

THE VALUATION TRIBUNAL FOR ENGLAND



*Summary of Decision: non-domestic rating appeal; accuracy of compiled list RV in 2017 Rating List; Public House and premises; fair maintainable trade; comparable properties; appeal allowed as the evidence showed that the existing valuation is not reasonable.*

Re: The Fosters Arms, 56 Mill Street, Bridgnorth WV15 5AG

APPEAL NO: CHG100003684

BETWEEN: *Mr David Brown* Appellant

and

*Mr Dal Virk* Respondent  
(*Valuation Officer*)

BEFORE: Mr G Garland (President of the Tribunal)

SITTING AT: The Lantern, Shrewsbury

ON: Friday 22 June 2018

APPEARANCES: Mr David Brown (Appellant)

The Respondent Valuation Officer was represented by Mrs Julia Hughes as advocate and expert witness.

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## Summary of Decision

1. The appeal is allowed as the existing valuation is not reasonable and the entry is reduced to £13,000 Rateable Value with effect from 1 April 2017.

## Introduction

2. This was a 2017 Rating List appeal. The Rateable Value of the appeal hereditament was £16,200 from 1 April 2017. This was a compiled list appeal so the material day was also 1 April 2017. The appeal was made on 12 March 2018 against the Valuation Officer's Decision Notice of 14 December 2017 in respect of the appeal property (hereditament). The Valuation Officer's decision was to treat the appellant's proposal as not well-founded, no agreement had been reached and the existing entry of £16,200 RV was originally deemed as correct at the time the decision notice was issued.
3. The appeal property is a public house and premises situated on Mill Street in the Low Town area of Bridgnorth. It is approximately 1.3 miles from the main town centre. The appeal property sits in a mixed commercial location which includes shops, a hotel, a number of other public houses, restaurants and housing. During the summer months, the appeal property benefits from some tourist trade because it is near the River Severn. The property dates back to the 1700's and is described by the appellant as full of character and a typical "boozer".
4. The original caseworker for the Valuation Officer at the challenge stage was Mr Conrad Luckhoo. Another caseworker Mrs Julia Hughes then took over the case on appeal. After she had visited the appeal property, Mrs Hughes submitted a revised valuation of £15,000 RV on behalf of the respondent as new evidence under Regulation 17A of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (SI 2009 No 2269) which is as follows:

## **Admission of new evidence on NDR appeal**

### **17A.—**

(1) On a NDR appeal, the VTE may only admit evidence that was not included in the notice of appeal or any document accompanying the notice of appeal (“new evidence”) if—

(a) that evidence—

(i) is provided by a party to the appeal;

(ii) relates to the ground on which the proposal was made; and

(iii) was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations; or

(b) all the parties to the appeal agree in writing to the party providing the new evidence.

(2) If the VTE admits new evidence under paragraph (1), the VTE may admit further evidence provided by another party to the appeal if the further evidence specifically relates to—

(a) the new evidence; and

(b) the ground on which the proposal was made.

(3) A party which provides evidence under paragraph (1) or (2) must also provide that evidence to all the other parties to the appeal.

5. The Valuation Officer emailed the tribunal and the appellant on 24 May 2018 to say that the tribunal’s consent was not required for this new evidence

because it relates to the grounds of the challenge and could not have been reasonably known about at the time of challenge.

6. I took a different view of this new evidence. I considered that Mrs Hughes had merely looked into the appellant's case in more depth. It was not new evidence that was not available at the challenge stage; it was simply a different caseworker's view.
7. The appellant initially did not give his consent for the Valuation Officer's revised valuation to be admitted. He later gave conditional consent provided the respondent's representative gave her consent to the additional new evidence that he wished to put forward. Mrs Hughes was agreeable to the admissibility of some but not all of the appellant's new evidence.
8. Both parties were advised that I would not entertain any of the new evidence put forward unless they both consented in writing to its admissibility. The tribunal was notified on 20 June 2018 that the parties had agreed that the following new evidence be admitted under Regulation 17 A (1) (b):

Valuation Officer's new evidence -

1. Revised valuation at £15000 rateable value effective from 01/04/17 contained in the email to the appellant dated 23<sup>rd</sup> May and also referred to in an earlier email dated 31<sup>st</sup> May;
2. Three location plans contained in the Valuation Officer's email to the appellant dated 4<sup>th</sup> June;
3. Seven Photographs of the Fosters Arms contained in an email to the appellant dated 4<sup>th</sup> June.

