

Northern Ireland Valuation Tribunal

Case Reference 36/13

Maurice Haylock – Appellant

Commissioner of Valuation for Northern Ireland – Respondent

Chairman – Eamon O’ Connor

Members – Eric Spence and Patrick Cumiskey

Hearing 23rd September 2014

DECISION

The unanimous decision of the Tribunal is that the Appeal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 15th November 2013 is allowed and that the Capital Value of the property at 28A Largy Road, Largy, Crumlin BT29 4RN be assessed at £265,000 and the Tribunal order that the list be amended accordingly.

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 the 9th December 2013 the Appellant appealed to the Northern Ireland Valuation Tribunal against the decision of the Commissioner of Valuation for Northern Ireland (“the Commissioner”) dated the 15th November 2013 in respect of the valuation of a hereditament situated at 28A Largy Road, Largy, Crumlin BT29 4RN (“the property”). The decision of the Commissioner was that the capital value of the property would remain unaltered at £280,000.

1.3 At hearing, the Appellant appeared in person and the Respondent was represented by Mr James Martin and Mr Michael McGrady.

1.4 The following documents have been considered by the Tribunal;

- The Appellant’s Notice of Appeal (Form 3), with attachment, dated 9th December 2013
- Supplementary Form 3, with attachment, dated 14th December 2013
- A copy of the decision of the Commissioner issued by certificate dated 15th November 2013

- A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner of Valuation by Mr James Martin dated 24th April 2014.
- “Response to Supplementary Submission” from James Martin dated 4th June 2014
- A document, with attachments, entitled “Replies to Presentation of Evidence submitted by James Martin for Commissioner of Valuation dated 24th April 2014”, with Attachments A-L, submitted by the Appellant dated 5th June 2014.

2. The Law

The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”).

2.1 The Tribunal considered the terms of Schedule 12 of the 1977 Order as amended which states as follows;

7(1) Subject to the provisions of this Schedule, for the purposes of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in paragraphs 9 to 15, the hereditament might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant capital valuation date.

(2) In estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstance as the hereditament whose capital value is being revised.

(4) In sub-paragraph (1) “relevant capital valuation date” means 1st January 2005....

2.2 Article 54(3) of the 1977 Order provides that, on appeal, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

3. The Subject Property

3.1 The property is described in the Respondent’s Presentation of Evidence as a privately built two storey house, built in 2012 with a gross external area (GEA) of 292m² plus a garage of 55m². It also describes 42m² of ancillary space over the garage. At hearing the Appellant confirmed the property was started in 2012 and finished in 2013.

3.2 On the 26th September 2013, the District Valuer issued a certificate valuing the house i.e. an alteration to the Valuation List. On the 10th October 2013, this valuation was appealed to the Commissioner of Valuation. The decision of the Commissioner dated the 15th November 2013 was that the capital valuation of the property would remain at £280,000.

4. The Submissions

4.1 The Appellant described his grounds of appeal, in the Form 3 Notice of Appeal dated 9th December 2013, and referred to a document entitled “Attachment 1”. In summary, his grounds were as follows;

(i) The Respondent argued that his property was overvalued in comparison to other properties he described as being similar and within close proximity. The Appellant had done a calculation of price per m2 of his property and other properties in the same electoral ward.

(ii) The Appellant put forward properties which he argued were better comparables than the one relied on by the Respondent in his appeal to the Commissioner. The comparables and figures put forward by the Appellant were;

	<u>Capital Value</u>	<u>GEA</u>
• 54 Largy Road, Crumlin,	(Without Agricultural relief) £320,000,	416m2
• 19 Ballyclan Road, Crumlin,	£250,000,	327m2
• 21 Ballyclan Road, Crumlin	£250,000	327m2
• 53 Largy Road, Crumlin	£290,000	367m2
• 110 Cidercourt Road, Crumlin	£275,000	346m2
• 104A Cidercourt Road, Crumlin	£260,000	316m2

(iii) The Appellant argued that his property was finished externally to a lesser standard than the comparables he put forward and also the comparable put forward by the Respondent namely 82B Largy Road Crumlin. He referred in this document to a lack of steps and paving outside his home, the rough stoned lane in poor repair he shares with another house as well as diggers and heavy agricultural traffic on occasions and farm outhouses adjacent to his back garden.

