

**NORTHERN IRELAND VALUATION TRIBUNAL  
THE RATES (NORTHERN IRELAND) ORDER 1997 (AS AMENDED)  
AND THE VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007**

**CASE REF: 32/17**

**SAMUEL THOMAS BRADLEY – APPELLANT**

**AND**

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

**Northern Ireland Valuation Tribunal**

**Date of Hearing: 17<sup>th</sup> October 2018**

**Chairman: Stephen Wright**

**Members: Mr Timothy Hopkins FRICS and Ms Angela Matthews**

**DECISION**

The unanimous decision of the tribunal is that the appellants appeal is not allowed and the Capital Valuation assessed on 31 Plantation Road, Lisburn, County Antrim, BT27 5BW of £250,000 is correct.

**Introduction**

1. The appellant Samuel Thomas Bradley attended and appeared jointly with his wife Hilary Bradley at the hearing. The respondent the Commissioner of Valuation (COV) was represented by Mrs Seline McClelland with Mr Gary Humphrey, senior valuer in attendance.
2. The appellants Notice of Appeal was received by the secretary of the Northern Ireland Valuation Tribunal (NIVT) on the 12<sup>th</sup> March 2018.
3. The valuation of the property that is the matter of this appeal is 31 Plantation Road, Lisburn, County Antrim, BT27 5BW. (The subject property) The current Capital Valuation is £250,000

4. The Subject property is situated on Plantation Road in Lisburn approximately 1.5 miles south east of Lisburn city centre. The subject property is a detached bungalow built c 1977. It is cavity block construction, brick outer face and render finish with pitched tile roof. The subject property comprises three reception rooms, study, kitchen, utility room, cloak room, three bedrooms, games room, and bathroom. There is a car parking area in front of the property with gardens to the front and the rear.
5. The appellant has lodged an appeal on the following grounds:-
  - (i) That a room has really been returned to its original purpose of the garage and is used for storage and maintenance of motorcycles.
  - (ii) The room is not available as living accommodation and should not be rated as such.
6. The following documents have been considered by us:-
  - (a) The notice of appeal against the valuation for rating purposes (form three) received on the 12<sup>th</sup> March 2018.
  - (b) Valuation certificate issued on the 26<sup>th</sup> February 2018.
  - (c) Presentation of evidence by the Commissioner of Valuation dated 2<sup>nd</sup> July 2018 including schedule of comparisons and photographs.
  - (d) Hearing notice of the Tribunal.
  - (e) Email sent by the Chairman of this Tribunal on 16<sup>th</sup> October 2018.
  - (f) Six photographs of the external area and adjacent houses on Plantation Road submitted by the COV.
  - (g) Seventeen photographs submitted by the Appellant showing the exterior and the interior of the current state of the Room /Garage.

### **The Law**

7. The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (the 2006 Order”). Article 54 of the 1977 Order enables a person to appeal to this

Tribunal against the decision of the Commissioner on appeal regarding the capital value.

8. Schedule 12 of the 1977 Order as amended states as follows:

“(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 9-15, the hereditament might reasonably 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.....

(4) in sub-paragraph (1) “relevant to Capital Valuation date” means 1<sup>st</sup> January 2005 or such date as the Department may substitute by order made subject to a negative resolution for the purposes of a new Capital Valuation list.”

(7) Article 54(3) of the 1977 Order provides that on appeal any valuation shown in a valuation list shall be deemed to be correct until the contrary is shown. Thus, any appellant must successfully challenge and displace the presumption of correctness otherwise the appeal will not be successful.

### **Background to the Appeal**

9. On the 2<sup>nd</sup> October 2000 the subject property valuation case was closed, as the former garage was then incorporated into a dwelling. A small extension on the conservatory had also been added.

10. On the 2<sup>nd</sup> of November 2017 Mr Bradley lodged an application advising that the property data was wrong as the garage had been reinstated. On foot of this submission an inspection was carried out. The condition of the space was still considered to be a

habitable standard. Therefore there was no change to the Capital Valuation of £250,000.

