

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: NIVT 14/19

MRS SIOBHAN RUDDY – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Francis J Farrelly

Members:

Ms Noreen Wright (Lay)
and
Timothy Hopkins FRICS (Valuer)

Date of hearing: 7th October 2020 via Webex

DECISION

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

REASONS

Introduction

1. The appellant, Mrs Ruddy, owns and occupies her home at 13 Barleyfields, Culmore, in the Derry City Council area. The property was built in a development which begun in 2018. The appellant was one of the first occupiers, taking possession in December 2018.
2. On 25 May 2019 she applied to the District Valuer for her property to be valued and entered in the valuation list.
3. The property was assessed as having a capital value of £150,000. The valuation date of 1 January 2005 as prescribed by the Rates (Northern Ireland) Order 1977 was applied.

4. On 2 July 2019, the appellant appealed to the Commissioner of Valuation. Her property was inspected on 18 July 2019 by Mr Rory O'Brien, an employee of Land and Property Services. He recommended no change, and a valuation certificate was issued on 23 July 2019.
5. On 9 September 2019 the appellant appealed to the Northern Ireland Valuation Tribunal under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").
6. The appellant's grievance is that although she had been paying her rates, she has received extremely limited services in return. For instance, there is no operable street lighting nor refuse service. The roads, footpaths and surrounding houses have not been completed. The appellant has provided photographs to show the unfinished state of the site.

The Appeal

7. In considering the appeal we have been provided with a bundle of 7 documents which includes the appellant's appeal form, the photographs referred to and the Land and Property Services response.
8. Given the current situation with Covid the appellant has agreed to a remote hearing. This has been done by way of Webex with video and audio. There were no technical difficulties during the hearing. The appellant gave direct evidence, and the respondent was represented by the valuer involved, Mr O'Brien assisted by Mr Jeffrey, a senior valuer.
9. The document entitled 'Presentation of Evidence' from the respondent contains a plan of the entire development with the appellant's property marked. The plan does not show how much of the development has been completed but it is common case that 211 properties were anticipated, with 87 complete and a further 13 almost finished. There was no dispute that the work on the site is incomplete. The road outside the property contains only a base coat of tar and the manhole covers are consequently raised. Street lighting is incomplete.
10. The respondent has also provided details of two properties on the development, namely number 8 and number 207, valued respectively at £150,000 and

£140,000. The appellant's home has been measured at 167.5 m², with the other two properties 161.90 m² and 147.2 m² respectively. The appellant has not disputed the valuation of £150,000 and indicated she was content to pay the assessed rates if the expected consequent services were in place.

11. The appellant's evidence was that building work has ceased, with roughly half the development completed. She indicated that the house prices remain around what she paid, with some variation for different house types. She believes there is little room for negotiation on price with the developer at this stage. She believes that the work has stopped due to Covid. She does not know when work is likely to recommence and whether the developer has now temporarily ceased work due to market factors.

Submissions

12. The document entitled the 'Presentation of Evidence' in the respondent's bundle is dated 4 June 2020. It states that work on the development began in 2018 with an anticipated 211 properties in total. It states 100 have been purchased so far. The submission contends that work is progressing steadily and that some areas have street lighting installed and footpaths established.
13. The respondent submission accepts that in certain circumstances a temporary allowance offering a discount on the rates can be made. Reference is made to the decision of Paul Trimble and Sonia McCusker v The Commissioner of Valuation (NIVT 33/110). It advises that on appeal a 15% allowance was made. This was on the basis only 2 of a proposed 42 properties have been completed, with no evidence the developer would return to complete in the next one to one and a half years. By way of contrast, reference was made to the decision of Patricia Grimes -v- The Com of Valuation (NIVT 34/15). The tribunal there rejected an appeal seeking a temporary reduction on the basis the estate being developed with substantially complete. This also concerned a new development where the roads were incomplete and there was no street lighting or proper pavements.
14. In the appellant's case the respondent believes the property value has not suffered by the time taken to complete the development. A decision in the appeal of Paul Trimble and Sonia McCusker was made in the context of a developer

who may have gone into liquidation and the remaining properties may not be completed. There was no evidence to suggest this was the case were the appellant lived.

15. We were advised that valuations have been made in 87 of the properties on the development with no allowance made in any, albeit there was no information as to any applications or appeals. The respondent's bundle contains photographs and brief details of the comparators used as well as additional photographs of the surrounding area.

16. The appellant in correspondence and at hearing indicated she was more than willing to pay her rates if in return she received the services that were to be expected. She indicated she feels strongly about this whereas other local occupiers were more apathetic.

Consideration

17. There is no dispute between the parties about the essential facts. Insofar as there is any discrepancy we would rely on the evidence of the appellant. She is the person living on the property on a day by day basis. We have no hesitation in accepting the truthfulness of her evidence and want to express our sympathy for the situation she is in. We do find she has been paying rates and yet has not received the services that would be expected.

18. Approximately half of the development has been completed. The respondent suggests that work is ongoing whereas the appellant indicates it has ceased. In this regard we prefer the evidence of the appellant: again, because she is there on a day by day basis.

19. It was known that Covid restrictions have caused considerable difficulties for the building industry in not only carrying out the work but also in getting supplies. It may be that low-key work is continuing but overall, we accept that effectively there has been a halt.

20. How long this will continue for is unknown. Obviously at this stage the prognosis of Covid is unclear, albeit from media articles the situation appears to be getting worse rather than better.

21. There is no evidence that irrespective of Covid the developer has deliberately chosen not to progress. A major developer is involved.
22. There was also some difference at hearing in the evidence about the adoption of the roads in the development and refuse facilities available. Suffice it to say that we accept the appellant's account that in her immediate area the roads and footpaths have not been adopted by the DoE and as a consequence expected services such as refuse collection and street lighting are not in place.
23. Ultimately, our task is to see if the valuation in the list is correct. There is a statutory presumption in Article 54(3) of the 1977 Order 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. The general rule as to the basis of the value to be considered is contained in article 7(1) of the 1977 Order. The capital value of a hereditament shall be the amount which, on the assumptions mentioned in the legislation the property 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. Regard shall be had to the capital values of comparable properties.
24. We do find that the two comparators used from the same development are appropriate. Notably number 8 is the same valuation as the appellant's and number 207 is proximate, at £140,000 and is a smaller in size. The fact that none of the completed properties are in receipt of a discount for their rates is not necessarily determinative. For instance, there is no evidence applications or appeals have been made. The appellant has not sought to challenge the valuation placed upon her property. Essentially, this is what we are considering. We can see a distinction with a development which has not substantially progressed because for instance the builder is in liquidation. In such a scenario it is quite possible that there is a diminution in value of the houses which have been erected. However, there is nothing to indicate such a state of abandonment exists in relation to where the appellant's home is.
25. In conclusion, we want to express our appreciation of the appellant's frustration at the lack of services in return for a payment of rates. However, the appeal

relates to the capital value placed upon the property and we do not find the statutory presumption displaced. We would like to thank the appellant for the effort she has made and her presentation in relation to her genuine grievance. However, in our remit we cannot offer her any relief.

Signed: Mr Francis Farrelly – Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: October 2020