

**NORTHERN IRELAND VALUATION TRIBUNAL**  
**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE**  
**VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007 (AS AMENDED)**

**CASE REFERENCE NUMBER: 19/18**

**WILLIAM JAMES NOBLE – APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Charles O'Neill**

**Members: Mr Brian Reid FRICS and Mr Peter Somerville**

**Date of hearing: 9 October 2019, Belfast**

**DECISION**

The unanimous decision of the tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland is upheld and the appellant's appeal is dismissed.

**REASONS**

**Introduction**

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order"). The appellant Mr Noble attended the hearing and the Commissioner was represented by Mr Gary Humphrey and Mr James Martin.
2. The appellant by Notice of Appeal, appealed against the decision of the Commissioner issued on 29 August 2018.

3. This appeal is in respect of the valuation of a hereditament situated at 261 Donaghadee Road, Drumhirk, Newtownards, County Down, BT23 7QQ (“the subject property”).

## **The Law**

4. The statutory provisions are to be found in the 1977 Order as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). The tribunal does not intend in this decision to set out the statutory provisions of article 8 of the 2006 Order, which amended article 39 of the 1977 Order as regards the basis of valuation, as these provisions have been fully set out in earlier decisions of this tribunal. All relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in this matter.

## **The Evidence**

5. The tribunal heard oral evidence from the appellant and the respondent.
6. The tribunal had before it the following documents:
  - (a) The Commissioners Decision issued on 29 August 2018;
  - (b) The appellant’s Notice of Appeal dated 18 September 2018;
  - (c) A document entitled ‘Presentation of Evidence’ dated 21 February 2019, prepared on behalf of the respondent Commissioner by James Martin MRICS and submitted to the tribunal for the purposes of the hearing;
  - (d) Letter from the appellant to the tribunal dated 4 April 2019;
  - (e) Email from the respondent to the tribunal dated 13 May 2019.
  - (f) Email from the appellant to the tribunal dated 10 June 2019;
  - (g) Correspondence between the parties and the tribunal.

## **The Facts**

- (1) The subject property is a privately built pre 1919 detached two storey dwelling built about 1910. Reference will be made to the gross external area of the subject property later in this decision.
- (2) By way of background, as a consequence of a notification regarding a change of occupier of the subject property, the entitlement to agricultural relief was subject to review. It was noted by the District Valuer that the property had an increased GEA and therefore the capital value of the property was increased to £320,000. It was noted that there were outbuildings on the subject which were not subject to valuation as they are noted to be agricultural outbuildings.
- (3) On 2 August 2018 an appeal was submitted to the respondent querying the capital valuation. No change was made to this value and the appellant subsequently appealed to this tribunal.

## **The Respondent's Submissions**

7. At the outset of the hearing in this matter the respondent drew to the attention of the tribunal the fact that there were errors in the Presentation of Evidence and in particular to the schedule of comparisons attached to it. The appellant was given an opportunity to review the amended evidence before the hearing then proceeded.
8. The Commissioner's Presentation of Evidence to the tribunal (as amended) is that in deciding the capital value of the property regard was had to capital values in the valuation list of comparable hereditaments in the same state and circumstances. Details of these comparable properties were set out in an amended schedule to the Presentation of Evidence with further particulars of same, including photographs of the comparable properties.

Four comparables were referred to in total. These were capital value assessments, the details of which are as follows:

- (a) The first comparable referred to was 91 Donaghadee Road, Milisle, County Down, which has a gross external area of 282m<sup>2</sup>, a garage of 32m<sup>2</sup> and outbuildings of 23m<sup>2</sup>. This is a privately built pre 1919 detached two storey dwelling. The assessed Capital Value is £330,000. It was confirmed that this property is 6.7 miles from the subject.
- (b) The second comparable referred to was 93 Donaghadee Road, Milisle, County Down, which has a gross external area of 276m<sup>2</sup>, a garage of 41m<sup>2</sup> and outbuildings of 60m<sup>2</sup>. This is a privately built pre 1919 detached two storey dwelling. The assessed Capital Value is £280,000. It was confirmed that this property is 6.7 miles from the subject.
- (c) The third comparable referred to was 211 Donaghadee Road, Drumhirk, Newtownards County Down, which has a gross external area of 316m<sup>2</sup> and a garage of 39m<sup>2</sup>. This is a privately built pre 1919 detached two storey dwelling. The assessed Capital Value is £350,000. It was confirmed that this property is within 2 miles from the subject.
- (d) The fourth comparable referred to was 247 Donaghadee Road, Ballyhenney, Newtownards County Down, which has a gross external area of 228m<sup>2</sup>. This is a privately built pre 1919 detached two storey dwelling. The assessed Capital Value is £280,000. This property has agricultural allowance applied to it so its capital value currently is £224,000. It was confirmed that this property is within 2 miles from the subject.

9. When asked by the tribunal, the respondent indicated that these comparables should be ranked as 93 Donaghadee Road, 247 Donaghadee Road, 91 Donaghadee Road and 211 Donaghadee Road.

10. In relation to the gross external area of the property, Mr Martin confirmed that the size of the property had increased since the respondent was last at the property. He also confirmed that on the date of inspection he had physically measured the property in accordance with the RICS code of measuring practice as having a gross external area of 295.96m<sup>2</sup>. He suspected that the increase in the size of the property was due to an extension to the return block to the rear of the property but admitted that it was difficult to tell. When questioned about this by the appellant, Mr Martin indicated that the gross external area of the property had increased and that one of the list had to be maintained.
11. In relation to the outbuildings on the subject property, Mr Martin confirmed that no value was attributed to these in the assessment of capital valuation. Admittedly, reference was made in the description of the subject in the Presentation of Evidence to a house, outbuildings and garden but this was erroneous and the capital value attached to the dwelling only.
12. The respondent submitted that the capital value of the subject property was in tone with the capital valuation list.

