THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Statutory Assumptions; Public House and Premises; Fair Maintainable Trade; Pubs 2017 Approved Guide for valuation; Appeal dismissed.

Re: Sneyd Arms, Hanley Road, Stoke-On-Trent ST1 6BE

APPEAL NUMBER: CHG100581923

BETWEEN:	Greene King PLC	Appellant
	and	
	Mr Andrew Wilkinson (Valuation Officer)	Respondent

PANEL:	Mr Matthew Hunt	(Chair)
	Miss Joanne Lewthwaite	(Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 2:	26 April 2022	
PARTIES PRESENT:	Mr James Thompson of BNP Paribas Real Estate	Appellant's representative
	Mr Andrew Wilkinson	Respondent's representative

Summary of decision

1. The appeal was dismissed. The rateable value (RV) remains at £81,500 with effect from 1 April 2017.

Introduction

2. This 2017 compiled list appeal had been brought in respect of the Sneyd Arms, Hanley Road, Stoke-On-Trent ST1 6BE.

3. The property was a large 1930's roadside pub owned by Greene King situated in the mainly residential area of Sneyd Green. It had a customer area of 309m^2 with ample car parking and an outdoor seating area.

4. The appellant submitted a check on 18 January 2021, completed on 22 January 2021 and then submitted a challenge against the rateable value on 2 February 2021.

5. The RV was £90,000 but was reduced during the challenge stage to £81,500 and the appeal was now against the reduced RV.

6. The appellant stated that the 1 April 2017 rateable value of the Sneyd Arms should be reduced because of the opening of the Chatterley Whitfield in April 2014 and Brindley Farm in May 2016 that caused a reduction in turnover at the Sneyd Arms. The appellant provided turnover information in support of their proposed fair maintainable trade (FMT) figures and proposed a rateable value of £35,500.

7. Both parties accepted that the valuation of the Sneyd Arms was undertaken in accordance with the Rating List 2017 – Valuation of Public Houses (Approved Guide).

8. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to a decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

9. The rateable value of the hereditament as derived from its FMT and its position in the relevant rental band range within the Approved Guide.

Evidence and submissions

10. The evidence bundle submitted by the respondent's representative comprised all of the documents exchanged between the parties as part of the challenge process; the Valuation Officer's challenge case decision notice; the appellant's challenge submission; photographs and location plans of the appeal property and comparable property assessments.

11. The respondent stated that the RV of £81,500 was based on the FMT of the appeal property at the Antecedent Valuation Date (AVD) of 1 April 2015 having regard to the physical circumstances at the material day of 1 April 2017 as required by the Approved Guide. The VO had reduced the RV from £90,000 as he had recognised the reduced FMT at the valuation date of 1 April 2015 demonstrated a trend of declining turnover.

12. In his opinion, the Reasonably Efficient Operator (REO) would not be concerned that the turnover achieved at the appeal property would be affected by the Chatterley Whitfield or Brindley Farm and therefore only considered the trading figures up until 2015 in assessing the FMT. The REO would be informed by the turnover showing a decline over the three years 2013 to 2015 and would base their rental bid on turnover a little lower than that of 2015, being cautious as to future trading prospects but also considering that they could revitalise the business.

13. The VO did not agree that, were the openings of the Chatterley Whitfield and Brindley Farm to have affected the pub trade in the area, the Sneyd Arms alone would have been affected. He presented turnover evidence of other establishments in the vicinity to show that they had not been affected by the openings, so there was no reason to believe the turnover at the Sneyd Arms would have been seen to be at risk.

14. The VO stated that the Sneyd Arms was a category 2 pub in respect of wet turnover but in the higher end of this band. He adopted 75% of the band, reflecting the pub's prominent location on a main arterial route into the city centre, strong all year demand and substantial outdoor facilities (ample car parking and large beer garden). Upon questioning by the panel about the relevance of other sources of regular income achieved at the Sneyd Arms (notably from games machines), he stated that this factor was usually taken into account in this assessment of band placement and had been in this case, supporting the 75% band placement. He also stated that both parties agreed that mid-band B for the dry turnover was correct.

15. He proposed that the RV should remain at £81,500 and provided a valuation based on 11.3% of his adopted FMT for wet trade of £600,000 and 6.83% of his adopted FMT for dry trade of £200,000.

16. The appellant's representative stated that the FMT adopted by the VO is excessive as the trend apparent at the AVD and the changes to the locality which had occurred by the material day of 1 April 2017 caused a decrease in FMT as shown by the actual trade figures for 2013 to 2019.

17. He proposed that the RV should be £35,500 and provided his own valuation based on 9.25% of his adopted FMT for wet trade of £330,000 and 5.18% of his adopted FMT for dry trade of £100,000.

