

The following cases were cited:

Pointer v Norwich Assessment Committee [1922] 2 KB 471

Shearson Lehman Bros Ltd v Humphrys [1991] RA 125

Watney Mann Ltd v Langley [1966] 1 QB 457

Sharp v Griffiths [1999] RA 265

Cartwright v Sculcoates Union [1900] AC 150

Williams v Scottish & Newcastle Retail Ltd [2001] RA 41

Ladies Hosiery and Underwear Limited v West Middlesex Assessment Committee [1932] 2 KB 679

DECISION

1. This is an appeal by the ratepayer, Brunning and Price Limited, against the decision of the North Wales Valuation Tribunal, confirming the assessment in the 2000 rating list of a public house and premises known as Glasfryn, Raikes Lane, Sychdyn, Mold, CH7 6LR at RV £70,000. The original entry in the 2000 list was RV £29,500 with effect from 1 April 2000. In 2003 the property was extended and the entrance reconfigured. It has traded in its present form since December 2003. The valuation officer increased the RV to £70,000 by notice dated 28 September 2004. Although the notice was expressed to be effective from that date, it is now agreed that it should have taken effect on 1 April 2004. The antecedent valuation date (AVD) is 1 April 1998.

2. Mr Richard Glover of counsel appeared for the appellant. He called one witness of fact, Mr G H Price, the appellant's managing director, who described his company's history and style and mode of operation, and commented on each of its 14 public houses, including Glasfryn. Mr Glover also called one expert witness, Mr David Hossack, Dip Val MRICS IRRV, who is primarily based in the Manchester office of Colliers Robert Barry and is director in charge of all his firm's professional valuation work in the north of England, North Wales and Scotland.

3. Mr Timothy Morshead of counsel called the respondent VO, Mr Owain Wynn Cowell, BSc (Hons) MRICS, to give evidence on his own behalf. Since 1 April 1998 Mr Wynn Cowell has been the licensed property specialist for the North Wales Valuation Office Group, which has offices in Bangor and Wrexham and responsibility for seven billing authorities. Mr Hossack valued the appeal property at RV £31,500. Mr Wynn Cowell's valuation was £83,000, but he did not ask the Tribunal to alter the existing figure of £70,000. I inspected Glasfryn, together with various other pubs which had been produced as comparables, in company with the two experts on 26 June 2007.

4. In the light of an agreed statement of facts and the evidence I find the following facts. The appeal hereditament is a detached public house, in a semi-rural location approximately one mile north of Mold town centre. Mold is the administrative capital of Flintshire, and lies some 13 miles from Chester and Wrexham. Glasfryn is surrounded on three sides by farmland. The fourth side is to Raikes Lane. On the opposite side of that road are Flintshire County Hall and Civic Centre, the County Library, the County, Crown and Magistrates' Courts and Clwyd Theatre Cymru (the National Theatre of Wales). The County Hall, Civic Centre and Courts comprise approximately 25,000m² of office space. The Theatre hosts some 900 public performances each year in five performance venues. Vehicular and pedestrian access to the complex and its car parking spaces are from Raikes Lane.

5. Glasfryn is a composite hereditament, with domestic accommodation on the first floor. The non-domestic trading areas are located at ground floor level in three open plan seating areas and a bar servery area. The internal seating capacity is approximately 200. Disabled, male and female's wcs are located towards the rear of the property. A ramp and level threshold

doorway provide access for the disabled. There is a linear kitchen at the rear, extending to approximate 103m² (1,110 ft²). The beer cellar and store is on ground level, with good delivery access. Externally, seating and tables provide approximately 60 dining covers located on terracing at the front of the property, overlooking lawned gardens. There is a car park for 81 vehicles.

6. Glasfryn is a converted farmhouse of undistinguished external appearance, dating from the 1920s. The appellant purchased the freehold interest in 1997, when it comprised dilapidated student flats, and renovated and converted it into a public house. Trading commenced in May 1999. By December 2003 the property had materially changed following the completion of further building works. Extra dining space was added, increasing the public trading space by 26%. The 2003 works also included alterations to the customer entrance. Customers now enter the premises via the bar area and fan out to the dining areas. Previously they entered via a lobby in one of the dining areas, the "Library Lounge". This change facilitated better use of space for diners in the Library Lounge, who are no longer disturbed by customers entering and leaving the property.

7. Glasfryn is operated as a destination food pub. It has a comprehensive, reasonably-priced wine list. It also usually has available at least 8 cask beers which change regularly and are primarily sourced from local independent or regional brewers. Along with an extensive selection of the usual spirits, over 100 malt whiskies fill the top two shelves of a long back-bar fitting. The tables and chairs are a miscellany of well restored (if not antique) furniture, providing an individual and characterful style. There are Persian rugs on polished floors and the remaining furnishings, including over 400 framed pictures, are of good quality. The full menu is served everyday all day (12.00 to 9.30 pm), with the premises usually closing at 11.00 pm (10.30 pm on Sundays).

8. The property first opened for business as a public house on 18 May 1999 during the currency of the 1995 rating list. It was inspected by the valuation officer's referencing inspector on 4 November 1999. The inspector prepared a file containing a description, plan and photographs of the property. This was passed to a valuer to prepare a valuation and Glasfryn was entered in the 1995 list at RV £22,000 with effect from 18 May 1999. The visit also resulted in the property being entered in the draft 2000 list at RV £29,500. The valuer who prepared both valuations did not physically inspect the property. The 1995 and draft 2000 valuations were based on a description, plans and photographs prepared by the referencing inspector. Christie and Co made a proposal as agent for the appellant against the compiled 2000 list entry of £29,500. Mr Hossack, who was then with Christie and Co, subsequently withdrew the proposal without discussing the assessment with the VO.

9. Following the alterations to the property made in 2003, a referencing inspector made a further visit on 19 September 2004. On this occasion the relevant valuer considered the valuation based on office records, again without inspecting the property, but having regard to some receipts information obtained from a form of return received by the valuation officer on 29 April 2004. The rateable value of the property was then increased to £70,000 by notice

dated 28 September 2004. Two appeals were made on behalf of the appellant by Colliers Robert Barry. It is these appeals that give rise to the current reference.

Evidence of Mr Hossack

10. Mr Hossack said that, in order to understand the nature of the operations run by the appellant, it was first necessary to identify the five broad trading categories of pub. These categories might not include every pub and there might be some overlap. The first broad trading category was the circuit pub. This was one situated in a town or city centre. It lay on a drinking circuit, where customers would have one or two drinks before moving on to the next pub. They were predominantly open plan with few tables and chairs, and customers were generally young, fashion conscious and often moved in large single sex groups. There were often doormen to control boisterous behaviour, and music would frequently play an important part in the appeal. Food was rarely available in the evenings, and favoured drinks were “alco-pops”, cocktails and premium lagers, often drunk from the bottle.

