VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; Local Government Finance Act 1988; public house and premises; JD Wetherspoon over trading; fair maintainable trade assessed by having regard to comparable public houses; this demonstrated to the panel the rateable value was not unreasonable; appeal dismissed.

APPEAL NUMBER: CHG101096427

RE: The Mockbeggar Hall, 239-241 Hoylake Road, Moreton, Wirral, CH46 0PF (the "appeal property")

BETWEEN:	JD Wetherspoon plc	Appellant
	and	
	Amanda Hitchings (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 2 October 2024

BEFORE: Mr SC Kamalan, Presiding Senior Member
Mrs V Hollender, Member

CLERK: Mr D Mulgrew

APPEARANCES: Mr J B Boswell (BNP Paribas Real Estate), appellant's representative
Mr G Dodd, respondent's representative

DECISION AND STATEMENT OF REASONS

Decision

1. Appeal dismissed. No change was made to the rateable value of the property.

Introduction

2. The appeal property was originally entered in the 2017 rating list as "public house and premises" at rateable value £102,000 effective from 1 April 2017. Following a proposal to alter the list from the appellant, the respondent reduced the entry to rateable value £73,500 from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appellant made an appeal to this Tribunal on the grounds that the valuation for the appeal property was not reasonable.

4. The rateable value sought by the appellant on appeal was £40,000, amended to £41,000 at the hearing (after adjusting the percentage bid for wet trade in the valuation to 10.35%).

5. Both parties' representatives appeared in a dual role of advocate and expert witness. They confirmed they were not instructed under a conditional fee arrangement or other success related fee. The appellant's representative also confirmed that BNP Paribas Real Estate were not on a success related fee.

6. The panel has accepted this expert witness evidence on the above basis as the appeals were not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

7. During the hearing, the respondent's representative provided several photographs of the appeal property, Farmers Arms and Coach & Horses. He had downloaded the photographs from the internet. As the appellant's representative was in agreement that the photographs could be submitted, the panel decided to accept this new evidence.

Relevant Law

8. 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).

Discussion

9. The material day to consider the appeal property and the locality was 1 April 2017. The appeal property was a modern public house with a double height glass frontage. It benefited from a small terrace area at the rear of the property. It had no car parking area.

10. The appeal property had been assessed in accordance with the Rating Lists 2017 Valuation of Public Houses Approved Guide (known as the "2017 Approved Guide"). Such assessments were based on fair maintainable trade (FMT). It was common ground between the parties that JD Wetherspoon overtraded. Therefore, both parties' valuations were based on FMT figures that were not reflective of the actual trade from the appeal property. The nub of the dispute

between the parties concerned the FMT to adopt and their respective FMT valuations are summarised as follows:

Income stream	Appellant’s adopted FMT (£)	Respondent’s adopted FMT (£)
Wet	330,000	550,000
Dry	130,000	158,000
Total	460,000	708,000

11. The panel noted that the respondent’s FMT was substantially less than the actual trade at the appeal property. The appellant’s representative total adopted FMT was less than half of the actual trade.

12. The appellant’s representative was of the opinion that the actual trade figures may have been distorted by the Open Golf Championship which took place in the area in July 2014. The respondent disagreed with that view because the trade was in line with the preceding years. When asked, the appellant’s representative was unable to quantify the increase in trade during and around the Open. This made it difficult for the panel to account for that when considering the actual turnover.

13. In any case this was largely immaterial because both parties had approached the valuation exercise by having regard to the FMT adopted on comparable pubs.

14. The appellant’s representative was concerned that the valuation officer had placed over reliance on Farmers Arms as a comparable property. Mr Boswell had also considered Coach & Horses in the same locality. Additionally, he had regard to other public houses located more distant from the appeal property: Grange Hotel, The Armchair, The Sandbrook, Millhouse and Saughall Hotel.

15. The appellant’s representative also had regard to the assessment of Hoylake Lights, some two miles distant at Hoylake. This was another public house operated by the appellant of a similar size, style and layout and on the same road. It had similar trade to that of the appeal property prior to the AVD. Other JD Wetherspoon pubs had been referred to from the wider area.

16. The panel was more persuaded by the respondent who had based the FMT on that of Farmers Arms and Coach & Horses. Both of those comparable pubs were in the immediate locality. While both of those comparable buildings were different in nature to the appeal property they were all situated in the centre of Moreton and had the same advantages and disadvantages of being in that location. The panel preferred to consider those comparable properties rather than pubs in residential areas or quite distant in location.

17. Additionally, the respondents representative stated that in his experience of valuing JD Wetherspoon pubs it was normally accepted that the best comparable properties were other pubs from the same locality. The assessment of Hoylake Lights had actually been based on the FMT of other pubs in that particular location. The panel was therefore satisfied that little

regard should be given to that assessment and the other JD Wetherspoon pubs located further afield.

18. The parties were in agreement that the Farmers Arms had a larger outdoor seated area than at the appeal property. It also enjoyed a children's play area and had the benefit of between 10 and 15 car parking spaces. These were advantages over the appeal property.

19. The panel found the photographs of the appeal property, Farmers Arms and Coach & Horses to be helpful. While all three pubs were of a similar size, the panel noted that the appeal property's open plan layout made it feel more spacious. The panel considered this to be an advantage over the Farmers Arms.

20. The panel noted that Coach & Horses relied solely on wet trade and did not have significant dry trade like at the appeal property. The outside space was not as good and the respondent's representative gave his professional opinion that the interior space was inferior on his visit.

21. The panel's preferred comparable was therefore the Farmers Arms. This had been used in the 2010 rating list settlement on the appeal property. Ultimately, the panel noted that the appeal property had been assessed at a lower FMT than had been adopted on the Farmers Arms.

Disposal

22. In view of the foregoing, the panel did not consider the appeal property's rateable value to be unreasonable. No further reduction could be justified and the panel dismissed the appeal.

Date issued to parties: 10 October 2024

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.
