

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Tribunal Decision

Appellant: Rating and Valuation Company; agent for Mr A Osborne

Appeal Address: Shop and Premises, Ground Floor, 20 Caroline Street,
Cardiff. CF10 1FG

Appeal number: 681533409356/285NV/18

The Matter Appealed against: Rateable value entered in the Compiled List
April 2017.

Date of Hearing: 5th March 2020

Appearances: Mrs S Harris representing the Valuation Officer,
accompanied by Mr G Jones.

Date of Decision: 30th March 2020

Decision of Tribunal: Appeal Dismissed

Members of the Tribunal: Mr A Park (Chair), Mr RG Harris and
Mr W Lewis.

Tribunal Clerk: Mrs J Blizzard-Phillips

Introduction:

1. The appeal before the Tribunal arose from a proposal to alter the property's compiled entry in the 2017 Non-Domestic Rating List.
2. Within the proposal, the Agent submitted that the rateable value be altered to £12,750 on the basis that the rateable value was inaccurate when the property was revalued in April 2017. Attached to the proposal was a plan of an incorrect property (not the appeal property), information relating to Jones Dairies (not the Appellant) and an authorisation document in relation to John Dairies.
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 Agent's Case:

4. The Agent had provided a written submission to VTW's administrative office, for the Tribunal's consideration at the Hearing. The Clerk to the Tribunal read out the Agent's submission.
5. The appeal property is a shop and premises situated in the town centre. It is occupied as a Tattoo Shop. There are numerous Tattoo shops within the area; such as Frontier Tattoo Parlour at 2 St Mary Street, Cardiff CF10 1AT; Sleep When You're Dead Tattoo and Barbers at 22 High Street Arcade, Cardiff CF10 1BB.
6. The Appellant company traded as "Marked for Greatness Tattoo" and took up occupation of the appeal property on 18th March 2016. The appeal property pays a rent of £10,000 per year.
7. The appeal property has been valued by the Valuation Officer, in accordance with his valuation scheme, on a rate for Zone A of £500 per m²/unit; whereas the Agent contends that there is evidence to support a rate of £370 per m²/unit.
8. The property's yearly rent of £10,000 should be considered when assessing the rateable value. The current lease commenced on 18th March 2016 and is a 5-year lease agreement.
9. In 2019 scaffolding was erected in front of the appeal property, whilst the Council carried out works. Mr Osborne; the Appellant, was advised that the work would take three weeks, however, the work continued for four months. Mr Osborne did contact the Council to complain, however no further action was taken by the Council. As a result, Mr Osborne lost customers and business.
10. The Agent proposed the following valuation:

Zone A: 20.78m² x £370 = £7688.60

Zone B: 22.23m² x £185 = £4112.55

Retail Area: 9.28m² x £92.50 = £858.40

Internal Storage: 8.1m² x £37 = £299.70

Rateable value: £12,959.25

11. The agent reiterated that the appeal property has a rent of £10,000 per year and referred to the legal definition of "rateable value" as contained in the Local Government Finance Act 1988, Schedule 6, as amended. This being "the amount of equal rent at which the property might reasonably be expected to let, from year to year..."

12. The case of *Lotus v Delta Ltd v Culverwell (VO) & Leicester City Council*, outlined that a property's rental evidence should be taken as the starting point when determining a property's rateable value. This was reinforced in the case of *Futures London Ltd v Stratford (VO)*. Given the rental evidence of the appeal property, the Agent submitted that it was clear that the VOA had not considered the property's current rent; the rateable value should reflect the rent and not surpass it.
13. In *HostSoho v Jackson (VO)*, the Upper Tribunal found the Valuation Officer's approach to the "prescriptively formulaic" and one which failed to reflect the facts of the disturbance at the appeal property. This case concerned the rating assessment of offices which were affected by disturbance from the nearby redevelopment of Kemp House; located opposite the appeal property.
14. Similar to the above case, Mr Osborne has been affected by the scaffolding and street works in front of the appeal property. The VOA has failed to consider this and claims that the current rateable value does not need altering.
15. In *HostSoho v Jackson (VO)* the Upper Tribunal concluded that the Valuation Office should "stand back and look" before arriving at a valuation. Similarly, to Mr Osborne's property, the Agent requested the Valuation Office to "stand back and look" at the evidence presented.
16. Under the valuation scheme reference, the value per square meter adopted within the scheme ranges from £90 to £545, with the most commonly adopted value per square meter being £270.
17. The Agent submitted that there is a clear comparable evidence to suggest that the appeal property's Zone A value should be £370/m²:
 - 36 Caroline Street, Cardiff CF10 1FF at £370 Zone A
 - 37 Caroline Street, Cardiff CF10 1FF at £370 Zone A
 - 45 Caroline Street, Cardiff CF10 1FF at £370 Zone A
18. In conclusion, the Agent submitted that the Valuation Office should consider the appeal property's yearly rent as a starting point. Then, there is a good comparable evidence that, in terms of Zone A, a tone for the list has been set at £370. Therefore, the rateable value for the appeal property should be £12,959.25, starting from 1st April 2017.
19. Included in the Agent's submission were photographs of the appeal property showing the scaffolding outside and a copy of the current lease agreement.

