

**NORTHERN IRELAND VALUATION TRIBUNAL  
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE  
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007  
CASE REFERENCE NUMBER: NIVT 2/16**

**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 : 15<sup>th</sup> March 2017**

## **DECISION**

The unanimous decision of the Tribunal is that the Notice of Decision of the Commissioner of Valuation for Northern Ireland in respect of the valuation of the property at 1A Orchard Place, Newtownards, Co Down, BT23 7AE as contained in the Valuation Certificate issued on 21<sup>st</sup> March 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 14<sup>th</sup> 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 21<sup>st</sup> March 2016 as contained in the Valuation Certificate issued on that date in respect of the Valuation of a hereditament situated at 1A Orchard Place, Newtownards, Co Down, BT23 7AE.
- 1.3 By Order dated 6<sup>th</sup> May 2016 the Northern Ireland Valuation Tribunal ordered that the time for service of the Appellant's Notice of Appeal be extended to 21<sup>st</sup> April 2016.

- 1.4 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 21<sup>st</sup> March 2016.
- 3.2 The Appellant’s Notice of Appeal dated 14<sup>th</sup> April 2016 with attached sheet setting out details of eleven properties and their Capital Valuations.
- 3.3 Order of the Tribunal dated 6<sup>th</sup> May 2016 as referred to at paragraph 1.3 above.
- 3.4 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Jonathan Maybin BSc (Hons) MRICS of Land and Property Services and received by the Tribunal on 22<sup>nd</sup> September 2016.
- 3.5 Further response of the Appellant submitted by Mr Norman Russell MRICS on behalf of the Appellant on 7<sup>th</sup> October 2016.
- 3.6 Further submissions of Mr Jonathan Maybin dated 28<sup>th</sup> November 2016.
- 3.7 Further submissions of Mr Norman Russell MRICS on behalf of the Appellant dated 8<sup>th</sup> December 2016.

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 two-storey terraced dwelling constructed approximately 1910 and is situated at 1A Orchard Place, Newtownards, Co Down, BT23 7AE (“the Subject Property”).
- 4.2 The Subject Property is of block wall and pitched tiled or slated roof construction. It has PVC Double Glazing, full heating and all main services and has a gross external area (“GEA”) of 73.19 m<sup>2</sup>. The accommodation in the Subject Property includes only one bedroom.
- 4.3 On 18<sup>th</sup> November 2015 an Application for a revision of the Valuation List in respect of the Subject Property was received from the Appellant’s Estate Agent, Mr Norman Russell. The District Valuer inspected the property on 17<sup>th</sup> February 2016 and entered it into the Valuation List with effect from 2<sup>nd</sup> November 2015 with a Capital Valuation as at the Antecedent Valuation Date (“AVD”) of £75,000.00. A Certificate informing the Appellant of that decision was issued on 25<sup>th</sup> February 2016.
- 4.4 On 29<sup>th</sup> February 2016 Mr Norman Russell lodged an Appeal on behalf of the Appellant against the District Valuer’s decision contending that the Capital Value was too high as the property had only one bedroom. Mr Maybin inspected the Subject Property on behalf of the Commissioner on 15<sup>th</sup> March 2016, carried out a review of available comparables and recommended no change to the Capital Value. A Valuation Certificate informing the Appellant of this decision was issued on 21<sup>st</sup> March 2016 and is the subject of the Appeal before the Tribunal.
- 4.5.1 In arriving at the Capital Value Assessment figure of £75,000.00, 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 four comparables. Further particulars of which were provided together with photographs of the comparables and of the Subject Property. Like the Subject Property, all four of the comparables are pre 1919 two-storey terraced dwellings of average external repair with all services connected and had or were assumed to have full heating.
- 4.5.2 The first comparable at 18 North Street, Newtownards had a GEA of 72 m<sup>2</sup> and a Capital Valuation of £75,000.00.
- 4.5.3 The second comparable at 41 North Street, Newtownards had a GEA of 66 m<sup>2</sup> and a Capital Valuation of £70,000.00.
- 4.5.4 The third comparable at 20 Robert Street, Newtownards had a GEA of 75 m<sup>2</sup> and a Capital Valuation of £75,000.00.
- 4.5.5 The fourth comparable at 7 West Street, Newtownards had a GEA of 72 m<sup>2</sup> and a Capital Valuation of £75,000.00.
- 4.6.1 In addition to the four comparable properties put forward on behalf of the Respondent, details of a further eleven comparable properties were submitted on behalf of the Appellant for consideration by the Tribunal. Whilst no photographs of these properties were provided, the Tribunal determined the details of these properties on the basis of the evidence submitted by the Appellant and the Respondent to be as follows –

