

LANARKSHIRE VALUATION APPEAL PANEL  
STATEMENT OF REASONS RELATIVE TO APPEAL

by

Stuart Hotel EK Ltd

in respect of

Stuart Hotel, 2 Cornwall Way, East Kilbride G74 1JR

This was a 2010 revaluation appeal. The appeal subjects comprised the Stuart Hotel, 2 Cornwall Way, East Kilbride. The net annual value proposed by the Assessor was £142,000. The Appellants were represented by Mr MacIver, Advocate and the Assessor by Mr Cleland, Advocate.

The Appellants argued that a "premises" entry should be made for the appeal subjects as at the revaluation date. They submitted that the physical condition of the appeal subjects at 1<sup>st</sup> January 2010 rendered them incapable of beneficial use, and they should therefore be entered in the roll at a nominal value. The Assessor accepted that the premises must be valued in their actual state, but contended that their actual state was as an unoccupied hotel, albeit one in need of repair.

In considering its approach to the matter, the Committee had regard particularly to the commentary contained in *Armour on Valuation for Rating* (5<sup>th</sup> Edition) ("Armour"), paragraphs 18-01 to 18-26 inclusive and to the cases and legislation referred to therein: the mere fact that the subjects are not occupied does not affect their value. The question still is what rent would a hypothetical tenant pay for the subjects as they stand; but where the subjects are not only occupied but in their actual state either they cannot be let or it is very improbable that they will again be let, then a nominal value is appropriate.

The Committee acknowledged that both parties had made relevant submissions. It was for the Committee to decide whether these submissions were supported by the facts. The Committee carefully considered the evidence presented by the parties.

The Committee were concerned to establish the physical circumstances of the appeal subjects as at 1<sup>st</sup> January 2010. Unfortunately, neither the Appellants nor the Assessor was able to present any detailed evidence specifically related to that point in time as the issue which had arisen between the parties did not appear to have been foreseen. This made it more difficult for the Committee to reach a decision. The background to matters so far as the Committee were able to ascertain was as follows.

The appeal subjects comprise the former Stuart Hotel situated in a prominent corner site within East Kilbride Town Centre adjacent to the earliest developed town centre retail premises adjoining the town centre bus terminus. The hotel, which included restaurant, function room, meeting rooms and bedroom accommodation on two upper floors,

traded until 2007. The appeal subjects were acquired by G1 Group plc from the sequestrated estates of Man Hen Liu at a price of £3,145,000 with entry as at 9<sup>th</sup> June 2006. The appeal subjects were tenanted at the time of purchase, being the subject of a lease which had been entered into in August 2004, but the lease was then irritated for non-payment of rent which was due for payment on 14<sup>th</sup> June 2006, decree in absence being obtained against the tenants on 9<sup>th</sup> February 2007. The Committee were told by the Appellants that before they left the premises, the tenants removed fixtures and fittings and carried out extensive damage and vandalism to the internal fabric and service media of the hotel, however no detailed evidence was presented as to the extent of the damage. No steps appear to have been taken to relet the subjects. The appeal subjects were then sold to the Appellants, a subsidiary of G1 Group, on 31 July 2007 for £3,371,976.37. A warrant to demolish the building was obtained on 29<sup>th</sup> April 2008. Conditional Planning Permission was granted on 23<sup>rd</sup> September 2009 for the erection of a nine storey hotel with associated bar, club, restaurant facilities with external landscaped public space. The Committee were told by the Appellants that the premises deteriorated further in the interim period, partly as a result of disruptive survey work and further stripping out works, partly due to further instances of vandalism, but no indication was given as to when any of these events had taken place.

The Appellants also produced a short extract from a draft Building Services Outline Specification dated 1<sup>st</sup> May 2010 prepared by Ramboll who had been appointed in order to assess the existing utilities and report their suitability in being reused in order to service the proposed redevelopment of the appeal subjects. Paragraph 2.2 of the report stated:-

#### “2.2 EXISTING SERVICES CONDITION

It is not clear how long the building has been unused. From the walkover survey it is apparent that the existing mechanical services have been unused and not maintained for a considerable period of time.

There is evidence of some strip out works that have been carried out as there are pipework open ends and remains of ripped of insulation on the ground.

There is a smell of dampness upon entering the building and this could be due to the lack of heating and ventilation currently to the space. The existing wooden flooring is also showing signs of warping which would indicate high moisture and humidity levels.”

Whilst the remainder of the report was not made available to the Committee, this did not appear to the Committee to suggest that the subjects were incapable of beneficial occupation at that time solely or mainly because of the condition of the mechanical services.

The Appellants also produced 3 pages from a Preliminary Cost Estimate prepared by Gardiner Theobald dated 25<sup>th</sup> August 2010 showing a summary of cost estimate options as follows:-

**“SUMMARY OF COST ESTIMATE OPTIONS – 25 AUGUST 2010**

Option	Description	GIFA m <sup>2</sup>	Room Nos	Estimated Cost	Cost/m <sup>2</sup>	Cost/Rooms	Comments
				£	£	£	
1	60 Room Hotel/Retail Units/Bar	3,761	60	5,955,652	1,583.53	99,260.87	Cost includes demolition of existing bar fit out, FF&E; retail units as shell with shopfronts and utilities
2	67 Room Hotel/Retails Units/Bar	3,638	67	5,822,725	1,600.53	86,90634	<i>Ditto</i>
3	Strip out and refurbishment of existing and formation of 60 rooms	3,404	60	4,732,030	1,390.14	78,867.17	Cost includes strip out of existing bar fit out, FF&E; retail units as shell with shopfront and utilities”

The total demolition cost was stated to be £153,850.