(iv) The Appellant referred to other properties under the heading of “Additional Comparisons” namely;

	<u>Capital Value</u>
• 21 Crosshill Road Crumlin	£240,000
• 30 Largy Road, Crumlin	(Without Agricultural Relief) £182,400
• 32 Largy Road, Crumlin	£240,000

4.2 The Appellant filed another Form 3, Notice of Appeal dated 14th December 2013, which he marked “Supplementary Form” and referred to a document entitled “Attachment 2”. In this document, the Appellant requested that further properties be used as comparables, namely;

	<u>Capital Value</u>	<u>GEA</u>
• 15 Aughnadarragh Road	£256,000	326.59m2
• 10 Ballyginiff Road	£250,000	296m2
• 9A British Road	£260,000	299m2
• 117 Ballyrobin Road	£260,000	300m2
• 28A Ballyhill Lane	£255,000	279m2

The Appellant stated that he had listed these set of properties in order of close proximity to his property.

4.3 In the Presentation of Evidence dated 24th April 2014, Mr Martin on behalf of the Respondent, referred to the Appellant’s choice of comparable properties and stated;

- 54 Largy Road – 125 m² bigger than the subject and classified for rating purposes as a farmhouse. He did not consider this a good comparable.
- 19 Ballyclan Road – described as a Post 1990 Detached Chalet, 327m² but with no garage or ancillary accommodation, on a shared lane.
- 21 Ballyclan Road – described as a Post 1990 Detached House, 327m², 44m² garage, located off a shared lane. Mr Martin stated that this assessment appeared to be out of line with 19 above and stated that the District Valuer has been asked to carry out a review.
- 53 Largy Road – He did not consider this a good comparable as it is located at the front of an industrial complex and is considered disadvantaged, access is shared with a haulage business.
- 110 Cidercourt Road – at 347m² is 54.95 bigger than the subject, with a slightly smaller garage – 52m². There is no ancillary space. Mr Martin stated this valuation, £275,000 was broadly in line with the appeal subject.
- 104A Cidercourt Road – 24m² bigger than the subject, smaller garage – 44m² and 42m² of additional ancillary space.
- 21 Crosshill Road – described as a detached bungalow, 146m² plus garage. Mr Martin did not consider this to be a comparable due to its size.
- 30 Largy Road – considered not comparable as it is a pre 1919 detached property , 78m² smaller than the subject
- 32 Largy Road, described as a modern detached bungalow, 257m² and a 53m² garage, assessed at £240,000.

4.4 Mr Martin listed four comparable which he believed were more in line with the state and circumstance of the subject property and therefore better comparables. These properties were;

- 82B Largy Road, Crumlin – described as a Post 1990 Detached House, GEA 295.97 m², double garage 62.37M² and Outbuildings 35m², on quite a long lane with a Capital Value of £280,000.
- 39 Largy Road, Crumlin – described as a Post 1990 Detached Chalet Bungalow, GEA 324.78m² with a Garage 84.4m² with a Capital Value of £290,000
- 40 Cross Hill Road, Antrim – described as a Post 1990 Detached Chalet, GEA 299m², near farm buildings, beside an RAF base with a Capital Value of £280,000.
- 22 The Diamond Road, Antrim – described as a Post 1990 Detached House, GEA 296.2 m², double garage 67.97m² with a driveway to roadside, Capital Value £280,000

4.5 Mr Martin considered any nuisance from tractors or machinery to be typical in a rural community and likely to affect the comparable. He also stated the number of en suites etc. cannot be considered in the assessment as every house is deemed to be fitted to an average standard for its type under the statutory assumptions. Mr Martin considered that the capital value of £280,000 is fair and reasonable.

4.6 In the “Response to Supplementary Submission” from James Martin dated 4th June 2014, he went through the properties put forward by the Appellant in his document “Attachment 2”, giving extra information on these properties regarding their type, age and size.

4.7 In his document entitled “Replies to Presentation..”, 5th June 2014, the Appellant responded to the Respondent’s Presentation of Evidence. Here the Appellant argued that his property was below average state of internal repair and fit out. He also argued that his property was disadvantaged due to a lot of aircraft noise due to being below a flight path. He referred to photos of his property and an aircraft above his property marked “Attachment A. The Appellant argued that “indexing” should be applied in his case. He submitted his property was one and a half Storeys, he argued than any view of Lough Neagh is obscured and not relevant.