18. At the AVD the property had been rebranded under "The Flaming Grill" brand by Greene King in an effort to increase trade and whilst this had had a small impact and temporarily increased dry turnover in 2016 there had been a continual downturn in wet, dry and other trade throughout the seven-year period.

19. He contended that the REO would have been aware of the impact of the Chatterley Whitfield from 2014 as FMT was clearly decreasing and would therefore have submitted a lower rental bid at the AVD. He would also have noticed or anticipated an impact of the Brindley Farm opening during 2016, which was a relevant physical factor to take account of at the revaluation date of 1 April 2017. To support this view, the appellant submitted evidence that all trade had in fact continued to decrease from 2016 onwards showing that the FMT adopted by the VO at the AVD was clearly not sustainable.

20. The appellant's representative contended that the respondent had referenced properties that were able to withstand the competitive pressure from the two new pubs far better than the Sneyd Arms could, including because of their modernisation and this was clearly reflected in their turnover figures in that they were hardly affected at all.

Decision and reasons

21. The panel referred to the Local Government Finance Act 1988. The term 'rateable value' being defined in paragraph 2(1), Schedule 6 to the Act:

> "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 –"

22. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

23. The panel noted that the normal unit of comparison is the value per square metre of the business property and this approach is used for shops, offices and factories. However, size is not the most suitable reference for establishing rental values of public houses. The Approved Guide provides that an assessment of turnover is a more suitable method of assessing rental values for pubs. The key factor in setting the RV for these properties is by the assessment of Fair Maintainable Trade (FMT), which includes an underlying assumption that the business is carried out in a reasonably competent fashion by a Reasonably Experienced Operator (publican, REO), responding to normal trading practices and competition in the locality.

24. The panel was aware that this methodology had been agreed with the industry and the application of the Approved Guide in this case was not in dispute.

25. The panel saw no reason to deviate from this methodology.

26. The panel noted that the RV must be set in recognition of the prevailing economic factors at 1 April 2015 and the physical factors at 1 April 2017 and was presented with the following turnover figures for the Sneyd Arms:

Year end	Wet	Dry	Total	Other	Total
5/5/13	£801,596	£260,992	£1,062,586	£61,859	£1,124,447
4/5/14	£719,881	£247,503	£967,384	£48,103	£1,015,488
3/5/15	£646,731	£224,035	£870,766	£38,372	£909,138
1/5/16	£557,504	£261,650	£819,514	£32,932	£852,085
30/4/17	£392,871	£175,819	£568,600	£24,520	£593,230
29/4/18	£330,705	£105,458	£436,163	£27,923	£464,086
28/4/19	£339,817	£83,994	£423,811	£19,539	£443,350

27. The panel found that, in accordance with the rating valuation assumptions, the turnover figures up to 3 May 2015 provided the best evidence for the assessment of the FMT for the appeal property as they were the closest to the AVD of 1 April 2015. However, the appellant submitted that downward adjustments be made in light of the opening of two new pubs in the vicinity, the impact of which would not have been reflected in the trading figures but would have been noted and anticipated by a prospective tenant and landlord in agreeing the FMT. The first pub opened one year before the AVD in 2014 (the Chatterley Whitfield), the other opened in 2016, after the AVD but prior to the material day of 1 April 2017.

28. As to the first pub, the Chatterley Whitfield, it started trading in 2014, and the panel found that any impact of its trade on the appeal property would likely have been largely reflected in its 2015 turnover.

29. The panel came to this view after noting the appellant's contention that trading patterns affected by new establishments can take some time to settle. On the other hand, the appellant had also stated that the novelty of a new venue or branding can itself attract an initial influx of trade (as noted with the appellant's own rebranding of the Sneyd Arms to

Flaming Grill in 2015). Be that as it may, the panel considered the best evidence on this issue to be the trading figures achieved at The Furlong pub.

30. The Furlong is 0.3 miles from the Chatterley Whitfield and therefore in direct competition with it. In the year to October 2015, after the opening of the new pub, the wet turnover was affected by only a small degree in comparison to the year ending January 2014 (prior to the opening of the new pub) and dry turnover not at all.

31. The appellant noted this was a modernised pub, so better able to resist new competition. Nevertheless, the panel found it unrealistic to consider that, were the Chatterley Whitfield to disrupt trade in other pubs, that this would only have happened for the Sneyd Arms, considerably further away than the Furlong. In light of all of this, the panel was of the view that the Chatterley Whitfield would be unlikely to have been a significant consideration to a landlord and prospective tenant in assessing the FMT at the Sneyd Arms.

32. As to the second pub, the Brindley Farm, it started trading in May 2016. Any effect on the appeal property's trade, for the purposes of this valuation, i.e. up until the start of the 2017 rating list – 1 April 2017 – would have had to have been assessed by a landlord and tenant over that period or by anticipating likely future effects.

