

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT10/16**

**ANGELA DORAN - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -
RESPONDENT**

Northern Ireland Valuation Tribunal

**Chairman: Alan Reid, LL.B.
Members: Chris Kenton FRICS and Peter Somerville**

Date : 15th March 2017

DECISION

The unanimous decision of the Tribunal is that the Notice of Decision on Appeal of the Commissioner of Valuation for Northern Ireland in respect of the valuation of the property at 19A Kesh Road, Camlough, Newry, Co Down, BT35 7HR as contained in the Notice of Decision dated 19th July 2016 is upheld and the Appellant's Appeal is dismissed.

REASONS

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").
- 1.2 By a Notice of Appeal dated 26th August 2016 the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 19th July 2016 in respect of the Valuation of a hereditament situated at 19A Kesh Road, Camlough, Newry, Co Down, BT35 7HR.
- 1.3 The parties to the Appeal had indicated that they were each content that the Appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007 ("the Rules") and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

2. The Law

The relevant statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). The statutory provisions regarding the basis for valuation are contained in Article 8 of the 2006 Order which amended Article 39 of the 1977 Order and have been fully set out in numerous previous decisions of this Tribunal. The Tribunal does not therefore intend in this decision to fully set out the statutory provisions of Article 8.

3. The Evidence

The Tribunal heard no oral evidence but had before it copies of various documents including the following:-

- 3.1 Valuation Certificate issued by the Commissioner of Valuation on 19th July 2016.
- 3.2 The Appellant’s Notice of Appeal dated 26th August 2016.
- 3.3 A Valuation Report prepared on 21st June 2016 by Mr Gerald Kelly of Best Property Services (NI) Limited and submitted by the Appellant.
- 3.4 Order of the Northern Ireland Valuation Tribunal dated 1st September 2016 extending time for the delivery of a Notice of Appeal.
- 3.5 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Claire Curran BSC (Hons) MRICS of Land and Property Services and received by the Tribunal on 22nd November 2016.
- 3.6 Correspondence between the Tribunal and the parties.

All of these documents had been provided to all of the parties who had each been given an opportunity to consider and respond to them before being considered by the Tribunal.

4. The Facts

Based upon the information before it the Tribunal determined, upon the balance of probabilities, the following facts:-

- 4.1 The hereditament is a pre-fabricated single storey timber framed dwelling, now enclosed in concrete block work. It has a tiled roof, double glazed windows and full central heating. It is constructed in the farmyard of an adjacent property and is accessed by a shared laneway and has shared services. It is situated at 19A Kesh Road, Camlough, Newry, Co Down, BT35 7HR (“the Subject Property”).
- 4.2 The gross external area (“GEA”) of the Subject Property is 137 m². It has no out-buildings. The Tribunal understood the Appellant to be the occupier and rate payer in respect of the property. The Tribunal had no other information regarding the title to the Subject Property nor regarding

- its physical construction and characteristics save as mentioned in the papers before the Tribunal and referred to herein.
- 4.3 The Subject Property had originally been entered into the Capital Valuation List with a Capital Value of £140,000.00 and the Certificate of Valuation had been issued to that effect on 6th November 2013 as at the Antecedent Valuation Date (“AVD”) of 1st January 2005.
 - 4.4 On 26th January 2016 an Application for a revision of the Capital Value was received by the District Valuer. Following review, the District Valuer reduced the Capital Value to £135,000.00 on 20th May 2016.
 - 4.5 On 27th June 2016 following a review of the District Valuer’s decision, the Commissioner of Valuation recommended a further reduction in the Capital Value to £80,000.00. It was this Capital Value that the Appellant seeks to challenge in her Appeal to the Tribunal.
 - 4.6 The Commissioner of Valuation’s Decision to reduce the Capital Value of the Subject Property from £135,000.00 to £80,000.00 had followed the decision of the Northern Ireland Valuation Tribunal in *Fleck V Commissioner of Valuation NIVT 10/08* which had held that properties of a prefabricated nature should be valued in comparison with comparable block built structures but with an adjustment downwards of 30% to 40% to reflect the temporary nature of the hereditament.
 - 4.7.1 In arriving at the Capital Value Assessment figure of £80,000.00 (net of a 40% reduction from £135,000.00) regard was had to the Capital Value Assessments of other properties in the Valuation List considered comparable. These comparables were set out in a Schedule to the “Presentation of Evidence” submitted on behalf of the Commissioner. There were a total of three comparables. Further particulars of those comparables were provided together with photographs of the Subject Property and of two of the comparables. All of the comparables were, like the Subject Property, constructed post-1990 and were single storey dwellings located in rural locations in the Camlough Ward of Newry Mourne and Down District Council.
 - 4.7.2 The first comparable put forward on behalf of the Respondent was the property at 4 Newry Road, Belleek, BT35 7PG. It has a GEA of 136.2 m², almost identical in size to the Subject Property. It has an unchallenged Capital Value of £130,000.00. If a 40% reduction were applied to that Capital Value, its Capital Value would be £78,000.00.
 - 4.7.3 The second comparable property put forward on behalf of the Respondent was the property at 19 Barr Road, Belleek, BT35 7QD. Again its GEA of 136 m² was very similar to the Subject Property. It had an unchallenged Capital Value of £140,000.00 which applying a 40% reduction would result in a Capital Value of £84,000.00.
 - 4.7.4 The third property put forward on behalf of the Respondent was the property at 35 Carrickananny Road, Belleek, BT35 7QR. Its GEA at 137 m² was identical to the Subject Property but it also had a garage of 18.4 m². Its unchallenged Capital Value was £145,000.00. If a 40% reduction was applied to that figure its Capital Value would be £87,000.00.

