VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal appeal: Local Government Finance Act 1988; public house and premises; fair maintainable turnover; reasonably efficient operator; location of property; comparable properties; approved guide for the valuation of public houses; appeal dismissed.

APPEAL NUMBER:	CHG101182081
RE:	The Ship Tavern, 12 Gate Street, London,WC2A 3HP (the "subject property")

BETWEEN:	EV Inns Ltd	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	07 February 2025
BEFORE:	Mrs S Patel, Presiding Senior Member Dr T Gledhill, Senior Member
CLERK:	Mr J Massey IRRV(Dip)
APPEARANCES:	Mr C Wright of The Pubs Advisory Service (Appellant's representative) Ms A Hodgson (representing the Valuation Officer)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel found that the existing entry in the 2023 rating list at £160,000 Rateable Value (RV) was reasonable.

Introduction

3. This is a 2023 Rating List appeal against the RV of the subject property of £160,000, with effect from 1 April 2023. The challenge submitted by The Pub Advisory Service on 9 February 2024 on behalf of the appellant sought a reduction to RV £90,000 on the basis that the Valuation Office Agency (VOA) had not carried out the valuation in accordance with statutory requirements or followed the approved guide and methods in relation to establishing the fair maintainable trade (FMT) of the subject property.

4. The Valuation Officer did not agree to reduce the assessment and issued a Challenge Case Decision Notice on 20 May 2024 making no alteration to the RV. The appellant appealed to the Tribunal against the Decision Notice on 11 September 2024.

5. Mr Wright appeared on behalf of the appellant as advocate only.

6. Ms Hodgson appeared on behalf of the respondent as both advocate and expert witness. She confirmed that she was not instructed under any conditional or other success-based fee arrangement.

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

Background

8. The subject property is valued as a public house and premises. The property is a traditional Mahogony panelled 16th century city pub with a traditional real-ale bar with a capacity of approximately 150 people including the upstairs dining room, consisting of 40 covers. It is located on Gate Street, easily accessible from High Holborn and Kingsway and in close proximity to Holborn Tube Station.

9. The evidence provided by the appellant along with the appeal submission comprised a copy of the check decision; the challenge document and supporting evidence; the information exchanged between the parties during the challenge process; the Valuation Officer's challenge case decision notice; RICS Practice Standards – The capital and rental values of public houses, bars, restaurants and night clubs in England and Wales; the VOA - Valuation of Public Houses Approved Guide 2023; Rating Manual section 4: valuation method; Valuation Tribunal for England decision appeal no. CHG10003684 and the Valuation Office Agency – Business Plan 2017- 2019.

10. The issue for the panel to determine was the correct RV with effect from 1 April 2023 for the subject property.

11. The Valuation of Public Houses Approved Guide 2023 ("The Guide") had been agreed between the VOA and the Pubs Rating Forum. The Guide sets out an approach that is derived from an analysis of open market; free of tie; pub rents. The valuation approach involves determining the fair maintainable turnover (FMT) of the premises in question as at the AVD of 1 April 2021. The appellant's representative had provided excerpts from The Guide in his submission:

    "The FMT adopted should represent the annual trade considered to be maintainable at the AVD, 1 April 2021, having regard to the physical nature of the property and its location as at 1

April 2023 when the new rating lists come into force (or subsequently following a material change of circumstances) on the assumption that the enterprise will be carried out by a "reasonably efficient operator" (REO) responding to normal trading practices and competition in the locality. It should be recognised that actual trade at AVD may not in all cases be the best evidence of what is a reliable and sustainable level of FMT. Rental percentages are then to be determined, in accordance with the principles set out in this Guide, and applied to the income streams for drinks, food, accommodation and certain other receipts. The sum of the rateable values attributable to these separate income streams, together with the value attributable to any other part of the property that is not reflected in the FMT will, in most cases, provide the total rateable value."

"valuations should not be arithmetic calculations and must be considered, by a competent valuer experienced in the licensed property sector, within the terms of this Guide having regard to the individual nature of each property, its location, trading style, the competition landscape and the prevailing trading levels of competitor outlets."

