

Appellant: Mr C Thomas

Appellant's Address: Workshop and Premises, Glynderwen, Meifod Road, Llansantffraid, SY22 6XP

The Matter Appealed against: 2017 Non-Domestic Rating Compiled List entry

Date of Hearing: 14 December 2018

Appearances: Mrs M O'Connor representing the Valuation Officer (VO)

Date of Decision: 22 January 2019

Decision of Tribunal: Appeal Allowed In Part

Members of the Tribunal: Mr E G L Moore (Chair), Mr G E Evans and Mr A J Park

Tribunal Clerk: Mr R Williams

Introduction: The subject proposal was made on the 24 April 2017 challenging the Compiled List entry of the Workshop and Premises, Glynderwen, Meifod Road, Llansantffraid, in the 2017 Non-Domestic Rating List at £2,375 Rateable Value (RV) with effect from the 1 April 2017.

The grounds of appeal as contained in the subject proposal were as follows:

"The rateable value be altered to £1,720 with effect from 01/01/2017.

The rateable value was inaccurate when the property was revalued in April 2017.

My detailed reasons for believing the property value or details should be altered are: Lack of facilities as detailed on the accompanying sheet are not fully reflected in the valuation.

- A. The vehicle repair workshop lacks the following facilities:*
- B. The workshop has no independent electric supply.*
- C. The workshop has no water supply.*
- D. There is no mains sewer or septic tank.*
- E. The workshop has no windows, dark inside with door closed.*
- F. There are no inspection pits.*
- G. There are no vehicle hoists.*
- H. The main door does not fully open, thus it is necessary to have door side bay empty to facilitate driving a vehicle into other side.*

Items A – C would preclude any employment at the site (i.e. no washing or toilet facilities). A similarly sited property, possessing all the above facilities at Llanymynech, Crossways garage, SY22 6EN, is in the same category as mine (0966).

Crossways Garage	price per m2/unit	£32.18
Glyn Derwen	" " "	£29.05

Thus my workshop, lacking all the facilities present at Crossways Garage is given at 9.7% reduction in price per m2/unit.

The professional advice that I have received is that the reduction in price per m2/unit should be 35-40%.

I consider a price per m2/unit of £20.92 to be more realistic.

On the 9 November 2018 Mr Jenkins returned a proforma form confirming that he would not be attending the Hearing and requested that a written submission along with a quotation from SP Power System Limited regarding new supply works be considered in his absence. At the Hearing, the Tribunal Clerk provided the Members with photocopies of the written submission for its perusal, which is reproduced in its entirety as follows:

“VOA has accepted my representations that the measurement of the workshop 82.26metre² is incorrect and has accepted my measurement of 72.41metre². (A reduction of 11.9%) and issued me with a new valuation of £2100. This reduction is only in view of the reduced area of the workshop.

However, I still do not consider a sufficient allowance has been made for the workshop's lack of services and facilities in the valuation viz; 5% for lack of services. In fact since an allowance is made for lack of heating then the allowance for lack of services is made from this figure the actual allowance given for lack of services is actually 4.7%. (VOA informed me by e-mail that this is the way the allowances are allocated.)

The workshop has no electricity supply. (Copy of quotation of £9,797 from SP Energy to install supply).

The workshop does not have a water supply.

There is no mains sewerage system on my road. There is no septic tank.

The lack of water and toilet facilities would preclude the employment of labour at the site.

On the VOA webpage of similar properties there is a workshop similar in size and about 3-4 miles from my workshop, Crossways Garage, Llanymynech SY22 6EN (same category as mine 096G), located very close to the main trunk road to Welshpool and Newtown. This had all the service mine lacks. It is a modern brick building with modern day roller doors. It has fixed vehicle hoists installed. There are separate doors to each bay of the workshop. My workshop has a door to one bay only, so as to access the other bay this bay has to be unoccupied. There are no windows in my workshop; it is dark when the door is closed.

These factors and the lack of services would affect the likely rental value of Glynderwen workshop.

The price per metre²/unit for Crossways Garage is £32.18.

The price per metre²/unit for Glynderwen Workshop is £29.05.

This is a reduction of 9.7%.

The professional advice I have received is that reduction should be of the order of 25-35%.

Also in the original assessment of £2375, this was rounding down from £2390 (0.6%). For Crossways Garage the rounding down is £2650 from £2692 (1.6%). Why is this?”

The VO's Case

Mrs O'Connor submitted to the Tribunal copies of her presentation whilst explaining that she would be acting in the capacity of both advocate and expert witness on behalf of the VO.

