

**NORTHERN IRELAND VALUATION TRIBUNAL**

**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS  
AMENDED) AND THE VALUATION TRIBUNAL RULES  
(NORTHERN IRELAND) 2007**

**CASE REFERENCE NUMBER: NIVT 52/14**

**DARREN ANDREWS APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NI - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Date of hearing: 11 January 2017**

**Chair: Sarah Ramsey**

**Members: Tim Hopkins (Valuer) and Robert McCann (Lay)**

**DECISION AND REASONS**

**The Facts of the Case**

1. This is an appeal relating to a privately built property situate at 1118 Crumlin Road Belfast BT14 8RX.
2. The reference is made under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). By letter dated 7 January 2015 and a Notice of Appeal dated 10 February 2015 the appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland (“the Commissioner”) in respect of the decision letter of 17 December 2014 in relation to the valuation of the hereditament situate at 1118 Crumlin Road (“the subject property”) as £78,500.
3. The Appellant was content for the matter to be disposed of by written representations and therefore did not attend the hearing.

4. The Property is a privately built property built circa 2014 and described in the Valuation list as a caravan/mobile home. The Gross External area is 116m<sup>2</sup> and the property has full central heating and all mains services.
5. On 1 October 2014 the property was first entered into the valuation list where the Capital Value was assessed at £120,000.
6. On 3 December 2014 the Appellant lodged an appeal to the Commissioner of Valuation. The property was inspected externally and subsequently recommended a reduced capital value of £78,500. Then amended certificate of valuation was issued on 17 December 2014.
7. The Commissioner of Valuation's decision was appealed to the Northern Ireland Valuation Tribunal.
8. The Appellant in his Notice of Appeal indicated that the property is a mobile home/caravan type home and the Appellant failed to see how the valuation was achieved when brick houses in the area are barely valued at that level.

### **The Evidence**

The following documents were before the tribunal;

- Letter from the Appellant dated 7 January 2015 indicating his desire to appeal the valuation of £78,500
- Valuation certificate dated 14 December 2014
- Acknowledgement dated 22 September 2015 from LPS.
- Appellant's original Notice of Appeal to the Tribunal 10 February 2015 in respect of 1118 Crumlin Road Belfast;
- Respondent's written Presentation of Evidence dated 5 February 2016.
- Additional information provided by email for Respondents on application of allowance and copy decision of **Alan & Beryl Peacock and Commissioner for Valuation, case no 18/11 5 March 2012** submitted 11 May 2017

This notice communicates the Tribunal's decision and contains the reasons for the decision in accordance with Rule 19 of the Valuation Tribunal (NI) Rules 2007.

### **The Hearing**

9. The Respondent's position was as set out in the written presentation of evidence. The evidence given was that the Appellant had expressed a view in his Notice of Appeal that the property should be valued at £30,000. The Respondents contended that the Appellant was referring to current market conditions at the date of the appeal to the

NIVT and that this was not the correct basis of valuation, but that the relevant valuation date should be the 1 January 2005. The Respondents argued that any valuations which are not prepared in accordance with the statutory date of assessment must naturally be discounted.

10. The Respondents indicated that as houses in the immediate vicinity were traditionally built of brick/block construction, there was no direct comparables in the immediate vicinity.
11. Due to the lack of comparables the Respondents explained that they had assessed an unadjusted Capital Value as if the property were of traditional or block construction then made an allowance of 25% to reflect the lighter construction. The unadjusted Capital Value was assessed as £105,000 and with the 25% adjusted capital value due to the nature of the lighter construction a discount of 25% was taken leaving an adjusted capital value of £78,750 and this was how the figure of £78,500 was reached.
12. The Respondents acknowledged in their presentation of evidence that difficulties had been encountered in deciding the correct allowance to apply due to the unusual construction materials used in the property.
13. The Respondent explained that if properties within the valuation list were in poor repair it would be normal for LPS to make a reduction of 20% on the valuation. Although not in poor repair, the Respondents took the view that when comparing this property to one of traditional construction it would be highly likely that a bid on the open market of the subject property would be reduced. The Respondent therefore used the standard poor repair allowance as a guide and decided to award a reduction of 25%.
14. The Respondent acknowledged there were no similarly constructed properties within the locality of the subject, however they indicated properties of similar construction do exist in the valuation list.
15. The Respondent referred to 15 Seahaven Avenue, Groomsport which was constructed with similar materials to the subject property, had a GEA of 85m<sup>2</sup> and a capital value of £85,000.
16. The Respondent acknowledged that due to location differences between the subject property and Seahaven Avenue they may be judged as not directly comparable, but argued the Seahaven properties should be given some weight, however the Respondents failed to see how the valuation of £30,000 as contended by the Appellant had been arrived at.

