

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; comparables; overtrading; appeal allowed as the evidence showed that the existing valuation is not reasonable.*

Re: Pheasant Inn, Flookburgh Road, Allithwaite, Grange-over-Sands, Cumbria, LA11 7RQ

APPEAL NO: CHG100003422

BETWEEN:	<i>Pheasant Inn</i>	Appellant
	and	
	<i>Mr Richie Roberts</i>	Respondent
	<i>(Valuation Officer)</i>	

BEFORE: Mr Alf Clark (Vice President of the Tribunal)

SITTING AT: Offices of the Tribunal Service, Manchester

ON: Wednesday 12 September 2018

APPEARANCES:

Mr John Houston from John Houston Consulting, representing the Appellant as advocate and expert witness.

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

## Summary of decision

1. The appeal is allowed as the existing valuation is not reasonable and the entry is reduced to £40,000 Rateable Value (RV) with effect from 1 April 2017.

## Introduction

2. This was a 2017 Rating List appeal. The RV of the appeal hereditament was £63,700 from 1 April 2017. This was a compiled list appeal so the material day was also 1 April 2017. The appeal was made on 8 May 2018 against the Valuation Officer's Decision Notice of 14 March 2018 in respect of the appeal property (hereditament). The Valuation Officer's decision was to treat the appellant's proposal as not well founded and the existing entry of £63,700 RV was originally deemed as correct.
3. The appeal property is a public house and premises located in the Allithwaite area of Grange-over-Sands in South Lakeland. It is situated on the B5277 between Grange-over-Sands and Flookburgh. It is occupied on a freehold basis and is operated as a freehouse.
4. The property is valued in accordance with the Rating Lists 2017 Valuation of Public Houses Approved Guide (The Approved Guide) as a Category 2 for wet trade (destination houses, usually with a significant food or entertainment offer) and Band B for dry trade (e.g. locally sourced produce, fixed price menu).
5. The property is described by Mr Houston as a traditional country pub, the only one in the village; he described the village as "decent, but nothing of note".
6. According to Mrs Hughes, there had been a programme of refurbishment to a high standard between 2010 and 2012 incorporating a conservatory extension. In addition, the bar was reconfigured, the toilets repositioned and the kitchen extended. There are 70 internal covers (20 in the conservatory) and 40 covers outside, having tables, umbrellas and a 3m<sup>2</sup> tensile fabric structure. The property benefits from a good sized car park, and attractive views of Morecambe Bay to the rear.

7. In an email dated 23 August 2018, Mrs Hughes advised that she would be speaking at the hearing to a revised valuation at £53,000 RV effective from 1 April 2017, and not £63,700 RV as referred to in the Decision Notice. She explained that this was due to a failure in the CCA process, as an email reply from Mr Houston to the Valuation Officer's Initial Response was not forwarded to the challenge caseworker dealing with the case at the time, and so the Decision Notice was issued without complete processing of challenge issues.
8. Mrs Hughes further reported that Mr Houston had confirmed that he did not object to the admissibility of a revised valuation at £53,000 RV. A subsequent email from Mr Houston confirmed that he was unaware of the reason for the revised valuation. In response, Mrs Hughes clarified that the missing email was a reply from Mr Houston dated 13 February 2018, following the Valuation Officer's initial response dated 29 January 2018.
9. At the hearing, while Mr Houston confirmed that he did not object to the revised valuation, he expressed his dissatisfaction with the Valuation Office, given that his client now has to pay a fee of £300 in order to make an appeal.
10. Following the challenge stage the parties were in agreement that the appellant is overtrading, and that trade is weighted towards food.
11. The dispute between the parties is the level of fair maintainable trade (FMT) to be adopted.
12. The Valuation Officer argues that the actual level of trade being achieved at the subject property must be the starting point for a receipts based valuation. In making his rental bid, the hypothetical tenant would have sight of the accounts which would inform his view of the rent that he could pay.
13. The turnover supplied is as follows;
  - Year ending 31/07/13      £499,757
  - Year ending 31/07/14      £736,502
  - Year ending 31/07/15      £792,537

