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

Case No: CHG101071648

Sitting remotely using Microsoft Teams

Date: 16 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

RATING — Local Government Finance Act 1988 — 2017 rating list; public house and premises; approved guide, fair maintainable trade; appeal dismissed.

Before:
MS TM BLADES
MR SC KAMALAN

Between:

STONEGATE PUB COMPANY LTD **Appellant**

- and -

Lucy Formela-Osbourne
(VALUATION OFFICER) **Respondent**

Regarding:
SLUG AND LETTUCE, 17 BIRMINGHAM ROAD, SUTTON COLDFIELD, B72 1QA
(the "appeal property")

Magdalena Singh, of BNP Paribas Real Estate, Representing the **Appellant**
Matthew Pearson for the **Respondent Valuation Officer**

Hearing date: 29 April 2025

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal determined the rateable value of the appeal property to be reasonable at £111,000 with effect from 1 April 2017.

Introduction

3. The appeal was submitted following a challenge made on behalf of the appellant by BNP Paribas Real Estate on 8 June 2023. The challenge was made on the basis that the £123,000 rateable value shown in the 2017 rating list was unreasonable and excessive. This RV had been reduced from the original £130,000 assessment following the 12 January 2023 check. The challenge sought a reduced assessment of £71,000 RV, based on a floor area valuation, with effect from 1 April 2017.

4. The VO issued a decision notice dated 16 July 2024 in which the assessment had been further revised to £111,00 RV. The appellant remained dis-satisfied and pursued the matter to appeal.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 11 November 2024.

6. The parties' representatives were appearing as both advocate and expert witness.

7. Ms Singh confirmed that she was not employed on a success-related fee basis. She declared that she understood and fully accepted that her duty was to the Tribunal in giving evidence, and that she would comply with this as well as the requirements of the professional body, regardless of whether or not the evidence supported her client's case.

8. The panel accepted the expert witness evidence on the above basis: the appeal was not considered complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions - general) of the Procedure Regulations. The panel determined that it was appropriate to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

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

Background

10. The appeal property is a modern public house located in the centre of town. The trading is area is to the ground floor, and it is a large open plan area. Customer toilets and ancillary accommodation is to the first floor, with some additional staff toilets on the second floor, which also houses unrelated residential accommodation. The property is large, measuring 624m^2, or 339m^2 in terms of customer area (CA).

11. The panel was required to consider two disputed matters. One related to the fair maintainable trade (FMT) to be adopted in the appeal property's assessment, and the extent

to which the valuation should be adjusted to reflect overtrading. The appellant's representative also argued that it would be appropriate to assess the appeal property using a floor area approach rather than a trade-based one.

12. The evidence bundle comprised the documents exchanged between the parties as part of the challenge process, including a copy of the proposal, a location plan, photographs of the subject property and schedules and photographs of comparable properties. The evidence also a included a copy of the Rating Lists 2017 - Valuation of Public Houses – Approved Guide.

Relevant Law

13. The term 'rateable value' was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

14. The material day (the date by which physical factors have to be considered) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. For this appeal, the material day is 1 April 2017.

Discussion

15. The panel first considered the parties' arguments in respect of valuations made in line with the Approved Guide, which had been drawn up by the Valuation Office Agency (VOA) and the British Beer and Pub Association. Under the Guide, a rateable value was essentially based on the Fair Maintainable Trade (or Turnover) of a public house, with adjustments made as appropriate. The FMT represented the annual trade considered to be maintainable at the AVD of 1 April 2015, on the assumption that the business will be proficiently carried out by a 'reasonably proficient operator' (REO) responding to the normal trading practices and competition of the locality.

16. The panel had regard to the Approved Guide, which states: 'Vacant and to let, the REO would be aware of the actual trade (unless a new property) which is the starting point for the valuation process". This is the approach endorsed by Lord Justice Thompson *in Watney Mann Ltd v Langley (VO)* [QBD 1963]. It goes on to note that "the FMT can be above or below the recent trade history of the property and is a broader approach to valuation than simply adopting actual levels of trade at AVD. It reflects a range of factors (such as location, design and character, level of adaptation and trading history) that are inherent to the property. In assessing the FMT the valuer should exclude any income above the normal expectation that is attributable solely to the personal circumstances or skill, expertise, reputation and / or brand name of a particular operator." It was common ground between the parties that the appellant operated at a level superior to the REO.