4.8 The Appellant again went through the Comparables he put forward, making arguments as to why they should be considered good comparables. He stated in this document that 32 Largy Road had been sold within the last few months and that an estate agent confirmed on the 9th May 2014 that it sold for in and around the asking price of £214,995. He also argued that 82B Largy Road is not as favourable a comparable due to reasons including distance. He also sought to correct some statements made by the Respondent regarding properties referred to. The Appellant had included and referred to Attachments A through to L. These attachments contained photographs and details of the subject property and comparable properties, also entries from the Land and Property Services Residential Property Price Index October –December 2013 (Attachment F), a map of the area highlighting location of comparable properties together with LPS Valuation List Entries for those properties (Attachment J) and a print out from NI Direct government services regarding Valuation of domestic properties for rates (Attachment L).

4.9 At the hearing, without fully reciting and addressing all points made by the parties, in summary, the Appellant adopted his written submissions and added that he believed the appropriate capital valuation figure for his property should be £255,000-£260,000. He stated his property was 1.5 storeys. He confirmed that he did not have evidence of the exact sale price of 32 Largy Road. He stated that the owners of the lane he shares, use this lane for access purposes and that this could either be daily or weekly to get to the river for landfill. No other evidence of agricultural traffic was produced. The Appellant argued that the property put forward by the Respondent as being a good comparable, 82b Largy Road would not have as much traffic and that traffic from businesses including Maxwell Freight would affect his property and not 82b Largy Road.

4.10 In response, Mr Martin for the Respondent argued that the subject property was considered a two storey property as the eaves are about 1.5metres and that the assessment of the subject property was based on comparable properties based on age, size meaning GEA, not the number of storeys, and location. He argued that 82b Largy Road was the best comparable, it was 1.7 miles away and in the same state as the subject property. He stated that 39a Largy Road was a relevant and good comparable, 40 Cross Hill Road was circa three miles away from the subject property and will be re-assessed as the garage shown in the photo of this property was not included in the assessment. He stated that 22 The Diamond Road was circa two miles away from the subject property. He submitted that Indexation is about the Market Value, while Rating is about the Capital Value based on the antecedent date. He did not believe Indexation to be an appropriate measure, but the proper method was comparison in the absence of sales evidence.

4.11 He produced a “NI Noise map” for the area which he thought was from last year. He submitted that the flight path from the local airport straddled the neighbourhood. He stated that there was no

specific allowance to any property. He confirmed there was no allowance or reflection based on views.

4.12 Regarding the comparables put forward by the Appellant, Mr Martin said there was a discrepancy regarding 19 and 21 Ballyclan Road, they are identical houses with the same capital value however one has a garage. He said this was under review however agreed that the capital value of each property is on the list and deemed to be correct. Regarding these properties he said that location is an important factor but stated that the Tone on Ballyclan Road is generally lower than Largy Road. He argued that 30 Largy Road was not a good comparable as it was not in the same state and circumstances. He stated that 82b Largy Road was in a slightly quieter location, but was also less convenient to the village of Crumlin. He stated that what was previously referred to as 39 Largy Road, should in actual fact be 39a Largy Road. Mr Martin argued that the absence of finishing touches was typical of a new build and it was not policy to include them for rating purposes and they are usually finished. Mr Martin concluded with stating that the most appropriate comparables were 82b and 39a Largy Road. The Appellant concluded by stating that the most appropriate comparables were 19 and 21 Ballyclan Road, 110 and 104a Cidercourt Road, 30 and 32 Largy Road and 28A Ballyhill Lane.

The Tribunal's Reasoning

5.1 The Tribunal notes the statutory presumption contained within Article 54(3) of the 1977 Order, that on appeal, 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 Appellant 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.

5.2 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 Tribunal accordingly concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.

5.3 The Tribunal then turned to consider whether the evidence put forward before it or the arguments made by the Appellant are sufficient to displace the statutory presumption

5.4 The Tribunal accepts the submission of the Respondent that new properties entered into the valuation list are not and cannot be assessed or broken down on a £/m² basis. The reason for this is that rating assessments of domestic properties is not done on a price per sq metre. There is no mathematical formula for Capital Value assessment of properties added to the Valuation List, the value is calculated in light of other properties in a similar state and circumstance having taken into consideration the statutory assumptions. This ground of appeal is therefore unsuccessful.