5. The Appellant's Submission

The Appellant, in summary, made the following submissions in her Notice of Appeal:-

- 5.1 The Subject Property is a two bedroom timber frame property built on an enclosed farmyard owned by the Appellant's son. Its sewers and electricity supply are shared with the adjacent property.
- 5.2 Best Property Services had valued the open market value of the property at 21st June 2016 to be £40,000.00, making reference to the shared site and shared access and services arrangements and commenting that the property was not mortgageable and that the market for this type of property would be extremely limited.
- 5.3 The Appellant contended that the Capital Valuation should be £40,000.00 – in accordance with the market value evidence of Best Property Services.
- 5.4 The Appellant did not seek to challenge the Capital Valuations of any of the comparable properties put forward by the Respondent in the Respondent's "Presentation of Evidence" document nor did she put forward any alternative comparable properties for consideration by the Tribunal.

6. The Respondent's Submissions

In summary, the following submissions were made on behalf of the Commissioner -

- 6.1 The Capital Value Assessment of the Subject Property had been carried out in accordance with the legislation contained in the 1977 Order. In particular as required by Schedule 12 of the 1977 Order regard was had to the Capital Values of other properties in the Valuation List.
- 6.2 The Respondent considered that the Capital Values of all three of the comparable properties indicated an established "tone" in the Valuation list for properties of this age, type and size of dwelling and that, after allowing a 40% reduction to reflect the prefabricated structure and the shared site/access to the property, a Capital Value of £80,000.00 for the Subject Property was fair and reasonable.

7. The Tribunal's Decision

- 7.1 Article 54 of the 1977 Order enables a person to appeal to the Tribunal against the decision of the Commissioner on appeal as to Capital Value. In this case the Capital Value for the Subject Property has been assessed at the AVD at a figure of £80,000.00. On behalf of the Commissioner it has been contended that that figure is fair and reasonable when compared

- to other properties. The statutory basis for valuation has been referred to and, in particular, reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment.
- 7.2 The Tribunal must begin its task by taking account of an important statutory presumption contained within the 1977 Order. Article 54(3) of the 1977 Order provides: *“On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown”*. The onus is therefore upon the Appellants in any case to challenge and to displace that presumption, or perhaps for the Commissioner’s decision on appeal to be seen to be so manifestly incorrect that the Tribunal must take steps to rectify the situation.
- 7.3 In this case the Tribunal saw nothing in the approach adopted to achieve the initial assessment as to Capital Value nor in the decision of the Commissioner on Appeal to suggest that the matter had been assessed on anything other than the prescribed manner provided for in Schedule 12, paragraphs 7 (and following) of the 1977 Order. The statutory mechanism has been expressly referred to in the Commissioner’s submissions to the Tribunal and the Tribunal noted the evidence submitted as to comparables. The Tribunal accordingly concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.
- 7.4 The Tribunal then turns to consider whether the evidence put before it or the arguments made by the Appellants are sufficient to displace the statutory presumption. Those arguments have been summarised above.
- 7.5 Schedule 12 of the 1977 Order requires that in assessing the amount which the Subject Property might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant AVD (in this case 1st January 2005) regard must be had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances. The Respondent has put forward a number of comparable hereditaments the details of which are referred to above.
- 7.6 Whilst the Tribunal noted the Valuation Report of Mr Gerald Kelly of Best Property Services indicating his opinion that the market value of the property on 21st June 2016 was £40,000.00, the task of the Tribunal is to assess the Capital Value of the property at the AVD in accordance with the statutory assumptions set out in Schedule 12 of the 1977 Order. As has been commented upon in many of the decisions of the Tribunal its task is not to determine the market value of the property either at the date of the Notice of Appeal or at the date of Hearing by the Tribunal. Unfortunately therefore Mr Kelly’s Report of 21st June 2016 was of no assistance to the Tribunal in its deliberations.
- 7.7 The Tribunal carefully considered the details and characteristics of the properties put forward by the Respondent as suggested comparable hereditaments in respect of the Subject Property. None of these

- comparables were challenged by the Appellant. The Tribunal is satisfied on the balance of probabilities that the comparables put forward by the Respondent support the Capital Value Assessment of the Subject Property (before application of a reduction to take account of its prefabricated nature) of £135,000.00. The fact that the comparable hereditaments put forward and relied upon by the Respondent were all similar with regard to their size, age and location to the Subject Property and were all single storey dwellings was compelling.
- 7.8 The Tribunal noted the 40% reduction which had been applied to the Subject Property to arrive at its Capital Valuation of £80,000.00. The Tribunal was therefore satisfied on the balance of probabilities that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £80,000 as it presently appears in the Valuation List and that the evidence and submissions put forward by the Appellant are insufficient to displace the statutory presumptions as referred to above.
- 7.9 Accordingly, the unanimous decision of the Tribunal is that the Appeal against the Notice of Decision of the Commissioner of Valuation for Northern Ireland dated 19th July 2016 in respect of the Subject Property is dismissed.

**Mr Alan Reid, Chairman
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: 27 April 2017