17. The Appellant indicated in his Notice of Appeal and his letter to LPS on 7 January 2015 that he did not understand how the valuation had been reached when the property was a mobile home and not a proper house. He stated that the mobile home would be worth £15,000 at the most. In his notice of Appeal he stated that brick houses in this area are barely valued at that price.

### **The Law**

18. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (hereinafter the 2006 Order). For the purposes of this appeal the relevant provisions of Schedule 12 of the 1977 Order are as follows;

7. — (1) Subject to the provisions of this Schedule, for the purposes 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. (2) 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. (3) The assumptions mentioned in paragraphs 9 to 15 shall apply for the purposes of determining whether one hereditament is a comparable hereditament in the same state and circumstances as another with the omission of sub-paragraphs (2) and (3) of paragraph 12. (4) In sub-paragraph (1) “relevant capital valuation date” means 1st January 2005 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.

#### Capital value – the assumptions

12.—

(1) The hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality.

(2) The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date.

Article 54(3) of the 1977 Order provides that, on appeal, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

### **The Tribunal's Findings**

19. The presumption in Article 54(3) of the 1977 Order that any valuation shown in a valuation list shall be deemed to be correct until the contrary is shown means that the burden is upon the Appellant to show that the capital valuation is not correct.
20. The Appellant submitted he did not agree with the Respondents valuation and did not understand how the figure had been arrived at with reference to nearby brick construction properties.
21. The LPS presentation of evidence sets out details of three comparable properties. The comparable properties are all of brick construction in the immediate area and the relevant details are as follows;
  - 1130 Crumlin Road. This property is a 1990s bungalow has a GEA of 149m<sup>2</sup> and a Capital Value of £140,000
  - 1126 Crumlin Road. This property is a 1990s bungalow with a GEA of 98m<sup>2</sup> and a capital value of £95,000
  - 1085 Crumlin Road. This property is a 1990s bungalow with a GEA of 177m<sup>2</sup> and a Capital Value of 150,000
22. The Respondents also made reference to 15 Seahaven Avenue, Groomsport. This property is not in the location at all, but was chosen as it had a similar construction. The GEA is 85m<sup>2</sup> and the Capital Value is £85,000.
23. Having considered all of the comparables the panel was concerned that, in accordance with schedule 12 paragraph 7 of the Order, the comparable properties put forward by the Respondent in the Presentation of Evidence were not wholly appropriate as they were either not constructed in a similar fashion, or they were not (as in the case of the Seahaven Avenue property) in the immediate vicinity of the subject property.
24. Consequently the Tribunal requested of the Respondents on 3 May 2017, in writing, that the Respondents *demonstrate the comparables they used in the Seahaven Avenue case and similarly sought confirmation or otherwise that a 25% allowance was consistently applied to achieve their adjusted valuations in similar cases.*
25. The Respondents responded on 11 May 2017 that an allowance had not been utilised in relation to the Seahaven Avenue property. They further explained that LPS could not confirm that none of its valuers were using an allowance (in effect a discounted

reduction in value) different to 25% in any other similar cases involving properties of a light construction.

26. The Respondents set out in their response that LPS would expect staff to firstly apply Schedule 12 para 7 and have regard to the Capital Values of comparable hereditaments which are in the same state and circumstances in the immediate locality. Only where no comparables in the same state and circumstances are available in the immediate locality would LPS expect staff to consider an allowance to reflect light construction, as in the subject appeal. In such circumstances, the Respondents contended, each case would be judged on its own merits, and any allowance applied should reflect the light construction and not simply see the application of a set 25% allowance.
27. The Respondents in their response referred to the case of **Alan & Beryl Peacock and Commissioner for Valuation, case no 18/11 5 March 2012** which was the NIVT decision relating to the property at 15 Seahaven Avenue.
28. The Tribunal noted that an allowance had not been effected in this case as there were a number of comparable properties of similar construction in the vicinity. The Tribunal also noted the location of the Seahaven Avenue property, and the sea view which it enjoyed, distinguished it somewhat from any the instant case.

### **Decision**

29. The Tribunal were conscious of the unique nature of the combination of the type of construction coupled with the location of the subject property. They noted that the Respondents had utilised an element of discretion in attaining the 25% allowance.
30. However taking into consideration the further information provided as to the nexus between the location and construction build of the Seahaven Avenue property, the Tribunal were of the opinion that whilst there appeared to be no logical explanation as to how the allowance was applied; an allowance of 35% would provide a capital value figure which would more properly accord with the tone of the list.
31. The unanimous decision of the Tribunal is that the appeal is allowed and the Capital Value of the subject property be entered into the list as £68,250.

**Ms Sarah Ramsey (Chair of Northern Ireland Valuation Tribunal)**

**Date decision recorded in register and issued to parties: 1<sup>st</sup> March 2018**