11. The second category, family pubs, was a comparatively recent development. They were usually branded operations – large national operations using a heavily promoted name or brand – situated in prominent positions on main thoroughfares, where they could attract passing trade. They were specifically designed to meet the needs of young families. There would often be elaborate play areas or play “barns”, menus would be laminated and illustrated with photographs, with a wide choice of dishes appealing to children. There would often be promotions such as free ice-cream, balloons and entertainment packs. Food was generally pre-prepared off-site and subsequently microwaved or grilled and keg products predominated over cask ales. Customers would generally not know each other, but tended to associate with those with whom they had arrived.

12. The community pub or estate pub was often built to serve the needs of a specific housing estate. They were frequently large and utilitarian in appearance. Inside, there were features similar to a social club – wide-screen television with an enthusiastic football following, a separate games room with pool tables and dart boards, many promotions and posters advertising football matches, pub outings, karaoke nights and live music. Food was unpretentious and inexpensive and portions were generous. Customers would know each other well and strangers would be noted.

13. The fourth category, the local, might be characterised by the village pub, but all towns and cities had very many pubs that might be so described. This was not necessarily the pub nearest to home, but the one where the customer felt most at home. Often local pubs were quite small, with the traditional two room layout of public bar and lounge bar. The customers could be of all ages, types and social classes, and the atmosphere was usually very relaxed, friendly and sociable. It was where the natives met to talk, exchange views and gossip, celebrate and commiserate. If food was available, it would be the simple unpretentious fare known as “pub grub”: pies, sausages and sandwiches, perhaps with roast beef on Sundays.

14. Finally, a destination pub was one which people would seek out and often travel some distance to find, and was usually situated in the country. It would have become a destination pub by virtue of some distinguishing or outstanding feature, typically the quality of its food or cask ales. Its success would be highly dependent on the skills of the operator. The atmosphere would be chatty and sociable, and there would often be a few locals present. Repeat business and good word of mouth reputation were essential to the growth of the business, as these pubs were often off the beaten track.

15. Mr Hossack then identified the two main types of pub ownership, tenanted houses and freehold pubs. Tenanted houses were sub-divided into brewery tenancies and free house tenancies. Typically, the brewery tenant was restricted to purchasing wet stock from the pub group landlord (commonly known as a “tie”). Food revenue generally remained with the tenant and was free from the tie. The free house (or independent) tenant leased a pub from an independent landlord and there was no tie.

16. In contrast to tenanted houses, the owner of a freehold pub carried the entire financial responsibility of the business, and would take decisions regarding investment, style, décor, service and products. The freehold owner was in complete control of the running of his business and the premises and would decide upon the operational pitch. He was typically entrepreneurial and would have a keen proprietorial sense over the business and the premises. To be successful, an owner operator needed financial, operational and managerial skills.

17. Three of the appellant’s pubs were held on brewery tenancies with a tie, and eleven were either freehold or held on free house tenancies. The relevance of the tie could be graphically demonstrated by one example. The appellant’s free-of-tie pubs bought a gallon of Stella Artois for £5.47, whilst one of their tied brewery tenancies paid £10.80 for the same product.

18. There were, said Mr Hossack, four broad categories of pub management. Brewery tenancies constituted a very large segment of the market. There were a number of large pub groups, such as Punch Taverns (over 9,800 pubs) and Enterprise Inns (over 8,600), who owned pubs and let them out on brewery tenancies subject to a tie. The second management category comprised independent freeholders and free house tenants. These were in complete control of the running of their business and premises and were not obliged to buy products from any given supplier. Pubs falling within the third category, branded managed houses, were usually substantial properties, in high profile locations and operated by large pub chains such as Wetherspoons (over 590 pubs) and Brewers Fayre (over 430). They were run directly by the controlling company, with a directly employed manager. The controlling company would typically seek to build a brand, replicating the same products, operating procedures and service standards throughout the group. Decision making was usually centralised at the level of the operating company rather than the individual manager. Large managed house companies like Beefeater, Brewers Fayre and Wetherspoons had over the years acquired many large sites in prime locations, such as major trunk roads, town centres and areas of high population density.

19. Finally, there were independent managed house companies, typically with less than 20 outlets. These would often centralise decision making, and closely control and direct operating

procedures within their outlets. Such companies tended to operate without the benefit of premium locations. They were usually unbranded, and had a less developed central resource than the larger chains.

20. Mr Hossack said that the appellant was a hybrid. At first sight its pubs fell into the independent managed house category. Its three brewery tenancies were something of a historical accident, which the company would not expect to repeat. The important point, however, was that the appellant encouraged each of its managers to run his or her pub as if he or she were an independent free house owner – albeit with the backing of the resources and expertise of the appellant’s head office.

21. Mr Hossack said that Glasfryn was a typical product of the appellant’s broad investment strategy. The total cost of the freehold purchase, the original conversion and the 2003 extension was very high, approximately £1.1m. The finished product afforded sizeable premises with gardens and car parking. The interior was finished to a high standard, with a traditional “quality” feel and atmosphere. The building now provided all the trading area, accommodation, kitchen and ancillary facilities necessary to support the appellant’s house style. This, combined with the appellant’s particular management and operating skills, had established the property as an extremely popular destination pub. The location meant that the vast majority of its clientele needed to make a special journey by car in order to visit. The clientele was attracted to the property rather than other pubs by the atmosphere, the quality feel and the excellent food.

22. In preparing his valuation, Mr Hossack adopted the method which had been agreed between the Valuation Office Agency and representatives of the Brewers and Licensed Retailers Association prior to the commencement of the 2000 list. It was contained in the approved guide to the valuation of public houses. He also had regard to certain supplementary guidance notes issued by the VOA, and in particular one dated 9 October 2001 (SC/09/10/01A), which provided guidance on the valuation of newly opened public houses, and one dated 22 November 2002 (SC/22/11/02), which provided guidance on the valuation of newly opened houses where the first year’s trading figures were for a period ending in 1999 or later. The approved guide described the basis of valuation as follows:

“Valuations will generally be made by considering liquor trade and non-liquor trade separately. The latter will comprise primarily catering and, where applicable, accommodation and/or other areas of trade. The sum of the rateable values attributable to these separate income streams will, in most cases, provide the total rateable value.

To ascertain the correct rateable value the first and most important consideration is to determine the “fair maintainable receipts” (FMR) of the property excluding VAT. These will be split between gross receipts for liquor, food, accommodation and other sales; and net receipts from gaming machines.

The figure of receipts determined should represent the annual trade considered to be maintainable at 1 April 1998 (the antecedent valuation date) having regard to the physical nature of the property and its location as at 1 April 2000 when the new rating

lists come into force (or subsequently following a material change of circumstances) on the assumption that the business will be proficiently carried out by a competent publican responding to the normal trading practices and competition of the locality.

Valuations should not be arithmetical calculations. Each must be considered by a competent valuer within the terms of this guide and having regard to the individual nature of each property, its trading location and style of trade.”

23. Having assessed the FMR, the guide said that for liquor sales the property

“should be placed within one of the three ‘valuation bands’ so as to reflect the nature of the trading locality, the physical characteristics of the house and the style of trade which is maintainable.”

