

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPLICATION

by

COSMOPOLITAN INVESTMENTS LTD

in respect of

7 SUBJECTS AT INNOVATION PARK

13 MELFORD ROAD, RIGHEAD INDUSTRIAL

ESTATE, BELLSHILL

The appeal proceeded on the basis of alleged material change of circumstances, being the impact of the credit crunch towards the end of 2008 and the significant increase in office accommodation at the locale of Bellshill and the surrounding area such that supply exceeded demand. The effective date of the alleged material change was 1 April 2009.

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) at paragraph 3.12 to 3.31 inclusive and to the cases and legislation referred to therein including the definition of material change of circumstances contained in Section 20 of the Rating and Valuation (Amendment) Scotland Act 1984 and the provisions of Section 3(4) of the Local Government (Scotland) Act 1975. To be a material change of circumstances the change must be one that affects the value of the appeal subjects.

The burden of proof was on the appellant to satisfy the Committee that a material change of circumstance had occurred (*Armour*, paragraph 3.19). Having given careful consideration to all of the evidence and submissions, the committee concluded that no material change of circumstances in terms of the legislation had been shown to have taken place and the Committee refused the appeal.

The rateable values entered in the roll for the appeal subjects at the 2005 Revaluation and the rateable values contended for as at 1<sup>st</sup> April 2009 were as follows:-

PROPERTY ADDRESS	RATEABLE VALUE AT 2005 REVALUATION	RATEABLE VALUE CONTENDED FOR AS AT 1 APRIL 2009
1 Unit A, GF Front, Block A, Innovation Park, 13 Melford Road, Righead Industrial Estate, Bellshill	£76,000	£56,000
2 Unit A2, GF Rear, Block A Left, 13 Melford Road, Righead Industrial Estate, Bellshill	£43,500	£30,000
3 Unit A3, GF Rear, Block A Right, 13 Melford Road, Righead Industrial Estate, Bellshill	£47,500	£35,000
4 Unit A1, 1 & 2 FL, BL A Innovation Park, 13 Melford Road, Righead Industrial Estate, Bellshill	£172,000	£140,000
5 Block B Innovation Park, 13 Melford Road, Righead Industrial Estate, Bellshill	£330,000	£250,000
6 Block D Innovation Park, 13 Melford Road, Righead Industrial Estate, Bellshill	£22,250	£16,000
7 Block D Innovation Park, 13 Melford Road, Righead Industrial Estate, Bellshill	£16,100	£12,500

It was common ground between the parties that the onus was on the appellant to satisfy the Committee that there had been a change of circumstances, that the change was material and that it had had an effect on value. The Committee had to decide whether the appellants had discharged that onus.

The appellants' argument was based on the effects of the credit crunch, the significant increase in office accommodation locally and the basic law of supply and demand. They acknowledged that there had been no fall in the rents charged at Innovation Park but argued that this was because the leases provided for upward only rent reviews. The Committee noted that Black Horse had not seen fit to exercise a break option in 2009 but felt that this had been adequately explained by the appellants. However the Committee considered it significant that occupancy rates had increased between 2005 and 2009, that there had been no reduction in rents and that no tenant had approached the landlords seeking to have their rent reduced. This was inconsistent with argument put forward by the appellants that supply exceeded demand and that there had been a fall in rental values. As regards the availability of new offices in Maxim Park, the first of these had become available for let in September 2009 ie after 1<sup>st</sup> April 2009. The Committee

were also referred to a decision of the Glasgow Valuation Committee of 9<sup>th</sup> February 2011 though it was apparent from terms of the decision that this related to retail premises and that in that case there had been some evidence of a reduction in rents. This was entirely lacking in the present case. There had to be clear and positive evidence of a change in circumstances, and of its affect on value. In the valuation of subjects such as these, the best evidence is evidence of an open market transaction relating to comparable subjects concluded at arm's length, and substantially on the terms of the statutory hypothesis, at or near to the valuation date. The appellants led no evidence of any comparable case in which there had been a fall in rental value, nor did they lead evidence in support of any particular value or lead any specific evidence to justify the significant reductions in rental value which they were seeking.

The evidence led by the appellants was accordingly insufficient to support the conclusion that there had been a fall in the rental values of the appeal subjects at 1 April 2009. The appellants had failed in this instance to discharge the burden of proof and the appeal accordingly fell to be dismissed.