

Survey and valuation of properties under reconstruction or in a shell state

1. Background

- 1.1. This guidance note provides staff with advice in relation to existing properties which are subject to refurbishment or have reached a dilapidated state, and aims to promote consistent treatment of such properties for rating purposes across Scotland.
- 1.2. The Assessor can only alter the Valuation Roll in accordance with relevant legislation and case law. It should be noted that very rarely are the circumstances surrounding each case identical; for that reason, each case should be considered on its own merits following the guidance provided.
- 1.3. In respect of any works being carried out at a property, consideration of the length of the contract period, the nature and scale of the works and the valuation approach require to be investigated in every case. Wherever possible, the property must be surveyed and a record, including photographs, taken of the actual state of the property.

2. Existing Entries in the Valuation Roll

- 2.1. Decisions to alter the Valuation Roll are dependent on the existence or otherwise of a material change of circumstances. If a change of circumstances has taken place, the separate question then follows of the impact on value, if any. A MCC must occur after the entry was made in the Valuation Roll.
- 2.2. Changes of circumstances which are of a transient nature are unlikely to be material and therefore do not qualify as a relevant MCC amounting to a change in value. The courts have held that while the hypothesis is for an annual value, it must be assumed that there is a reasonable expectation that the lease will continue beyond one year¹. This is very relevant for re-fitting, upgrading or modernisation works where the sums spent by both tenants and landlords may be small or indeed run into millions of pounds and it is to be expected that a return on this investment would be sought over the long term.
- 2.3. In no case should account be taken of works where the occupier retains full beneficial occupation of the premises for their intended purpose.

3. Considerations

- 3.1. Identify the unit of valuation.
- 3.2. Identify the type of property and the appropriate valuation approach.
- 3.3. Clarify the reason for the works and their intended purpose.
- 3.4. Confirm the scale and nature of the actual works, i.e. do they involve changes to the structure or primarily to internal fitting out?
- 3.5. Establish whether the works involve a change of use in terms of the valuation approach.
- 3.6. Establish the length or anticipated length of the project including identifying whether or not there are any reasonably foreseeable delays. The project plan including timetable/schedule of works/Gantt chart should be requested.
- 3.7. Establish the dates that Planning Permission and/or Building Warrant were obtained.

¹ Great Eastern Ry. V. Haughley Overseers (1886) 23 S.L.R. 611.

- 3.8. Establish if the property, or part of the property, will be occupied throughout the duration of the project, in part or in whole.
- 3.9. Establish if the property is let and if so, if the rent paid or lease agreement has been altered temporarily or until lease end date.
- 3.10. Establish if the works are conditional on the lease arrangement, for example, the rent reflects the existing state or are the works associated with a dilapidation clause.
- 3.11. Check if the valuation is based on the property being in a shell state with separate additions for fit out.
- 3.12. Identify the reasons for any parts being incapable of beneficial occupation
- 3.13. Consider if the redevelopment effects the unit of valuation.
- 3.14. Establish if any pertinents will continue to be used.
- 3.15. Consider whether the property been 'constructively vandalised' with the purpose of reducing / avoiding rating liability.
- 3.16. Establish who is carrying out the work, i.e. Landlord or Tenant.
- 3.17. Establish when the work commenced.

4. Re-fitting / Upgrading or Refurbishment works

- 4.1. Generally re-fitting works will not impact on an entry in the Valuation Roll unless they are of a scale and nature which have a material impact on the value of the property.
- 4.2. It should be noted that there is a clear distinction in the treatment of properties undergoing a refurbishment or improvement as opposed to a re-development. Re-development works will normally involve structural alterations and significant works to both the internal and external fabric of the building. Refurbishments, on the other hand, will generally be confined to internal alterations and will not involve significant structural alteration.
- 4.3. Tenants may lease properties which are in a shell state and there is a clear demand and value for such subjects. Tenants may also re-fit comparatively valued subjects and continue to pay rent during that period. Whilst the total cost of the project should be considered it should not be determinative as to whether the works are material and affecting value.

5. Determining the impact on value if a MCC has occurred

- 5.1. The information collected should be considered along with relevant case law, to allow a decision to be made on whether there has been a MCC.
- 5.2. If a change of circumstances has occurred, it does not necessarily follow that value is impacted.
- 5.3. If returned to a shell state, reference should be made to rental/cost evidence and analysis, and a check done to establish whether additions have been made for fitting out. Where an addition has been made for fit out, the valuation may be reduced to remove any value associated with the fit out.