12. Both parties considered the valuation of the subject property in accordance with The Guide. The appellant had adopted a FMT of £537,000 for Wet trade (liquor sales) and £285,250 for Dry trade (food sales). Applying the appropriate rental percentages (12.74% Wet and 7.57% Dry) resulted in the proposed RV of £90,007 (rounded to £90,000).

13. The respondent had estimated the FMT at the 1 April 2021 AVD for Wet trade to be £960,000 and Dry trade to be £510,000. This was based on the actual trade for the subject property for the year ending 31 March 2019 of £1,198,769 (wet) and £638,680 (dry) which had been adjusted down by 20% in accordance with The Guide, to account for the Covid restrictions. Both parties had adopted the same rental percentages, the respondent had thus calculated the RV to be £160,000.

14. Mr Wright contended that the respondent had not carried out a full valuation of the subject property in 2023 when assessing its RV at £160,000. The appellant had sought further information during the Check stage in order to clarify how the RV of the subject property had been derived but none was forthcoming. Mr Wright stated that the cases of *Jack in the Green v Buckley (VO)* [110516875401/537N10] and *Wishart v Hulse (VO)* [UKUT 0224/ RA/70/2017] demonstrated the importance of considering over-trading when determining FMT and any over trading should have been considered during the 2023 assessment by the VO which Mr Wright considered did not happen. A basket of comparable assessments in the locality had not been analysed when calculating the RV to determine whether the trade figures for the subject property were excessive due to 'overtrading'. Instead, he argued, the respondent had relied solely on the actual trade figures provided by the appellant to determine its FMT and consequential RV.

15. Mr Wright described the location of the subject property as being down an alley with reduced footfall, without the benefit of stunning views or waterside location. The ongoing maintenance is significantly higher as are the energy costs to run the building. He referred to the practice of the appellant of buying good quality fresh local produce (low food miles) and employing locally. He considered that the award-winning appellant goes over and beyond what is expected of the reasonable occupier and turnover is therefore significantly higher than that of a REO at the subject property.

16. In support of a reduced RV for the subject property, the appellant had referred to the assessments of a number of other public houses in the locality;

The Bountiful Cow, 51 Eagle Street, London,WC1R 4BL: rateable value £39,000.
The Sun Tavern, Covent Garden, 66 Long Acre, London, WC2E 9JD: rateable value £96,000.
The Old Red Lion Holborn, 72 High Holborn, London, WC1V 6LS: rateable value £43,000.
The Square Pig, 30-32 Procter Street, London, WC1V 6NX: rateable value £114,000.
The Seven Stars, 53 Carey Street, London, WC2A 3QS: rateable value £59,000.

17. The appellant considered that the comparable pubs listed were situated in better areas benefitting from superior footfall and passing trade. Some of the pubs have rooms for private functions, have live entertainment or show live sports. He estimated from their RVs that the FMTs at 1 April 2021 of these pubs ranged from £390,000 to £1,140,000, and considered that the FMT of the subject property would not be at the top of this range, and that a FMT of £900,000 was reasonable, from which appellant had derived a RV of £90,000.

18. Having assessed the RV of the subject property based on its actual turnover for the year ending, 31 March 2019, the respondent considered the resulting RV of £160,000 was supported by the assessed RVs of what she considered to be comparable pubs in the locality. The Prince of Wales, 150-151 Drury Lane, WC2B 5TD (RV £148,000), Princess Louise, 208 High Holburn, WC1V 7EP (RV £106,000), The Crown and Anchor, Neal Street, WC2H 9PS (RV £170,000) and The Ship & Shovel, 2 Craven Passage, WC2N 5NF (RV £153,000) were all considered to be similar in size and character to the subject property, and although with a smaller food offer, were carrying out similar levels of trade. She did not therefore consider that the actual trade figures used to calculate the subject property’s RV contained any element of overtrading.

Discussion

19. Mr Wright’s submissions questioned the respondent’s methodology in assessing the original compiled list entry and he submitted that the initial valuation was incorrect. He submitted that the VO had not supplied information about the valuation at Check stage and the appellant was not asked during the Challenge stage about over trading. Mr Wright contended that the VO had not followed the correct process and invited the panel to scrutinise the whole appeals process.