11. On 6<sup>th</sup> February 2018 Mr Bradley lodged an appeal against the District Valuer's (DV) decision. On behalf of the COV Mrs McClelland inspected the subject property on the 20<sup>th</sup> February 2018. The appeal case was closed on 26<sup>th</sup> February 2018 with no change made to the valuation.
12. On the 7<sup>th</sup> of March 2018 Mr Bradley submitted an appeal to the NIVT.

### **Respondent's representations**

13. Mrs McClelland for the COV both in her written and oral evidence states the subject property is a privately built 1966-1990 detached bungalow. It was built in around 1977. It has a gross external area (GEA) of 214 m<sup>2</sup> full; the property has double glazed windows in PVC frames and full central heating, car parking on site and gardens to the front and rear of the house.
14. The COV note the fact that the issue in the appeal is in relation to a room in the subject property as to whether it has been returned to its original purpose as a garage and is no longer categorised as living accommodation.
15. The appellant asserts that the room has been returned to its original purpose as a garage used for storage and the maintenance of motorcycles and further it is not available as living accommodation.

Schedule (6) of the Rates (Northern Ireland) order 1977 defines a garage as follows:

“private garage means a Hereditament which is used wholly or mainly for the accommodation of a motor vehicle”.

16. The subject area was a garage prior to conversion in 2000. It was converted to a games room. The external walls are cavity block depth (0.3 m). The subject room is integral to the main dwelling accessed by a single sliding door from the front of the property with surrounding double glaze windows in PVC frames. The area has a plaster ceiling,

solid floor (and the COV is advised that the floor of the remainder of dwelling is suspended timber) and glazed window to rear. Radiators are present in the subject area and the walls are finished with timber panelling. There is an entrance hall door access to the remainder of the dwelling. No significant structural alterations have been undertaken to convert the property back into a garage, rather, the subject area is now used for the storage and maintenance of the appellant's motorcycles.

17. Mrs McClelland is of the opinion that this area has not returned to a garage. It is the same area which was in use and valued from 2000 as a habitable space.
18. The use for storage and maintenance of the appellant's motorcycles does not automatically return the area to a traditional garage space.
19. The main contention of the appellant is that the subject area is not available as living accommodation and should not be rated as such. The appellant has decided to no longer use the subject area as living accommodation. However, this is the same space which the appellant has used for 18 years as living accommodation. During this time the appellant did not launch any objections to the valuation of the area in question as living accommodation.
20. Mrs McClelland contends that the decision by the appellant to change the use does not automatically convert the subject area to a garage. No structural works have been carried out to return it to the previous finish as a garage.
21. On behalf of the COV Mrs McClelland contends that to the hypothetical purchaser this area is a living space. Mrs McClelland is of the opinion that the subject area would not be valued as a garage for bank lending or residential sales purposes.
22. Mrs McClelland concludes that she is of the opinion that the subject area should be rated as living accommodation. In valuing the subject property she has considered the following comparable evidence.

- (a) **18 Clogher Road Lisburn** has a habitable space of 197 m<sup>2</sup> and has a CV of £250,000. This said property is situated 1 mile from the subject property; the

above is detached bungalow, built in 1973. Although with a small habitable space, it does have a garage of 105 m<sup>2</sup> with an outbuilding of 18 m<sup>2</sup>. This is considered comparable in terms of age, size and location. It is situated in the same road as the subject property. Mrs McClelland when asked during the Tribunal hearing to value the property, stated that the garage could be valued at £20,000 and the rest of the property at £230,000.

(b) **47a Ballymullan Road** has a habitable space of 235 m<sup>2</sup> with a Capital Valuation of £290,000. The said property is 0.9 of 1 mile from the subject property. The property is a detached bungalow built c 1987. It is larger than the subject with a garage of 36 m<sup>2</sup> which is reflected in the capital value of £290,000. It is considered comparable to the subject property. Mrs McClelland when asked about the value of this property stated that she would value the garage as £10,000 and the rest of the property at £280,000.

