

**NORTHERN IRELAND VALUATION TRIBUNAL**

**Ref NIVT18/22E**

**BETWEEN:**

**MS BERNADETTE SEXTON**

**Appellant:**

**-and-**

**COMMISSIONER OF VALUATION**

**Respondent:**

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<b>NIV VALUATION CHAIRMAN:</b>	<b>Mr Keith Gibson B.L.</b>
<b>MEMBERS:</b>	<b>Mr Brian Reid FRICS and Ms Noreen Wright</b>
<b>DATE OF HEARING:</b>	<b>24th March 2023</b>
<b>DATE OF DECISION:</b>	<b>27th March 2023</b>

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**INTRODUCTION**

- 1) This is an appeal by Ms Sexton in respect of the assessment of the capital value of her property situate at 19 Dalriada Park, Cushendall, County Antrim. This appeal is made pursuant to the relevant provisions as set out in the Rates (Northern Ireland) Order 1977 as amended, and the appeal was heard solely by way of written submissions.
- 2) For the purposes of this appeal the relevant capital valuation date is the 1<sup>st</sup> January 2005 (see Schedule 12, paragraph 7(4) of the Rates Order). The other point in time which is often referenced in the context of these appeals is the 1<sup>st</sup> April 2007 which is the date upon which the valuation lists for domestic properties became operative. What this means, in practice, is that for the purposes of any appeal the Tribunal can only consider whether or not the capital valuation was correct as of the 1<sup>st</sup> January 2005.
- 3) The starting point in valuing any property for the purposes of the Rates Order is a number of assumptions which the Valuer and indeed all parties to the appeal must make in respect of the subject property. They are contained in Schedule 12, paragraphs 9 – 15 of the Rates (Northern Ireland) Order 1977 and may be summarised as follows:
  - (i) That the property, if sold, was to be sold with vacant possession (i.e. no sitting tenants or difficulty in obtaining possession).
  - (ii) That title to the property is by way of Fee Simple or by way of long Lease (i.e. that the value to the property is not diminished by the fact that the title is in some way defective).

- (iii) That the property is sold free from any rent charge or other encumbrance (again that the title is not diminished in value by some sort of obligation on the owner).
  - (iv) That the property is in an average state of internal repair and fit-out, having regard to the age and character of the property and its location (this is more nuanced qualification – if a property has a serious defect, which is something distinct from similar properties of similar age and character then the assumption can be displaced).
  - (v) That the property is in the same circumstances it would have been expected to have been in on the relevant date, defined as the 1<sup>st</sup> April 2007.
- 4) The subject property itself is a detached two storey house constructed circa 1970 with a gross external area (GEA) of 317.8m<sup>2</sup>. In line with the statutory assumptions, it is assumed to be in an average state of internal repair and fit-out having regard to its age and character. Notably, it benefits from a sea view and from the photographs enclosed within the Respondent's Notice of Appeal appears to be clearly well maintained.
- 5) The property was adapted at some point between June 2014 and July 2022 with an extension purposely completed to allow the Appellant's son to be accommodated. The Plaintiff's son suffered from a brain injury in 2014 and the Appellant arranged for an extension to the property in order to accommodate him. That extension, to the opinion of Land & Property Services, increased the capital value of the property from what it had previously been assessed at, namely £290,000, to £330,000.
- 6) The previous gross external area of the property had been some 232m<sup>2</sup> and so there was a significant increase in the size of the property (by almost half). This led to a corresponding increase in the valuation with a capital value to £330,000.
- 7) The Appellant did not seek to challenge the assessment of £330,000 per se, but rather sought to challenge the assessment on the basis that the reason for the adaption was not brought about by any desire by the Appellant to benefit herself for the property but brought about by circumstances forced upon her, namely the need to adapt it for her disabled son. On that basis and that basis alone, the Appellant considered that she should not be liable for any increase in rates occasioned by an increase in capital value.
- 8) Quite obviously, it is to the Appellant's credit that she has financed the changes to the property from her own resources but this is not a factor which the Tribunal can take into account when assessing whether LPS's assessment is correct or incorrect and whether or not the Commissioner of Valuation was right to uphold that original decision.
- 9) There is provision in the legislation for a reduction in rates for disabled persons pursuant to Article 31A of the 1977 Order which provides for a 25% reduction for rates for any household where a person with a disability lives and the

property has been adapted or had additional facilities added to help with that disability.

### **DECISION**

10) The unanimous decision of the Tribunal is that this appeal be rejected, on the basis that there exists a remedy within the legislation via the aforementioned Disabled Person's Allowance to give effect to the present situation.

Signed:

*Mr Keith Gibson, Chairman*

9<sup>th</sup> May 2023