

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

Mr Colin Brooks

in respect of

Yard, Netherton Street, Wishaw ML2

This was a running roll appeal made under S3(2) of the Local Government (Scotland) Act 1975 concerning a new entry in the roll for a yard at 120 Netherton Street, Wishaw.

The appeal subjects entered the Valuation Roll on 1st January 2014 at NAV £19200. The subjects then comprised a surfaced, fenced yard with a number of containers on this. The containers were then removed and the Valuation Roll amended as from 1st April 2014 to show an unoccupied yard with amended NAV of £18,200 to reflect the removal of the containers. The appeal relates to the yard element of the original entry.

The Appellant, Mr Colin Brooks, appeared personally, and Mr Robin Clelland, advocate, appeared for the Assessor.

Mr Clelland explained that the Assessor was defending alternative valuations as at 1st January 2014 of NAV £17,200 and as at 1st April 2014 of NAV £16,100. The Appellant contended for a figure of £10,900.

The background to matters was not in dispute. Mr Brooks, who was the owner of the site, had obtained planning permission for the erection of a dwelling house and the formation of a vehicle hire/sales centre with portacabin. He had developed the site from an area of open ground to a secured, surfaced yard. Part of the site extending to 0.49 ha/1.2 acres was currently on the market for let. The appeal subjects comprised a hardcore surfaced yard secured on all boundaries by metal paling fencing. Access is by means of a tarmac roadway through a double leaf metal paling gate. There are no services on site. The west and south boundaries are planted with trees inside the fence lines. The site is affected by the presence of 2 intermediate pressure steel gas mains, one at 150mm diameter, running parallel to the northern boundary and the other at 300mm diameter, close to the eastern boundary. There is also a surface standpipe serving the pipes located in the north east corner of the site. The location of the gas mains is as shown on the plan forming the Assessor's Production 7A, being Scottish Gas Networks' plant location plan.

Mr Brooks produced to the Committee an appeal statement in which he set out very clearly his contentions that various allowances should be made. He produced a list of the allowances which he proposed should be applied to the site showing how these had been calculated. He provided an alternative value of £10,900 which had been arrived at based on his contentions as to area less allowances. The Committee agreed with the Assessor that the alternative value had been incorrectly calculated in that for the net area of 4977m² put forward by the Appellant a rate of £2.60 would be appropriate, giving an alternative value of £12,940. The Appellant contended that a large part of the site was sterilised for development by the presence of 2 high pressure gas mains and surface mounted gas stand pipes. He made reference to four comparisons comprising yards in the Wishaw area.

The Appellant submitted that the area affected by the gas pipes and standpipe should be excluded from the valuation. The Assessor's approach was to acknowledge the presence of the gas pipes and standpipe by reducing the value rate from £2.30 to £1.00/m² applied to the affected area, which he considered properly reflected the ratepayer's inability to enjoy permanent use of the affected area. £1/m² was the lowest value rate in Appendix 1 to the Assessor's practice note. There was some uncertainty, and the parties were unable to agree, as to the requirements of Scottish Gas Networks in relation to the pipe line and standpipe. Evidence of these requirements were produced in the form of a two documents from Scottish Gas Networks (SGN) and a course of correspondence between the Assessor and SGN. The Committee took the view that, in the circumstances of the present case, it was not its function to form a definitive view on SGN's requirements. The law attributed a rateable value to every profitable use and occupation of land. The affected area was within the fenced area of the yard, and had not been separately fenced off by the Appellant or otherwise put beyond use. It was therefore appropriate that a value should be attributed to this, and the Assessor had attributed the lowest level of value in terms of Appendix 1. The Committee could not find fault with the Assessor's approach.

The Appellant also submitted that a structural defect in the site creates major flooding due to the topography of the site. As evidence of this he produced 3 photographs, which had been taken on 7th April 2014. These showed a number of puddles. He also argued that parts of the site were very soft grounding. He calculated the area affected to be 1447m². The Assessor did not accept that the site is affected by flooding or very soft grounding to the extent that it is likely to reduce the rental achieved between the hypothetical landlord and tenant in terms of the statutory hypothesis. He submitted that the rates applied to the yard in terms of Appendix 1 reflected natural drainage and no services. The Committee felt that the Appellant had not led or produced any persuasive evidence of flooding or soft grounding, and was not prepared to make any finding of fact to this effect.

Having given careful consideration to all of the evidence and submissions, the Committee concluded that the Assessor had valued the appeal subjects correctly and had properly and fully explained his valuation, and it dismissed the appeal.

9th December 2014