# Business Rates and The Valuation Office

I am Michael Duffy tenant of The Three Crowns in Bushey Heath, Herts WD23 1EA since September 2003.

I consider myself fairly knowledgeable in the world of hospitality and operating a business, and fairly streetwise when it comes to using common sense and data to support and defend my corner when it comes to rent reviews and business rates valuations, perhaps just as well because if business rates were based on pub rental figures I would have been out of business many years ago, likewise pub rentals based on a Pubco or other landlords version of FMT ( Fair maintainable trade )

In 2007 with little support or guidance I argued a rent demand of £55k down to £48k, by 2012 and with my rent now increased to £51.8k via RPI increases, and with a proposal for £55k based on an FMT formula using a barrelage figure 28% higher than the previous 5 years average, I went all the way to arbitration and the rent was reduced to £21k.

In 2017 the demand was for a rent of £48k and again based on FMT figures backed up with no real substance. Using knowledge and experience gained from going to arbitration I presented an extremely detailed response, plus an extremely detailed response to points raised from my original response. Two years later in 2019 we finally agreed on a rent package that included an exterior refurbishment programme which was valued at £60k spread over 5 years.

My experiences of dealing with The Valuations Office on appealing Rateable Values were firstly via a firm of surveyors who prepared the appeal for the 2007 valuation of £36,750 which involved a great deal of facts and figures but basically came down to common sense and a personal appeal during a visit by the local valuation officer.

Regardless of the average of the previous 3 years takings we had lost substantial trade when the smoking ban was introduced, recession had hit following the banks crash and the closure of nearby RAF Bentley Priory resulted in a loss of our military business which the pub had enjoyed stretching all the way back to WW2.

Prior to the visit by the local valuation office the appeal had been rejected on the basis that there were 3 pubs closer to RAF Bentley Priory and none of them had used the closure as a basis for an appeal. During the visit we introduced the officer to a number of local military wives who were in for lunch. The revised valuation was £22,250 and pleased to report we still have support from the military community including The North London Military Wives Choir.

I appealed the 2017 valuation of £26,500 using common sense, data and comparables. I had learnt a lot about the use of comparables during my experience of going through arbitration, surveyors tend to use this method a great deal when setting valuations in both the business to business world and private residential world.

The 2017 valuation was reduced to £24,250.

On a footnote to my own experiences I had an unannounced visit several years ago from 2 gentlemen with clipboards who asked where our cash machine was. We had removed the machine several years before, the increase in the use of debit cards and contactless payments resulted in little use of the machine.

Turned out the 2 gents were from the valuation office and seeking to put a value on the space that the machine had occupied in order to value it as a separate business which would have cost us many times more than the machine actually made for us. For the record our cut was about £9 a month. I understand the valuation office lost an appeal in May 2020 and had to rebate over £400million to premises who had been charged additional business rates for having these machines on their premises.

The current methods of valuation have been under discussion for years, several years ago we were asked to supply turnover figures for a 3 year period 2016, 2017 and 2018. We did and nothing has happened since apart from a request early 2021 for another set of figures for a 3 year period.

As an observation this request for information was made during a lockdown period when many premises were closed for business, staff were on furlough and the telephone number given out by The Valuation Office is seldom answered and goes straight to a recorded message before cutting the caller off.

The information requested this time round was again for turnover figures for 3 years and a great deal of information on rents and leases leading this writer to ask why is this information required, what are they going to do with it?

Well, the form does state
*Rateable values are based on the annual rent*
*for a property as if it was available on the open*
*market on a fixed date.*

The turnover was requested to be split down

***Intoxicating liquor*** *inc soft drinks, crisps, nuts etc*
***Food*** *excluding wines and liqueurs*

Why this split when the recent HMG initiatives on `Eat Out To Help Out` allowed us to include soft drinks, hot drinks and dry snacks as `Food` ditto the reduction on VAT to 5% and 12.5% also resulted in us keeping our records in this format.

From past experience we know that different % values are applied to these categories with Food being valued lower than Wet but why penalise pubs with a higher rateable value for selling drinks ? That`s one of the main reasons the great British public go to pubs.

Incidentally there is no guidance on the form as to whether the Government Business Grants, Business Loans, Furlough Scheme and rebates from Eat out to Help Out were to be included as income or receipts.

The form asks,but gives no reason for asking.
Do licensable activities regularly commence before
10:00 or continue after 23:30 on any day of the week?

And what does regularly mean anyway ? Once a week, once a month ?

On a more positive note, in terms of fairness, it would appear that consideration is being made for pubs who let our their kitchen space in exchange for a rent or % but who have not previously included that food turnover in their turnover figures for assessment, whereas we employ chefs include the food turnover and based on FMT are assessed at a higher rate.

Which leads me onto the reasons why FMT by turnover is a flawed method

Turnover is Vanity     Profit is Sanity     Cash is Reality

Pub A - Let`s call it `The Band of Powers` in a town in Bucks, a young chef takes on a run down pub in 2005 the RV was £5,000, through skill and hard work he builds up the turnover, gains recognition via awards but ends up paying much more in business rates as the current FMT model based on turnover does not take into account the increase in staff costs to run an award winning food pub, the higher food and wine costs, table linen, flowers on the tables. Sadly many Michelin star restaurants go broke due to the high costs of running.

