

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS RELATIVE TO APPEAL

by

SPEEDY ASSET SERVICES LTD

in respect of

STORE, 303 ORBISTON STREET, MOTHERWELL ML1 1QH

1. Background

This was an appeal arising out of the 2017 Revaluation. The Appellants were represented by Richard Scott, Chartered Surveyor and the case for the Assessor was presented by Robin Cleland, Advocate. The appeal subjects were a store located on Orbiston Street, Motherwell, being a stand-alone unit built in 1993 and comprising workshop, office/sales and yard. The subjects fell to be valued on the comparative principle. There was no dispute with regard to the method of valuation.

2. Proviso

It is not proposed to reproduce in full the all of the parties' evidence and submissions. The absence in this decision of a reference to any evidence or submission made by the parties should not be construed as an indication that the evidence or submission has been overlooked by the Committee.

3. Issue

The issue between the parties was the basic rate to be applied. The Assessor contended for a rate of £47.50m². The Appellants initially contended for a figure of £27.50m², but at the conclusion of the hearing contended for £30m².

The Committee reached a split decision. Three members of the Committee ("the majority of members") favoured the Assessor's position, and two members of the Committee ("the minority of members") favoured the Appellants' position.

4. Relevant Law

In considering its approach to the matter, the Committee had regard particularly to:-

- the commentary contained in *Armour on Valuation for Rating* (5th Edition) ("Armour"), paragraphs 5-25 to 5-26 inclusive and to the cases referred to therein. An Appellant must initially show that there was a case to try. Once that had been done, there was no presumption in favour of the Assessor's proposed valuation. Where a reasonable challenge to the Assessor's valuation had been made, the Committee should not proceed on the

assumption that the Assessor's valuations were correct unless the Appellants proved otherwise. The Assessor in these circumstances required to explain his approach to the Committee.

- the commentary contained in Armour, paragraphs 2-05 to 2-06 and to the cases and legislation referred to therein: the process of revaluation involved a completely fresh start.
- the commentary contained in Armour, paragraphs 19-01 to 19-37 inclusive and to the cases and legislation referred to therein including the statutory definition of net annual value contained in Section 6(8) of the Valuation and Rating (Scotland) Act 1956; the best method of arriving at an estimate of annual value will be by a study of actual rents passing both in respect of the subjects being valued and subjects comparable with them in size, character and location (Armour, paragraph 19-02).
- the commentary contained in Armour, paragraph 19-12 and the cases referred to therein: little weight may be attached to the rent payable under a lease where the subjects have never been advertised to let; but even if the rent can be criticised on the ground that it has not been shown to have been fixed between the parties bargaining at arm's length, this would not in such a case warrant ignoring it altogether as some indication of annual value.

5. Valuation

The Assessor valued the appeal subjects with reference to the Lanarkshire Valuation Joint Board's Staff Guidance Note on Industrial Properties. His valuation was as follows:-

Gross External Area	374m ² x £47.50/m ²	= £17,765
Plant & Machinery	Petrol Interceptor Cap	= £372
	Total	= £18,137
	say	= £18,100

There was no presumption in favour of the Assessor's valuation. It was for the Committee to decide which approach was correct.

6. Assessor's approach

The Assessor arrived at the Basic Rate of £47.50 for industrial properties outwith an industrial estate in Motherwell based upon 4 comparisons:-

1. Unit 5 Orbiston Street, Motherwell	Age 1990	(208m ²)	Rent Rate	£45/m ² (2016)
2. 203 Orbiston Street, Motherwell	Age 1990	(349m ²)	Rent Rate	£52/m ² (2010)
3. Yesss Electrical, Manse Road, M'well	Age 2001	(503m ²)	Rent Rate	£64/m ² (2013)

4.17 Newhut Road, Motherwell Age 2002 (1,674m²) Rent Rate £49/m² (2013)

The weight to be given to the Assessor's comparisons was called into question by the Appellants' agent, and the Committee agreed that this challenge was well founded for the reasons put forward. The leases of properties 1 and 2 were not at arm's length, the date of the lease of property 2 was 5 years before tone, and the rent of property 1 derived from a rent review on unspecified terms which had taken place 15 months after tone. Property 3 was newer, had the appearance of a retail warehouse, and was better located. Property 4 was newer, of superior quality and located 1.7 miles away. All of the members of the Committee placed little weight on the first two comparisons and no weight at all on the second two.

The Assessor listed in his Production 3A the Class 1 "off estate" industrial properties in Motherwell (18 in number) to which the basic rate derived from these comparisons had been applied. Of these (other than the appeal subjects), 12 had not been appealed, two had each been appealed by other professional agents and the appeals had been withdrawn, in one the landlord's appeal had been withdrawn and the tenant's appeal before the Committee was not pursued (and later dismissed), and in two others the appeal was not pursued (and later dismissed). The majority of members took the view that since the ratepayers of many of the other subjects that had been revalued had acquiesced in the basic rate being applied, they could have regard to this in considering the propriety of the figure under appeal.

7. Appellant's approach

The Appellants' agent put forward as comparable to the appeal subjects subjects in Dellburn Trading Park which is situated behind the appeal subjects. This consists of 11 terraced units which range in size from 174m² to 469m². These were valued on their own rental evidence at a basic rate of £27.50 in respect of similar sized units. The Appellant's agent arrived at his valuation using the same method of valuation as the Assessor but applying a basic rate of £27.50, which he later revised to £30.

The Assessor contended the units in Dellburn Trading Park were not directly comparable because these were terraced units with shared yard and parking facilities rather than stand-alone units with their own exclusive yard/parking.

The majority of members agreed with the Assessor, but the minority of members considered that units in Dellburn Trading Park carried more weight as comparisons than those put forward by the Assessor, bearing in mind that one of those, Unit 5, 347 Orbiston Street, Motherwell, was also semi-detached.

The Appellants' agent made reference to 2010 Valuation Roll. The Committee disregarded this as being of no relevance.

The Appellants' agent also referred to as a comparison 95 Orbiston Street, Motherwell, built in 1981, and valued as Class 2 at £19m², but as this was older and considerably larger (1,163.76m²), the Committee did not place any weight on this comparison.

8. Shortcomings

The Committee was disappointed at the quality of evidence put before them by both parties. The Assessor's comparisons were poor, and the Appellants' agent, with the exception of one comparison which had no merit, based his appeal, which concerned an industrial property outwith an industrial estate, solely on the rate derived from properties within an industrial estate, albeit situated behind the appeal subjects, rather than attempting to find particular comparable properties. The Committee were however obliged to decide the issue on the basis of the material put before it.

9. Majority Decision

The Committee considered that neither party had justified its valuation. The parties were asked before the Committee adjourned whether they had a fall-back position. Counsel for the Assessor stated that there was no evidence to support an alternative figure and adhered to his valuation, and the Appellants' agent saw fit rather to increase the basic rate he was seeking to £30 per sq m. The Committee was therefore asked to choose between two positions, neither of which had been properly justified. By a majority of three to two, the Committee decided in favour of the Assessor for the reasons already outlined.

The Committee accordingly refused the appeal.

27 February 2019