### **The Appellant's Submissions**

13. The appellant stated the subject property had previously been rated with a capital value of £224,000. This valuation had incorporated agricultural relief. He fully admitted that on his taking up occupation in the subject property the agricultural relief no longer applied. He had therefore anticipated that the capital value of the subject would be £280,000 (to allow for the valuation not including agricultural relief of 20%). He was therefore very surprised that the capital value was now assessed at £320,000.
14. The appellant admitted that reference in the Presentation of Evidence to including the outbuildings led him to question whether they had been

included in the capital valuation. He indicated that the data held by the respondent was not new data and that no extensions had been carried out to the subject property in recent times so he failed to understand the sudden increase in area of the subject. The appellant knows his landlord who had bought the subject property in 1990 and had work done to the property in 1991.

15. The appellant referred to another property at 263 Donaghadee Road. This is a new building.

16. The appellant stated that the subject property was on the market for over a year at £399,000 including five stores, a garden room, a wood store and a garage and a work room. He indicated that it did not sell and that this was confirmation that the house on its own is not worth £320,000.

17. The appellant further stated that the property at 93 Donaghadee Road, Millisle has a gross external area, garage and outbuildings making in total 377m<sup>2</sup> and its capital valuation is £280,000 whereas his house is 295.96m<sup>2</sup> and the subject has a capital valuation of £320,000.

### **The Tribunal's Decision**

18. Article 54 of the 1977 Order enables a person who is dissatisfied with the Commissioner's valuation as to capital value to appeal to this tribunal. In this case the capital value has been assessed at a figure of £320,000. On behalf of the Commissioner it has been contended that this figure is fair and reasonable in comparison to other properties.

19. It is appropriate to remember that there is a statutory presumption in Article 54(3) of the 1977 Order in terms that "On an appeal under this Article, any valuation shown in the valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown." It is therefore up to the

appellant in any case to challenge and to displace that presumption, or perhaps for the Commissioner's decision to be self-evidently so manifestly incorrect that the tribunal must amend the valuation.

20. In this case the tribunal finds that the subject property at 261 Donaghadee Road, Drumhirk, Newtownards, County Down to be a detached two storey dwelling. It had previously been given a capital valuation of £224,000 (which incorporated agricultural relief). On the application for review in relation to the agricultural relief, Mr Martin on behalf of the respondent physically measured the gross external area of the subject property. This fact was admitted by the appellant. It transpired, for whatever reason, that the measurements in the respondent's records did not accord with the physical measurements of the site. The tribunal therefore accepts that the subject property has a gross external area of 295.96m<sup>2</sup>.

21. It is unfortunate that an erroneous reference in the Presentation of Evidence to the description of the subject property as being a house, outbuilding and garden has caused some doubt in the mind of the appellant as to whether the outbuildings were included in the capital valuation or not. However, the tribunal is satisfied on the evidence before it on behalf of the respondent that the capital valuation of £320,000 refers to the house and garden and not to any outbuildings.

22. The appellant makes reference to the sale price of the subject property and that it did not sell at that price so that the house on its own is not worth £320,000. However, this is not the correct basis of valuation for capital valuation purposes. The basis of valuation is the value the property would have been reasonably expected to realise if it had been sold on the open market by a willing seller on 1 January 2005.

23. The appellant further refers to the property at 93 Donaghadee Road as being 377m<sup>2</sup> and the subject only being 295.96m<sup>2</sup> and yet the difference in

capital valuations is £40,000. However, it is not a correct basis to assess the capital valuation of a property to merely add the areas of the house, garage and outbuildings and use this figure to compare with the area of the subject property.

24. In relation to the capital values presented by the respondent and the appellant the tribunal prefers those submitted by the respondent.

25. The only additional comparable referred to by the appellant was 263 Donaghadee Road. However, this was referred to as being a new building and is therefore not in the same state and circumstances as the subject property.

26. The tribunal finds that the best comparable referred to was 93 Donaghadee, Road Millisle, County Down. This is a privately built pre 1919 detached two storey dwelling which is confirmed to be in poor repair. It is smaller than the subject but has a garage and outbuildings. It has a capital valuation of £280,000.

27. The capital valuation of the subject is also supported by 247 Donaghadee Road, Ballyhenney, Newtownards which is smaller than the subject and has a capital valuation of £280,000 (before agricultural allowance is applied).

28. The capital valuation of the subject is further supported by that of 91 Donaghadee Road, Millisle which has a capital valuation of £330,000. This property has a capital valuation of £330,000. It is bigger than the subject and has a garage and outbuildings. Finally, 211 Donaghadee Road, which has a capital valuation of £350,000 also supports the capital valuation of the subject. This property is larger than the subject and has a garage and has a capital value of £350,000 compared to the capital valuation of the subject at £320,000.



29. Therefore, the appellant in comparing the ratio of capital value to current market value in respect of the subject property using a general house price index to conclude that the capital value of the subject property is not using the correct basis for valuation.
30. For the sake of clarity, the appellant referred to his personal circumstances at the hearing. The tribunal is not in a position to take into account the personal circumstances of any appellant in cases before it. The tribunal has to decide the case as to the capital valuation of properties on the basis of the appropriate legislative provisions.
31. The tribunal carefully considered the issue as to whether the appellant had provided sufficient challenge to the Commissioner's schedule of comparables. Taking all matters into account, in relation to the capital value of the property, the conclusion of this tribunal is that the appellant has not placed before the tribunal sufficient evidence to displace the statutory presumption as to correctness of the capital value and therefore the appeal is dismissed and the tribunal orders accordingly.

**Signed: Mr Charles O'Neill, Chair**

**Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to the parties: 12 November 2019**