

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT 1/16**

**JENNIFER ADGEY - 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 property at 69 North Street, Newtownards, Co Down, BT23 4DE as contained in the Valuation Certificate issued on 11th April 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 April 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 11th April 2016 in respect of the Valuation of a hereditament situated at 69 North Street, Newtownards, Co Down, BT23 4DE.
- 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 11th April 2016.
- 3.2 The Appellant’s Notice of Appeal dated 26th April 2016.
- 3.3 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Jonathan Maybin BCS (Hons) MRICS of Land and Property Services and received by the Tribunal on 22nd September 2016.
- 3.4 A document entitled “Response to Report” dated 19th September 2016 submitted on behalf of the Appellant by Norman Russell MRICS dated 7th October 2016 and received by the Tribunal on 10th October 2016.
- 3.5 A further response dated 28th November 2016 from Jonathan Maybin MRICS on behalf of the Respondent.
- 3.6 A further response dated 8th December 2016 submitted on behalf of the Appellant by Norman Russell MRICS.

All of these documents had been provided to each 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 privately owned 2.5 storey terraced house constructed in approximately 1912 and is situate at 69 North Street, Newtownards, Co Down, BT23 4BE (“the Subject Property”).
- 4.2 The gross external area (“GEA”) of the Subject Property is 112 m². It is constructed of block walls with a pitched slated roof, has PVC double glazing, full heating and all mains services. It was refurbished in 2015.

- 4.3 On 18th November 2015, Russell Estate Agents had submitted an Application for a revision of the Valuation List upon the completion of the refurbishment of the Subject Property. Following an inspection of the property by the District Valuer on 24th February 2016 the property was assessed as having a Capital Value of £90,000.00 as at the Antecedent Valuation Date (“AVD”) of 1st January 2005 and a Certificate to this effect was issued on 9th March 2016.
- 4.4 On 15th March 2016 Russell Estate Agents appealed the District Valuer’s decision on behalf of the Appellant on the grounds that the property had been described as a house and yard despite not having any direct access to a yard. Mr Maybin conducted a further inspection of the property on 7th April 2016, reviewed what he considered to be appropriate comparables and recommended no change to the Capital Valuation but did amend the description of the hereditament in the Valuation List to remove the reference to a yard. A Certificate to this effect was issued on 11th April 2016 and is the subject of this Appeal.
- 4.5.1 In arriving at the Capital Value Assessment figure of £90,000.00, regard was had to the Capital Value Assessments of other properties in the Valuation List considered on behalf of the Commissioner to be 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 which were provided together with photographs of the Subject Property and of each of the comparables.
- 4.5.2 The first comparable put forward on behalf of the Respondent was a property at 35A North Street, Newtownards, BT23 4DE. It was a pre 1919 2 storey terrace dwelling with a GEA of 111 m². It had full heating and all services connected. It was submitted on behalf of the Commissioner that the property did not have a yard though this was disputed by the Appellant.
- 4.5.3 The second comparable property put forward on behalf of the Respondent was a property at 67 North Street, Newtownards, Co Down, BT23 4DE. Like the Subject Property it was a pre 1919 2.5 storey terraced property with full heating and all services connected. It did have a yard and had a GEA of 107 m².
- 4.5.4 The third comparable was a property at 65 North Street, Newtownards, Co Down, BT23 4DE which again was a pre 1919 terraced property with full heating and all services connected. It was a two storey property with a GEA of 106 m² and had a yard. Again, like the Subject Property, it had a Capital Valuation of £90,000.00.
- 4.6 The Capital Value Assessments of all of the suggested comparable properties put forward by the Commissioner were unchallenged save as referred to in this Decision.

5. The Appellant's Submission

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

- 5.1 The Subject Property does not have a yard and does not even have a rear door. The front door serves as the sole entrance and exit to the property and all waste is removed via the front door.
- 5.2 When originally assessed on 9th March 2016 as having a Capital Value at the AVD of £90,000.00 the Subject Property was described in the Valuation List as being a "house and yard".
- 5.3 When the description of the Subject Property in the Valuation List was amended to describe it as a house only on 11th April 2016 no adjustment to the Capital Value was made. It was the Appellant's submission that if the property had originally been assessed as a house and yard with a Capital Valuation of £90,000.00 then the Capital Valuation of the Subject Property as a house only without a yard must necessarily be less.
- 5.4 The occupants of the Subject Property were able to use the communal yard to the rear of 67 and 69 North Street and 1A Orchard Place, Newtownards only on licence.
- 5.5 It was contended on behalf of the Appellant that the Subject Property has no rear door and provision for bin storage was provided in the communal rear yard behind numbers 67 and 69 North Street and 1 A Orchard Place by way of a licence to use a bin space in it.
- 5.6 With regard to the comparable property at 35A North Street, Newtownards it was contended on behalf of the Appellant that it was factually incorrect to say that it did not have a yard or garden. The Appellant contended that it had a rear door and concreted yard approximately 15 metres long with access and parking for a car
- 5.7 It was contended on behalf of the Appellant that the Capital Value of the Subject Property should be less than the £90,000.00 Capital Valuation of 35A North Street which, on the Appellant's submission, had a rear door and yard.
- 5.8 It was the Appellant's submission that the Capital Valuation of the Subject Property should be £85,000.00.

