

## WEST YORKSHIRE AREA

**Appeal Number :** 471516851776/538N05/88

**Referencer:**

*Non-domestic rating appeals. Properties in Dewsbury Town Centre. Material change of circumstances caused by the closure of Marks & Spencer in the town centre. Rental evidence. Comparable properties.*

*Appeal dismissed*

**Re:** See properties outlined overleaf

**Appeal numbers:** See overleaf

**Hearing on:** Thursday 16 December 2010

**At:** National Children's Centre, Brian Jackson House, New North Parade, Huddersfield, HD1 5JP

**Parties in attendance:** Mr C Pickering from Jordans and Partners representing the appellants (outlined on the schedule overleaf), who was accompanied by Ms T Makepeace from Dewsbury Chamber of Trade

Mr R Postlethwaite – representing the Valuation Officer, who was accompanied by a colleague Mr C Dagnall

**Members:** Mrs N Collett (Chairman)  
Mr B Royston  
Mr M Searle

<b>Appeal Number</b>	<b>Address</b>	<b>Proposal Date</b>	<b>Current Rateable Value</b>	<b>Maker of Proposal</b>
471516789976/538N05	3 Market Place Dewsbury WF13 1AE	26 March 2010	£17,250	Jordans & Partners on behalf of Gills Opticians
471516853873/538N05	29 Market Place Dewsbury WF13 1AA	30 March 2010	£21,000	Jordans & Partners on behalf of Tony Textiles
471516852202/538N05	2 The Arcade Dewsbury WF13 1AB	30 March 2010	£4,200	Jordans & Partners on behalf of Blossom and Berries
471516790363/538N05	20-22 The Arcade Dewsbury WF13 1AB	16 March 2010	£8,400	Jordans & Partners on behalf of Shavers
471516790154/538N05	32 Westgate Dewsbury WF13 1BL	26 March 2010	£7,000	Jordans & Partners on behalf of Dewsbury Photo Centre
471516714893/538N05	22 Market Place Dewsbury WF13 1DQ	19 March 2010	£14,750	Jordans & Partners on behalf of Vidz
471516854639/538N05	26 Northgate Dewsbury WF13 1DT	30 March 2010	£7,700	Jordans & Partners on behalf of Unze Shalimar Shoes
471516851966/538N05	10 Kingsway Dewsbury WF13 1DU	30 March 2010	£6,800	Jordans & Partners on behalf of Imsons
471516853791/538N05	44 Northgate Dewsbury WF13 1DX	30 March 2010	£7,700	Jordans & Partners on behalf of Natashas Schoolwear
471516856493/538N05	Winnard & Colquhoun 34 Northgate Dewsbury WF13 1DX	30 March 2010	£7,800	Jordans & Partners on behalf of Imsons
471516853787/538N05	40 Northgate Dewsbury WF13 1DX	30 March 2010	£7,600	Jordan & Partners on behalf of Homeworld
471516789945/538N05	Cream Treats 21 Westgate Dewsbury WF13 1JQ	26 March 2010	£7,100	Jordans & Partners on behalf of Mr Kites
471516791510/538N05	63 Daisy Hill Dewsbury WF13 1LF	26 March 2010	£7,400	Jordans & Partners on behalf of Dewsbury Art & Craft

<b>Appeal Number</b>	<b>Address</b>	<b>Proposal Date</b>	<b>Current Rateable Value</b>	<b>Maker of Proposal</b>
471516851860/538N05	16 Nelson Street Dewsbury WF13 1NA	30 March 2010	£2,500	Jordans & Partners on behalf of Harfords Security Ltd
471516851816/538N05	28 Corporation Street Dewsbury WF13 1QG	30 March 2010	£7,700	Jordans & Partners on behalf of Pat Bro Newsagents
471516853436/538N05	32 Corporation Street Dewsbury WF13 1QG	30 March 2010	£5,600	Jordans & Partners on behalf of Glitz
471516851776/538N05	26 Corporation Street Dewsbury WF13 1QG	30 March 2010	£9,900	Jordans & Partners on behalf of Ansar
471516854647/538N05	14A Corporation Street Dewsbury WF13 1 QL	30 March 2010	£4,800	Jordans & Partners on behalf of Bennittos
471516854576/538N05	10 Corporation Street Dewsbury WF13 1QL	30 March 2010	£8,800	Jordans & Partners on behalf of Carnigills
471516854499/538N05	1/3 Corporation Street Dewsbury WF13 1QN	30 March 2010	£12,000	Jordans & Partners on behalf of Pat Bro News Agent
471516851922/538N05	5 Broadway House Foundry Street Dewsbury WF13 1QQ	30 March 2010	£14,250	Jordans & Partners on behalf of Card World
471516852154/538N05	8 Broadway House Foundry Street Dewsbury WF13 1QQ	30 March 2010	£11,250	Jordans & Partners on behalf of G P Travel
471516641982/538N05	Webb & Barker Ltd Kingsway Dewsbury WF13 1DU	15 March 2010	£8,300	Jordans & Partners on behalf of Webb & Barker