Appellant's new evidence -

- 1 A photograph of The Black Horse Hotel, a comparable referred to in the Valuation Officer's decision notice;
- 2 Background information about The Black Horse Hotel;

- 3 A photograph of a board outside The Vine Inn, a comparable referred to in the Valuation Officer's decision notice;
- 4 A Facebook reference to The Boat Yard.
9. Following the challenge stage the parties were in agreement that the fair maintainable trade was £200,000 (FMT). The parties are now in agreement that a lower figure of £190,000 is appropriate; it being accepted that Mr Brown is overtrading.
10. It is also accepted that the appeal property's trade is predominantly wet led and the valuation should be solely based on the wet trade element.
11. The dispute between the parties is in which category this property should sit having regard to the Valuation of Public Houses Approved Guide for the 2017 Rating List.
12. The Valuation Officer argues that the Fosters Arms falls into Category 1, albeit at the lower level to reflect its position in a mixed commercial/residential position in the Low Town area of Bridgnorth backing onto the River Severn. As the location can be classed as being within the town itself yet in a secondary position, category 1 applies.
13. The Valuation Officer relies on two main comparable properties. The Vine Inn in Mill Street is a neighbouring public house and has also been assessed in Category 1. The other public house deemed directly comparable is the Black Horse Hotel in Bridge Street. Again this public house is in Category 1.
14. In his written evidence, the appellant contended that his public house should be valued at the lower end of Category 3. However during the discussion in the hearing, he conceded in response to my questions that the upper level of category 3 may be more appropriate but argued that it is definitely not a Category 1.
15. The appellant has been running the public house for around 29 years as the landlord. Prior to taking on the ownership of it, he was employed there as a barman for around five years. The appellant is well known in the community

and serves on a number of committees and helps his clientele raise funds for charities.

16. A number of local teams/leagues use the appeal property as their base. These include Bridgnorth Squash Team, Bridgnorth Racket Ball Team, Bridgnorth Domino League and Bridgnorth Darts League.
17. The appeal property is reliant on strong community participation which includes on a weekly basis five domino teams, two darts teams, two pool teams, two poker nights, a crib team, quiz nights and 5 a side football teams using the facilities as a base.
18. The appellant argues that the Black Horse is not directly comparable to the Fosters Arms. He does, however, accept that the Vine Inn is similar in nature to his public house. However, he challenges the accuracy of its existing assessment as the level of assessment £22,500 RV would suggest a FMT in excess of £300,000. He believes such a figure is grossly excessive.
19. The appellant relies on a number of comparable properties to support his case. The Boatyard, Bridgnorth Rugby Club, Bridgnorth Bowling Club, All Forces Club and Bamboo. All of these properties are within a 200 metres radius of the Fosters Arms.
20. Mrs Hughes challenged the reliability of Mr Brown's comparables because the Valuation Officer's records indicated that the Boatyard and Bamboo were run as cafes and were therefore assessed on a different basis. Mr Brown was adamant that they were public houses. The other properties within the immediate vicinity were clubs and they too were assessed on a different basis.
21. Mrs Hughes has asked me to uphold her valuation of £15,000 RV as being correct. The appellant's proposed valuation which was based on the originally agreed FMT of £200,000 is £8,500 RV. He has not put forward a revised valuation on a FMT of £190,000.