14. It has been confirmed that turnover figures supplied include income from outside catering, estimated at approximately £20,000 per annum.
15. In support of her adopted 15% for overtrading, Mrs Hughes referred to the Strickland Arms Hotel, Sizergh, Kendal, Cumbria LA8 8DZ, also a food-led destination house with a similar capacity having 75 covers. The property is located approximately 11 miles north east of the subject property. It has a good sized car park and is set in a quiet location on the approach to Sizergh Castle. The RV of £58,000 from 1 April 2017 is derived from an adopted FMT of £655,000 (34% wet, 66% food), based upon actual trade achieved for the three years in the run up to the antecedent valuation date (AVD).
16. Three other comparables were referred to in the Decision Notice, some of which were located within the Lake District National Park, to illustrate a range of assessments for public houses in South Lakeland where food is a significant part of the offer:
- Mortal Man Inn, Troutbeck, Windermere, Cumbria, LA23 1PL. FMT £740,000, £66,000 RV - popular with locals and walkers, views over Troutbeck Valley, large beer garden, rough surfaced car park.
  - Queens Head Hotel, Town Head, Troutbeck, Windermere, Cumbria, LA23 1PW. FMT £990,000, £96,000 RV – re-opened following closure for three years after a fire, re-built in original state with four less bedrooms.
  - Mason's Arms, Cartmell Fell, Grange-over-Sands, Cumbria, LA11 6NW. FMT £975,000, £96,650 RV – a picturesque pub with spectacular views of the Winster Valley, good outdoor seating and dining area, self-catering accommodation in two cottages and five suites.
17. In response to Mr Houston's comparable evidence, Mrs Hughes commented that a couple of those assessments are currently under review (Hope & Anchor and The Commodore).
18. Mrs Hughes contended for a revised valuation of £53,000 RV based upon:

FMT for year ending 31/07/2015 = £792,537

Less £2,000 for outside catering = £772,537

Less 15% for exceptional operator/overtrading = £656,656

Adopted FMT £655,000

Wet £265,000 @ 8.11% = £21,492 (0.4 entry point range 7.21% -9.46%)

Dry £390,000 @ 8.09% = £31,551 (0.25 entry point range 7.78% -9.03%)

Total = £53,043, say £53,000 RV with effect from 1 April 2017

19. In support of his contention that the RV of the appeal property is excessive at £63,700 RV, Mr Houston provided details of comparables from the locality:

Address	RV 2010	RV 2017	Remarks
Pheasant Inn, Allithwaite	25,000	63,700	Subject property, situated on a sharp bend in village location. Sole pub in village. No letting bedrooms.
Hope and Anchor, Flookburgh	14,400	16,000	7 letting bedrooms. Nearer to caravan park and sole pub in village.
Engine Inn, Cark	20,750	21,500	Larger pub with restaurant and letting bedrooms. Nearer to caravan park and Holker Hall.
Rose & Crown, Cark	12,750	20,500	2 letting bedrooms. Nearer to caravan park and Holker Hall.
Commodore, Grange-over-Sands	21,600	31,000	Larger pub, 6 letting bedrooms. Centre of tourist resort adjacent to promenade. Only one other pub in town.
Pig and Whistle, Cartmel	7,800	21,750	Edge of very busy tourist village with racecourse.

Kings Arms, Cartmel	25,500	30,250	Centre of very busy tourist village with racecourse.
Royal Oak, Cartmel	25,500	38,000	Letting bedrooms, large beer garden. Centre of very busy tourist village with racecourse.
Cavendish Arms, Cartmel	42,500	32,000	Letting bedrooms. Centre of very busy tourist village with racecourse.
Lindale Inn, Lindale	22,300	24,000	Vacant. More prominent roadside location and larger trading areas with good sized car park.
Royal Oak, Lindale	15,800	22,300	Smaller pub with good-sized car park. Only pub open in village.
Derby Arms, Witherslack	37,500	40,000	Larger pub and restaurant with 6 letting bedrooms. Just off and visible from busy A590.
Crown Inn, High Newton	11,000	19,500	Larger pub and restaurant with 7 letting bedrooms. In a small village, but just off busy A590.
White Hart, Bouth	31,500	41,300	Only pub in village attracting trade from Black Beck Caravan Park. Larger trading areas, 4 letting bedrooms, good sized car park.

