IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A 2017 RATING LIST APPEAL

Case No: CHG101051193

Sitting remotely using Microsoft Teams

Date: 23 June 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

Non Domestic Rating Appeal; Accuracy of the 2017 compiled list assessment; Public House and Premises; Fair Maintainable Trade; Appeal allowed

Before:
MS S BRYANT
MS LA OWUSU-AFRIYIE

Between:

SAMUEL SMITH **Appellant**

- and -

ANDREW MOULAND (VALUATION OFFICER) **Respondent**

Regarding:
TOWN WHARF, SWAN STREET, ISLEWORTH TW7 6RJ
(the "subject property")

Mr J Ward, of Harris Lamb, representing **the Appellant**,
Mr R Das, for the **Respondent**

Hearing date: 30 May 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The appeal property's current assessment was reduced to £11,500 rateable value with effect from 1 April 2017.

Introduction

3. This was a 2017 Rating List appeal and the rateable value (RV) of the appeal hereditament was £45,000 with effect from 1 April 2017. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 the appellant submitted a Challenge to the Valuation Officer against the appeal property's assessment on 18 April 2023, on the grounds that the current RV was unreasonable. The Valuation Officer did not agree to reduce the assessment and issued a Challenge Case Decision Notice on 18 January 2024. The appellant appealed to the Tribunal against the Decision Notice on 17 May 2024.

4. The appellant sought a reduction from RV £45,000 to RV £11,500 with effect from 1 April 2017.

5. Mr Ward appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), the representative confirmed that he was not instructed under a conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported the client's case

6. Mr Das appeared on behalf of the Valuation Officer as expert witness and advocate.

7. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

<u>*Background*</u>

8. The subject property is an end of terrace brick built property, with a veranda and a balcony on the ground and first floors respectively. It is located on the banks of river Thames and is described as a pleasant looking public house which lies at the dead end of Swan Street. The rent on the subject property is one barrel of beer per annum.

9. The appellant's representative argued that the Town Wharf is not on the main circuit route for pubs in this area, nor is it signed as being on the Thames Path for those walking up stream it is a value for money riverside pub. Historically it used to benefit from a large amount of trade from students from the nearby nursing college and accommodation. In 2005 the campus was sold off for housing and over the next 12 years the site was redeveloped, in 2015-16 the offices next to the pub were also demolished and redeveloped. It was contended that this resulted in a major fall in the fair maintainable trade (FMT), which only began to recover after 2017 when the redevelopment was completed, and houses were released for sale.

10. The Valuation Officer argued that other public houses in the immediate vicinity of the subject property had continued to maintain their trade, he referred to guidance on FMT stating that it would be assumed that the FMT adopted would represent the annual trade considered to be

maintainable at the Antecedent Valuation Date (AVD), on the assumption that the enterprise will be carried out by a “reasonably efficient operator”. In this appeal it was argued by Mr Das that this was not the case, he believed that the subject property could have been more profitable.

Relevant Law

11. The term ‘rateable value’ is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

“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”.

Discussion

12. In this appeal, the panel had to determine the correct RV for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD) of 1 April 2015. This common date was used to ensure that every property was treated in a consistent way; otherwise, similar properties would have different rateable values if numerous dates were used, as rental levels and economic factors fluctuated over time. The panel noted that the rent for the subject property was one nine gallon barrel of beer per annum.

13. Public houses are assessed using the Valuation of Public Houses Approved Guide 2017, a document that had been agreed between the Pubs Rating Forum and the Valuation Office Agency. Under this Guide, a RV was, in effect, based on the FMT of a public house from the various income streams, as at 1 April 2015.

14. In his submission, the appellant had supplied turnover figures for the years 1996 to 2020. Some of these figures for the years up to the valuation date, were as follows:

- 2004 – wet trade £373,247 & dry trade £111,396 – just prior to campus closing
- 2015 – wet trade £111,926 & dry trade £34,548 – at the AVD
- 2017 – wet trade £98,708 & dry trade £26,544
- 2020 – wet trade £144,360 & dry trade £37,678 – there were signs of recovery

15. In his calculation of the RV the appellant had taken wet and dry trade from the 2020 year end, the highest trading year since 2011, and rounded it up, achieving an RV of £11,500 with effect from 1 April 2017.