## **Introduction:**

1. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties, should not be construed as being overlooked by the panel.
2. The appeals before the panel were the result of proposals that had been lodged by Jordans and Partners on behalf of the appellants outlined in the schedule; all of the proposals had been received in the Valuation Office in March 2010. The proposals sought a reduction in the rating assessments of the subject properties, on the grounds that a material change in circumstances (MCC) had occurred in Dewsbury town centre on 18 October 2007. The MCC had been identified as the closure of the Marks & Spencer (M&S) store.
3. The parties confirmed that evidence in respect of one appeal would be submitted and the panel's decision in respect of that case should then be applied to the remaining appeals. The appeal to be considered was in relation to 3 Market Place, Dewsbury, which had a rateable value (RV) of £17,250, with effect from 1 April 2005.

## **Appellant's Case:**

4. Mr Pickering provided a submission, which comprised:
  - a statement of case;
  - location plans;
  - an extract from the Lancashire Telegraph in connection with M&S;
  - letters from Ms Trish Makepeace from Dewsbury Chamber of Trade, Adhan Group of Companies, landlords and investors in Dewsbury town centre and Gill Opticians, together with a business rates bill from Gill Opticians;
  - an extract from the Warwick Courier indicating the effect that M&S had on rents;
  - rental analysis for Webb & Baker, Kingsway, Dewsbury and 1 & 3 Market Place, Dewsbury;
  - footfall figures provided by Dewsbury Town Centre Management;
  - an article from the Yorkshire Post on the rental market in Yorkshire;
  - a retail rental analysis based on factual statistics taken from Colliers CRE's 2009 Midsummer Retail Report;
  - a graph showing the drop in open market rents in Dewsbury before and after the departure of M&S;
  - conclusions formulated from the available evidence; and
  - photographs of properties in Dewsbury town centre.
5. Mr Pickering explained that the closure of the M&S retail store in Dewsbury town centre, had had a detrimental effect on trade and rental levels in the area.

6. Mr Pickering provided a substantial amount of evidence to support his contention that M&S was a key tenant in the market place and a nationally recognised quality brand that attracted customers with higher disposable incomes. He explained the benefits that a M&S store brought to an area and outlined the problems that Dewsbury town centre now faced because of the closure of its M&S store. Mr Pickering provided letters from investors and tenants in Dewsbury town centre to confirm the state of the market in the locality.
7. Mr Pickering introduced Ms Makepeace from the Dewsbury Chamber of Trade. In brief, Ms Makepeace outlined the discussions that had taken place to try to persuade M&S to stay in Dewsbury. She re-iterated the problems that had stemmed from the closure of the M&S store and pointed out that Dewsbury now had its highest number of vacant properties in its history and had been named on the list of towns with the worst vacancy rates compiled by the BBC's Inside Out programme.
8. Mr Pickering then turned to his analysis of the rent of Webb & Barker Ltd, Kingsway, Dewsbury: This showed that the tenant had achieved a reduction of 25.7% at the time a new lease had been negotiated in February 2010.
9. Mr Pickering next submitted footfall figures that had been supplied by Dewsbury Town Centre Management. This information compared the footfall on a market day and a day mid week in both 2007 and 2009. The figures showed that there had been an 18.13% reduction in footfall since the closure of the M&S store.
10. Mr Pickering then referred to two graphs that he had included in his submission; the first showed the average rental statistics for Yorkshire & Humberside and Dewsbury for the periods June 2007/2008 and June 2008/2009, which had been obtained from Colliers CRE's 2009 Midsummer Retail Report. This confirmed that rental levels had fallen in Dewsbury more sharply than in the general Yorkshire & Humberside region. The second showed a drop in open market rentals in Dewsbury following the departure of M&S.
11. Mr Pickering also referred to his analysis of the rents of 1 & 3 Market Place; units opposite the old M&S store. He stated that this evidence specifically showed that new tenants had been able to secure rent reductions of 65.11% and 56.9% respectively, following the closure of M&S.
12. In conclusion, Mr Pickering considered that his evidence proved that rents in Dewsbury town centre had fallen as a direct result of the closure of M&S. Having regard to all the information in his submission, Mr Pickering calculated that the closure of M&S in Dewsbury had resulted in a reduction in rateable value of 40.9%. He therefore asked the panel to reduce the assessment of the appeal property by 40.9%.

