

Case name: The Scottish Ministers against a decision of the Land Tribunal for Scotland

Case Ref No. XA22/20

Date of Hearing\* 22 & 23 April 2021

Division: Second

First Instance decision: [decision](#)

Agents: Anderson Strathearn LLP (appellant)  
(respondent)

Brodies LLP

### Case Description

This is a statutory appeal, under sections 11(1) and (7)(b)(ii) of the Tribunal and Inquires Act 1992, against a decision of the Lands Tribunal for Scotland dated 4 February 2020 in an application by Scotland's Rural College (the respondent), for determination of a question of disputed compensation under the Land Compensation (Scotland) Act 1963 and the Land Clauses Consolidation (Scotland) Act 1845. The respondent's claim arose out of the compulsory acquisition of parts of land at its campus in Aberdeen for the purposes of constructing part of a Special Road Scheme promoted under the Roads (Scotland) Act 1984 (1984 Act), known as the Aberdeen Western Peripheral Route (AWPR Scheme).

The decision was issued following a preliminary proof in order to determine *inter alia*: (i) the issue of betterment; and (ii) the planning assumptions that should be used for valuation purposes. The Tribunal concluded *inter alia* in relation to (i) that the principle of betterment did not apply in relation to this claim for compensation in respect of the provision of the AWPR Scheme; and in respect of (ii) that both the land retained by the respondent and the land acquired would have been allocated for housing development in the Local Development Plan along with, and as part of, what was identified as the Newhills Expansion Area.

The appellants appeal the decision, which the respondent resists. Three issues are submitted for consideration by the court, namely:

1. Whether or not in determining the issue of betterment the Tribunal made fundamental errors in law in discharging its statutory duty under section 110(4)(a) of the 1984 Act.
2. Whether or not the Tribunal erred in law and made fundamental errors in its approach to questions on planning assumptions posed by the parties, and in reaching its conclusions that both the land retained by the respondent and aquired land would have been allocated for the development of 1000 dwellings and 320 dwellings respectively, in the hypothetical no-scheme world? In particular, whether it erred in law in its approach as to the planning assumptions to be made regarding allocations in the 2012 Aberdeen Local Development Plan (2012 ADLP) in the hypothetical no-scheme world?

3. *Separatim* whether the Tribunal's conclusion that the acquired land would have been allocated for housing development in addition to the allocations made in the 2012 ALDP for the Newhills Expansion Area was irrational and illogical for a variety of reasons.

\*This is a virtual hearing. Further details are available on the Scottish Courts and Tribunal Service website.