. The authority has addressed the issue of reducing the amount payable by way of the discretion available to it; and it has concluded that the circumstances do justify a reduction for the period where the early Covid-19 lockdown restrictions were in place in Wales. The Tribunal finds that the authority has acted reasonably in coming to this conclusion.

22. Overall, the Council had looked at the detail of Mr Ashworth's case and it has found that the circumstances are sufficient to warrant a discretionary reduction.
23. Whilst the Tribunal commended the appellant's efforts to bring the appeal property back into use, it is of the opinion that Denbighshire County Council had not erred in the exercise of its discretion to grant Discretionary Relief in the manner it has done in this instance. The Tribunal finds therefore that the premium should remain in place until the property is either marketed for let or for sale or there is another change which requires the Council Tax charge to be reconsidered.
24. For the above reasons, the Tribunal dismisses this appeal.

Certified a true copy on the 28 January 2021