20. Mr Houston argued that vacant and to let, there is no reason why the appeal property should have the highest RV of all of the comparables. The only reason for the high level of trade at the appeal property, is due to the fact that his client has been in operation for over thirteen years, and he has built up trade through reputation. The property is well staffed, and little is taken out of the business.

21. Mr Houston also highlighted the fact that the RV of the appeal property had increased significantly from the 2010 List, which was in contrast to the comparables he presented.
22. In his proposed valuation, Mr Houston adopted a FMT of £450,000, based upon his estimate of trade at around £10,000 per week gross, to which he applied 7.5% (wet and dry combined) to arrive at £33,750 RV.

### **Decision and reasons**

23. 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 (the AVD).
24. 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.
25. The parties have agreed that the FMT should be adjusted to reflect overtrading, however, they differ in their approach to the adoption of FMT. I consider that the correct approach is that adopted by Mrs Hughes, which starts with the consideration of actual trade leading up to the AVD, as this is the agreed method as outlined in the Approved Guide. I cannot attach any significant weight to Mr Houston's FMT of £450,000, which is purely based upon his estimate of trade of £10,000 per week gross.
26. I do not place any relevance on Mr Houston's argument that the RV of the appeal property has increased disproportionately between the 2010 and 2017 Lists. As stated in the Decision Notice, for the purposes of the compiled 2017 List, the AVD is 1 April 2015, and the material day is 1 April 2017, whereas for the 2010 List, the AVD is 1 April 2008 and the material day is 1 April 2010.
27. I agree with the Valuation Officer that the 2010 and 2017 Lists are separate and distinct. The property and its locality must be considered as they physically existed at the material day, but market conditions together with the economic climate that existed at the AVD. Comparisons between the two lists

are not conclusive, and each List stands on its own merits and has to be viewed *de novo* having regard to the relevant evidence. I noted that there had been a programme of refurbishment at the appeal property between 2010 and 2012, which may be one reason why the FMT has increased.

28. Having determined that the starting point is actual trade at £792,537, less £20,000 for outside catering, I am not persuaded that a deduction of 15% as proposed by Mrs Hughes adequately reflects the level of overtrading, when viewed alongside the evidence of comparables presented by Mr Houston. I find Mr Houston's comparables to be more persuasive as they are closer in location to the appeal property. I understand why Mrs Hughes has chosen comparables which she considers to be more relevant in terms of being food led, however, I find that reference to comparables within the Lake District National Park do not have parity with the appeal property in terms of location.

29. I also noted Mrs Hughes' description of the appeal property as being uniquely placed due to the views to the rear of the property, together with the fact that it had been extensively refurbished. With reference to the photographs provided, I found no evidence of the appeal property enjoying a superior location, and I consider that there are no distinguishing features which set the appeal property apart from Mr Houston's comparables, which all appear to be traditional country pubs. Mrs Hughes' only reference to Mr Houston's comparables was to say that a couple were currently under review. I place no relevance on Mrs Hughes' statement, as any corrections to the List should have been made before the hearing of this appeal.

30. Having looked at all of the evidence, I believe that an allowance for overtrading of 30% is fair and reasonable, and therefore I have determined a revised valuation as follows:

FMT for year ending 31/07/2015 = £792,537

Less £20,000 for outside catering = £772,537

Less 30% for exceptional operator/overtrading = £540,776

Adopted FMT £540,776

Wet (60% of FMT) £324,465 @ 8% = £25,957

Dry (40% of FMT) £216,310 @ 6.5% = £14,060

Total = £40,017, say £40,000 RV with effect from 1 April 2017

**Order:**

31. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £40,000 with effect from 1 April 2017, within two weeks of the date of this Order.
32. The Appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E (1)(a) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended).

APPEAL NO: CHG100003422



**Alf Clark**

**Vice President**

**Date: 2nd October 2018**