

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

relative to appeal by

THOMAS COOK RETAIL LIMITED

in respect of

SHOP, 40 COMMON GREEN, STRATHAVEN

This is an appeal arising out of the year 2005 revaluation.

The Assessor contended for a net annual value and rateable value of £9,600. The Appellants contended for a figure of £7,400.

The appeal subjects had been valued by the Assessor on the comparative principle. If there are in existence subjects which in size, character and situation are sufficiently comparable with the subjects to be valued and if these subjects are let on the statutory terms or at rents which can be adjusted so as to represent the rents of those subjects in the statutory terms then the annual value of the subjects to be valued may be arrived at by consideration of the rents payable for the comparable subjects (Armour on Valuation for Rating, 5th Edition paragraph 19-19).

The case for the Appellants, whilst clearly presented, was flawed in the eyes of the Committee by being based entirely, so far as the rental evidence was concerned, on the rent passing for the appeal subjects to exclusion of all other rental evidence including the rent passing for the adjacent subjects at numbers 2 Green Street, Strathaven and 38 Common Green, Strathaven.

The best method of arriving at an estimate of annual value is by the study of actual rents passing both in respect of the subjects being valued and subjects comparable with them in size, character and situation (Armour, paragraph 19-02 and *Simmons Furniture Store Limited -v- Assessor for Dumfries and Galloway 1989* SLT 4). In the view of the Committee there existed here subjects which passed the test to be treated as appropriate comparisons, details of which, including an analysis of the rents passing had been provided to the Committee. In these circumstances, the rent passing for the appeal subjects themselves was not conclusive or determinative of the annual value of the subjects. Evidence of such a rent was simply an adminicle of relevant evidence (Armour paragraph 19-07).

The rent rate of £154 per square metre brought out by an analysis of the rents passing for the appeal subjects was clearly significantly lower and out of line with all but one of the rents passing for all comparable subjects in respect of which evidence was placed before the Committee. A correct valuation for the appeal subjects required the net to be

cast wider than the appeal subjects and consideration taken of the relevant rental analysis of all of the comparable properties.

The Committee felt that the Assessor was probably correct when he suggested that there was a valid reason as to why the landlords may have agreed a low rent in relation to the appeal subjects, namely, that since the takeover of A T May by Thomas Cook they were dealing with a blue chip tenant whom they would wish to retain.

The Committee agreed that the reference by Counsel to Armour at paragraph 19-12 was apposite:-

“Accordingly, even although the lease is recent and *bone fide* concluded between two parties negotiating at arms length, the level of rents or agreed values for the comparable subjects is likely to give a fairer indication of annual value than the rent actually being paid. And little weight may be attached to the rent payable under a lease where the subjects have never been advertised to let, where the landlords negotiating the rent have not sought expert advice or where there is a marked dissimilarity between the rent agreed on for the subjects being valued and other similar premises in the area. On the other hand the actual rent is still an important and may be a conclusive factor where no other evidence can be adduced of rents passing for comparable subjects.”

Here there was no evidence of the premises having been advertised to let by the landlords who had simply carried on the existing arrangement with a blue chip tenant. There was an obvious disparity between the rent for these subjects and those for the neighbouring properties on either side. This could not simply be explained away by reference to the small business bonus scheme.

This did not of course mean that the Assessor was necessarily correct in fixing his Zone A rate of £210 per square metre. The Committee did not agree with the submission by Counsel for the Assessor that he could have led no evidence at all. The Assessor required to justify his valuation. The valuation exercise is one requiring extrapolation from the available evidence using the valuer’s knowledge, skill and judgment. It is not an exact science.

Having looked at the comparison evidence closely, the Committee concluded that the Zone A rate suggested by the Assessor was appropriate. The best evidence of comparison properties was in the view of the Committee those shops on either side of the appeal subjects. These were in the same location. The shop at 2 Green Street, Strathaven was of a similar size. The analysed rent rate for those subjects was £208 per square metre. The rent for the adjoining subjects at number 38 Common Green, Strathaven was £214 per square metre, this having been a new let in February 2007. The proposed rate of £210 per square metre was between the two rates.

The evidence in respect of the subjects numbers 22 to 36 Common Green, Strathaven was also of assistance to the Committee. These were in a similar location to the appeal subjects and the same Zone A rate of £210 per square metre had been agreed by three different sets of professional agents. The rent rate for the bank at 36 Common Green,

Strathaven of £125 per square metre was out of line but the Committee heard that these premises were subject to a sale or lease back agreement in December 2006, the rent being 10% of the sale figure. DTZ acting on behalf of the Royal Bank of Scotland had agreed that this rent did not constitute an open market agreement and that the proposed rental rate of £210 per square metre was fair and reasonable.

The Committee were accordingly satisfied that the Assessor had adequately explained his proposed valuation which should accordingly be upheld.

The Committee accordingly dismissed the appeal.

29 September 2011