Band 1 comprised “good quality houses in good trading locations”; band 2 “good quality houses in poor trading locations, average quality houses in average trading locations and poor quality houses in good trading locations” and band 3 “good quality houses in poor trading locations.” When the appropriate band had been determined, the guide said that the valuation would fall within the range of percentages shown in three tables, relating to Central London, Outer London and England and Wales. It added:

“The graphs provide a range of percentage values within each band at any level of fair maintainable receipts. The choice of the percentage to be applied to the total of the fair maintainable liquor receipts and the fair maintainable net income from gaming machines for each individual house is a matter of judgment. This allows for the ‘fine tuning’ of the valuation to reflect the operation of the house and the significance of the expenses required to maintain the particular type of trade being carried on. Factors to be considered include the level of prices charged, staffing costs, maintenance, incentives, insurance, marketing, provision of entertainments, etc, in relation to the fair maintainable receipts adopted.”

24. The approved guide said that food sales should be valued

“on the basis of the annual fair maintainable receipts from food sales ... The assessable trade will reflect receipts from the sale of all food (excluding incidental bar sales such as crisps, nuts etc, wines and liquors) ...

A percentage of this total will be taken to reflect the rateable value attributable to the food trade. The appropriate percentage for each public house (throughout England and Wales including London) should be derived as follows.

The property should be placed within one of the two food ‘valuation bands’ (similar to the approach for the liquor trade) for the appropriate location so as to reflect the nature of the trading locality, the physical characteristics of the house and the style of trade which is maintainable. The ability of the house to conduct food trade and the style and profitability of the food operation will finally determine the correct band. Whilst there may be a correlation between liquor and food bands it will not be unusual to find

houses valued in liquor band 1 also valued in food band B. The converse will also apply just as frequently.”

25. Mr Hossack emphasised that supplementary guidance SC/09/10/01A advised that

“Having calculated the initial valuation it may be necessary to stand back and look in order to consider whether or not this appears reasonable in comparison with the assessments of similar styles of property and if it fits into the broad range and pattern of assessments in similar localities.”

26. Mr Hossack said that, since it had been agreed that the appellant was better than a reasonably efficient operator, the only accurate way to derive the FMR at Glasfryn was by reference to the FMR which had been assessed at comparable properties, forming an established tone of the list. He had considered the entire rating list covering the local authority areas of Flintshire and Denbighshire, but he had decided to select only a limited number of comparables for full analysis. They had been carefully chosen to provide true comparisons taking into account location, size and trading style. He had not excluded the other 190 public houses in Flintshire and 142 in Denbighshire from consideration, however. He had used them during the final “stand back and look” stage, to see whether the RV he had calculated was in line with the established tone in these two neighbouring authorities.

27. The five comparables which Mr Hossack selected, and his views on them, may be summarised briefly as follows:

The Bridge Inn, Main Road, Mold.

The nearest pub to Glasfryn, 660m away. A community local pub in a main road location on the edge of the town centre. Contains a number of interconnecting trading areas. A tenanted property, brewery owned. Wet sales orientated. 2000 list RV £5,500 as follows:

Wet sales £80,000 x 6.9% (mid band 2)

Can source trade from the same local businesses and offices. As a relatively small community local it has less trading potential. Should have lower FMR than Glasfryn.

The Stables, Soughton Hall, Northrop.

2.8m from Glasfryn. An award winning destination food pub operated by an independent owner. Converted stable block. Non-main road location, adjacent to country house hotel. 2000 list RV £16,500 as follows:

Wet sales £50,000 x 6.69% (upper band 2)

Food sales £175,000 x 7.63% (mid band 2).

Comparable size, quality of accommodation, food and drink offering, trading style and target market. The assessment had not been appealed. Assessment too low by reference to the remaining comparables. True FMR £300,000. RV about £23,000. Should have slightly lower FMR than Glasfryn due to less prominent location.

The Gold Cape, Wrexham Street, Mold.

Circuit location in town centre. 1.6m from Glasfryn. Converted retail premises comprising a number of interconnecting trading areas seating up to 175 internally with external seating for 24. Operated by Wetherspoons as a high volume wet sales driven circuit bar serving food all day. 2000 list RV £44,250 as follows:

Wet sales £340,000 x 10.65% (mid band 2)

Food sales £120,000 x 6.78% (upper band B)

Comparable size, but town centre location generates more trade. Should have higher FMR than Glasfryn.

Dinorben Arms, Bodfari

3.6m from Denbigh and 13.4m from Glasfryn. A destination food pub in attractive village with an independent owner operator. A number of interconnecting trading areas on two floors with seating for 240 covers. External seating for 90 on balcony and terrace. Large car park. 2000 list RV £40,000 as follows:

Wet sales £145,000 x 8.28% (mid band 2)

Food sales £302,000 x 9.27% (upper band A).

Comparable potential trading style. Should have higher FMR than Glasfryn because more potential business from local residents.

The Plough Inn, The Roe, St Asaph

Main road location on edge of city centre. 17.6m from Glasfryn. A destination food pub with an independent owner operator. A number of interconnecting trading areas on two floors. Inside seating capacity 370. Outside seating for approximately 50. 2000 RV £35,000 as follows::

Wet sales £200,000 x 8.92% (mid band 2)

Food sales £200,000 x 8.25% (upper band B)

Comparable size, quality of accommodation, food and drink offering, trading style and target market. Should have higher FMR than Glasfryn because more accessible and greater potential walk-in trade, due to location in residential area close to city centre.

28. Although Mr Hossack included the Bridge Inn in his short list of comparables, he decided to exclude it from further analysis at the advanced valuation stage. The comparable evidence led him to conclude that the FMR at Glasfryn was above £300,000 but below £400,000, and its correct RV above £23,000 but below £35,000. In order to establish the correct levels of FMR and RV, Mr Hossack made a further, final analysis of The Stables and The Plough Inn, because these two pubs had an FMR of £300,000 and £400,000 and a rateable value of £23,000 and £35,000 respectively.

29. The Stables had a similar trading style to the appeal property, but was slightly smaller and in a more isolated location. The Plough Inn had a similar trading style, but was much larger and in a better potential trading location. Mr Hossack believed there was a strong argument to suggest that the FMR and RV of Glasfryn should be closer to £300,000 and £23,000 than to £400,000 and £35,000. On a “stand back and look” basis, however, the various qualities of Glasfryn needed to be reflected. It was a good quality conversion, benefiting from some lunchtime walk-to trade and some seasonal early evening theatre trade. It had good sized accommodation and ample car parking, which helped to attract a destination style of business. In this respect it bore a closer resemblance to The Plough Inn. Consequently, he considered that the FMR of Glasfryn was £380,000. As a destination outlet, it required customers to drive to it, mostly to dine. It was therefore likely to achieve higher food sales than wet sales. Because of this he split the FMR to show liquor sales of £180,000 and food sales of £200,000.

30. Turning to the appropriate valuation band to be used, Mr Hossack noted that the Gold Cape, The Plough Inn and the Dinorben Arms had been valued at band 2 (liquor), middle. Although all of these houses were potentially better trading entities than the appeal property, he adopted the same band 2 category. According to the approved guide, liquor sales of £180,000 attracted a middle band 2 rental percentage of 8.7.