- 4.6.2 The first comparable put forward on behalf of the Appellant was the property at 1 Orchard Place, Newtownards which had a GEA of 112 m<sup>2</sup> and a Capital Value of £130,000.00. This property is a detached dwelling constructed between 1919 and 1939.
- 4.6.2 The second comparable put forward on behalf of the Appellant was the property at 3 Orchard Place, Newtownards which has a GEA of 100 m<sup>2</sup> and a Capital Valuation of £95,000.00. It is a semi detached dwelling constructed between 1919 and 1939.
- 4.6.3 The third comparable property put forward on behalf of the Appellant is the property at 5 Orchard Place, Newtownards which has a GEA of 100 m<sup>2</sup> and a Capital Valuation of £90,000.00. It, too, is a semi detached dwelling constructed between 1919 and 1939.
- 4.6.4 The fourth comparable property put forward on behalf of the Appellant is the property at 42 Ann Street, Newtownards which has a GEA of 170 m<sup>2</sup> and a Capital Valuation of £140,000.00. It is a terrace dwelling constructed post 1990.
- 4.6.5 The fifth comparable property forward on behalf of the Appellant is the property at 46 Ann Street, Newtownards which has a GEA of 101 m<sup>2</sup> and a Capital Value of £100,000.00. It is a terrace dwelling constructed between 1966 and 1990.
- 4.6.6 The sixth comparable property put forward on behalf of the Appellant is the property at 35 North Street, Newtownards which has a GEA of 69 m<sup>2</sup> and a Capital Valuation of £75,000.00. It is a converted apartment.
- 4.6.7 The seventh comparable put forward on behalf of the Appellant is a property at 35A North Street, Newtownards which has a GEA of 111 m<sup>2</sup> and a Capital Valuation of £90,000.00. It is a terrace dwelling constructed pre 1919.
- 4.6.8 The eighth comparable put forward on behalf of the Appellant is the property at 57 North Street, Newtownards which has a GEA of 98 m<sup>2</sup> and a Capital Valuation of £90,000.00. It is a terrace dwelling constructed between 1946 and 1965.
- 4.6.9 The ninth property put forward on behalf of the Appellant as a comparable is the property at 59 North Street, Newtownards which has a GEA of 95 m<sup>2</sup> and Capital Valuation of £85,000.00. It is a terrace dwelling constructed before 1919.
- 4.6.10 The tenth property put forward on behalf of the Appellant as a comparable property is the property at 61 North Street, Newtownards which has a GEA of 94 m<sup>2</sup> and a Capital Valuation of £85,000.00. It is also a terrace property constructed prior to 1919.
- 4.6.11 The final comparable property put forward on behalf of the Respondent is the property at 67 North Street, Newtownards which has a GEA of 107 m<sup>2</sup> and a Capital Valuation of £90,000.00. Once again it is a terrace property constructed prior to 1919.

On the evidence before the Tribunal, the Capital Value Assessments of all of the comparable properties put forward both on behalf of the Appellant and the Respondent 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 eleven comparable properties put forward by the Appellant were all owned by her and were of a similar age and construction to the Subject Property and were situated within 100 metres of the Subject Property.
- 5.2 Comparing the GEA of each of the eleven comparable properties with their respective Capital Valuations the Appellant had calculated that the average valuation per square metre for those eleven properties was £934.00 and, applying that value to the GEA of the Subject Property (73.19 m<sup>2</sup>) therefore should result in a Capital Valuation for the Subject Property of £68,359.00.
- 5.3 As the Subject Property only contained one bedroom whereas all of the other comparable properties put forward by the Appellant had at least two bedrooms, the Capital Valuation of the Subject Property should be further reduced to a figure of £65,000.00
- 5.4 The existing single bedroom in the Subject Property had only one window and it therefore could not be reconfigured to provide two bedrooms without substantial structural alterations.
- 5.5 Although some of the comparable properties put forward on behalf of the Appellant were different in terms of their age to the Subject Property it was the Appellant's submission that there was little difference in the market value of an inter war property compared to a pre 1919 property.
- 5.6 Of the four comparable properties submitted by the Respondent, two of them were located further away from the Subject Property than all of the comparable properties submitted on behalf of the Appellant.
- 5.7 As a single bedroom property, the Subject Property was clearly worth less in those actual "state and circumstances" and therefore its Capital Valuation should be less than a property having two or more bedrooms.