(c) **252a Hillhall Road** has a habitable space of 207 m<sup>2</sup> and a Capital Valuation of £250,000. This comparison is situated c2.0 miles from the subject property. It was built c.1970; it extends to 207 m<sup>2</sup> with a garage of 35 m<sup>2</sup> and an out building a 46 m<sup>2</sup>. This property is smaller than the subject property but has the addition of a garage and an outbuilding. This is considered comparable to the subject property but an inferior location due to its distance from the city centre. Mrs McClelland was asked about the value of the garage and the rest of the property she replied that she would value the garage at £12,000 and the rest of the property at £238,000.

23. Mrs McClelland concluded by stating that the valuation of the subject property has been assessed in accordance with the provisions of the Rates (Northern Ireland) Order 1977. The Capital Value as assessed (£250,000) is considered fair and reasonable in comparison to some properties.

### **The Appellant's submissions**

24. The appellant referred to his Notice of Appeal in which he states that he is the owner of the property and he has returned the room back to its original purpose as that of a

garage. The appellant explains that this is where he stores his motorcycles and does regular maintenance on them. He further states that area is not available as living accommodation and should not be rated as such. Mrs Bradley gave further evidence to this effect at the hearing.

25. The appellant at the hearing made the following submissions:-

1. The dictionary definition of the word “garage” means “a place for receiving and mending motor vehicles.
2. In 1999, the appellant invited the Land and Property Services to inspect the side room of the subject property as they had converted it from a garage to a games room, at that time Mr Bradley explained he enjoyed a game of pool and racing scalextric cars. Mr Bradley stated that he was honest about this change and did not hide the conversion from the inspector.
3. When Mr Bradley’s grandson was born they looked after him, three or four days a week, and used this room as a playroom for him. It was never used as a living accommodation for example watching TV or sitting in.
4. The appellants installed the patio door to try and make the room warmer and for ease of access, replacing the up and over garage door. The wood panelling and wall installation was installed to make the room warmer and more comfortable.
5. Mr Bradley retired in 2016 and moved his motorcycles into the garage from his garden shed at the back of the house in the summer of 2017. The room was returned to a garage where he could store his bikes securely and do basic maintenance, oil changes and lubricating, and the cleaning of his motorcycles. Mr Bradley stated that he covered the concrete floor with plywood sheets for installation and stable work area and that he used some of the original carpet as well.
6. Rather than replace the existing doors with a garage door Mr Bradley felt that the patio doors offer better security to the home. The curtains also offer more

privacy when he is working on the bikes with the lights on plus they help to keep the garage warmer.

7. The appellant stated that he and his wife are the sole occupants of the house and that they have more than enough living accommodation for their needs and when the family visit. Mr Bradley explained they have no need to make this anything other than a garage. Mr Bradley explained that both he and his wife are retired and anything they can do to save on their rates bill would be appreciated.

8. During the presentation Mr Bradley referred to a diagram of the living area which showed the garage and its access to the kitchen, living room and front hall.

9. During his evidence Mr Bradley referred to the photographs of the exterior of the subject property which showed the patio doors in place, the internal decor of the room and the doors into the main living area of the house. The plywood on the floor could be seen along with two motorbikes and a tool bench. The photographs show the full extent of the patio doors.

10. Mr Bradley explained that he did not keep his car in the garage just his motorcycles. He stated that all properties nearby had a garage. When asked what he would need to do to convert it back to a garage he stated he would have to lift the floor. He would not put a garage door in place for the reasons stated above.

11. Mr Bradley confirmed that there was double glazing in the room. He put a radiator in the room and insulated the floor.

## **Decision**

26. The purpose of the tribunal is to consider the evidence and apply the relevant law to the issue of Capital Valuation. The Tribunal are of the view that the capital value of the subject property has been assessed in accordance with the legislation contained in the Rates (Northern Ireland) Order 1977. Schedule 12 paragraphs 6 and 7 which sets out the relevant legislation.



