

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: 50/13

MICHAEL TROUGHTON AND RANDA TROUGHTON – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O’Neill

Members: Mr David McKinney FRICS and Dr Peter Wardlow

Date of hearing: 16 January 2015, 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”). One of the appellants, Mr Michael Troughton attended the hearing and represented himself. The respondent was represented by Mr James Martin and Mr Michael McGrady.
2. The appellant by Notice of Appeal appealed against the decision of the Commissioner dated 10 February 2014.
3. This appeal is in respect of the valuation of a hereditament situated at 33 The Old Mill, Culcavy, Hillsborough, BT26 6RA (“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 were fully considered by the tribunal in arriving at its decision in this matter.

The evidence

5. The tribunal heard representations from Mr Troughton and from Mr Martin and Mr McGrady on behalf of the respondent. The tribunal had before it the following documents:
 - (a) The Commissioners Decision dated 10 February 2014;
 - (b) The appellants' Notice of Appeal;
 - (c) A document entitled 'Presentation of Evidence' dated 24 July 2014 and prepared on behalf of the respondent Commissioner by Mr James Martin and submitted to the tribunal for the purposes of the hearing;
 - (d) Copy letter from Mr Troughton dated 1 September 2014;
 - (e) Copy email from Commissioner of Valuation to the tribunal dated 15 October 2014;

The facts

- (1) The property consists of a semi-detached house situated at 33 The Old Mill, Culcavy, Hillsborough, BT26 6RA ('the subject property'). The property was built around 1970 and has oil fired central heating, double glazed windows, mains water and mains electricity. The accommodation on the ground floor comprises 2 reception rooms and a kitchen. On the first floor there are 4 bedrooms and a bathroom.
- (2) There was an issue surrounding the measurement of the gross external area (GEA) of the property in that the Presentation of Evidence stated that the property had a GEA of 177.20m². However Mr Martin had confirmed to the tribunal that in fact the property had a GEA of 169.66m² and a garage of 20.2m². At the outset of the hearing it was confirmed that these figures were agreed. The respondent confirmed that in all other respects the respondent was relying on the

Presentation of Evidence as submitted. The tribunal is grateful to the parties for the confirmation that the GEA of the property was agreed.

The respondent's submissions in relation to comparable properties

6. The Commissioner's Presentation of Evidence to the tribunal 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 a schedule to the Presentation of Evidence dated 24 July 2014, with further particulars of same, including in some instances photographs of the comparable properties. Five 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 43 The Old Mill, Culcavy. This is a semi-detached house and garden. It has a gross external area of 143.34m². The assessed Capital Value is £140,000. There is no sales evidence for this property.
- (b) The second comparable referred to was 49 Eglantine Park, Hillsborough. This is a semi-detached house with an outbuilding and garden. It has a gross external area of 164.40m² and a garage of 21.60m². The assessed Capital Value is £175,000. There is no sales evidence for this property.
- (c) The third comparable referred to was 6 Old Mill Heights, Culcavy. It is a semi-detached house and garden. It has a gross external area of 159m². The assessed Capital Value is £155,000. There is no sales evidence for this property.
- (d) The fourth comparable referred to was 9 Eglantine Park, Hillsborough. This is a semi-detached house and garage. It has a gross external area of 154.84m² and a garage of 18.60m². The assessed Capital Value is £165,000. There is no sales evidence for this property.

(e) The fifth comparable referred to was 51 The Old Mill, Culcavy. It is a semi-detached house and garden. It has a gross external area of 126m² and a garage of 27.84m². The assessed Capital Value is £135,000. There is no sales evidence for this property.

7. The respondent in the Presentation of Evidence and at the hearing made submissions in relation to the arguments forwarded by the appellant. These are referred to below.

The appellant's submissions

8. The appellant submits that the capital valuation of the property is incorrect. He relies on several grounds to assert this as outlined in the paragraphs below.
9. The appellant relied on four grounds to contend that the capital valuation was incorrect. The first of these related to the measurement of the property. The appellant was of the view that as the measurement of the GEA had been agreed by the respondent at 169.66m² rather than 177.2m², that this alone would have resulted in a decrease in the capital value. He appeared somewhat taken aback that the respondent argued that the capital value should remain at £170,000 notwithstanding that the respondent did agree that the GEA of the subject property is 169.66m² as opposed to 177.2m².
10. The second submission made by the appellant related to the extension which he had carried out to the property at the end of 2010. The appellant provided evidence that the improvement work to the property cost £32,090. The previous capital value of the property (before the extension works were carried out) was £110,000. The appellant noted that adding the value of the works to the original capital value the total would amount to £142,090 rather than the assessed capital value of £170,000. It was admitted by the appellant that the full value spent on renovations is not always realised in capital value and that often the capital value increase is below the cost of the renovations.