33. The panel noted that there was indeed a fall in the Sneyd Arms' trade over that period as evidenced by the year-end figure at 30 April 2017. The panel were required to establish if there was evidence to support the appellant's contention that the fall in trade was caused by the opening of the Brindley Farm and therefore whether this factor should be taken into account when assessing the FMT on the basis of the 2015 trading figures. Again the panel found it helpful to consider the position of other local establishments.

34. At the China Garden, a quarter of a mile away from Brindley Farm (the Sneyd Arms being one and a half miles distant), the wet and dry turnover were only affected by a small degree, if at all.

35. The panel appreciated the China Garden was of a significantly different character to the Sneyd Arms, located in the waterside Festival Park development, however the Brindley Farm itself was also of a significantly different character to the Sneyd Arms, being a purpose-built, food-led pub.

36. As the China Garden suffered little or no downturn in trade due to Brindley Farm, the panel found there was no obvious reason why the Sneyd Arms, a pub in a different location, not in direct competition, with a greater proportion of wet trade, would do so, or at least to any significant extent. The panel found the downturn in trade at the Sneyd Arms was more likely to be a continuation of the existing downward trend, and due to other factors unrelated to the Brindley Farm.

37. The panel noted that the VO had accepted the opening of the Brindley Farm was a "Material Change of Circumstances" relevant to the China Garden, accepting to apply a 7% reduction in RV when the Brindley Farm opened. However, those two pubs were in much closer proximity and of a similar character, so the panel found that this decision had no real bearing on the present appeal. In any event, as explained below, the FMT adopted by the VO allowed for some discount on the achieved turnover, and hence adopted RV.

38. The panel noted that the VO had considered the trend of falling turnover in accepting that a landlord and prospective tenant would have factored in a further possible drop in sales in assessing FMT.

39. For these reasons, the VO considered figures slightly lower than those at 3 May 2015 as the FMT in recognition of the declining trade.

40. The panel found that this approach was reasonable.

41. Although there was no clear evidence to suggest that the turnover at the Sneyd Arms had been, or would be, affected by the opening of the Chatterley Whitfield or Brindley Farm, this relatively conservative assessment of FMT appeared to the panel to sufficiently take account of the issue in any event.

42. After assessing the FMT, the VO applied a percentage of the wet and dry trade figures in accordance with the Approved Guide and assessed the RV accordingly at £81,500:

Wet	Band 2 (9.5% to 11.9%)	£600,000	11.3%	£67,800
Dry	Band B (6.2% to 7.45%)	£200,000	6.83%	£13,660
			Total	£81,500

43. The appellant agreed with the percentage applied to dry trade, but disputed the wet trade percentage, arguing that the Sneyd Arms demonstrated more lower-level characteristics than this assessment accounted for.

44. The panel saw some initial merit to this argument, however, upon noting that the 11.3% adopted includes an element for the reasonably significant “Other” trade of the Sneyd Arms of, amongst others, “Amusements with Prizes”, found that the assessment was reasonable.

45. Consequently, the panel found that the revised RV reflected a reasonable approach and had no reason to re-consider this valuation.

46. The appellant had stated that the RV should be reduced further as it was clear that the fall in trade was evident at the AVD and continued up until 2019. However, the panel found that the REO, considering his rental bid, would not have anticipated such a continuous fall in trade and, in any case, hindsight cannot play a part in the valuation of a property at the AVD.

47. The panel were also asked by the appellant to “stand back and look” at the Sneyd Arm’s assessed RV in comparison to other local establishments to find it had been valued too highly

48. The panel considered the evidence presented and found that, generally, they were not sufficiently similar in location, character or facilities to be of any great help in the valuation of the Sneyd Arms.

49. However, the panel did consider that the Moorland Inn was a helpful comparable to the Sneyd Arms as both were large pubs, were wet led with a good food offering, were located on arterial roads and had good outside facilities of a beer garden and car parking. The Moorland, however, was arguably in an inferior location being bordered by an industrial estate and a petrol filling station, albeit one offering a range of fast-food options.

50. The panel found that the valuation of the Moorland Inn was less per metre square than that of the Sneyd Arms, but had a higher RV. Considering, in line with the Approved Guide, that size is not a good point of comparison, the panel found that a higher RV for a larger, more modern, pub was perfectly reasonable and this therefore supported the current valuation of the appeal property.

51. The panel found the Horn and Trumpet was an inferior comparable, but nevertheless broadly supported the RV at the Sneyd Arms. The other comparables presented were too far removed in character and trading history to be of any real use, notably the Green Star upon which the appellant sought to place reliance. The Green Star was clearly a pub very much focussed (perhaps almost exclusively) on the wet trade and had likely been valued accordingly.

52. In conclusion, the panel found that there was no justification for the RV of the Sneyd Arms to be reduced any further and the appeal was dismissed.

Date: 17 May 2022

Appeal number: CHG100581923