27. Article 54(3) of the 1977 Order provides that, on an appeal, the valuation shown in the valuation list should be deemed to be correct until the contrary is shown, and that any appellant must successfully challenge and displace the presumption of correctness, otherwise the appeal will not be successful.
28. Schedule (6) of the Rates (Northern Ireland) order 1977 provides that a “private garage means a Hereditament which is used wholly or mainly for the accommodation of a motor vehicle”.
29. The appellant in his Notice of Appeal to the tribunal states that that the CV of the subject property should be reduced as the garage which was converted into habitable area for this domestic dwelling has now been returned to that of a garage for the storage and maintenance of motorcycles. The fact at issue here is, has sufficient alteration been made to revert to the said living area to that of a garage. The appellant contends that it has and produced evidence outlined above at paragraphs 24 and 25.
30. The respondent states that insufficient work has been done and state that the subject room is integral to the main dwelling, accessed by a sliding door from the property with surrounding double glazed windows and PVC frames the area has a plaster ceiling, solid floor, radiators are present in the subject area and the walls are finished with timber panelling. The respondent argues that no significant structural alterations have been undertaken to convert the property back into the garage rather the subject area is now used for storage and maintenance of the appellant’s motorcycles.
31. The tribunal has come to the view that insufficient work has not been undertaken on this area to return its exclusive use to that of a garage as defined by Schedule (6) of the Rates (Northern Ireland) Order 1977.
32. The Tribunal concur with the view of the COV when she states “To the hypothetical purchaser this area is a living space” and undoubtedly would be an attractive feature of the house when coming to the sale of the property. Further the objective evidence is that both the floors and walls are insulated; there are access points to various parts of the house, radiators are present and the patio windows are clearly evident.

33. The Tribunal's function is to determine an Appeal against the Commissioner of Valuation's refusal to decrease the Capital Valuation of £250,000. The Assessment of the Valuation of property is based on statute as set out in Schedule 12 of the 1977 Order. Article (7)(2) states, "*in estimating the capital value of the hereditament for purposes of any revision of a valuation list, regard shall be had for the capital values in the valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.*"
34. A schedule of comparable evidence was gathered to illustrate the Capital Value assessments of similar properties to the subject property. This is known as the "*Tone of the List*" and in essence confirms that comparability is a cornerstone of the rating system. The Comparability of Rating Hereditament was described in the case of *Dawkins (VO) v Ash Brothers and Heaton (1969) 2 A C336* in which Lord Pearce stated "*Rating seeks a standard by which every hereditament in this country can be measured in relation to every other hereditament. It is not seeking to establish the true value of any particular hereditament, but rather its value in comparison with the respective values of the rest.*"
35. The Tribunal's analysis of the evidence from the Respondent's selected comparables is that these are not inappropriate. The Tribunal was referred to Appendix 1 of The Presentation of Evidence. The subject property is a privately built 1966-1990 detached bungalow. It was built in around 1977. It has a gross external area (GEA) of 214 m<sup>2</sup> and has a CV of £250,000
36. The Tribunal take the view that comparable number 2, namely, 18 Clogher Road, Lisburn which has a habitable space of 197 m<sup>2</sup> and has a CV of £250,000, although it has a smaller habitable space, it does have a garage of 105 m<sup>2</sup> with an outbuilding of 18 m<sup>2</sup>. The Tribunal consider this comparable supports the current Capital Valuation of £250,000 of the subject property.
37. Comparable Property number 3 namely 47a Ballymullan Road has a habitable space of 235 m<sup>2</sup> with a CV of £290,000. The property is a detached bungalow built c 1987. It is larger than the subject property with a garage of 36 m<sup>2</sup> which is reflected in the capital value of £290,000. It is considered comparable to the subject property.

38. Comparable Property number 4 namely 252a Hillhall Road has a habitable space of 207 m<sup>2</sup> and a CV of £250,000. It was built c.1970; it extends to 207 m<sup>2</sup> with a garage of 35 m<sup>2</sup> and an out building a 46 m<sup>2</sup>. This property is smaller than the subject property but has the addition of a garage and an outbuilding. This is considered comparable to the subject property albeit in an inferior location due to its distance from the city centre. The Tribunal consider this comparable supports the current Capital Valuation of £250,000 of the subject property.
39. The Tribunal's unanimous decision is that the Appellants appeal is not allowed and the Capital Valuation assessed on, 31 Plantation Road, Largymore, Lisburn BT27 5BW of £250,000 is correct.

**Signed: Mr Stephen Wright – Chairman**

**Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to all parties: 18<sup>th</sup> December 2018**