## **Valuation Officer's Case:**

13. Mr Postlethwaite provided a submission, which comprised:

- a statement of case;
- a valuation and a photograph of 3 Market Place, Dewsbury;
- a plan of Dewsbury town centre;
- rental summary sheets;
- a graph identifying events that had occurred between 2007 and 2010 and their effects on the economy;
- assessment summaries;
- a timeline setting out changes in the occupation of the units previously occupied by M&S and Woolworths in Dewsbury;
- location plans showing vacant units in Dewsbury town centre as at 8 April 2003 and 7 July 2009;
- information on allowances given to properties in Dewsbury town centre to reflect the opening of the White Rose Shopping Centre; and
- an explanation of 'Antecedent Valuation Date' (AVD), 'material day' and the definition of rateable value.

14. The appeal property had originally been entered into the 2005 rating list at £19,750 RV. Following a review of the assessments of properties in Dewsbury town centre, the zone A price had been reduced from £390/m<sup>2</sup> to £350/m<sup>2</sup>; this had reduced the appeal property's assessment to £17,250 RV, with effect from 1 April 2005.

15. Mr Postlethwaite confirmed that the area of dispute between the parties related to whether a reduction was warranted in the assessment of the appeal property, to reflect the effects of the closure of the M&S store, within Dewsbury town centre, on 18 October 2007.

16. What had to be established was whether the physical factors affecting the appeal property's locality at the material day, would have had an effect on rental levels at the AVD of 1 April 2003. Mr Postlethwaite provided an explanation of AVD and the statutory definition of rateable value. He also stated that, in accordance with the relevant regulations, the material day in this appeal was the day on which the proposal giving rise to the appeal had been served on the Valuation Officer; namely, 26 March 2010. Consequently, it was as at 26 March 2010 that the situation in Dewsbury town centre had to be considered.

17. Mr Postlethwaite believed that the available evidence did not support a reduction in the rating assessments of shops in the town centre to reflect the closure of the M&S store. To endorse this view, he provided a rental summary sheet setting out the rental details of properties on Market Place, Union Street, Westgate, Northgate, Princess of Wales Precinct, and Crackenedge Lane in Dewsbury. In Mr Postlethwaite's view, this evidence

did not establish a consistent rental pattern, as it showed that rents had increased as well as decreased since the closure of the M&S store.

18. Mr Postlethwaite pointed out that rents that had fallen mainly over one year after the closure of the M&S store, when many other factors had come into play, not least the fall in the economy. He provided a graph setting out the economic background as at 1 April 2008, which identified events that had occurred between 2007 and 2010.
19. Mr Postlethwaite provided an assessment summary sheet identifying properties in the WF13 postcode area that had had appeals lodged against their assessments because of the closure of the Woolworth's store in Dewsbury town centre. Of the 10 appeals lodged, six had been withdrawn, three had been dismissed at a tribunal hearing as no evidence had been provided to support a reduction and one appeal had been verbally withdrawn and dismissed by a panel.
20. Although the M&S store had closed in Dewsbury on 17 October 2007, Mr Postlethwaite explained that the empty unit had been taken over by the Peacocks store some five months later on 31 March 2008. Woolworths had closed on 27 December 2008 and the unit had been taken over by Quality Save on 31 March 2009, around three months later. He stressed that at the material day in the appeal before the panel, both units had been occupied.
21. Mr Postlethwaite provided two plans of Dewsbury town centre: These showed that the vacancy rate had been 17.2% as at 8 April 2003, a date close to the AVD. The vacancy rate in July 2009 had been 19.7%; however, this included units that were empty and awaiting re-development. Mr Postlethwaite was not convinced that the delay in the start of the re-development work could be attributed solely to the closure of M&S but felt it could be a reflection of the economic climate.
22. Mr Postlethwaite believed that Mr Pickering's request for a 40.9% reduction in the assessment of the appeal property was unsustainable, given that in the past a valuation tribunal had only determined that a 7 ½% allowance was appropriate in the assessment of properties in Dewsbury centre to reflect the effects of the opening of the White Rose Shopping Centre, Leeds.
23. Having regard to his evidence, Mr Postlethwaite asked the panel to confirm the appeal property's present assessment of £17,250 RV with effect from 1 April 2005.