31. In assessing the appropriate food band Mr Hossack considered those which had been applied to the three comparable destination pubs. The Dinorben Arms had been valued in upper band B, The Plough Inn in upper band B and The Stables in the middle of band B. He valued in the middle of valuation band B, in line with The Stables, and slightly below The Plough Inn and Dinorben Arms, because he considered that the latter two were in better trading locations. This showed a rental percentage of 8.0. Mr Hossack’s resultant valuation was as follows:

Wet sales £180,000 x 8.7% = £15,660

Dry sales £200,000 x 8.0% = £16,000

£31,660 say, £31,500

Evidence of Mr Price

32. Mr Price said that there were many successful operators in the pub sector. The pubs with the very highest turnovers tended to be in prime locations, either in town or city high streets where they could take advantage of the drinking circuit, such as the Wetherspoons sub-brand Lloyds No.1, with an average turnover of some £2m plus per unit, or in locations adjacent to areas of high levels of population (such as the Brewers Fayre, with an annual average turnover per unit of £988,000).

33. An essential part of the success of these operations was their location on prime sites. The appellant, on the other hand, did not consider a prime site to be an advantage. It sought properties in secondary or tertiary locations, with little passing traffic or walk-to trade, so that it had the opportunity to create a “destination pub”. To become a destination pub it was necessary to operate in an outstanding way in order to persuade people to make the necessary journey. Customers did not visit such properties because they were nearby, or conveniently located. Although the appellant had in the past developed pubs in town locations, it actually discouraged drop-in customers, who were not necessarily sympathetic to its style and who could create a persistent problem. Pubs in secondary or tertiary locations had to develop good reputations if they were to become destination pubs, which like-minded customers would seek out and to which they would drive.

34. Mr Price said that the appellant was driven by the desire to create truly outstanding pubs rather than necessarily achieving the maximum profit. It was almost unique in that its pubs traded as far as possible as owner-occupied free houses, whilst having the backing, resources and expertise of a much larger company. It was product driven rather than profits driven. It believed that this focus on high standards attracted a wide following and resulted in high turnovers, many times that which an average operator could expect to achieve. It had developed its pubs at a very measured pace. It only operated 14 units, and over the last ten years had opened on average one new pub a year.

35. The very high turnovers at the appellant’s pubs were not the result of their situation in prime locations. On the contrary, they were in secondary or tertiary locations. They had high turnovers because the appellant was an exceptional operator, in the following respects. Firstly, the structure of the company, which gave its managers the autonomy of an owner operator with the backup of a large company. Secondly, the quality of its food, wines and beers. Thirdly, the stability and quality-focus of the company. Fourthly, the experience of the directors and staff in creating pubs with exceptional atmosphere. Fifthly, its ability to take ordinary buildings in poor locations and make them extremely attractive places for its customers to enjoy. The appellant had taken over many pubs that had failed repeatedly under several different operators and made them resounding successes, not because of their locations or facilities, but because of the appellant’s particular expertise.

Evidence of Mr Wynn Cowell

36. Mr Wynn Cowell agreed, in general terms with the five broad trading categories of pubs as described by Mr Hossack. He considered that Glasfryn was a very well located and well-designed public house with no obvious disabilities. It was only one mile from the centre of Mold and 13 miles from Chester and Wrexham. Moreover, the public buildings on the opposite side of Raikes Lane and the lack of competition from similar food orientated public houses nearby made it the obvious choice for food or refreshment for a significant number of office workers and theatre goers. These customers provided trade at lunchtime, after work and before and after the theatre, at times when many local pubs were often very quiet.

37. In addition, the property was a destination venue because of the physical facilities available and the good food “offer”. The dining areas and kitchen facilities were very good and the parking facilities for customers were good. Mr Wynn Cowell would expect the property to attract healthy demand from leisure customers at weekends and leisure periods. The appellant’s style of operation was not untypical in food-led houses. The menu was changed regularly to maintain customer interest, with daily specials displayed on a chalk board. Open fires were lit when appropriate to create an inviting atmosphere. The property was run in a way which would be attractive to adult customers – there was no children’s menu and children were only permitted in the property until approximately 6.00pm. There were no gaming machines.

38. Like Mr Hossack, Mr Wynn Cowell prepared his valuation in accordance with the valuation office’s approved guide for the 2000 rating list. There were 1,054 pubs in North Wales. In the six years following compilation of the 2000 list, 1,880 proposals were made. Only seven remained outstanding, of which four had been made on behalf of the appellant. Ideally, the starting point for the valuation would be the trade which had been achieved at Glasfryn in the period prior to the AVD. An exact application of this approach was not possible, because Glasfryn had not become a public house until some 14 months after the AVD and there was therefore no history of trading receipts available. Furthermore, the extension and entrance reconfiguration were not completed until December 2003 and the first trading receipts to reflect these works would not have been available until the appellant’s year end on 30 June 2004.

39. It was therefore necessary to estimate the FMR by reference to the turnover of other pubs that were comparable in terms of the market sector within which Glasfryn would be likely to operate. Most pub hereditaments were in existence before the AVD. Consequently trade receipt histories that were relevant for the 1998 AVD were available to support the adopted estimates of FMR. Another advantage of basing the determination of FMR on comparable assessments was that, where assessments of comparable pubs had been subject to appeal, the agreed FMR was equivalent to the maintainable receipts of a competent publican responding to normal trading practices and competition of the locality, and did not require adjustment.

40. In Mr Wynn Cowell's view there were two main aspects to comparability, the physical characteristics of the house and its trading location. It was impossible to find an exact facsimile of Glasfryn in terms of all its inherent physical advantages and disadvantages. However, close matches could be achieved in terms of numbers of dining covers, car parking spaces or other physical attributes. In his opinion Glasfryn's proximity to the employment and entertainment hub of the Clwyd Cymru and Civic Centre was highly advantageous, as was the lack of direct competition. It had been impossible to find a comparable that possessed the full combination of advantages enjoyed by Glasfryn in terms of physical attributes of design, size and car parking and proximity to an employment and entertainment hub.

41. He therefore based his analysis on the agreed FMR's of eight comparable properties: The Queen's Head, Glanwydden, Llandudno Junction; The Palladium, Gloddaeth, Llandudno; Craigside Manor, Colwyn Road, Llandudno; The Red Lion, Church Street, Northrop; The Bells of St Mary, Gronant, Prestatyn; The Pant yr Ochain, Gresford; The Antelope Inn, Holyhead Road, Bangor and The Beeches, Chester Road, Gresford.

42. Mr Wynn Cowell considered these comparables in terms of the size of kitchen, the number of covers and the number of car spaces. Where a public house had a strong food element, the number of dining covers that could be catered for plus the size of the kitchen and its facilities were highly significant. For the purpose of his analysis Mr Wynn Cowell estimated the number of dining covers that a hypothetical tenant would expect, which was usually the same as the actual number of covers at each of the properties. For this purpose he disregarded any dining spaces available externally in patio or garden areas. There was a danger of double counting, because in good weather "indoors" trade might simply move "outdoors". Whilst he did not consider that this effect outweighed the attractions of having outdoor space available, he disregarded external covers in order to be conservative.