## **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 and in particular in accordance with the statutory assumptions with regard to Capital Value set out in paragraphs 9 to 15 thereof and further having had

- regard to the Capital Values in the Valuation List of Comparable hereditaments in the same state and circumstances.
- 6.2 Calculating an average Capital Value per square metre of a property was not the correct basis of valuation as outlined in Schedule 12 of the 1977 Order. Not only does this ignore the need to have regard to the Capital Values of comparable hereditaments in the Valuation List in the same state and circumstances as the Subject Property but, in the opinion of the Respondent, this methodology placed too much weight on one factor, namely the habitable size of a property, whilst not considering other factors such as age, outbuildings, location and external repair.
- 6.3 With regard to the question of the number of bedrooms in the Subject Property, it was the submission of the Respondent that the internal configuration of habitable accommodation is a matter of personal preference and the Subject Property could be reconfigured to provide an additional bedroom.
- 6.4 It was submitted on behalf of the Respondent that the comparable properties put forward on behalf of the Appellant carried less evidential weight than the comparables put forward by the Respondent. It was contended on behalf of the Respondent that the Subject Property is a pre 1919 two storey terrace property whereas the property at 1 Orchard Place is a detached property constructed in the inter war years, numbers 3 and 5 Orchard Place are semi detached dwellings constructed in the inter war years and 35 North Street is a converted apartment. In the Respondent's submission, these properties were therefore not in the same state and circumstances as the Subject Property. Similarly, 42 Ann Street, 46 Ann Street and 57 North Street whilst terraced properties, were all constructed much more recently than the Subject Property and should not therefore be considered directly comparable in terms of their age. It was conceded on behalf of the Respondent that the properties at 35A, 59, 61 and 67 North Street were similar type of properties and constructed in a similar era as the Subject Property. However, their GEA's were significantly larger than the Subject Property and were therefore not the best comparables to consider when there were more appropriately sized comparables available.
- 6.5 It was contended on behalf of the Respondent that the comparables at 18 North Street, 41 North Street, 20 Robert Street and 7 West Street, Newtownards all of which were pre 1919 two storey terraced dwellings and with GEA's only slightly smaller than the Subject Property were better comparable properties to be considered by the Tribunal. All of them, with the exception of 41 North Street, had Capital Valuations of £75,000.00, like the Subject Property. The property at 41 North Street was 7 m<sup>2</sup> smaller than the Subject Property and had a Capital Valuation of £70,000.00.
- 6.6 The Respondent contended that having regard to the Capital Values of the comparable properties put forward on behalf of the Respondent, the

Capital Value of £75,000.00 for the Subject Property was a fair and reasonable assessment.

## **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 £75,000.00. 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 1<sup>st</sup> January 2005) regard must be had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances. Both the Appellant and the Respondent have put forward a number of comparable hereditaments the details of which are referred to above.

- 7.6 With regard to the effect on Capital Valuation of the internal configuration of the accommodation in a property, the Tribunal preferred the Respondent's evidence that the internal configuration was a matter of personal preference for the owner of the property who could choose to reconfigure it if he or she wished to do so. Accordingly the internal configuration was not a factor which should materially distinguish the Subject Property from any of the properties put forward as suggested comparable hereditaments, whether by the Respondent or the Appellant.
- 7.7 The Tribunal carefully considered the details and characteristics of all of the properties put forward by both parties as suggested comparable hereditaments in respect of the Subject Property. The Tribunal is satisfied on the balance of probabilities that the comparables put forward by the Respondent are as to their characteristics demonstrably more similar to the Subject Property than most of those put forward by the Appellant. The fact that the comparable hereditaments put forward and relied upon by the Respondent were all similar with regard to their GEA, age and general location to the Subject Property and were all two storey terraced dwellings was compelling in the Tribunal's consideration of the evidence.
- 7.8 The Tribunal was also of the view that of the comparables put forward by the Appellant those at 35A, 59, 61 and 67 North Street which, like the Subject Property, were pre-1919 terrace properties were useful comparables. Although their GEA's were all larger than that of the Subject Property (ranging from 21 m<sup>2</sup> to 38 m<sup>2</sup> larger) their Capital Values were somewhat higher than the Subject Property in each case.
- 7.9 The Tribunal is therefore satisfied on the balance of probabilities that the unchallenged Capital Values of the relevant comparable properties support the Respondent's contention that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1<sup>st</sup> January 2005 is £75,000.00 as it presently appears in the Valuation List and that the evidence and submissions put forward by the Appellants are insufficient to displace the statutory presumptions as referred to in paragraphs 7.2 and 7.4 above.
- 7.10 Accordingly, the unanimous decision of the Tribunal is 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 1A Orchard Place, Newtownards, Co Down, BT23 7AE as confirmed in the Valuation Certificate issued on 21<sup>st</sup> March 2016 is dismissed.

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

**Date decision recorded in register and issued to parties: 26<sup>th</sup> April 2017**