The Committee were told that the Appellants concluded that the significant cost to reinstate the existing building within a trading format and inherent structure which dated from the 1950’s was not a viable proposition compared with the prospect of a newly constructed equivalent to a modern bespoke design and configuration. The Committee noted however that both Options 1 and 3 seemed to relate to a configuration, that is, a 60 room hotel, bar and with retail units as shell with shopfronts and utilities, which appeared to be materially different from the original configuration. Also, whilst the detail of the cost estimate was not made available to the Committee, it did not appear to the Committee that the Appellants were comparing like with like: option 3 had clearly been prepared for another purpose and was not intended to be an estimate of the cost of putting the subjects back into lettable condition.

When the revaluation appeal was submitted, no notification of any issues relating to the physical condition of the appeal subjects had been given. The first intimation of the request to make the property “Subjects under Reconstruction” was contained in the grounds of appeal received on 8<sup>th</sup> August 2012. The appeal subjects were then jointly inspected on 13<sup>th</sup> August 2012. The photographs in the Assessor’s Production Number 2 were taken then. The photographs in the Appellants’ Production Number 5 were taken in the week beginning 10<sup>th</sup> September 2012.

The Appellants’ current position was that demolition was now imminent. They had wanted to wait till after the meeting with the Assessor. Initial works were currently taking place. The Appellants were looking for a retrospective “premises “entry at nil or nominal value with effect from 1<sup>st</sup> April 2010.

The Assessor had valued the subjects as at the date of 1<sup>st</sup> April 2008 in accordance with the physical circumstances as at 1<sup>st</sup> January 2010. He had valued the hotel, based on the SAA Practice Note 16 for the valuation of hotels, as shown in Assessor's Production 3 at £142,000, which was the figure which had been adopted for the purposes of the 2005 Revaluation. The Assessor acknowledged that the appeal subjects were in a very poor state but argued that this did not mean they were incapable of beneficial occupation. The subjects were capable of being reinstated and of being let. There was no evidence to suggest the subjects required to be demolished by reason of structural defect.

The Appellants argued that, in reaching his valuation, the Assessor had failed to take account of the reality of the situation. He had looked at his valuation scheme. He had assumed this was a 3 star hotel, had estimated the turnover and had applied the percentage rates set out in SAA Practice Note. He had not looked at the actual state of the appeal subjects at the relevant date. Whether you took the repair costs as £5,000,000 or £2,500,000, the likely repair costs were such that any prospective tenant would be looking for a 20 year rent free period. It was clear from the comparable examples put forward by the Appellants that there were numerous existing "premises" or similarly described entries in the valuation roll in Lanarkshire and Glasgow, and that retrospective amendments to "premises" at nil or nominal values were made in practice.

The Committee agreed with the Assessor that the evidence presented did not lead to the conclusion that the appeal subjects were incapable of beneficial occupation as at the relevant date. It appeared that the structure of the building was still intact and the necessary repairs and refurbishment could have been carried out albeit at some cost and the building brought back into use.

In the Committee's view, the reality of the situation in the light of the evidence was that the G1 Group had been unable to decide what to do with the appeal subjects since they obtained vacant possession of these. They had been sold by G1 Group to a subsidiary in July 2007 for over £3 million pounds. A warrant to demolish had been obtained in April 2008. Planning permission for a 98 bedroom hotel had been obtained in September 2009. In 2010, cost estimates had been obtained for a new 60 room hotel, for a new 67 room hotel and for the cost of refurbishing the existing subjects in a different configuration. It had been suggested that demolition was now imminent but that did not appear to have been the case up until now. The condition of the appeal subjects had been in decline since they became unoccupied but it was likely that at the relevant time they were capable of being reinstated and relet and remained unoccupied for commercial reasons rather than because they could not be let. The Committee accordingly felt that the evidence supported the Assessor's submission that the premises must be valued in their actual state, which was as an unoccupied hotel, albeit one in need of repair.

The Committee were not satisfied with the evidence placed before it by the Appellants concerning the cost of strip out and refurbishment of the subjects and felt they were unable to place any particular weight on this. The Committee noted the concession on the part of the Assessor's witness Mr Dunsmore that you might not expect a rental value of £142,000, but did not accept that it could be properly argued in the circumstances of the present case that the appeal

subjects were of no value. As the Committee had before it no evidence which would provide an adequate basis for any other figure, it was bound to find in favour of the Assessor's valuation.

The Committee concluded that the appeal subjects were capable of beneficial occupation as at the relevant date namely 1 January 2010 and that the Assessor had adequately explained his approach to the valuation which in the absence of any soundly based alternative figure should be allowed to stand. It accordingly refused the appeal.

1 October 2012