43. The size and layout of the catering kitchen must be adequate for the considerable demands that would be put upon it in a food led operation. A kitchen that was too small, or poorly laid out, was a major disability. His analysis showed that Glasfryn had amongst the highest number of dining covers. Moreover, its kitchen facilities were first class. Not only were they the largest of all the comparable properties, they were also very well laid out and used the linear space available well. The kitchen area was also appropriately positioned to serve the dining areas and receive deliveries.

44. Mr Wynn Cowell also gave careful consideration to the adequacy of car parking provision. This was highly significant in view of the predominance of car-borne customers at Glasfryn. There were two reasons for the high proportion of cars. Firstly, it would be a destination venue in its own right, and the large car park was compatible with that. Secondly, given the proximity to the theatre, law courts and civic offices, a hypothetical occupier would expect to attract considerable custom from this entertainment and employment hub. The majority of customers to the hub would also have been car-borne.

45. In Mr Wynn Cowell's opinion, the number of customer parking spaces at the appeal property (81) and the ratio of 0.41 spaces per cover were both adequate. His analysis of the comparables was as follows:

Property	FMR	% Split			Kitchen Area m ²	No. of Covers	Car Spaces	Ratio Car Spaces: Covers	FMR Per Cover
		Liquid	Food	Other					
Beeches	£1,514,500	26%	71	3	85	210	100	0.48	£7,211
Palladium	£1,087,500	69%	28	3	76	188	Nil	N/A	£5,784
Bells of St Mary	£ 966,000	28%	69	3	74	188	100	0.53	£5,138
Antelope	£ 656,000	38%	61	1	62	130	76	0.58	£5,046
Pant yr Ochain	£ 651,400	38%	61	0	80	116	98	0.85	£5,615
Craigside	£ 536,000	28%	70	2	56	146	55	0.38	£3,671
Red Lion	£ 535,000	55%	37	8	70	85	35	0.41	£6,294
Queens Head	£ 525,000	43%	57	0	18	68	15	0.22	£7,720

The Beeches included hotel accommodation (FMR £355,000). This had been excluded to show FMR per dining cover on a like for like basis.

46. Mr Wynn Cowell said that each of his eight comparables had been the subject of a rating appeal by a specialist leisure rating valuer. Consequently, where the FMR had been agreed, it represented the maintainable receipts of a competent publican in accordance with the approved guide and the rating hypothesis. Apart from Craigside, all the comparables had an FMR in excess of £5,000 per dining cover. Having regard to the evidence, he considered that the FMR of Glasfryn would not be less than £825,000 or more than £975,000, ie between £4,125 and £4,875 per dining cover. Notwithstanding his opinion that the kitchen, car parking and trading location of Glasfryn were very good, he considered it prudent to estimate the FMR with care. Accordingly, he adopted a figure of £825,000.

47. Having regard to the percentage split between liquor, food and other receipts for the comparables, he considered that Glasfryn would achieve a balance of trade fairly evenly divided between food and drink, with slightly more emphasis on food. He adopted a 45:55 split and estimated the liquor trade at £375,000 and food receipts at £450,000.

48. Having determined the FMR, the second stage required by the approved guide was a selection of one liquor band from a choice of three, and the selection of one of the two dry bands. He considered that liquor band 1 was appropriate, as it was a good quality house in a good trading location. He felt that the lower band, B, should be applied to the dry FMR, because the food led operation of the hypothetical tenant required specialist staff and comparatively high running costs. Although factors that increased the costs associated with

running the property pushed the rental percentage down, opportunities to charge high prices or maintain high profit margins would push the rental percentage in the opposite direction. He thought that Glasfryn offered such opportunities. The highest rental bid from hypothetical occupiers would come from those with proposals similar to the model operated by the appellant, including a strong food element. Food at Glasfryn was not cheap and the hypothetical tenant would be expected to pursue a similar pricing policy. In providing the food, the tenant would have to employ specialist personnel in the kitchen. Given the importance of the food trade, a hypothetical bidder would be attracted by the financial margin achievable compared with liquor-dominated trade. Large sales of appetising food also impacted on the liquor trade, providing opportunities for the sale of drinks with higher margins such as coffee and wine by the glass or bottle.

49. Glasfryn did not have to compete for trade with other pubs in the locality, so no entertainment or other incentives such as Sky TV or discounted food or drinks were required. Nor was there a need for security door staff. These considerations would all minimise the operational costs. The hypothetical tenant would be aware of the potential for profit and therefore willing to increase the rental percentage to be applied to the FMR, with a corresponding increase in the rental value.

50. It was likely that the hypothetical tenant would adopt the same policy as the appellant and have no gaming machines on the premises. Any increased gaming revenues would be offset by a general detriment to the ambience and revenue elsewhere.

51. Mr Wynn Cowell applied 10.82% as the liquor percentage to his estimate of liquor FMR, £375,000. This percentage was derived from band 1. At that level of receipts, the percentage range of band 1 was between 10.56 and 11.88%. His chosen percentage was towards the bottom of the range, one-fifth of the way up from the minimum. As the percentage ranges overlapped between bands, 10.82% could also be expressed as being in upper band 2 (the band 2 percentage range at this FMR was 9.91 to 11.22).

52. Mr Wynn Cowell applied 9.5% as the food rental percentage to his estimate of food FMR, £450,000. This was derived from band B (lower) and was at the mid point of the range of 9.00% to 10.00%. Had he selected band A (higher) the percentage range would have been 9.50% to 10.50%.

53. Mr Wynn Cowell's valuation of £83,000, therefore, was calculated as follows:

Liquor (45%) £375,000 FMR at 10.82% (band 1 range point 0.2)	£40,575
Food (55%) £450,000 FMR at 9.5% (band B range point 0.5)	<u>£42,750</u>
	£83,325
	Say RV £83,000

54. Mr Wynn Cowell considered his valuation of £83,000 in the context of other available information that he felt was relevant. Firstly, it was situated appropriately in the hierarchy of RVs shown in the rating list for his comparables, which ranged from £45,000 for The Queens Head to £200,000 for The Beeches. He would expect the RV of Glasfryn to exceed those of The Queens Head, Red Lion (£51,000), Craigside (£50,000), Antelope (£67,500) and Pant yr Ochain (£60,000), which in his opinion were all smaller and in poorer trading locations.

55. The Palladium did not exist as a public house at the AVD. The agreed RV of £107,500 was more than double the previous highest assessment of a public house in Llandudno of £52,500. Mr Wynn Cowell considered this to be relevant, as Glasfryn was a large modern style pub, which was better than the smaller traditional pubs found in Mold and North Wales generally.