20. The panel was aware that it has no jurisdiction over the process at Check and Challenge stage so any allegations about the VO’s handling of those procedures would need to be addressed through the respondent’s complaints process. The Tribunal’s jurisdiction begins when a valid appeal is lodged. The panel was not required to scrutinise the original valuation as the only issue before it was the entry in the list following the Challenge decision issued on 4 September 2024.

21. Mr Wright raised various points during the hearing regarding the VO’s use of The Guide. This publication is drawn up by the Valuation Office Agency (VOA) in conjunction with the Pubs Rating Forum. He had questioned Ms Hodgson on the qualifications of those involved in the compilation of The Guide and the raw data used to compile the various charts within The Guide. The panel did not find his questioning helpful and was aware that similar guides are produced for each rating list to assist with valuing public houses.

22. The panel considered that the valuation approach set out in The Guide was essential in determining the RV for the subject property, as there was no useful rental evidence available for the subject property or comparable properties in the locality from which to make such a

determination. It found that The Guide should be used unless there was compelling evidence not to do so and assessing a public house on Fair Maintainable Turnover (FMT) was reasonable in the absence of stronger evidence of the subject property's value on the antecedent valuation date (AVD) of 1 April 2021. It did however consider that it was important to test the RV determined using the FMT approach by making comparisons with the assessments of similar properties.

23. The panel noted the appellant was not challenging the Category or Band percentages used in the calculation of the RV from the parties' respective wet and dry FMT for the subject property. With regard to the FMT for wet and dry trade submitted by the parties, the panel considered that the figures adopted by the respondent were derived from actual trade figures provided by the appellant for 2019. The actual trade figures were not disputed, however the appellant considered that the 20% deduction applied to reflect the effects of the Covid pandemic was insufficient bearing in mind the massive reduction in footfall in the locality around the AVD. The panel considered that the Covid adjustment of 20% for 2019 trade figures was that set out in The Guide for Category 1 pubs in Inner London. It did not consider that there were any exceptional circumstances with relation to the subject property which would warrant a larger adjustment.

24. The difference in FMT lay in the appellant's assertion that he was overtrading at the subject property, which he had supported by provision of five public houses which he considered to be comparable to the subject property. The panel noted that the appellant's representative had not quantified the extent by which the appellant was overtrading but had stated that his turnover significantly exceeded that of a REO as a result of the awards he had won such as the Best Food Pub (Star Pubs and Bars), Best Real Ale Pub (Star Pubs and Bars) and Best Sunday Lunch (Timeout).

25. The respondent had commented on the appellant's comparable pubs, four of which she stated were significantly smaller than the subject property in terms of floor area. The panel noted they were mostly 'wet-led' with little or no food offering, and they were generally situated in worse locations, further from Holborn tube station. The Square Pig was more comparable in size to the subject property, but was mostly wet-led with a lower trade than the subject property.

26. In comparison, the respondent had provided comparable properties which she considered were of a similar nature to the subject property, and their trades had been assessed to produce RVs ranging from £106,000 to £170,000. Of note was The Ship and Shovell, which was located 0.9 miles from the subject property and was located down an alleyway close to Charing Cross tube station. It had similar levels of wet and dry trade to the subject property and had been assessed at an RV of £153,000.

27. Having consider the evidence submissions of both parties, the panel was satisfied that the subject property was a well-run establishment but was not persuaded that the 2019 trade for the subject property exceeded that expected for a REO in the locality. The panel did not therefore consider that the subject property was overtrading, as it found that similar sized pubs in the locality, particularly The Ship and Shovell were achieving similar levels of trade.

28. The panel found that Mr Wright had focused on the appellant's dissatisfaction of the Check, Challenge and Appeal process, The Guide, and the VO's responses. However, that is not a matter for this Tribunal and the panel considered there was little substance to support the proposed RV of £90,000. The panel considered that the current entry in the 2023 rating list at £160,000 was reasonable and Ms Hodgson had explained how this figure had been arrived at with reference to The Guide. The burden of proof in this type of appeal rests with the appellant

to persuade the panel that the valuation is wrong, and the panel was not satisfied that the burden had been discharged in this case.

Disposal

29. In view of the above findings and conclusions, the panel dismissed the appeal.

Date issued to parties: 4 March 2025

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.
