

THE GRAMPIAN VALUATION PANEL

MORAY VALUATION APPEAL COMMITTEE

14 June 2018

At a meeting of the Valuation Appeal Committee held at Elgin on 30 May 2018, the Committee considered an appeal by Monsoon Accessorise Limited against the 2017 revaluation of the shop unit at 15-16 St Giles Centre, Elgin at a value of £56,500.

The appellant was represented by Brian Rogan MRICS of CBRE. He submitted a written submission which he himself had prepared as an advocate surveyor which incorporated his own precognition as an expert witness. He adopted the precognition which was circulated to the respondent and the committee together with a document containing productions listed as appendix A – F inclusive, appendix F being a decision of the Central Scotland Valuation Appeal Committee. Mr Rogan also produced a decision of the Grampian Valuation Panel dated 9 April 2018 and a copy of the case of Argos Distributors Limited and others Appellants against Fife Council Assessor, both of these documents were circulated to the respondent and the committee. Mr Rogan in his final submission circulated a written outline submission to the respondent and the committee. The outline submission made reference to the Argos Distributors Limited v Fife Council Assessor case, a copy of the decision was circulated as well as an extract from Armour on Valuation For Rating pages 486/1 and 486/2.

The respondent was represented by Mr Gill Advocate. He led evidence from one witness, James Andrew Barron BLE MRICS, who adopted a precognition which was circulated to the appellant and the committee members together with a document entitled Assessor's Productions containing productions to which Mr Barron made reference in his precognition as well as a document entitled Assessor's Productions Common to All Cases, again to which reference was made in Mr Barron's precognition.

The Appellant's Case

Mr Rogan's evidence was that the 2017 revaluation of the appeal subjects ought to have been based on new letting evidence in the vicinity.

Mr Rogan highlighted three particular letting transactions, namely:-

- Brighthouse (Unit 1 St Giles Centre),
- Mountain Warehouse (Unit 13 St Giles Centre)
- Mobile Tech (Unit 17 St Giles Centre).

In his submission these rents should be considered the most reliable form of evidence as they are open market lettings as established in the Argos and others v Fife Council Assessor case, the Central Scotland Appeal Committee case and the Grampian Valuation Appeal Committee case.

In his submission these lettings give a truer indication of the correct Zone A rate on the statutory hypothesis than any rates agreed under lease variation or renewal. He maintained that the valuation rates on these new lettings show a Zone A rate of £350 per square metre (as fixed by the revaluation) was not achievable in a true open market letting situation.

He contrasted these new lettings with evidence of lease renewals and variations around the Tone date which produced a rate above a £350 per square metre figure. In his submission less weight should be attributed to these valuations as they "sit low" in the hierarchy of evidence in Scotland for determining rental value as outlined appellant's production appendix E, which was an e mail from a colleague of Mr Rogan.

Mr Rogan then identified the Brighthouse unit being a much better location than the subjects under appeal given that the Brighthouse unit has dual entry from the St Giles Centre and also from High Street.

Taking all matters into account including the actual state and condition of the subject property and the limited demand at Tone date for space in the shopping centre, in his submission the net annual value for the subjects of appeal ought to be £275 per square metre.

As an alternative, Mr Rogan 's position was that if the committee did not support a figure of £275 per square metre, the Zone A rate should be £300 per square metres which is in line with the Zone A rate fixed by the committee in the Grampian Valuation Appeal decision which related to the Bank of Scotland premises on High Street, Elgin

In essence, Mr Rogan submitted that the correct value in respect of the subjects ought to be £44,500, failing which on his alternative calculation at £300 per square metre a figure of £48,500.

The Respondent's Case

The evidence of James Barron was that he was defending the respondent's value of £56,500.

In his opinion, the appellant's case centred on a dispute relating to the basic rate to be applied to the appeal subjects.

Mr Barron stated that following upon the appeal being submitted he had revisited the relevant rental evidence for the upper mall of the St Giles Centre. His re-analysis confirms that the basic rate set for the 2017 revaluation of £350 per square metre is correct. He made reference to a similar review carried out by a group of professional rating agents which concluded the basic rate originally set by the Assessor was supported by the available rental evidence.

Mr Barron criticised Mr Rogan's proposed rate as not representative of the actual market level for the upper mall of the St Giles Centre. The inclusion of rental transactions from out with the upper mall,

from locations that are not comparable in terms of rental level or the facilities available further taints Mr Rogan's analysis. Put together these factors render Mr Rogan's analysis unrepresentative of the actual rental levels at the Tone date within the upper mall and by implication his proposed alternative basic rate.

Mr Barron's valuation is unchanged from that originally set at £56,500. In his view it reflects all the factors pertinent to this case and represents a fair assessment for the subjects of appeal. It fully reflects the nature, extent and use of the subjects and is consistent with the valuations of comparable subjects.

Mr Barron criticised the evidence of Mr Rogan's colleague, as contained in the email at appendix E and invited the committee to consider the content of the e mail as simply the expression of an opinion. He made reference to other independent opinions such as that of a Mr Howarth on behalf of other agents who had appeals within the St Giles Centre, since withdrawn.

Mr Barron criticised the appellant for being selective by omitting key pieces of rental evidence for comparable properties within the upper mall of the St Giles Centre from his analysis. In particular he made reference to a new letting for Unit 5, the variation in lease of Unit 2 and Unit 12 and lastly the lease extension for Units 8-9. Mr Barron made reference to the valuations in respect of these units within his productions. In Mr Barron's opinion these omissions undermine the credibility of Mr Rogan's analysis and accordingly the basic rate contained by Mr Rogan is not representative of the general level of rental transactions within the upper mall at the Tone Date.

The Decision

The committee, after careful consideration reject the appeal and affirm the Assessor's valuation of £56,500.

The reasons for the Decision

The committee noted that both the appellant and the respondent agree that the exercise for the Assessor in determining the net annual value of any property at the valuation requires to proceed on the basis of the statutory hypothesis contained in Section 6 (8) of the Valuation and Rating (Scotland) Act 1956. That statutory hypothesis requires determination for rent which would be agreed between the hypothetical landlord and the tenant of the subjects. Both the appellant and the Assessor agreed that the current valuation roll in force for 1 April 2017 has a Tone Date of 1 April 2015.

The committee note the agreement of Mr Barron and Mr Rogan that the issue in dispute is the basic rate to be applied to the appeal subjects (paragraph 2.11 of Mr Rogan's precognition and paragraph 9.1 of Mr Barron's precognition).

It was recognised by both the appellant and the respondent that an analysis of comparable lettings was the correct approach in determining the correct net annual value.

The appellant and the respondent disagreed on the most relevant comparisons.

Mr Rogan in particular submitted that more weight ought to be given to new lettings and he highlighted three particular properties. Mr Barron in taking these three particular lettings into account also made reference to a broader group of lettings and made reference to Mr Rogan having omitted new lettings. The omission in his opinion undermined the credibility of Mr Rogan's analysis and produced an unrepresentative basic rate.

The committee favoured the comparisons put forward by Mr Barron and accordingly preferred Mr Barron's analysis of these comparisons in supporting the valuation fixed by the Assessor.