56. The RVs of The Bells of St Mary (£93,000) and The Beeches (£200,000) exceeded Mr Wynn Cowell's valuation. Both these hereditaments have been trading for many years by the AVD. He considered his valuation of £83,000 to be appropriately conservative, as Glasfryn was a new venture in a new location and a hypothetical tenant would not have had a history of successful trade to rely on when calculating his bid.

57. The next check adopted by Mr Wynn Cowell was to compare his adopted FMR of £825,000, derived from comparables, with the actual receipts at Glasfryn. He referred to a valuation of the property dated 14 December 1999, prepared by Fleurets, chartered surveyors and hotel and licensed property valuers, for secured lending purposes and addressed to the appellant. This showed that the appellant's budget for the year ending 30 June 2000 forecast total income of £889,000 net of VAT for the unextended property.

58. Fleurets stated:

“As a general comment, we are of the opinion that, based on the actual trading figures to date as provided by you, the budget sales of £889,000 for the year ending 30 June 2000 are achievable. In year two of trading, you have asked us to assume a turnover of £1,100,000. This represents an increase of circa 23.7% on the budget figure for this year or alternatively, stripping out inflation, a growth of circa 20%. Having seen the growth which has been experienced in the first few years of trading in your other outlets, we are of the opinion that this forecast is certainly achievable although clearly much will depend on the way the business is able to develop, in particular over the next 6 months.

For the purpose of our valuations, we have assumed as per your instructions a trading potential under a good and competent operator of at or around £1,100,000 per annum net of VAT. We have further concluded that under a good and competent operator a net profit of at or around £230,000 per annum before loan and depreciation charges is achievable.”

59. Mr Wynn Cowell observed that, for the year to 30 June 2000, the appellant's actual receipts were £936,249, indicating that its budget forecast in December 1999 had been conservative.

60. As a further check, Mr Wynn Cowell said that consideration might be given to toning the actual receipts back to the AVD. There was, however, no reliable method of doing this. He had insufficient reliable data to reach a firm conclusion based on this approach, due to various material changes in circumstances. At the hearing before the VT he had presented a case based on the actual trade toned back to the AVD. This produced an RV of £105,000. He now favoured a method of deriving FMR by reference to comparables, however, as this provided a more accurate estimate of FMR at the AVD. Mr Wynn Cowell said that there was a relationship between capital and rental values and between cost and value. Mr Hossack's suggested RV of £31,500 was unsustainable, because it represented a return of only 3% on the total development costs of Glasfryn, adjusted for time. Mr Hossack's valuation was also equivalent to only 2.6% of Fleuret's valuation of the property, prior to the alterations, at £1.2m, which was well short of the return to be expected. By contrast, Mr Wynn Cowell's opinion of £83,000 for the extended property was equivalent to 6.9% of Fleuret's valuation of the pre-altered property. This suggested that the valuation of £83,000 was not excessive.

61. Finally, Mr Wynn Cowell said that Fleurets' report referred to projected net profits before depreciation of £179,783 and £230,000 based on projected receipts of £889,000 and £1,100,000. These figures represented a net profit on turnover in excess of 20%. Mr Wynn Cowell's valuation of £83,000 for the extended property was equivalent to 46% of the projected net profit of £179,783 before depreciation of the unextended property, or 36% of the higher projection of £230,000. He would expect the net profit from the extended property to be higher. The valuation of £83,000 was therefore likely to be less than one-third of the net profitability of the extended property, whereas he would normally expect the divisible balance to be split equally between landlord and tenant. Again, this test showed that his valuation was not excessive.

Conclusions

62. The principal issue in this appeal is the FMR of Glasfryn as at the AVD. It is common ground that there are no reliable trading figures available for the appeal property itself. Although figures are available for the trade achieved after completion of the physical alterations giving rise to this appeal, the length of time which had by then elapsed since the AVD means that it is not possible to carry out a reliable toning back exercise. The FMR of Glasfryn therefore falls to be calculated by reference to the agreed FMRs of comparable pubs as reflected in their agreed rating assessments.

63. A number of subsidiary issues have also arisen, many of them resulting from sensitivity checks undertaken by Mr Wynn Cowell. I state my conclusions on each of these subsidiary issues before turning to consider the evidence of the comparable assessments.

64. The first issue is the extent of the difference between the operating abilities of the appellant and those of the approved guide's competent publican. Mr Price considers that the appellant is an exceptional operator. Mr Wynn Cowell agrees that it is of above average ability, but he thinks the hypothetical tenant would trade in the same way as the appellant.

65. In deciding this issue, I found the evidence of Mr Price to be helpful. He said that, as a point of principle, the appellant would not appear in any pub guides where payment was required. Since 1997 it had received over 260 unsolicited and unpaid-for recommendations from a variety of publications, including over 20 county or national awards from four different independent bodies. He referred in particular to the Good Pub Guide, which in 2004 awarded the appellant the title of pub group of the year, when all 11 of its pubs gained main listings. In the introduction to the 2004 edition, the editor wrote:

“It is very rare indeed for the Guide to rate every single pub in one group worthy of a main entry. It has never happened that a group with as many as 11 pubs has secured this uniform success. This year all 11 pubs in the Brunning and Price group are main entries: properly pubby, but with up-to-date food alongside good beers and wines, helpful young staff, and a relaxed and informal décor. Sweeping the board, Brunning and Price are pub group of the year 2004.”

66. Mr Price said that the Good Pub Guide was an independent publication which highlighted the best pubs in Britain. Initially, some 2000 regular correspondents and 4,000 occasional correspondents reported their experiences in pubs they had visited. The more people reported favourably on a pub, the more likely it was to be short-listed for inclusion in the guide. The short-listed pubs then entered the second part of the selection process, where they were inspected anonymously by the editorial team. Only after a positive inspection would a pub gain a main listing in the guide. According to government figures, there were some 81,000 pubs in Great Britain. In 2005 only 1,145 – less than 1.4% – gained main listings.

67. 2004 was the second time the appellant had been named pub group of the year; it had previously won the award in 1997. On that occasion the editor wrote:

“All its pubs that we have seen are civilised, interestingly laid out and well run, with good food and drink and a particularly good atmosphere.”

68. On 10 April 2006, the editor of the Good Pub Guide wrote in response to an inquiry:

“In general I can tell you that those Brunning and Price pubs which are included in the Guide as main entries did not even come on our radar until your organisation had taken them over. And it is quite unprecedented for any pub group to have such a high proportion of its establishments among our main entries – which, as you know, are gained entirely on merit.”

69. In 2007 the appellant was again named pub group of the year by the Good Pub Guide. In the light of these repeated accolades, I am satisfied that the appellant is an operator of exceptional ability.

70. The second subsidiary issue is the importance of the trade at Glasfryn which is attributable to the proximity of the civic centre and neighbouring buildings on the other side of Raikes Lane. Mr Wynn Cowell considered this complex to be the source of considerable custom. Mr Hossack, on the other hand, considered that Mr Wynn Cowell had overstated the importance of the complex. He said that the county hall and law courts had their own subsidised catering facilities and suggested that business resulting from the proximity of those buildings was not significant. The theatre was closed from June until late September and it had its own large restaurant and bar. In his opinion the county hall and law courts provided a limited amount of light lunch trade to Glasfryn, primarily between 12.00 and 2.00 pm Monday to Friday and there was some early evening business from theatre goers.