16. In regard to the Valuation Officer's suggestion that the pub had failed due to its operator and should not be valued on FMT, he stated that the subject property was owned by Samuel Smith's a company which had been running public houses successfully for 250 years, he stated that all of the 20 public houses owned by this company in the London area had been valued at or near the FMT for the year ending 2015. Furthermore, the 2017 Approved Guide for Valuation of Public Houses advises that "*when valuing a public house one is required to estimate the fair maintainable trade (FMT) at the property, at a specific point in time, to assist in the calculation of the Rateable Value. In the first instance the trade passing at the subject property is usually the best evidence to consider when assessing the fair maintainable trade of the property at the Antecedent Valuation Date of 1st April 2015. Where this is not available, we contend that due consideration of alternative trade at the subject property, for earlier and subsequent years should be considered, together with barrelage data, rental evidence, concessionary support from the landlord, as well as comparisons with similar public houses in the locality*".

17. Mr Das, for the Valuation Officer argued that the pub had not remained open for the entirety of the 2017 list, however, the panel noted that all pubs were ordered to close during the COVID pandemic, and in any event the AVD for the 2017 list was 1 April 2015. The panel noted Mr Das's comment that the pub was closed when he visited it, but it also noted that this visit had happened in December 2024 more than nine years post AVD. The panel also noted that Mr Das accepted that Mr Ward had provided the Valuation Officer with the trading accounts for all of the relevant years.

18. Mr Das argued that the basis for rating was not different for a public house and the likely rent that a hypothetical landlord and tenant would agree still needed to be established, he did not consider that the trade at the subject property was reliable for that purpose when taking into consideration the other comparable public houses.

19. Mr Das referred to several comparable public houses in the locality, in particular he referred to two properties: the London Apprentice, this property was situated 200 meters from the subject property and had an RV of £103,000; and the Swan which was 100 meters away and had an RV of £38,250. Mr Das argued that the RV's of these public houses supported £45,000 for the subject property. He contended that there was no evidence to suggest that there had been a decline in trade at the comparable properties which, Mr Das argued, you would have expected to see if there was a change in the locality. The panel noted that no evidence of trade for the comparable properties had been provided. It also noted that different sorts of public houses attract a different clientele and that the Swan had letting rooms, and the London Apprentice was a prominent tourist attraction, whilst the subject property was situated on a dead end street away from view and away from public parking.

20. Having considered the evidence before it the panel could find no evidence to suggest that the subject property was not run by a reasonably efficient operator and as such it determined that the RV should be calculated based on FMT resulting in the following valuation.

    Wet £150,000 @ upper cat 3 6.75% = £10,125
    Dry £40,000 @ mid band B 3.62% = £1,448
    Total RV £11,573
    Say RV £11,500 with effect from 1 April 2017

Determination

21. In view of the above findings and conclusions, the appeal was allowed.

22. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list to show a revised assessment of £11,500 RV for the appeal property, with effect from 1 April 2017

23. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

24. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Right of further appeal

25. Any party who is aggrieved at the Tribunal's decision, and who appeared or was represented at the hearing, has a statutory right of further appeal to the Upper Tribunal (Lands Chamber) pursuant to Regulation 42 of the Tribunal Procedure Regulations. A party does not require permission to appeal from the Tribunal. Any appeal must be made directly to the Upper Tribunal (Lands Chamber) within **four weeks** of the date this decision and statement of reasons is issued.

26. Further information regarding this statutory right of further appeal, and the parties' other rights, is contained in the guidance booklet "*A guide to tribunal decisions"* available on the Tribunal's website at www.valuationtribunal.gov.uk/guidance-booklets/.

Ms S Bryant, Senior Member (Presiding)

Ms LA Owusu-Afriyie, Senior Member

23 June 2025

Mrs H Beresford
Clerk to the Tribunal
Date issued to the parties: 23 June 2025