

**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 37/21**

**ANNE SHORT – APPELLANT**

**AND**

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

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Charles O’Neill**

**Members: Mr Hugh McCormick and Ms Noreen Wright**

**Date of hearing: 29 March 2022, Belfast**

**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. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). The appellant appealed by Notice of Appeal received by the Tribunal on 24 August 2021 against the decision of the Commissioner of Valuation in a valuation certificate issued on 3 August 2021. The matter proceeded by way of written submissions, both parties being content that the matter proceed on this basis.
2. The appeal is in respect of the valuation of a property situated at 28 Carra Road, Newtownbutler, BT92 6DW (the subject property).

## **The Law**

3. 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 were fully considered by the tribunal in arriving at its decision in this matter.

## **The Evidence**

4. The tribunal heard no oral evidence. The tribunal had before it the following documents:
  - (a) The Commissioner’s Decision issued on 3 August 2021.
  - (b) The appellant’s notice of appeal received on 24 August 2021.
  - (c) Copy of a certificate of market value from McCaffrey Bros (date of inspection 5 July 2021).
  - (d) A document entitled Presentation of Evidence dated 29 December 2021 prepared on behalf of the Respondent by Eugene McGrade MRICS and submitted to the tribunal for the purposes of the hearing.
  - (e) Correspondence between the parties and the tribunal office.

## **The facts**

5. The subject property is a pre-1919 detached house. It has habitable space of 186.2m<sup>2</sup>, a garage of 50m<sup>2</sup> and an outbuilding of 178m<sup>2</sup>. The capital value has been assessed by the Respondent at £140,000 but has been adjusted to £125,000 given the location of the property which has close proximity to a working farm yard.
6. An application was made to the District Valuer in relation to this property in April 2021 and the capital value of the property was unchanged at

£140,000. This decision was appealed to the Commissioner of Valuation on 7 July 2021 and the capital valuation was amended to £125,000 to reflect the proximity of the neighbouring farm and associated agricultural operations. The decision of the Commissioner of Valuation has been appealed to this tribunal.

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

7. The appellant submits that the valuation of the property should be £80,000. This she states is because it has lost its market value due to a neighbouring farm which is causing constant noise from milking machines very early in the morning for 1.5 hours and again each evening. There is also the smell of urine which is unbearable at times and the smell of slurry from the farm. The farm is 20 metres from the subject property. The appellant states that the farmers do not live on the farm and do not have to deal with the issues emanating from the farm. The appellant also states that the road servicing the subject property is regularly left in a terrible mess. The appellant gave further details of her personal circumstances.
8. The appellant also submitted to the tribunal a report entitled Certificate of Market Value issued by McCaffrey Bros – estate agents, mortgage brokers and valuers. The report states:  
“The dwelling is in close proximity to a large farm which has a negative impact on value due to excessive noise from milking machines, large machinery at use from early morning until late at night. There is also a continuous unpleasant odour from slurry in a storage tank circa 20 yards from the dwelling as well as manure on the road in front of house from walking cattle up and down the road at milking time. These factors would render this dwelling difficult to sell currently.”
9. The report indicates that they would estimate the open market value of the property as £80,000.

## The Respondent's Submissions

10. The Respondent indicated in the Presentation of Evidence that the property was inspected on 29 July 2021. For the respondent, Mr McGrade noted the close proximity of the subject property to the adjacent farm and he also noted an odour which appeared to be connected with the neighbouring farming operation and there was some audible noise caused by farming machinery.
11. The Respondent noted previous decisions of the Valuation Tribunal (Clarke v Commissioner of Valuation) where an allowance of 10% was considered to be appropriate to reflect the location of the property within a working farm occupied by a third party.
12. In relation to the capital valuation of the property the Respondent referred to a list of comparables which were stated to be in the same state and condition as the subject property. These were
  - (a) 44 Cara Road Newtownbutler, BT92 6DX which is a pre- 1919 detached house built in 1910 and has habitable space of 194m<sup>2</sup>. An agricultural allowance has been applied to this property which has an unadjusted capital value of £125,000.
  - (b) 42 Carra Road BT92 6DX which is a pre- 1919 detached house built in 1910 and has habitable space of 152m<sup>2</sup>. An agricultural allowance has been applied to this property which has an unadjusted capital value of £110,000.
  - (c) 45 Carra Road, Newtownbutler, BT92 6DY which is a pre-1919 detached house built 1910 and has habitable space of 294m<sup>2</sup>. It is stated that the capital value incorporates a 10% allowance for proximity to a range of agricultural buildings. The capital value of the property is £155,000.

(d) 40 Carra Road, Newtownbutler, BY92 6DX which is a 1966-1990 detached house with habitable space of 165m<sup>2</sup> and an outbuilding of 107m<sup>2</sup>. This property has a capital value of £140,000.

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

13. 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.

14. 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.

15. The general rule as to the basis of the value to be taken into account is contained in article 7(1) of the 1977 Order (as amended) in that

"(a) Subject to the provisions 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.

(b) 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 circumstances as the hereditament whose capital value is being revised."

16. In this appeal the appellant has focused on what she contends the capital value of the subject property should be given the impact of the neighbouring farm. She has not made submissions on the unadjusted capital value of the property.
17. In this case the tribunal has considered the comparables put forward by the respondent in relation to the unadjusted capital value and finds that the most suitable comparable is 40 Carra Road, Newtownbutler. It has habitable space of 165m<sup>2</sup> and an outbuilding of 107m<sup>2</sup> and has a capital value of £140,000. This compares to the subject property which has habitable space of 186m<sup>2</sup> and a garage of 50m<sup>2</sup> and an outbuilding of 178m<sup>2</sup>. The subject property has an unadjusted capital value of £140,000. This is also supported by the other comparables identified by the respondent.
18. Therefore, in respect of the unadjusted capital value of the property the tribunal finds that the capital value to be £140,000.
19. However, the main aspect in this case is the impact of the neighbouring farm on the capital valuation of the subject property. In this regard the appellant submits that there is noise emanating from the milking machines on the farm which happens twice per day. There is also the smell both of urine and slurry from the farm. The farm is stated to be operating 20 metres from the subject property.
20. The respondent has referred to other decisions of the tribunal in which an allowance has been made to the capital valuation of 10% given the location of the property. The tribunal also has noted the decision of *Cunningham v Commissioner of Valuation* in which reference was made to smells, vermin, flies and noise emanating from a pig farm which was sufficient to warrant a reduction in the capital valuation of 10%.

21. In this case the tribunal has considered the matter carefully and has concluded that the circumstances in this case are such that the capital valuation of the subject property should be reduced by 10%.

22. As this reduction of 10% has already been applied to the capital valuation of the property the tribunal is satisfied that the capital valuation of the property with a capital valuation of £140,000 (unadjusted) and an adjusted capital valuation of £125,000 is appropriate. Therefore, the appeal cannot succeed and by unanimous decision, the appellant's appeal is dismissed by the tribunal.

**Chairman: Mr Charles O'Neill**

**Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to the parties: 29 June 2022**