71. In his supplementary witness statement, Mr Price said that he had undertaken research to analyse the likely levels of usage of Glasfryn by office workers and theatre and cinema goers at the complex. The best available indication of those customers who were office workers at the complex was provided by a count of customers arriving at the property on foot during lunchtime on working days. The results of a survey during two specimen two week periods between 14 and 25 August 2006 and between 20 November and 1 December 2006 showed that, in the first period, visitors emanating from the complex comprised 3.69% of the total number of lunch covers served, and in the second period the proportion was 3.34%. In order to assess the use of Glasfryn by theatre goers at the complex, Mr Price compared the daily turnover figures when the theatre was open with those when it was closed. This exercise indicated a variation in sales of 6.65% in favour of days when the theatre was open. There was also a small cinema within the complex, having a capacity of 120. Mr Price calculated the number of seats in the cinema multiplied by the number of nights in the year when it was open as a proportion of the total seats in the cinema and theatres multiplied by the nights each were open. These figures suggested that the potential cinema trade was approximately 19.9% of the potential theatre and cinema trade combined. The 6.65% estimated uplift in trade due to the theatre could therefore be increased by a further 19.9% to account for the likely effect of the cinema, that is $6.65\% \text{ increased by } 19.9\% = 7.97\%$.

72. Mr Price pointed out that the complex had its own licensed bistro open from 10.00 am to 7.30 pm Monday to Saturday and a separate bar which was open one hour before every performance. He considered that the results of his researches – which he accepted were no more than indicative in nature – confirmed his view that the proximity of the complex had a strictly limited impact on trading at Glasfryn.

73. I accept Mr Price's evidence and find that little more than 10% of the appellant's turnover is attributable to trade from the complex. However, given that the appellant's trading policy at the appeal property is to create a destination pub, that it does not actively seek or encourage trade from the complex, and that it is an exceptional operator, I consider that the

complex would contribute significantly more than 10% of the total turnover achievable at the appeal property if it were operated by a publican of average competence.

74. The third subsidiary issue is the weight to be given to the appellant's budget forecast of £936,249 for the unextended property, made on 14 December 1999 in respect of the year to 30 June 2000. Mr Wynn Cowell considered that this forecast – which proved to be conservative – suggested that his FMR of £825,000 for the extended property was not excessive. Mr Hossack did not consider this information to be relevant, since the appellant was more competent than the hypothetical tenant. In the light of my finding that the appellant is an operator of exceptional ability, I do not consider that its own budget figures provide reliable guidance as to the turnover likely to be achieved by a publican of average ability.

75. Mr Wynn Cowell also referred, in support of his estimates of FMR, to Fleurets' reference to the trading potential under a good and competent operator of around £1,100,000 per annum net of VAT. I place no weight on that statement so far as the present appeal is concerned. Under the heading "Trading Potential" Fleurets said:

"In preparing our opinion of value, you have specifically requested that we assume that following two years of trading, the property has achieved a level of turnover of £1,100,000 per annum net of VAT and we are assuming, therefore, that proper trading accounts are available which would support this assumed level of turnover.

As a general comment, we are of the opinion that, based on the actual trading figures to date as provided by you, the budget sales of £889,000 for the year ending 30 June 2000 are achievable. In year two of trading, you have asked us to assume a turnover of £1,100,000. This represents an increase of circa 23.7% on the budget figure for this year or alternatively, stripping out inflation, a growth of circa 20%. Having seen the growth which has been experienced in the first few years of trading in your other outlets, we are of the opinion that this forecast is certainly achievable although clearly much will depend on the way the business is able to develop, in particular over the next 6 months.

For the purpose of our valuations, we have assumed as per your instructions a trading potential under a good and competent operator of at or around £1,100,000 per annum net of VAT. We have further concluded that under a good and competent operator a net profit of at or around £230,000 per annum before loan and depreciation charges is achievable.

The property is trading as a fully equipped operational licensed unit and we have relied upon the trading information as supplied. We have further relied upon the assumptions which you have asked that we make regarding the trading potential. We must emphasise that the market for this type of property attaches much importance to the trading figures actually achieved and, in the event of a future change in the trading potential or in the actual levels of trade to those indicated, than the open market value for the existing use could vary."

76. It is clear that the trading potential of £1,100,000 was one that Fleurets had been instructed to adopt. They expressed the view that that figure was achievable, not because it represented their assessment of the potential trade under a competent operator, but because of the appellant's own trading history. In a letter to the appellant dated 19 April 2006, Fleurets asked that the Tribunal be informed that they did not consider their valuations to be relevant for rating purposes. I think they were justified in expressing that view.

77. Mr Wynn Cowell also suggested that Mr Hossack's valuation was too low because it represented a very low return on the appellant's total expenditure on the appeal property and on Fleurets' freehold valuation of the property prior to the extension works. In fact, the appellant did not incur that expenditure in the expectation that it would only achieve the turnover of a competent publican. It is an exceptional operator. It incurred the costs in the expectation that, as freeholder, it would achieve the turnover of an exceptional operator over a lengthy period of time.

78. Finally, Mr Wynn Cowell compared his estimate of FMR with net profit figures derived by Fleurets from the turnover assumptions that they were required to make. As I have said, there is nothing to suggest that Fleurets believed that those figures actually represented the turnover of the good and competent operator. In those circumstances, no reliable conclusions can be drawn from Mr Wynn Cowell's comparison exercise.

79. I now turn to the comparables. It is common ground that the valuation of Glasfryn should be derived from comparables, taking account of the approved guide including the supplementary guidance.

80. Section 8 of the supplementary guidance issued on 9 October 2001 deals with newly opened pubs. It reads as follows:

“Again the objective is to determine the fair maintainable receipts at 1 April 1998. It will therefore be necessary to look at the turnovers of houses of similar size and physical characteristics, in similar trading localities and with similar styles of trade and customer base. In primary licensed trade areas where the house is competing with similar houses this will include others within the vicinity; in areas where competing houses are of different physical characteristics, often much smaller traditional houses, it will be necessary to go further afield to look at houses in similar towns and comparable locations. Comparison of trade should only be made with houses that have been valued on the receipts basis where full trade information has been disclosed.

If the FMR is based on evidence of agreed assessments of comparable houses, determined in accordance with the 'approved guide', there should be no need to consider any further adjustment at the stand back and look stage.

It is important to appreciate that it is inappropriate to estimate the FMR for a large modern house, either newly constructed or conversion/refurbishment, by reference to

the trade achieved by older, smaller traditional houses in the locality and making an arbitrary uplift.”

81. The comparables which are likely to be of most assistance, therefore, are those of similar size and physical characteristics, in similar trading localities, with similar trading styles and customer base and in respect of which full trade information has been disclosed. Neither valuer relies on The Bridge Inn as a comparable. Nor, in my judgment, is any weight to be attached to the assessments of The Gold Cape in Mold or The Palladium in Llandudno. Both are liquor led operations in town centre circuit locations. In contrast to Glasfryn, which is heavily dependent on the ability of the publican to attract custom, much of the trade at these two circuit pubs is attributable simply to their geographical location. I do not consider that Wetherspoons, who operate the Gold Cape and the Palladium, are likely to have been at all interested in operating a public house at Glasfryn.