11. The appellant's third contention related to sales evidence of other properties which he stated were comparable to the subject property. He referred to the statutory basis of valuation and that this suggested that valuations should be relative to the existing value of adjacent properties and the relative open market values that should be realised. The appellant advised that 43 The Old Mill was sold on the open market in 2013 for £148,000, some £8,000 or 5.7% above its LPS assessed capital valuation of £140,000. He also referred to 31 Old Mill Heights which had been sold for £119,000 in 2013, some £14,000 or 13.3% above its LPS capital value of £105,000. The appellant helpfully clarified that Old Mill Heights was a development accessed through the Old Mill development and the properties therein were of the same size, layout and finish as the former development.

12. The appellant's fourth submission related to the alleged negative effect of overshadowing, overpowering, overlooking, loss of light and loss of privacy. This related to the fact that there is planning permission for the development of a site which, when developed, would have an adverse effect on the enjoyment of his property. When the appellant purchased the property in 2007 there was a different planning permission for the development in place, permission having been obtained in 2002. This planning permission included an open space area of 30m adjacent to the subject property. However in 2008 planning permission was granted for detached 3 storey houses which are to be built higher than the subject property. Furthermore the open space area has changed so that these properties will be built close to the subject property. The appellant confirmed that the site has been cleared but as yet none of the properties have been built on land adjacent to the subject property.

13. The final submission of the appellant related to flooding on the subject property. The Culcavy river flooded some 500m above the subject property and overflowed into a field and thus ran into the subject property. This only affected the subject property and no others in the area and happened in 2007, 2008 and 2009. To deal with the possibility of flooding reoccurring the appellant confirmed that Rivers agency have undertaken work to the river bank. The appellant himself has

built a wall 30m along his boundary to protect his property from flooding. The appellant indicated that this has increased his house insurance costs.

The respondent's submissions

14. The respondent submitted that the Presentation of Evidence remained the same notwithstanding that the GEA of the subject property was agreed at 169.66m² rather than 177m². Furthermore the capital value of the property should remain at £170,000.
15. In relation to the argument concerning the expense paid in respect of the extension to the subject property in 2010, the respondent contended that the correct basis of valuation was to consider the legislative requirements and refer to the capital value of other privately built semi-detached dwellings in the vicinity of the subject property.
16. In relation to the argument concerning possible development beside the subject property the respondent contended that it was not possible to reflect such matters until the time of a general revaluation. In any event the development has not occurred as yet.

The Tribunal's Decision

17. 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 £170,000. On behalf of the Commissioner it has been contended that this figure is fair and reasonable in comparison to other properties. The appellant's contentions are as stated above and the appellant contends that the proper valuation should be £145,000.
18. 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.

19. 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.”

20. The relevant capital valuation date is 1 January 2005.

21. In this case the GEA has been agreed by both parties at 169.66m². It is unfortunate that the appellant may have been under an impression that the respondent would reduce the capital value in the light of this reduction in the GEA. However the respondent was of the view that the difference in the GEA has no effect on the capital value.

22. The appellant made reference to the amount expended on the extension as £32,090. It was freely accepted by the appellant that the full value spent on renovation work or an extension to the property is not always realised in capital value. However the appellant sought to argue that when the additional value of the works was added to the original capital value the capital value of the property would therefore amount to £142,090 and that presumably the capital value should be in that region. However this does not take account of the statutory basis of valuation in that the capital value should be the amount which the subject property would have been expected to achieve if it had been sold on the open market by a willing seller on the relevant capital valuation date (1 January 2005).

23. The appellant further referred to two other matters particular to the property including instances of flooding on the property in 2007, 2008 and 2009. One of the assumptions in the 1977 order (paragraph 12(2)) is that the hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date (i.e. 1 April 2007). At this date while there may have been an instance of flooding on the property there was not a trend of flooding on it.
24. In relation to the proposed development beside the subject property, the development has not yet occurred and therefore the tribunal has not taken this into account.
25. In relation to the comparable properties referred to by the appellant, the appellant adduced sales evidence of properties at 43 The Old Mill and 31 Old Mill Heights in 2013. However this sales evidence comes over eight years after the antecedent valuation date. Therefore they are not of assistance in establishing the capital value of the property in 2005. Reference was made also to the fact that such sales were a certain percentage above their capital values. This does not provide a method of establishing the capital value of a property as at 1 January 2005 (the antecedent valuation date).
26. In relation to the comparables provided by the respondent, the tribunal prefers the comparable 49 Eglantine Park, Hillsborough in that it is a semi-detached property with a slightly less GEA and a slightly larger garage. It has a capital value of £175,000. Furthermore the valuations placed on 43 the Old Mill, 6 Old Mill Heights and 9 Eglantine Park support the valuation of the subject property. The tribunal places least weight on the valuation of 51 The Old Mil as it is a substantially smaller property.
27. The tribunal is very grateful to the appellant for the time and effort he has expended in preparing his written submissions to the tribunal and is thankful to the appellant for the way in which the case was presented at hearing. The tribunal is similarly grateful to the representatives of the Commissioner for the

way in which this case was presented both in written submissions and at the hearing.

28. The tribunal carefully considered all the evidence placed before the tribunal including the comparable evidence and the submissions by the appellant and the respondent in considering the issue as to whether the appellant had provided sufficient challenge to the Commissioner's schedule of comparables. Taking all matters into account 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.

Mr Charles O'Neill
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 4th March 2015