5.5 The Tribunal do not accept that there can be any allowance in respect of the actual state of internal repair and fit out of the subject property. The Tribunal must apply the statutory assumptions set out in Schedule 12 of the 1977 Order. These include the assumption set out at paragraph 7(2) of Schedule 12 that the subject property is in an average state of internal repair and fit out having regard to the age and character of the property and its locality. The Capital Value of

the subject property is the amount it might reasonably have been expected to have realised if it had been sold on the open market by a willing seller on 1 January 2005 assuming it was in an average state of internal repair and fit out. This assumption ought not to be displaced by the evidence put forward by the Appellant about the actual state of internal repair and fit out therefore this ground of appeal is unsuccessful.

5.6 The Tribunal do not consider that there should be any allowance or reduction in respect of aircraft noise. The evidence put forward by the Appellant in this regard was very weak. It was a photograph of an aircraft above his property. There is no way of gauging the level of the noise, how far away the aircraft was or indeed if the subject property is “directly below a flight path”. There is also no evidence that any aircraft noise affected the subject property more than other properties in the neighbourhood. Therefore this ground of appeal fails.

5.7 The Tribunal do not consider that there should be any allowance or reduction for agricultural vehicles using the shared lane for the subject property. The evidence in this regard was very weak. There was no supporting evidence. Nor was there any persuasive evidence put forward to justify any allowance or reduction for farm outhouses adjacent to the back garden of the subject property.

5.8 The Tribunal was not persuaded that any differences in the external finish of the subject property and comparable properties are significant factors in distinguishing their respective Capital Values. The Tribunal accepted the point made by the Respondent that the absence of finishing touches was typical of a new build. The Tribunal did not consider that there was any significant difference between the shared lane of the subject property compared to the shared lanes of the best comparable properties shown in photographs produced. Therefore the Tribunal do not consider there should be any allowance or reduction for external finish.

5.9 The Tribunal did not consider “Indexing” to be of value in determining the appropriate Capital Value Assessment in this case. The evidence put forward related to a Property Index from October 2013-December 2013. The Appellant stated that house prices have crept up. In addition he did not have the exact figure for the sale of 32 Largy Road, which the Tribunal did not consider to be the best comparable in any event. Taking all these factors into account, the Tribunal did not attach any weight to arguments around “Indexing” in this case.

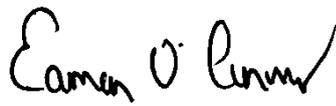
5.10 Examining the comparables put forward by the parties, the Tribunal found some of these not to be of particular assistance. Looking at comparable properties in terms of those of comparable age and type, location and size, the Tribunal did not consider 30 Largy Road to be an appropriate comparable based on its age – Pre 1919 Detached House. 53 Largy Road was not considered an appropriate comparable as it was not in the same state and circumstance as the subject property, as it was considered disadvantaged, being located at the front of an industrial complex and sharing access with a haulage business. The following were not considered to be the best comparables based on their type, namely, 54 Largy Road – a farmhouse, 32 Largy Road – a Detached Bungalow and 39a Largy Road– a Detached Chalet Bungalow.

5.11 The Tribunal considered the best comparables to be 82b Largy Road, 19 and 21 Ballyclan Road and 110 and 104a Cidercourt Road. The Tribunal did not consider the rest of the properties put forward to be as good based on their location i.e. their distance away from the subject property. Of the best comparables, the Tribunal considered the greatest weight should be attached to 104a

Cidercourt Road based on the factors referred to above. 82b Largy Road could be differentiated on the basis that it was in a slightly quieter location, on the evidence of Mr Martin, and its distance from the subject property i.e. 1.7 miles away as opposed to approximately 0.9 miles away, from the subject property. The Tribunal unanimously considered that the appropriate Capital Value Assessment of the subject property at the AVD date of the 1st January 2005 is £265,000, based on the comparable put forward by the Appellant i.e. 104a Cidercourt Road and preferred over those of the Respondent. This figure is considered to be appropriate and in keeping with the Tone of the List.

5.12 For the reasons stated above, the Tribunal's unanimous decision is that the Appeal is allowed, that the appropriate Capital Value Assessment is £265,000 and Order that the List be amended accordingly.

Signed: Eamon O' Connor

A handwritten signature in black ink that reads "Eamon O' Connor". The signature is written in a cursive style with a large initial 'E' and a long, sweeping underline.

Chair