

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appellant: S Mahalingam

Appeal Property: 4 Woodward's Walk, Acrefair, Wrexham LL14 3UY

Appeal number: 695530796681192NV17/96

The Matter Appealed Against: 2017 Rating List

Date of Hearing: 13th February 2019

Appearances: Ms Lorraine Arrowsmith (for the respondent Valuation Officer)

Date of Decision: 11th March 2019

Decision of Tribunal: Appeal allowed in part

Members of the Tribunal: Mr DK Jones (Chairperson), Mrs J Angell & Mr LH Robinson

Tribunal Clerk: Mr G Harris

Introduction:

1. The appeal under consideration followed a proposal made by Mr A Bacon, JMA Chartered Surveyors on behalf of S Mahalingam in respect of 4 Woodward's Walk which the respondent Valuation Officer received on 20th June 2018. The proposal sought a reduction in the Rateable Value (RV) of the appeal property from £18,000 to £8,750 on the following grounds –

The rateable value is incorrect, unfair and should be reduced and bad in law. For some strange reason the VO has taken this off the Zoning method into some overall method. I see no reason not to Zone it and, moreover, why this location would attract a greater Zone A price than the Post Office in Johnstown or the one in Cefn Mawr which are at £95 Zone A. Applying £95 sqm Zone to the areas give £8750 RV.

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 Bacon was unable to attend the hearing to present his case and requested that the Tribunal hear and determine his case by way of a written submission.
4. Mr Bacon, in his written submission, described the appeal property as being a local store in Acrefair, Wrexham. It had very little window frontage and was located in a cul de sac with no on or off-street parking and no vehicular passing trade, placing it at the bottom end of value for a convenience store. It had a total floor area of 162.93m² and was held on 25 year lease from 1st September 2010.
5. Mr Bacon wrote that the Valuation Officer had served rental information relating to 2 comparable properties. The first, Little Acton Stores 19/21 Gladwyn Road, Wrexham had a full window display and on street parking with a forecourt and good vehicular access. The property had been held on a 10 year lease with effect from April 2004 at £10,000 per annum, devalued to £9,500 and analysed at around £85m². The other, at 16/18 Coed-y-Craig, Penrycae Wrexham also benefited from a full window display, on road parking with a forecourt and good vehicular access. The lease was £11,000 per annum with effect from 1st September 2013 which devalued to £78/m².
6. Mr Bacon stated that it was fairly clear that both the comparable properties had better window displays, parking and access which would affect the rental value. Given the rental analysis, Mr Bacon was of the opinion that the rental value of the appeal property would be less than £78/m². The Co-op convenience store located at 1/3 Prince Charles Road had a good frontage and had been assessed at £70/m². Based on all of the evidence Mr Bacon suggested an amount of £60/m² for the appeal property taking into account its lack of frontage, parking and passing vehicular trade. This would result in a RV of £9,750 with effect from 1st April 2017.
7. Ms Arrowsmith introduced the appeal property as being a convenience store, the definition of which was a shop, stocking certain items, under 280m² in area. It was located in a Local Authority housing estate close to Plas Madoc Leisure Centre. Ms Arrowsmith provided the Tribunal with external photographs, together with a map of its location. She contended that the photographs showed that the property benefited from adequate parking and that it would have a great deal of footfall due to its location within a housing estate and owing to it being close to the leisure centre. It had been entered into the 2017 Rating List at a RV of £18,000 with effect from 1st April 2017.
8. She explained that the basis of valuation for the appeal property had been defined under Paragraph 2(1) Schedule 6 of the Local Government Finance Act 1988 as –

2(1) *The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from 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.*

9. Ms Arrowsmith argued that it was for the appellant to prove their case, on the assumption that the appeal had been made on the basis that the appellant had evidence to suggest the assessment was incorrect. In the case *Vines Ltd v de Mauny (Valuation Officer)*(2010) NJ Rose commented –

“It is, however, important to bear in mind that this is an appeal by the ratepayer, not the VO. The onus, therefore, is on the ratepayer to show that the base rate of £160 per m is too high, not the VO to prove the opposite.”

