

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS  
RELATIVE TO APPEAL

by

CNC INVESTMENTS LIMITED

in respect of

SHOPS NUMBERS 1, 3, 5, 7-9, 11, 13, 15, 17, 21,  
23, 18-24, 14, 12, 10, 6 and 2 Forth Walk,  
Cumbernauld

The sixteen appeals relative to the above subjects were heard together.

The Assessor had accepted that there had been a material change of circumstances namely the opening of the Antonine Centre in Cumbernauld Shopping Centre and had altered the values of the appeal subjects with effect from 1<sup>st</sup> April 2008. It was agreed that the appeal subjects should be valued on the comparative principle but there was a dispute over the rate to be used.

In considering this 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 paragraphs 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. The Committee also had regard to Armour, paragraph 19-30 dealing with comparison with valuations and how the valuations relied upon have come to be final.

The burden of proof was on the Assessor to satisfy the Committee that an appropriate rate had been applied.

After giving careful consideration to all the evidence and submissions, the Committee concluded that the Assessor had given an adequate explanation for the rates which he had applied and the Committee refused the appeals.

The net annual values entered in the Roll at the year 2005 revaluation for the appeal subjects after resolution of the appeals were calculated at zoning rates which varied between £150 to £225 per square metre. With the exception of the premises at 1 and 2 Forth Walk, in relation to which the revised rate was £200 per square metre, the revised rates for all of the appeal subjects were £100 per square metre. The value sought by the Appellants were in accordance with proposal A or alternatively proposal B as set out in the Appellants' production number 6.

The Committee accepted the Assessor's explanation as to how he had arrived at the rates applied. He produced evidence of valuation rates in relation to other subjects within the Centre which he argued and the Committee accepted were comparable as well as looking at rental information and valuation history, had looked at all the values and all the rents and they had shown a similar pattern. The Assessor in his production number 3 had shown he had been consistent in arriving at the zoning rates applied to the various locations on the level on which the appeal subjects were situated.

The Committee also accepted that the figures agreed for the appeal subjects at the 2005 revaluation reflected the existing disamenities arising from the poor location of the appeal subjects and the specific disabilities affecting each of them. The Appellants had agreed percentage reductions similar to those applied by the Assessor here in relation to other subjects in the shopping centre which were in their ownership. In order to succeed in their argument, the Appellants would need to lead evidence that the material change of circumstances giving rising to reduced rental values affected those properties which were the subject of appeal to a greater extent than those in relation to which appeals had been settled, and no such evidence was presented.

In any event, the Committee preferred the evidence of the Assessor to the evidence put forward by the Appellants to support the arbitrary rate reductions which they proposed. Proposals A and B appeared to be based on the cumulo rent roll for the appeal subjects. Proposal B was based on the rent roll as at the effective date. However proposal A was based on evidence of rentals at dates which was subsequent to the effective date of the material change of circumstance namely 1<sup>st</sup> April 2008, which were therefore irrelevant to the assessment of value for the purposes of this appeal. The Committee also preferred the Assessor's evidence concerning footfall to the effect that whilst there had been a decline in overall numbers this had improved at both ends of Forth Walk which had hitherto been a cul-de-sac.