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 relevant legislation as contained in the 1977 Order.

- 6.2 It was submitted on behalf of the Respondent that all three comparables had similar characteristics to the Subject Property and all had similar GEAs. The GEAs range in size from 106 m² to 111 m² compared to the GEA of the Subject Property of 112 m². All of the comparable properties were in North Street and it was the Respondent's contention that their Capital Valuations and that of the Subject Property at £90,000.00 were in accordance with the tone of the Valuation List.
- 6.3 The comparables at 65 and 67 North Street had rear yards. It was submitted on behalf of the Respondent that the comparable at 35A North Street did not have a rear yard. There was a dispute on the evidence between the parties in this regard.
- 6.4 The Respondent submitted that open yards and gardens held with dwellings were not individually measured and valued for domestic rating assessment as any addition which a yard or small garden might add in value would be considered to be minimal. It was submitted that this opinion was supported by sales analysis which had been undertaken for the current Capital Value List with effect from 1st April 2007. It was further submitted that the inclusion of a reference to a yard or garden in the Valuation List description of a property was intended only to be descriptive and that it would be unfair to adjust the Capital Value of the Subject Property or any other property which had no yard or garden because the tone of properties on North Street in general was "based on a basket of evidence which could have included a variety of sales of properties which may or may not have had yards or gardens and whose yards or gardens may vary in size or incorporate improvements such as decking or landscaping".
- 6.5 It was submitted on behalf of the Respondent that the communal yard to the rear of 67 and 69 North Street had always existed and still exists and is now shared by 1A Orchard Place as well. It was further submitted that the Subject Property had previously had a rear access and a very small yard in addition to the communal yard but that in any event the bins for the Subject Property were now stored in the communal yard.

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 £90,000.00. 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 Appellant is 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 The central point of contention between the parties was whether or not any differentiation should be made when considering the comparable properties for the presence or otherwise of a yard at the Subject Property or the comparable properties. The Appellant contended that the presence of a yard would enhance the Capital Value of a hereditament and therefore that the absence of a yard should result in a reduction in the Capital Valuation. The Respondent contended that the presence or otherwise of a yard would have only a minimal effect on Capital Valuation and therefore should not be taken into account.
- 7.7 Additionally, there was a dispute between the parties as to whether or not the comparable property at 35A North Street did or did not have a rear yard or garden. Unfortunately there was no conclusive evidence before the Tribunal to resolve this issue and the Tribunal has had to do its best to determine the Appeal on the basis of such evidence as before it.
- 7.8 The Tribunal carefully considered the details and characteristics of all of the properties put forward as suggested comparable hereditaments in respect of the Subject Property. All three comparable properties had slightly smaller GEAs than the Subject Property. Two of them had yards.

The third might or might not have had a yard. Whilst the Subject Property did not have a yard, it did have the facility for bin storage in an adjacent communal yard.

- 7.9 The Tribunal was not satisfied on the balance of probabilities that the evidence and submissions put forward by the Appellant were sufficient to displace the statutory presumption set out in the 1977 Order. On the balance of probabilities, the Tribunal was satisfied that the unchallenged Capital Values of the comparables relied upon by the Respondent supported the Capital Valuation of the Subject Property at the AVD of 1st January 2005 in the sum of £90,000.00 as it presently appears in the Valuation List.
- 7.10 Accordingly, it is the unanimous decision of the Tribunal that the Appellant's Appeal against the Notice of Decision of the Commissioner of Valuation for Northern Ireland in respect of the Valuation of the property at 69 North Street, Newtownards, Co Down, BT23 4DE as set out in the Valuation Certificate issued by the Commissioner of Valuation on 11th April 2016 is dismissed.

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

Date decision recorded in register and issued to parties: 26th April 2017