82. With the exception of The Stables, none of the comparable pubs within a radius of 12 miles of Glasfryn has a comparable trading style or customer base. In those circumstances, it is in my view appropriate to look at the turnovers of all five comparables which, like Glasfryn, are operated as destination food pubs, that is The Stables, The Dinorben Arms, The Plough Inn, The Queen’s Head and The Pant yr Ochrain. In addition, I think it is relevant to consider the FMR agreed for The Red Lion, which is located less than 2 miles from Glasfryn and has a similar inside seating capacity. The Red Lion is operated as a community local pub, probably because of its situation in the centre of a large, busy village. If offered vacant and to let, however, it is in my view quite possible that it would be of interest to an operator of a destination food pub.

83. I consider that the following comparables are of no assistance, because they are situated in entirely different trading localities from Glasfryn. Operated by Whitbread as a branded managed pub and trading as Brewers Fayre, the Antelope is 52 miles from the appeal property, on the outskirts of the university city of Bangor and directly opposite the landmark Menai Bridge, a major route to the Isle of Anglesey. In contrast to Glasfryn, its prominent location has the potential to generate considerable drive-to and passing residential and/or holiday business. The Craigside Manor is situated 33 miles from Glasfryn, 2 miles from the centre of Llandudno. It is on the main trunk road between the busy coastal resorts of Llandudno and Colwyn Bay and adjacent to the Little Orme, a popular tourist attraction. The property is a branded managed house trading as Brewer’s Fayre and operated as a family pub. The Bells of St Mary is another Brewer’s Fayre run as a family pub. It is prominently located on the A548, North Wales coastal road in the village of Gronant close to the popular holiday resort of Prestatyn, a quarter of a mile from the beach and close to the numerous holiday homes, camp sites and caravan parks that have been developed in recent years.

84. The final comparable upon which I am unable to rely is The Beeches, which is operated as a family pub and a limited service hotel with 38 rooms. Although the pub and hotel were valued separately in arriving at the assessment of the hereditament, a substantial proportion of the pub’s FMR relates to sales to hotel guests. In the absence of any reliable information as to the proportion of such sales, it is not possible to make a meaningful comparison with Glasfryn.

85. I have found six comparables to be of assistance in the valuation. My conclusions on each may be summarised as follows:

The Stables: A good quality converted stable block, originally part of the 18th century Stoughton Hall, which now trades as a luxury private hotel but shares a common car park with the pub. Situated in the village of Northop, 2.8 miles from Glasfryn. Marginally smaller than Glasfryn, with seating for 190 internally and 48 externally. Trading on two levels, which is a disability, as is the very small kitchen, located on the first floor. Food service is largely restricted to the first floor dining area. More isolated location. Agreed to be underassessed. Valued by Mr Hossack at £23,000 and by Mr Wynn Cowell at £27,500. These values suggest an RV of £46,000 to £55,000 for Glasfryn. Evidence is of limited weight because trade details were not disclosed.

The Dinorben Arms: A traditional brick and stone village inn, 3.6 miles from Denbigh and 13.4 miles from Glasfryn. Lies just off the A534 in the attractive village of Bodfari, 4 miles from the A55 North Wales expressway, the main route for easy access to the entire North Wales coastline. Larger than Glasfryn, with seating for 240 inside and 90 outside. Disadvantage of trading on two floors. Ground floor trading area is an eccentric arrangement of cubbyholes and alcoves. No internal male wc on ground floor. Dining room and bar on first floor served by its own kitchen with male and female wcs. FMR £447,000 RV £40,000. Appeal withdrawn by unrepresented owner. Suggests £57,500 RV for Glasfryn.

The Plough Inn: A purpose built rendered brick building. Prominent main road position on the edge of city centre, one-quarter of a mile from the A55 North Wales expressway and 17.6 miles from Glasfryn. Larger than Glasfryn, with inside seating for 370 and outside for 50. Trading on two floors is a disadvantage. Two separate kitchens, both on first floor are a significant disability, as is service of food by public stairway. FMR £400,000 RV £35,000 not appealed. Suggests £55,000 RV for Glasfryn. Evidence of limited weight because trade details as at AVD not available.

The Queen's Head: A purpose built stone property in a non main road location in village centre. 32.8 miles from Glasfryn, 3 miles from Llandudno, 5 miles from Conwy, 3½ miles from Colwyn Bay and 4 miles from A55. Much smaller, seating 68 inside and 48 outside. Small car park and very small kitchen (18m²), both disadvantages. Better located for the tourist trade of the North Wales coast, but much smaller than Glasfryn. FMR £425,000. RV £45,000. Suggests RV £70,000 for Glasfryn.

Pant yr Ochain: An attractive converted private dwelling, part dating from 1580, operated by the appellant. Grade II listed. Own attractive grounds with views over lake. Non main road location in village 12.2 miles from Glasfryn. Internal seating for 150, external for 96. A smaller, but more attractive building in a more attractive rural setting. FMR £650,000. RV £60,000. Suggests £62,500 for Glasfryn. The original assessment was £85,000. Acting on behalf of the appellant, Mr Hossack negotiated a reduction to £60,000. Mr Hossack suggested that the reduced assessment should be disregarded as a comparable. He said the appellant had accepted it for purely commercial reasons, having been advised that £60,000 was excessive, and a further

2000 list proposal was served in August 2005 following the VT's decision on Glasfryn. Mr Hossack did not record his reservations about the correctness of the agreed assessment in writing to the valuation officer at the time. I am not persuaded that it would be appropriate to ignore an assessment which was agreed by the appellant itself with the benefit of professional advice at a figure 29% below the original RV.

The Red Lion A purpose built pub in a main road village location. 1.8 miles from Glasfryn. Similar internal seating capacity (210). Limited parking (approx 40 spaces) a slight disadvantage. Not situated in own grounds. FMR £535,000 RV £51,000. Suggests RV £62,500 for Glasfryn.

86. The individual comparables suggest a wide range of assessments for Glasfryn. Considered overall, however, they point in my view to an RV of £62,500, calculated as follows:

Liquor £315,000 FMR at 10.3% (band 1, range point 0.2) = £32,445

Food £350,000 FMR at 8.6% (band B, mid point) £30,100

£62,545

Say £62,500

87. For the sake of completeness I should add that I obtain no assistance from the original 2000 list assessment of Glasfryn at RV £29,500, because the valuer at the VOA who prepared the valuation had not inspected the pub and had no information as to its turnover.

88. The appeal is allowed. I order that the assessment of Glasfryn in the 2000 rating list be altered to RV £62,500 with effect from 1 April 2004. A letter on costs accompanies this decision, which will take effect when the question of costs is decided.

Dated 10 September 2007

N J Rose FRICS