## **Decision and Reasons**

24. Firstly, the panel wished to thank the parties for the substantial amount of evidence submitted in this appeal; it wished to re-iterate that all this information was carefully considered before a decision was reached.

25. The panel accepted that the closure of the M&S store in Dewsbury town centre had constituted a MCC. In establishing the correct rateable value for a property affected by an MCC, the panel was of the opinion that it was necessary to examine the negotiations that would have occurred between the hypothetical landlord and hypothetical tenant, having regard to the physical factors affecting the property at the material day, and then to decide what effect these factors would have on the property's rental value.
26. In carrying out this exercise, the panel could have no regard to any changes in the economic climate since the AVD, as this was not a factor that could be considered when determining the outcome of an appeal. In deciding the appeal before it, the panel made the following comments and observations:
27. Mr Pickering had submitted documentary evidence setting out changes that had occurred to the rental markets in various locations; however, the panel considered that the best evidence to use when determining whether there had been significant changes in rental levels in Dewsbury town centre following the closure of M&S, was the evidence of rents that had been set within that locality. When looking at this information, the panel did not consider that it was appropriate to place greater weight on individual rents but formed the view that it was better to look at the 'basket of rents' available for properties in the area.
28. The panel paid attention to the rental evidence provided by Mr Pickering and the rental schedule presented by Mr Postlethwaite. Although Mr Pickering had queried some of the information included in the schedule, this information had been provided via forms of return. As a form of return was a legal document that an occupier was under an obligation to complete accurately, the panel accepted that the information in the schedule was correct.
29. From the rental evidence, the panel noted that Mr Pickering had provided evidence of rents that had been negotiated at lower levels following the closure of the M&S store. However, the rental evidence for other properties in the area indicated that some of the rents had increased since M&S had moved from the locality. As the rental evidence was mixed and did not establish a definite downward trend, the panel was not convinced that rental levels in Dewsbury town centre had fallen specifically because M&S had vacated the area in October 2007.
30. The panel noted the pedestrian footfall figures submitted by Mr Pickering had been obtained on dates in 2007 and 2009. In the panel's opinion, only a limited amount of weight could be placed on this evidence, given that the footfall was only specified for two days in each of the years. The panel considered the information provided was not comprehensive enough to show that the reduction in footfall was part of an ongoing downward trend that had commenced after the closure of M&S. There was also no evidence to confirm that footfall in the town centre had not been in decline prior to the closure of the store.



31. The panel paid attention to the plans showing the vacancy rates for properties in Dewsbury town centre in 2003 and 2009. Whilst accepting that the situation in 2009, may not have been as it was at the material day, the panel considered that this information was a useful guide, as it showed that the vacancy rate in 2009 was not substantially different to that which had existed around the AVD. This evidence suggested that the closure of M&S in 2007 had not caused a marked increase in vacant units in the town centre.
32. Having regard to the above, but with particular reference to the mixed rental evidence and the fact that, at the material day in this appeal, both the former M&S and Woolworths stores were occupied by Peacocks and Quality Save respectively, the panel was satisfied that a hypothetical tenant coming fresh to the scene, would not have been successful in negotiating a reduced rent for the appeal property to reflect the closure of the M&S store.
33. Consequently, the panel confirmed that 3 Market Place, Dewsbury had been correctly assessed at £17,250 RV, with effect from 1 April 2005.
34. As it had been agreed that the decision reached by the panel in relation to 3 Market Place, Dewsbury would be applied to the rest of the properties outlined in the attached schedule. The panel confirmed the present assessments of the remaining 22 properties.

**Alison Keohane**