

Statement of Reasons

Relative to an Appeal

By

Morrison Bowmore Distillers Ltd

In respect of

Warehouse, Goil Avenue, Righead Industrial Estate, Bellshill, ML4 3LQ

This Appeal was a running roll appeal in terms of section 3(4) of the Local Government (Scotland) Act 1975 against an amended entry in the valuation roll in respect of the appeal subjects with effect from 1st April, 2013 which amended the valuation of them from £170,000 to £220,000.

There were two issues in dispute between the parties; firstly the competence of the alteration of the valuation roll by the Assessor in respect of the appeal subjects and secondly, in the event that such alteration was competent, whether the appropriate method of valuation of the appeal subjects was the comparative or the contractors' basis.

It was not in dispute that the issued value for the appeal subjects at the 2010 re-valuation was £180,000. The appellants appealed against this valuation. The re-valuation appeal settled on the basis of an agreed NAV/RV of £170,000. However, in December 2013, during discussions between the parties prior to the hearing of that appeal, the Assessor intimated to the appellants' representative that an error had been noted which had affected the issued valuation and that the Assessor would act to correct that error and alter the entry in respect of the subjects in relation to the valuation of them. On 6th March 2014, an amended Valuation Notice was issued by the Assessor with NAV/RV figure of £220,000 effective from 1st April, 2013.

Although this error was noted during discussions relative to the re-valuation appeal, the Assessor was unable to correct the issued valuation which was in contention for the re-valuation appeal as in terms of section 1 A (2)(d) of the Local Government (Scotland) Act 1975, the alteration of the roll to correct this entry would only be effective from the beginning of the year in which the correction was made; i.e. 1st April, 2013.

The error which had occurred was in transcribing the area of 2090 square metres attributable to warehouse 5, ancillary offshoots and a canopy the appeal subjects from the previous valuation sheet to the new valuation sheet for the 2010 re-valuation. The area of these parts of the appeal subjects had consequently been omitted from the valuation. The appellants were aware that this area had been omitted. On 25th September 2012, a summary valuation sheet had been issued by the Assessor to them which stated the area of

the appeal subjects at 8627 square metres. They knew that this was not the correct area for the appeal subjects. As stated, in December 2013 the Assessor had intimated that the agreed figure in respect of the re-valuation appeal did not include the omitted areas.

The committee rejected the appellants' argument that as the area of the appeal subjects had not changed and had been known to the Assessor prior to the making of the entry in respect of them in the valuation roll that section 2(1)(f) do not permit him to alter the roll. Lord Ross in the case of *The Assessor for Strathclyde Region v Dass Nicholas* 1981 SLT notes 116, when considering the terms of section 2(1)(f), said that, "A clerical error is an error made in copying or writing." In the view of the committee this is exactly what had occurred in the present case, the person copying the areas of the various parts of the appeal subjects from one sheet of paper to another had omitted the areas of some of the parts which caused them to be omitted from the valuation and led to an error in the entry in the valuation roll in respect of the appeal subjects. The committee was of the view that a clerical error had occurred and that it was competent for the Assessor to alter the roll.

The parties were agreed that if the committee determined that the appropriate method of valuation of the appeal subjects was the comparative method then the Assessor's valuation of £220,000 was correct. Similarly if it was determined that the appeal subjects should be valued with regard to the contractors' principle then the appellants' valuation of £170,000 was correct.

The parties agreed that it was appropriate to value the appeal subjects in accordance with SAA Industrial Committee Practice Note 8, Valuation of Whisky Distilleries & Related Subjects. Paragraph 2 of the Practice Note, stated, "The Contractor's basis of valuation is recommended other than for those subjects which by reason of their size, character and/or situation are suitable for valuation by the Comparative Principle."

In the view of the committee the fact that the appeal subjects had in previous re-valuation years been valued on the contractor's principle was not relevant. Each re-valuation constituted a fresh start and the Assessor was not bound by the previous method of valuation which had been adopted, see *Armour of Valuation for Rating*, fifth edition, paragraph 2-06 and the cases referred to therein.

The committee agreed with the Assessor that the contractor's principle ought to be applied as a method of last resort (see *Armour* paragraph 19-39) and the basis of valuation as set out in the Practice Note was consistent with this view. The contractor's principle should only be applied to the valuation of the appeal subjects if they could not be valued by the comparative method having regard to their size, character and location. None of these factors, in terms of the Practice note, were to be accorded any more weight than the others.

It was agreed that the appeal subjects had been purpose built in 1965 as a bonded warehouse and that the original building had been extended on three occasions between

1971 and 1978 with a further detached purpose built bond being added in 1979/80. They were located in an industrial estate with other industrial subjects of mixed use and with good transportation links.

Whilst the scheme of valuation as set out in the Practice Note was to be applied Scotland wide, the Committee was of the view that it was appropriate in the first instance to look for comparable subjects within the valuation area in which the appeal subjects are located.

The Assessor had valued the appeal subjects by comparison with other larger industrial types subjects including a large number of warehouses located within his valuation area. Within those comparisons, there were five other bonded stores which had been valued by the Assessor on the comparative basis. These comparisons were located within industrial estates or mixed use areas and were of a similar size to the appeal subjects. Some were purpose built and other had been converted from standard industrial units to bonded warehouses. There were eight bonded stores within the valuation area, the remaining three had been valued on the contractor's basis due to their size and their location; they were larger than the appeal subjects and the other bonded stores and were located in either a residential area or in a rural setting.

The committee considered that the appellants had placed too much emphasis on the character of the appeal subjects and failed to have proper regard to their size and location. Although the appeal subjects were purpose built as a bonded warehouse, their character was not so peculiar that they could not be adapted for an alternative use. Their simplistic construction was similar to other warehouses constructed contemporaneously. The hypothetical tenant would take account of the nature of the construction, any necessary adaptations to the subjects and adjust his rental bid accordingly. There were other subjects within the valuation area which were comparable to the appeal subjects in terms of their size, character and location and therefore it was appropriate to value them on the comparative principle. They were satisfied that the Assessor's approach to the valuation of bonded stores within his valuation area had been consistent and in line with the Practice Note.

The Committee accordingly dismissed the appeal.