10. Ms Arrowsmith explained that the passing rent of £23,500 with effect from 9th September 2016 included a domestic element, which she estimated to be £3,500 as the appellant had not provided a breakdown of the amount payable for each portion. The rent was linked to RPI and not a traditional open market rent. Ms Arrowsmith valuation of the property, using a unit value of £110/m², on an overall basis was as follows –

Floor	Description	Area m²/unit	£/m² unit	Value (£)
Ground	Ground Floor Sales	134.85	110.00	14,834
Ground	Post Office	12.80	110.00	1,408
Ground	Stock Room	11.65	110.00	1,282
Ground	Staff Toilets	3.33	110.00	366
Total Area		162.63		
Plant and Machinery				225
Valuation sub-total				18,115
Adopted Rateable Value				£18,000

11. Ms Arrowsmith explained that she had looked at other convenience stores in the locality, both situated on Local Authority housing estates. She proposed, after consideration of the available rental evidence, that it was not unreasonable to adopt an amount of £90/m² in the valuation of the appeal property in line with the comparable hereditaments. To support her revised figure, Ms Arrowsmith provided the following table of rental evidence –

Address	Total area m ²	Area ITMS m ²	Effective date of rent	Passing rent	Adjusted rent	RV	Analysed rent £/m ²	Unit value £/m ²
Little Acton Stores, 19/21 Gladwyn Road	134.54	107.76	28/3/14	£10,000	£9,500	£9,800	£8816	£90.00
16/18 Coed-Y-Graig, Penycae	131.88	131.88	1/9/13	£11,000	£10,065	£12,000	£80.34	£90.00
4 Woodward's Walk, Acrefair	162.63	162.63	1/9/16	£23,500	£19,900	£18,000	£122.36	£110.00

12. Referring to the store located at 1/3 Prince Charles Road, Ms Arrowsmith argued that the property was considerably larger than the appeal property and this quantum had been reflected in the valuation by using an amount of £70/m². Ms Arrowsmith explained that smaller properties generally attracted a higher £/m².

13. Ms Arrowsmith's revised valuation using a unit value of £90/m² in line with the comparable stores, which she asked the Tribunal to confirm, was as follows –

Floor	Description	Area m ² /unit	£/m ² unit	Value (£)
Ground	Ground Floor Sales	134.85	90.00	12,137
Ground	Post Office	12.80	90.00	1,152
Ground	Stock Room	11.65	90.00	1,049
Ground	Staff Toilets	3.33	90.00	300
Total Area		162.63		
Plant and Machinery				225
Valuation sub-total				14,863
Adopted Rateable Value				£14,750

14. At the conclusion of the hearing, the tribunal decided to reserve its decision.

The Reasons for Decision

15. Having considered all the evidence placed before it the tribunal decided as follows: -

16. In his proposal Mr Bacon had contended that the Rating List was inaccurate and that the RV of the appeal property should be reduced. In line with the case *Vines Ltd v de Mauny* 2010 the Tribunal accepted that the burden of proof rested with the appellant on the basis that 'he who asserts must prove.' 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.

17. In his evidence Mr Bacon had not argued that the property be valued on a zoned basis, as such the Tribunal did not decide on this point assuming Mr Bacon had accepted, in line with other convenience stores, that the Valuation Officer had been correct to value the hereditament on an overall basis.
18. The Tribunal believed 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.
19. The Tribunal was of the opinion that the evidence supplied by Ms Arrowsmith was both logical and compelling and supported the revised unit value of £90/m² used in her valuation of the property. With this in mind, the Tribunal allowed the appeal but only to the extent conceded by the Valuation Officer in her valuation. As such, the Tribunal orders the Valuation Officer to amend the Local rating List to accord with its decision.

Certified a true copy on 11th March 2019