LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

MANORVIEW INVESTMENTS LTD

in respect of

PUBLIC HOUSE ETC 146 MAIN STREET,
COATBRIDGE ML5 3BJ

This was an appeal made under S3(2) of the Local Government (Scotland) Act 1975 concerning an entry in the valuation roll for the public house etc at 146 Main Street, Coatbridge.

Mr John Mullen, Property Consultant, appeared for the Appellants, and Mr Brian Gill, Advocate appeared for the Assessor.

The Assessor defended a figure of NAV/RV £80,000. The Appellants contended for a valuation of £70,000.

The background to matters was as follows.

The appeal subjects originally comprised a purpose built public house and nightclub complex constructed in 1999. The facilities were spread over 3 floors, with a night club on the lower ground floor, two public bars on the ground floor, and a night club on the first floor. The first floor nightclub was closed on 7th June 2008. Planning permission was granted on 23rd June 2014 for "subdivision of public house to a Class 1 unit" and building works commenced to alter the character of the property. The Assessor accepted that a material change of circumstances affecting value had taken place, and created a separate premises under construction entry at NAV/RV £100 for the former first floor club, altering the previous NAV/RV of £110,000 for the whole building to a figure of £85,000 for the public house and night club use on the ground and lower ground floors with effect from 7th July 2014. An appeal was taken against the assessment of £85,000. At the hearing, the Assessor elected to defend a reduced NAV/RV of £80,000.

Both parties valued the subjects using the Scottish Assessor's Association Practice Note 17 dealing with the valuation of licensed premises. The subjects were valued on the comparative principal, using the percentages of turnover contained in Appendix 1 to the Practice Note, applied to the hypothetical achievable turnover. The parties differed in how they had arrived at the hypothetical achievable turnover.

The Appellants had adopted an arithmetical approach. This was set out in the Appellants' Productions 1-3. In essence, the Appellants had disregarded the turnover of the first floor in the tone year and arrived at a NAV/RV based solely on the turnover in the tone year of the ground and lower ground floors, namely £927,615. The Appellants' accountants had pointed out that the figures contained in Appellants' Production 2 for the first floor turnover were shown gross of VAT. In arriving at the net turnover figure of £522,587 for the first floor shown in his Production 1, the Appellants' agent had assumed a VAT rate of 20%. The rate during the period had in fact been 17.5%, but the agent offered to adhere to the resulting figure to keep things simple. The Appellants' assessment had accordingly been based on a turnover, when adjusted to allow for entertainment costs, of £799,830.

The Assessor's valuation was based on an adjusted turnover of £925,000.This was derived from the turnover figures for the period from 31st March 2006 until 31st March 2011set out in Assessor's Production 6. These were the figures put forward by the Appellants except that the division of turnover between the first floor and the ground and lower ground floors in the tone year were different because of the VAT issue. In essence, the Assessor had identified by reference to these figures that whether as 3 storey licensed premises prior to the tone date or as a 2 storey licensed premises from shortly thereafter, the turnover had a falling trend. However following the closure of the first floor, the turnover of the ground and lower ground floors had increased, indicating that this had been the beneficiary of some of the lost income from the closed first floor establishment.

The first issue to be determined was accordingly whether in order to arrive at the hypothetical achievable turnover, it was sufficient to identify and make use of the turnover of the lower basement and ground floors as at the tone date, or whether against a background of falling turnover both pre and post tone and an evident increase in turnover following closure of the first floor, it was appropriate to take steps to reflect that increase in turnover in the assessment of hypothetical achievable turnover.

Having given careful consideration to all of the evidence and submissions, the Committee concluded that the Assessor had been correct to take steps to reflect the increase in turnover in the assessment of hypothetical achievable turnover. The turnover figures both before and after tone clearly showed a pattern of decreasing turnover. This was not in dispute. Similarly, that the turnover of the ground and lower ground floors had increased following closure of the first floor was not in dispute. The Appellants' agent had explained by way of background that in May 2007 the Appellants had purchased the leasehold competition, McFlys, located immediately across the road at 125 Main Street, Coatbridge, and had refurbished this. They had then closed the first floor of the appeal subjects. He also produced turnover figures for the premises at 125 Main Street which showed a similar pattern of decreasing turnover both pre and post tone but with an increase in turnover following the closure of the first floor of the appeal subjects. It was likely therefore that if the first floor had not been trading during the tone year, the turnover of the ground and lower floors would have been higher. The approach adopted by the Appellants appeared to assume that the closure of the first floor had no effect on the turnover of the appeal subjects, which was demonstrably not the case. For this reason, the evidence of actual turnover was not of itself a reliable and conclusive measure of hypothetical achievable turnover at tone in the circumstances of the present appeal. The Committee accordingly concluded that the arithmetical approach adopted by the Appellants was not appropriate, and the Assessor's approach was to be preferred.

The exercise was accordingly one of valuer's judgement as to the extent to which the evident increase in turnover following the closure of the first floor should be reflected in the assessment of hypothetical achievable turnover. In his evidence, the Assessor properly and adequately explained how he had made his judgement by way of interpolation, and the steps he had taken to check this. The Committee could find no obvious fault with this. The Appellants' agent did not offer any alternative assessment of value in the event that the Committee were to prefer the Assessor's approach to his own. In the circumstances, the Committee adopted the Assessor's valuation and dismissed the appeal at the reduced valuation of NAV/RV£80,000.

25th June 2015