17. The panel recognised that both parties had submitted valuations reflecting that the subject property was a high performing public house with discounts being applied to the FMT. Their respective valuations using the trade-based approach were as follows:

a. The respondent defended the current entry of £111,000:

VO's Valuation	Adopted FMT	% of receipts	RV
Wet	£800,000	12.50	£100,000
Dry	£170,000	6.66	11,322
Total	£970,000		£111,322
Say £111,000 Rateable Value, with effect from 1 April 2017			

b. The appellant's representative proposed:

Appellant's valuation	Adopted FMT	% of receipts	RV
Wet	£780,000	11.88	£92,664
Dry	£160,000	6.50	£10,400
Total	£940,000		£103,064
Say £103,000 Rateable Value, with effect from 1 April 2017			

18. The appellant's representative did not dispute the category one or band B designations. However, she argued that the level of both the wet and dry trade adopted was excessive, as were the bids applied. She noted that the trade figures had dropped each year from 2014 to 2017 and attributed the reason for that to increased competition in the immediate area. The neighbouring Quinto Lounge had opened in early 2015, followed by a Brewhouse and Kitchen across the road later in the year. She considered that, as the appeal property was lacking an outside area, 0.75 of the bid range should be adopted rather than the 0.80 preferred by the VO.

19. The panel reviewed the evidence of comparable public houses which had been assessed based on FMT. It had photographs of two of the properties, the Brewhouse and Kitchen and the Bottle of Sack. The panel considered that both were more traditionally 'pub-like' in appearance than the appeal property; they sat in their own grounds and the Brewhouse and Kitchen benefitted from a large beer garden. Bottle of Sack was a little larger than the appeal property in terms of customer area at 39m^2. With a total FMT of £1,150,000, of which £825,000 was assessed as wet trade, it had an RV of £130,000.

20. Brewhouse and Kitchen was a little smaller at 274m^2 CA. With a total FMT of £880,00, of which wet-led trade was valued at £730,000, the RV was £100,000. Both of these properties adopt 0.75 of the bid range; the VO defended the difference to the appeal property on the grounds that it was a modern unit in a primary licensed area.

21. The panel understood that the percentage applied to the FMT was a valuer judgment and noted that the difference between the parties when using this method was relatively small. A much bigger variance in the RV was evident when the panel considered the appellant's proposed floor area-based valuation. Based on a rate of £136.50/m^2 the RV was calculated as £71,000.

22. Ms Singh had adopted the rate of £136.50/m^2 based on the assessment of the Quinto Lounge next door to the appeal property. That property was assessed at a rate of £130/m^2, but Ms Singh acknowledged that, unlike the appeal property, it was on split levels, and so she added 5%.

23. The panel was presented with evidence of other nearby premises which were valued on a floor area basis. The panel was referred to two premises in particular: Nandos, a restaurant

and premises, was assessed at a rate of £160/m^2 and Jimmy Spices and NYC, split over two floors, was assessed at the lower rate of £75/m^2.

24. The panel observed that, like others referred in the evidence submission, the above comparable properties put forward by the appellant's representative were assessed as restaurants, unlike the appeal property which was in the list as 'Public House and Premises'. Quinto Lounge had been awarded planning permission for change of use from retail to drinking establishment in October 2013. The panel observed from the photographs that this property was the most similar in appearance to the appeal property but noted that the signage, on every window, referred to the premises as a 'café bar'. This differed from the appeal property which was clearly a 'pub' in appearance. The respondent's representative contended that Quinto Lounge differed internally from the appeal property, with a smaller bar and more dining areas.

25. The panel understood that as a general rule, public houses would be valued according to FMT, but it knew that the Approved Guide allowed for a possible floor area approach (point 7.1) particularly when situated on retail / leisure parks or in shopping centres. A common feature would be a restaurant, with the guidance noting that such premises "will often comprise refitted premises…with large open plan areas… Public houses retaining their traditional nature will not satisfy these criteria". The panel was not provided with interior photographs but noted that the premises advertised itself as a public house and it was located in the town centre rather than on a retail park. It further noted from the turnover figures that the trade was predominantly wet-led. Based on all of these factors the panel was not persuaded that the assessment should be based on a floor area approach.

26. The panel found that the adopted wet-led trade figure of £800,000 was below the actual figures for both 2015 and 2016, and below the average for the three years 2015-2017. It considered the comparable premises assessed in accordance with FMT. The range in RV of the five public houses put forward as comparable was £90,000 to £130,000. The panel observed that the appeal property sat in the mid-point of the five in terms of FMT, size and rateable value. Taking a 'stand back and look' approach the assessment appeared to the panel to be reasonable. By the same token, £71,000 RV would be out of kilter.

27. The panel, although impressed by the quality and clarity of the submissions from both parties, was not persuaded that the evidence before it demonstrated that the rateable value was unreasonable.

Determination

28. In view of the above findings and conclusions, the Tribunal panel was satisfied that the appeal property was correctly entered into the 2017 Rating List from 1 April 2017 at a rateable value of £111,000, and therefore the appeal was dismissed.

Right of further appeal

29. 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.

30. 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 TM Blades, Senior Member (Presiding)

Mr SC Kamalan, Senior Member

16 May 2025

Mrs D Davies
Clerk to the Tribunal
Date issued to the parties: 16 May 2025