Summary of the Valuation Officer's Case:

20. Mrs Harris; representing the Valuation Officer, prescribed copies of written documentation to the Tribunal. The following is a summary of its contents:
21. The appeal was received on 11th April 2019 and was accepted as a valid Compiled List appeal. As the appeal was not made on the basis of a material change in circumstances, Mrs Harris had advised the Agent that a second appeal should have been made in order for the the impact of the scaffolding to be considered.
22. Reference was made to Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 and the assumptions to be made when valuing a non-domestic hereditament. The rateable value of a property should be taken as an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year.
23. The antecedent valuation date for this appeal is 1st April 2015.
24. The case of Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council sets out the principles to be applied and how evidence should be considered when determining a property's rateable value. Where rents of similar properties are available, they are to be looked at through the eye of the valuer to confirm or otherwise, the level of value indicated by the actual rent of the appeal property. Assessments of other comparable properties are also relevant.
25. The appeal property; known as Ground Floor 20, Caroline Street, Cardiff CF10 1FG, is situated in Cardiff City centre and comprises a ground floor shop with ancillary accommodation to the rear.
26. Included in Mrs Harris' presentation were images of the front of the appeal property, a location plan of Caroline Street and surrounding area indicating the Zone A values adopted for properties on Caroline Street, a layout plan of the property, and the Valuation Officer's valuation of the property, which had been based on a Zone A rate of £500/m² resulting in a rateable value of £16,500.
27. The appeal property has an area in terms of Zone A of 33.87m², which is not in dispute.
28. Mrs Harris informed the Tribunal that shop units in the same part of Caroline Street as the appeal property have been valued at a Zone A rate of £500/m². Mrs Harris referred the Tribunal to that location plan which highlighted the appeal property in red and indicated that all properties from number 19 Caroline Street, to the top end of the Street had been valued at £500/m²; this level of value had been derived from rental evidence for the location.

29. Those shops further down Caroline Street and further away from the Hayes have been valued at Zone A rate of £370/m2.
30. The rent on the appeal property; 20 Caroline Street is £10,000 per annum and is effective from 25 March 2016. This rent equates to £295/m2.
31. The rent on 21 Caroline Street is £20,400 per annum, effective from 2nd July 2015, and analyses to £684/m2.
32. The rent on 23 Caroline Street is £35,850 per annum, effective from 25th October 2016, and analyses to £684/m2.
33. Following Lotus & Delta v Culverwell, Mrs Harris noted that the starting point to identifying the appeal property's rateable value should be its rent. The rent of £10,000pa effective from 25th March 2016, analyses to £295/m2. The next step is to consider the rents of similar properties to ascertain whether the rent on the appeal property is at an appropriate level. The comparable rents analyse to £503/m2 effective from 2nd July 2015 and £684/m2 effective from 25th October 2016. These rents therefore suggest that the rent on the appeal property is low.
34. Mrs Harris submitted that rating assessments of comparable properties should also be considered to determine the appeal property's rateable value. Mrs Harris reminded the Tribunal that shop units at the top end of Caroline Street where it meets The Hayes, are valued at £500/m2, this being higher than those shop units further along Caroline Street which are valued at £370/m2.
35. An earlier appeal made in relation to 20 Caroline Street was dismissed by the Valuation Tribunal due to the non-appearance of the Appellant. Mrs Harris confirmed that there are no further outstanding Rating appeals relating to properties along Caroline Street. In conclusion, Mrs Harris requested the Valuation Tribunal to confirm the appeal property's 2017 rateable value of £16,500 with effect from 1st April 2017.

Reasons for the Tribunal's Decision:

36. Having considered all the evidence before it, the Tribunal decided to dismiss the appeal. In arriving at its decision, the Tribunal gave the following reasons –
37. The Local Government Finance Act 1988, as amended, provides 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 year to year. The Antecedent Valuation Date of the present appeal is 1st April 2015.
38. Both parties referred to the established caselaw and principles laid out in Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council. Considering

this, the Tribunal noted that whilst the appeal property's rent is the starting point to determine its rateable value, it is not the only evidence that has to be considered.

39. The Agent had provided the £370/m² Zone A details of numbers 36, 37 and 45 Caroline Street, however, having considered the location plan included in Mrs Harris' presentation, the Tribunal found that these properties were in an inferior location to that of the appeal property.
40. Mrs Harris; representing the Valuation Officer, had provided rental evidence of properties located in the same part of Caroline Street as the appeal property; numbers 21 and 23. These rents analysed at £503/m² and £684/m², with number 21's rent being effective from 2nd July 2015; close to the AVD. Mrs Harris had also confirmed that shop units at the top end of Caroline Street, where it meets The Hayes, are valued at £500/m².
41. Having considered the evidence, the Tribunal was satisfied that the Zone A rate of £500/m² used to value the appeal property was not excessive and was in line with comparable properties.
42. The Agent had referred to scaffolding erected outside the appeal property, however, as the appeal was a Compiled List appeal and not made on the basis of a material change in circumstances, the Tribunal could not consider the effects of it.
43. The Tribunal therefore confirms a rateable value of £16,500 with effect from 1st April 2017, for Ground Floor, 20 Caroline Street, Cardiff, CF10 1FG.

Appeal Dismissed.

Certified a true copy on 30th March 2020