- 5.4. Where re-fitting takes place and the works are of such significance/over an extensive period of time and an allowance is merited after reviewing the tone evidence, consideration needs to be given to the level of that allowance. Local VAC decisions may assist a valuer in estimating an appropriate adjustment if there is a lack of any comparative evidence available. The LVAC have held that a subject undergoing alteration and improvement continues to have value².
 - 5.5. Note, the Valuation Roll should not be altered from when Planning or Building Warrant approval was obtained, nor from when a contractor was secured. The date from when **substantive** works started is the relevant date for altering the Valuation Roll. Staff should remember to monitor the position for completion of the works and alter the Valuation Roll again following completion. In determining what constitutes substantive works, regard should be had to what rateable items are being removed, and to the works and timescales involved. For example, a simple re-decoration will not affect value, whereas the removal of an entire fit out (including electrics/heating/ventilation etc.) could affect value.
6. Works involving significant structural alteration, a change of use, incorporation with another property(s) or separation from another property
 - 6.1. Reference should be made to section 4.2 concerning the difference between re-development and refurbishment.
 - 6.2. Accordingly, a nil value entry should only be considered where the works are significant **and** involve structural alterations which dictate that the premises are not capable of beneficial occupation.
 - 6.3. Care must be taken to ensure that any pertinents (including ground or car parking areas) are treated correctly and that no other use is being made of the property.
 - 6.4. Where the character of a property is being altered, Planning Permission has been granted for a change of use, and the associated works have commenced and are substantial, a nil value entry may be appropriate - unless use is being made of the property for another purpose.
 - 6.5. Where the works involve making properties *unum quid* and the associated works have commenced and are substantial, a nil value entry may be appropriate - unless use is being made of the property for another purpose. The subjects should be combined to form a single entry in the Valuation Roll from the date they are occupied as a single entry.
 - 6.6. It has become commonplace for varying degrees of 'soft-strip'³ works to be carried out, with the actual redevelopment work happening many months, or sometimes many years down the line. ***Under no circumstances should a subject have a nil value attributed to it where the only works done are soft-stripping of the existing subject.***
 - 6.7. A detailed schedule of works should be obtained. During inspection, photographs must be taken and a full note of any alterations should be made. Where it is not clear that **substantive** works have commenced, a follow up inspection should be scheduled for a later date.

² Provincial Cinematograph Theatres v Assessor for Glasgow, 1925 S.C. 560

³ Soft-strip, or non-structural deconstruction, consists of reclaiming non-structural components, appliances, doors, windows, and finish materials.

- 6.8. The member of staff must be convinced that the work carried out is part of a genuine intention to complete the redevelopment. The subject should no longer be recognisable as it once was, and should be ***in the process*** of becoming something else. If doubt exists as to the genuine intention of a building owner, then as a guide the value should not be altered until the works required to complete the redevelopment are less than the works already completed.
- 6.9. It should be remembered that relief from payment of rates is a function of the billing authority, and it is not the remit of the Assessor to negate a rating liability. The staff member must ensure that the value in the Valuation Roll is a true reflection of the value of the subject (remembering that the subject is the ***Lands*** and Heritages).
- 6.10. Where the alteration is to change the subject from a non-domestic property to a dwelling, it may be appropriate (depending on the scale of works involved) to alter the Valuation Roll during the currency of the works. There will be circumstances where the works involved are very minor, for example an office or a hotel changing to a dwelling, where works will be more akin to a redecoration or a refurbishment than a reconstruction. In these cases, both the Valuation List and Valuation Roll should be altered from the same date, that being on completion of the work, or occupation, whichever is earlier.
- 6.11. In the circumstances described at 6.10, consideration of the use of a Completion Notice under schedule 6 of the Local Government Finance Act 1992 should be considered, with the staff member taking a view as to how long (up to the 3 month maximum) that it is estimated that it should take to complete the conversion works. Note that it should be how long it would reasonably take a competent operator to complete the works, and not the actual timescale being proposed by the developer.

7. 'Constructive Vandalism'

- 7.1. Cases may arise where a ratepayer renders their property unusable and claims an MCC. Evidence of such situations could be where appropriate Planning Permission or Building Warrants have not been obtained. In considering this issue, regard must be had to the extent of the disabling works, for example, re-instatement of services or other features which could be readily reinstated. In such a scenario the Valuation Roll should not be altered on the basis of transience. The absence of any planning or building warrant approval would normally indicate that the intention of the developer requires scrutiny.

8. Demolition works

- 8.1. It is difficult to envisage a situation where substantial demolition works will not be an MCC. However, there are two issues which must be considered carefully.
- 8.2. Firstly, the date from when the Valuation Roll should be altered. The information obtained together with the survey details will provide guidance on when substantial demolition takes place. The presence of a contract for demolition is not enough evidence to justify a change to the Valuation Roll. A valuer should look for a property to be substantially demolished (past the point of no return) prior to actually altering the Valuation Roll.

8.3. Secondly, it does not necessarily follow that the lands and heritages will have a nil value. Considerations include the actual use of the site following demolition, retention of parking spaces, other buildings or pertinents. The lands and heritages may require to be described as Site, Ground or Premises depending on the circumstances. Investigation should be made to establish if a ground lease exists which may assist in valuing the lands and heritages.

9. New Properties in a Shell state

- 9.1. This section covers subjects which are not yet in the Valuation Roll, and therefore on entering the Valuation Roll must satisfy the requirements of section 2(1)(b) of the Local Government (Scotland) Act 1975. This is in complete contrast to existing subjects which are being re-fitted, upgraded or modernised, which will remain in the Valuation Roll as per the guidance in section 4.
- 9.2. Rating law provides that the Assessor shall enter all lands and heritages in the Valuation Roll at a revaluation⁴. Thereafter law directs that the entry in the Valuation Roll should be made when a subject comes in to existence or occupancy. New entries to the Valuation Roll should be made when capable of beneficial occupation, i.e. the earlier of either the subject coming in to existence for its intended purpose, or from date of occupation.
- 9.3. Where new properties are constructed and remain in a shell state, a review of the entire property must be carried out on completion of the development. Any lands and heritages which have come in to existence, or are occupied, should enter the Valuation Roll. Where the property has not come in to existence for its intended purpose, and is not occupied, it is unlikely that an entry in the Valuation Roll would be made.

10. Further Action

- 10.1. The progress of the works should be closely monitored and the position reviewed during the works and as soon as possible after the completion of the works. Consideration should be given to enhancing the value recognising the improvements made to the property.

⁴ Local Government (Scotland) Act 1975 s.1(3)(a)