She reported the basis of valuation for the appeal hereditament was defined in paragraph 2(1) of Schedule 6 to the Local Government Finance Act (LGFA) 1988, as amended by section 1(2) of The Rating (Valuation) Act 1999 as:

"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."

The VO explained that the RV of a hereditament was an estimate of the rental value at the Antecedent Valuation Date (AVD), which for the 2017 Non-Domestic Rating List is the 1 April 2015, whilst having regard to the physical factors and physical setting as they were at the Material Day, which in the subject appeal was the 1 April 2017.

Mrs O'Connor further explained that for the purpose of rating valuation, the hereditament must be valued on the assumption that the appeal hereditament was vacant and to let in its actual physical state, subject to the usual repair assumptions, and for a use within the same mode or category of occupation as the actual use.

She described the appeal hereditament as a vacant semi-detached industrial unit located within the curtilage of appellant's domestic residence where its original entry in the 2017 Non-Domestic Rating List adopted a tone of £33.00/m² before reflecting allowances of 2.5% for no heating and 5% for no insulation to arrive at a tonal rate of £30.58/m².

Following an inspection of the appeal hereditament and an amendment to the overall area from 82.26/m² to 72.41/m², the VO considered that a further allowance was warranted to reflect the lack of services and accordingly an additional allowance of 5% was reflected in the tone to arrive at a unit rate of £29.05/m². However following further consideration of comparable properties within the area and the realisation that those properties had received an allowance of 10% for the lack of services, the tonal rate was further reduced by an allowance of 5% to arrive at a tone of £27.52/m². Accordingly having regard to the change in the overall area and adopting the revised tonal rate, the VO would be seeking confirmation of a revised assessment of £1,975 RV.

Mrs O'Connor then commented on the comparable property referred to by Mr Thomas in his written submission in respect of Crossways Garage, Llanymynech. She remarked that whilst this property was very similar in size to the appeal hereditament, the additional allowances received by the subject property in respect of tone to reflect the lack of heating, insulation and services more than makes up for the different quality between the two properties.

Accordingly and in conclusion, the VO requested that the Tribunal confirm a revised assessment in respect of the appeal hereditament to £1,975 RV with effect from 1 April 2017.

Reasons for Decision

The Members of the Tribunal considered very carefully all the evidence presented at the Hearing, both written and oral, before making a determination and was aware of the definition of Rateable Value and the basis of valuation for the appeal hereditament, which was 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.

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.

It was also mindful of The Rating Lists (Valuation Date)(Wales) Order 2014, SI No.2917 (W297) which signifies the Antecedent Valuation Date, the 1 April 2015, as the day to which Rateable Values of Non-Domestic hereditaments were to be determined for the purpose of local and central Non-Domestic Rating Lists compiled for Wales on the 1 April 2017.

Therefore in accordance with relevant legislation, the Tribunal must value the appeal hereditament by reference to values pertaining at the 1 April 2015 and cannot consider economic factors other than they were on that day; whilst having regard to the locality that existed as at 1 April 2017.

It was also aware that the onus lay with the appellant to prove its case and to show that the appeal hereditament's assessment was incorrect, as directed by the general principle from the High Court case in respect of Vines Limited v de Mauny (Valuation Officer) (2010).

Mr Thomas contended that the appeal hereditament's assessment should be reduced in comparison to Crossways Garage, a modern property which benefits from all services and facilities. As a consequence he proposed that the unit rate of Crossways Garage at £32.18/m² should be adopted in respect of appeal hereditament and then be reduced by 35% to a tonal rate of £20.92/m² to arrive at a reduced assessment of £1,720 RV, having regard to the change in the overall area.

Whereas the Valuation Officer had adopted the original unit rate of £33.00/m² and reduced the tone in total by 17.5% in allowances to reflect the lack of heating, insulation and services at the appeal hereditament which arrived at a revised unit rate of £27.52/m², which provided a revised assessment of £1,975 RV.

Having regard to the evidence presented overall, the Tribunal was persuaded by the Valuation Officer that the revised tonal rate of £29.05/m² adopted in the appeal hereditament's valuation was fair and reasonable and that the total allowances conceded reflected the 'warts and all' in respect of the subject property.

The Tribunal attached little weight to the appellant's contention that the tonal rate should be reduced by 25-35% following professional advice, as this statement within the written statement was not supported by any substantive evidence.

Accordingly and in conclusion, the Members of the Tribunal allow the appeal in part in respect of the Workshop and Premises, Glynderwen, Meifod Road, Llansantffraid, SY22 6XP, and Order that the revised assessment of £1,975 Rateable Value be entered in the 2017 Rating List, with effect from the 1st April 2017.

Certified a true copy on 22 January 2019