VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal: Local Government Finance Act 1988; Compiled list appeal; Public house and premises; Appeal dismissed

APPEAL NUMBER:	CHG101187039	
RE:	Heathfield Tavern, Station Road, Heathfield TN21 8DR (the "appeal property")	
BETWEEN:	Ridley Taverns LTD	Appellant
	and	
	Lucy Dyer MRICS (Valuation Officer)	Respondent
SITTING:	*Remotely using Microsoft Teams*	
ON:	20 December 2024	
BEFORE:	Ms S Patel, Presiding Senior Member Ms C Y Jones, Senior Member	
CLERK:	Mr R Gath IRRV(Hons)	
APPEARANCES:	Mr C Wright from the Pubs Advisory Service (Appellant's representative) Mr R Das (Respondent's representative)	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal panel was not persuaded that the existing rateable value was unreasonable.

Introduction

3. The appeal property was entered in the 2023 rating list as a 'public house and premises' at rateable value (RV) £30,000 effective from 1 April 2023.

4. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2023 Rating List, by way of a proposal that the Appellant company served on the Valuation Officer (VO) on 26 February 2024. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded and refused to alter the existing assessment. A decision notice to that effect was served on the appellant on 23 May 2024. Its representatives then appealed the VO's decision to the Tribunal on 8 July 2024 on the grounds that the current valuation for the hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

5. The appeal property was a public house and premises. It benefits from a car park although Mr Wright described it as extremely limited. It also has a beer garden. The current owner has spent £38,000 on repairs to the roof and western gable end. The owner describes the food offering as good quality local produce.

6. Mr Wright was acting as advocate. Mr Das confirmed that he was representing the VO as advocate and expert witness.

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

Background

8. The issue in dispute is the correct RV for the appeal property.

9. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties' competing skeleton arguments, a location map, photographs of the appeal property, the RICS guide for capital and rental valuation of public houses, bars, restaurants and nightclubs in England and Wales and the Rating Lists 2023 Valuation of Public Houses approved guide.

10. Mr Wright raised a preliminary matter which was the VO's reliance on the Approved Guide for the valuation of public houses. He wanted to ensure that all of his arguments would not be dismissed out of hand by the panel. The panel confirmed that it would consider all of the evidence presented to it and will apply the appropriate weight to all the evidence presented.

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;
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> 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; and

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. The Antecedent Valuation Date (AVD) is 1 April 2021. This is the date when economic factors are fixed for the purposes of the 2023 rating list. Therefore, any changes in trade levels that are attributable to purely economic factors cannot be reflected in rating valuations, until the next revaluation.

13. The VO contended that the appeal property should be valued in line with the Approved Guide for the valuation of public houses that had been agreed between the VO and the British Beer and Pub Association. Public houses are assessed using what was known as the Fair Maintainable Trade (FMT). This is based on the wet and dry sales. A percentage of this is then taken as the rateable value. The percentage varies depending on the type of public house, its locality and characteristics. The VO had categorised the appeal property as a category 2 public house. The VO had determined its RV by adopting 8.4% of the FMT for the wet sales (£226,750) and 5.78% for the dry sales (food element £198,000).

14. Mr Wright argued that the RV should not be based on the actual trade of the appeal property as that would be more akin to a turnover tax. His proposed valuation of £15,000 RV was based on 8.4% for "adopted" wet sales of £111,548 and 5.78% of adopted dry sales of £97,405.

15. Both parties were therefore in agreement that the appeal property was a Category 2 public house and there was no dispute regarding the relevant percentages to be used in the calculation of the wet and dry elements. The only difference between the parties was whether the actual trade should be adopted as the FMT or whether it should be based on what other public houses were achieving. The panel decided that the appropriate valuation approach was to adopt the actual trade figures achieved by the appeal property, as there was no evidence of overtrading. Mr Wright had argued otherwise but provided nothing to substantiate his assertion.

16. The panel accepted Mr Wright's evidence that since the AVD, beer sales had fallen. However, this fact did not assist his client's case, as there was no evidence to suggest that sales had fallen for any reason other than purely economic factors, which as previously stated were fixed at the AVD.

17. Mr Wright also argued that the appeal property's assessment was out of kilter with other public houses in the locality which he submitted were located in better areas. This meant, according to him, that other public houses benefited from increased custom which resulted in them generating higher wet and dry trade, in comparison to that which the appeal property was capable of achieving. However, no substantive evidence was produced to support these assertions.

18. In his oral submissions, Mr Wright had cast doubt on the reliability and the use of the VO's Approved Guide for the valuation of public houses. He was also unhappy that he could not

view the trade information that the VO had adopted as the FMT. He also had issues with the new appeals process.

19. The panel was aware that the VO's Approved Guide was as its title implied accepted by the beer and pub association and rating professionals in private practice.

20. Whilst Mr Wright was entitled to his view that the Approved Guide was not the be all and end all and alternative valuation approaches could be used, the panel determined that his valuation approach was less reliable than the approach advocated by the Approved Guide. The panel noted that Mr Wright had based his proposed valuation based on other public houses which had been valued by the Approved Guide which rather undermined his arguments that it was unreliable.

21. His other comments about the Check, challenge and appeal process was not something that the panel or this Tribunal could deal with. These are issues he needs to take up with the VO and/or Parliament.

22. In view of the foregoing and in the absence of any evidence to show that the appeal property was overtrading, the panel determined it appropriate to value it having regard to the Approved Guide. The VO's valuation approach and the existing RV were therefore upheld.

Disposal

23. In view of the above findings and conclusions, the Tribunal panel is satisfied that the RV was correct. The panel dismissed the appeal.

Date issued to parties: 19 January 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.