Pub B – Let`s call it ` Happy Sounds` they are a city centre pub in a city that has a `strip` that caters mainly to a younger audience. They carve out a niche by becoming a music pub specialising in good quality tribute bands and bands and singers from back in the day that appeal to an older audience. These bands and singers command fees, local licensing require SIA door staff to be employed and PPL/PRS demand a license fee for royalties. So `Happy Sounds` look to cover these costs by selling tickets and, as we say in the trade `make their money on the bar`. However the 200 tickets @ £10 counts as turnover even though very little money remains after these costs are deducted.

Pub C – Let`s call it `Happier Sounds` operates in much the same way but is clever enough to use an external company to market and sell the tickets……Pub C tells his mate who runs a comedy club to do the same

Pub D - and thousands of others increase their Wet trade by paying for Sky Sports and BT Sports, unlike `Happy Sounds` they don`t recoup the costs by selling tickets, difficult to do that when half the pubs in town show sport. Their turnover increases, their costs increase but Business Rates are based on turnover and ……Sky and BT Sports base their charges on Rateable Value. The higher it is, the higher you pay.

Pub E – and thousands of others increase their top line through promotions, quiz nights, drinks offers, steak nights etc they run sports teams, darts teams (many of who expect to be fed free) and offer space for community groups to meet, all can share similar stories from the darts team who complain there weren`t enough chips on the (free) buffet…the writer once had a lady come to a quiz night, drank tap water and wrote a critical review on Trip Advisor on the (free) half time snacks as there was nothing on it she liked.

Point I am making is we all work hard to generate revenue, take the hit on allied costs but under the FMT system the more we take, the more we pay as Business Rates

Currently there are ways round this, by using an external company to promote and handle ticket sales for bands, gigs, comedy nights and other entertainment, the external company pays the act via takings and profit shares with the pub. The pub then only shows these takings as top line revenue

One other way is to change from being classified as a pub, to being classified as a restaurant and then compare the difference and choose the lower. This involves measuring every area of the premises, both front of house and back of house, both inside and outside, calculating the metres squared of each area and then applying various rates per metres squared to reach a total.

A pub I know did this several years ago did this, pub closed in 2019 after a dispute over rent proposed for a new 5 year agreement. Pub re-opened with a new tenant who then converted a previously unused area at the side to extend the kitchen and create an outdoor seating area in order to be able to re-open when Covid restrictions only allowed outdoor seated trading areas. This in turn led to a new valuation and an increase in RV of £8,622

We traded through the various phases of restrictions being lifted, helped by the reduction in VAT and the business rates holiday and reduced business rates payments. We saw the rate of VAT going back to 12.5% and know it will return to 20% shortly, business rates will also be increasing.

However, what really hurt was our gas supplier CNG going under and Ofgem passing us over to Pozitive Energy who welcomed us with rates 3.5 times higher, we shopped round but every company we spoke to wasn`t looking for new customers in the hospitality industry. And there`s more….our electricity contract expires in May and we have been warned to expect rates trebling.

Then came Omicrom and mixed messages and our (and the hospitality trades) festive season business was decimated with cancellations, shortfalls and no shows leading to us having to cancel our Christmas Day lunches, we did run New Years Eve, had 32 cancellations on the day and takings were 28% down on 2019 (2020 Festive Season was in lockdown)

In the meantime the industry had lobbied and on December 21 a further round of grants was announced to be distributed via local authorities. Almost 2 months on and we, like many in the hospitality trade, have still not been paid this grant.

From a poll of publicans on a trade site, as of today Feb 17, 98 had received the grant and 46 had not received the grant.

Recent news from The British Beer and Pub Association reports that pub beer sales were down 38% in 2021 and 2020 trading was down 55% compared to pre-pandemic, whilst big brewers like In-Bev and Heineken are imposing 7% price increases, in our case as we are tied for beer and pay almost twice as much as the free trade this is looking like a price increase of 40p a pint in a marketplace where customers already have less money in their pockets after energy increases and food price increases.

https://www.morningadvertiser.co.uk/Article/2022/02/02/business-rates-for-pubs-inquiry

I believe that one of the purposes of gathering in this information is to examine the present system and seek alternative ways.

Has anyone taken a look at how other countries do this? Has any other country got an oven ready system we could learn from?

Perhaps it`s time to scrap the business rates system and look for an alternative, we as pubs already have a plethora of administration and taxes to deal with, sometimes for much the same thing, put a TV in the bar and you`ve got a TV licence to pay then PPL/PRS want money for the theme music played on it and The Motion Picture Licensing Company want money for the films shown on it.

Why not piggy back onto a scheme that is already in place to collect money for HMRC ?

It could be based on a percentage of VAT paid on the assumption that VAT is calculated as Sales less Purchases = profit so we are moving away from just basing it on top line. VAT is also a system that is already in place and it collects money in 4 times a year.

That`s just one idea, I`m sure there are lots more out there

Michael Duffy   February 17 2022