

**NORTHERN IRELAND VALUATION TRIBUNAL**

**Ref NIVT 12/22E**

**BETWEEN:**

**COLM MARK McATEER**

**Appellant:**

**-and-**

**COMMISSIONER FOR VALUATIONS FOR NORTHERN IRELAND**

**Respondent:**

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**NI VALUATION CHAIRMAN:** Mr Keith Gibson B.L.  
**MEMBERS:** Mr Brian Reid FRCS and Ms Noreen Wright  
**DATE OF DECISION:** 27 March 2023  
**DATE OF REVIEW HEARING:** 26 June 2023

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**INTRODUCTION**

1. On the 27<sup>th</sup> March 2023, this Tribunal delivered a decision in respect of the Appellant's premises at 3 Windmill Road, Newry. The Tribunal rejected the Appellant's appeal for a variation of the valuation of £250,000. Thereafter, on 22 May 2023, the Appellant sought a review of the decision and the matter came back before this Tribunal for an oral hearing on the grounds for review.
2. At the hearing on the 26<sup>th</sup> June 2023, the Tribunal outlined to the Appellant the limited legal grounds for an appeal. provided in the Valuation Tribunal Rules (Northern Ireland) 2007 ("the Rules"), as amended; Rule 21 provides;

*Review*

21. —(1) *If, on the application of a party or on its own initiative, the Valuation Tribunal is satisfied that—*

- (a) its decision was wrong because of an error on the part of the Valuation Tribunal or its staff; or*
  - (b) a party, who was entitled to be heard at a hearing but failed to be present or represented, had a good reason for failing to be present or represented; or*
  - (c) new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then; or*
  - (d) otherwise the interests of justice require,*
- the Valuation Tribunal may review the relevant decision.*

3. The power or ability to request a review is different in its nature from any further appeal proper to the Lands Tribunal, pursuant to Article 54(a) of the Rates (NI) Order 1977, as amended.
4. The Appellant, who was undoubtedly well researched, indicated that he was aware of the four grounds. Notwithstanding that knowledge however, the application for a review contained some fifty-one paragraphs of supporting grounds for appeal under the following headings:
  - a) Allegation of Dishonesty – In this portion of the review application the Appellant considered that the decision had impugned his honesty by virtue of paragraph 20 relating to the existence of a right of way.
  - b) Standard of Evidence – Under this heading, the Appellant complained that his standard of evidence was far higher than that of the Respondent.
  - c) Respondent's Evidence – There is an allegation that the Tribunal ignored the size, location and evidence of value.
  - d) Encumbrance – The Appellant complained that this issue (pertaining to a shared laneway) was not sufficiently considered by the Tribunal.
  - e) Tone – The Appellant submitted that the Tribunal's application of the principle of the tone of the list had been misapplied.
  - f) Urban / Rural Classification – The Appellant complained that the Tribunal had not made sufficient distinction between the urban / rural classification of the property.
  - g) DAERA Statistics – The Appellant complained that DAERA statistics had been ignored.
  - h) 54A Ballyholland Road – The Appellant complained that the Tribunal was wrong to place significant weight on 54A Ballyholland Road because neither the Appellant nor the Respondent had given it significant weight and it was in a different ward to the subject property.
  - i) Comparables – The Appellant complained that his comparables had been disregarded without explanation and the Tribunal had not made a significant distinction between bungalows and chalet bungalows. One of the comparables was 10 Chapel Road and the Appellant's complaint was that the Tribunal had not taken into account the Appellant's evidence that it was not a single storey bungalow.
  - j) 16 Chapel Hill – Again the Appellant raised issues with the fact that no evidence was produced to support the notion that 16 Chapel Hill had a garage, GEA (Gross External Area). The Appellant contended that too much weight had been placed on gross external area.
  - k) Description of Properties – The Appellant complained that the Register is not sufficiently detailed and does not provide details of bedrooms or heating.
  - l) Storage Premises – The Appellant complained that the Tribunal did not explain why a detached storage premises equates to an integrated garage and had failed to take into account the age of the impugned outbuilding / storage.
  - m) Laneway – The Appellant contended the Tribunal had not taken into account the poor condition of the laneway and the hazards associated with entering the public road from the lane.
  - n) Japanese Knotweed – The Appellant complained that Japanese Knotweed was a significant feature of his case but was ignored by the Tribunal.

- o) Landfill Site – The Appellant complained that he had sought and received no direction from the Tribunal as to whether or not his evidence was acceptable.
5. In addition to the above matters, the Appellant also produced two new matters of evidence, one of which was that one of the comparables, identified by the Department as a semi-detached bungalow, was wrong and had subsequently been changed to a “chalet bungalow” in the description and, secondly, that he had discovered another comparable, namely 58 Clontigora Road, Newry, a single dwelling with a GEA of 231m<sup>2</sup>.
6. As explained to the Appellant at the review hearing, the Tribunal’s discretion on a review application is limited and it is not a forum for appeal. All of the above matters, with the exception of the two items of new evidence, are matters for an appeal. In respect of the matters of new evidence, the Appellant contends that item number 1, pertaining to the classification of 1 Windmill Road, is new evidence. The issue over whether 1 Windmill Road is properly classified as a semi-detached bungalow or not was dealt with by the Tribunal in the course of the hearing (see paragraph 11 (i)). At the end of the day, whilst it was identified as a comparable by the Appellant, it was not a comparable which the Tribunal had reference to. The Tribunal therefore rejects this ground for review as being immaterial.
7. In respect of the second piece of new evidence, which was effectively an attempt to introduce another comparable, the Tribunal had no difficulty in rejecting this as a ground. This was evidence which was available to the Appellant at the time of the hearing and his explanation for not adducing it at the relevant time was that he had only just discovered it when looking in the context of other properties for sale in the area. This is not sufficient justification, for it could have been reasonably obtained by the Appellant at the relevant time.

### **DECISION**

8. The Tribunal has no difficulty in refusing this request for a review as not falling within any of the grounds specified for a review.

Signed: *Mr Keith Gibson BL*

Dated: 7/9/23