## **Decision and reasons**

22. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD).
23. Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.
24. The parties have assisted me in agreeing the level of FMT at £190,000. The issue I have to decide is whether the appeal property's physical character and location fit category 1 or 3. If it is the former, the Valuation Officer's revised valuation of £15,000 RV will be upheld. If it is the latter, then the appellant's proposed valuation of £8,500 RV will require adjusting to reflect the revised FMT and Category level that he has conceded as being correct since his valuation.
25. The parties have both put forward a lot of comparable evidence, but I do not find any of it to be of assistance. The 2017 Rating List is around 15 months old and as far as I can ascertain the assessments put forward have not been tested in the sense that they have been challenged and any proposals made have either been agreed or withdrawn. Some of the assessments are based on estimated trade and some are assessed on an entirely different basis even though the appellant says, in the case of the Boatyard and Bamboo that they trade as public houses. Unless I can be satisfied that the entries for the comparable properties put forward are accurate and can be relied upon, which I am not sure is the case, I must reject this evidence.
26. For the reasons expressed above, I place no weight on the fact that the Black Horse and the Vine Inn have been valued by the Valuation Officer as Category 1 public houses. If I value the appeal property on the same basis, it will achieve uniformity but I am not convinced it will be uniformity of accuracy. So my focus is to concentrate on getting the valuation of the appeal property

right. Using the agreed FMT as my starting point, I need to determine from the Approved Guide what Category best fits the appeal property's physical characteristics. If I find for the appellant that it is a Category 3, I need to determine what percentage to adopt because his admission that it probably fits a higher level Category 3 means that a higher percentage than he adopted (4.25%) is applicable.

27. Having regard to the Approved Guide for the valuation of public houses, I find the appellant's arguments persuasive and am not convinced that the appeal property sits within Category 1. As he put it, the Fosters Arms is not a Yates's Wine Bar or a Wetherspoons. Although the Valuation Officer has valued it as a lower level Category 1, I do not think Bridgnorth can be classed as a major town, so the fact that the Fosters Arms is on the outskirts of the town centre is neither here nor there. I accept it may tick some of the boxes in the lower level of Category 1 because it is an older property of average design, layout and quality. In addition, as it is an old building, repair costs are likely to be higher, in comparison to other public houses. Furthermore, the appellant does not prop up his trade by laying on entertainment.

28. In contrast, when I looked at the expected characteristics of an upper level Category 3 public house, the appeal property appears to be a perfect fit. When he was presenting his case, the appellant took me through the characteristics of a potential lower level Category 3 public house. His property met some of the factors set out as being indicative of a lower level category 3 but not all.

29. Having regard to the Approved Guide, it appears to me that it would be difficult for any public house to meet all of the criteria identified in the bulleted paragraphs under each category heading. The guide is what it says it is, merely a guide, a degree of subjective decision making is still required of the valuer or on appeal the Tribunal. It is wholly unlikely that any public house would be a 100% fit for a particular category.

30. Having looked at all of the factors and taking into account the evidence and competing arguments, I believe that this property is an upper level Category 3.

The testimonials and the photographic evidence within the appellant's bundle clearly indicate that the Fosters Arms is a community public house. It could well be the number one community public house in Bridgnorth given the number of local amateur sports teams that use its premises for matches and meetings. It is predominantly wet trade led and is evidently well supported by the local community. It is located in a reasonable trading position and is close to a large housing estate. It does benefit from some tourist trade, albeit only in the summer months but I accept the appellant's argument that there is a lot of competition.

31. The appellant is well known in the local community and is an above average landlord as evidenced by his longevity in running this public house.

32. In view of the foregoing, the grounds of the appeal are upheld to the extent that the existing valuation of £16,200 RV is not reasonable. My valuation is £13,000 RV, this is based on the parties' agreed FMT of £190,000 and the percentage that I have applied to arrive at the virtual rent or rateable value of 6.9%. The resultant figure of £13,110 is rounded down to £13,000 RV.

**Order:**

33. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £13,000 within 2 weeks of the date of this Order. The ratepayer is also entitled to a refund in full of the fee paid in accordance with regulation 13E (1)(a) of the Non-Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009.

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A handwritten signature in black ink, appearing to read 'A. J. Ireland', written over a horizontal line.

**President**

**Date:** 2 July 2018