

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED)
AND THE VALATION AND TRIBUNAL RULES (NORTHERN IRELAND) 2007
Case Reference: 14/16**

RODNEY CLARK - Appellant

and

THE COMMISSIONER OF VALUATIONS FOR NORTHERN IRELAND - Respondent

NORTHERN IRELAND VALUATION TRIBUNAL CHAIRMAN – Mr Keith Gibson B.L.

MEMBERS – Mr Robert McCann; Mr David McKinney FRICS

Introduction:

1. This Appeal, by way of oral and written submissions, took place on the 3rd May 2017 at the Tribunal's Hearing Centre, Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF. The Appellant was represented by himself and his wife with the Respondent being represented by Mr Jonathan Maybin and Mr Gareth Neill, Senior Valuer on behalf of Land & Property Services.
2. The Appellant is the owner of property contained at 39 Glenavy Road, Lisburn, Co Antrim, BT28 3XA ("the subject property"), a farmhouse built circa 1910 with masonry wall construction, completed with a pitched tiled / slate roof. The gross external area of the premises was of some 154m² with outbuildings comprising some 12m². At the time of the hearing of this appeal the premises were vacant, although they had previously been occupied by Mr Clarke's father up until his death in or about 2012. It is acknowledged by all parties to the appeal that the property is in poor external repair and is burdened by the close proximity to agricultural buildings.
3. Within the descriptor of the property provided by the Respondent, it is described as 'detached'. Whilst, for the purposes of labelling the property, this moniker is perhaps useful to the Respondent, it does not reflect the reality of the situation which is that the property has attached to it on either side, a number of outbuildings which did not comprise or form part of the GEA for the purposes of rating.
4. Doubtless, as a result of Mr Clarke's father's death, it was necessary to register a change of occupier and, given that Mr Clarke Senior no longer resided at the property, the agricultural relief allowance which the property previously enjoyed was removed. To that end in or around the 2nd October 2012, the property was surveyed and the capital value amended from £124,000 to £145,000. The District Valuer's certificate was issued accordingly on the 25th September 2014. Thereafter, the Appellant applied for a revaluation on or about the 9th June 2014. At this stage the capital value of £145,000 was not revised, however, the valuer applied a 10% allowance for poor external repair and the capital value was reduced from £145,000 to £130,000. On the 26th May 2016, a further request for a revaluation was received by the District Valuer from the Appellant on grounds that the subject property did not have outbuildings and also requesting that it be considered for agricultural relief. A form was duly sent to the appellant but not returned and thereafter the case was closed on the basis of no change. As a direct result of the aforementioned steps, the certificate was issued on the 8th August 2016.
5. On the 31st August 2016, the Appellant appealed the District Valuer's decision to the Commissioner of Valuation. A further reduction was applied to reduce the capital value from £130,000 to £125,000. A valuation certificate confirming the decision was issued by the Commissioner of Valuation on the 29th September 2016 and on the 25th October 2016 the decision of the Commissioner was appealed to this Tribunal.

Grounds for Appeal

6. The Appellant's grounds for appeal may be summarised as follows:

- a) That, prior to the appeal, an Estate Agent had valued the property at £75,000 for the purposes of probate in the Appellant's father's estate.
- b) The location of the property was in a yard of a working farm and was attached to buildings.
- c) The area rated by the Respondent was too large.
- d) Water occasionally flowed across the yard in which the property was situate and this water contained effluent.
- e) That the comparables were poor comparables because the subject property suffered from a poor state of repair whereas the comparables did not.
- f) The property has no rental value.

The Respondent's Submissions

7. The Respondent provided detailed submissions which reiterated the provisions of Schedule 12, Paragraphs 9 to 15 of the Rates (Northern Ireland) Order 1977 which provide for certain capital value assumptions. Those assumptions may be summarised as follows:
 - (i) That the property, if sold, was to be sold with vacant possession.
 - (ii) That title to the property is by way of Fee Simple or by way of long Lease.
 - (iii) That the property is sold free from any rent charge or other encumbrance.
 - (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.
 - (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 1st April 2007.
 - (vi) That Development value is not to be taken into account.
 - (vii) That the property has all the necessary statutory consents.
8. The Respondent in reply to the grounds of appeal pointed out the following:
 - a) That the relevant valuation date was the 1st January 2005.
 - b) That the Respondent had accepted the location of the property and made an adjustment in the sum of 10%.
 - c) That the Respondent had measured the property and the GEA, as detailed, was correct.
 - d) That water effluent which flowed across the yard was part and parcel of the location of the subject property on a working farm.
 - e) That the other comparables were in a much better state of repair was challenged on legal grounds (the assumptions referred to above) and factually, insofar as a 10% adjustment had been made for poor external repair.
 - f) That the potential rental value of the property is irrelevant.

Decision

9. In relation to the contention that the property is only worth £75,000, this ground of appeal can be dealt with summarily. As has been pointed out in numerous decisions of this Tribunal, the relevant date for assessment is the 1st January 2005. The value of the property at the time the valuer attends the site or when the appeal is made or when the appeal is heard are all utterly irrelevant. The justification for a reduction in value of a property due to the fact that it is present on a working farm is one which has long been established before the Northern Ireland Valuation Tribunal – see, for example, **Cowan –v- The Commissioner of Valuation (NI)**, 20th February 2013 (58/12). In this particular instance, the Respondent has reduced the value by 10% to take into account the location of the property and the fact it is in poor repair. There is nothing whatsoever in the submissions of the Appellant to challenge this reduction of 10%.
10. The reduction can be considered favourably with the agricultural allowance which Tribunal Member Wright considered in **case ref 31/15; Sawyers–v- The Commissioner of Valuation (NI)**,

"The historical background of the Agricultural Allowance has been described by Lord Justice Coghlin in *Commissioner of Valuation v Doherty* [2009] NICA 30: "historically, the policy of Land & Property Services ("LPS") has been to apply rate relief in the form of a percentage allowance to property that is considered to be a farmhouse in order to reflect the fact that the traditional farmhouse typically would be a large two storey detached house located beside a working farmyard and be surrounded by its farmland. Such a "holding" is considered to be an entity in itself

and could not be easily sold as separate lots. The assumption applied is that a prospective purchaser would bid less for such a house since they would be required to take on the land as well as the house. The relevant allowance also reflects the fact that living in a rural area comes with certain nuisance factors including noise, smell and traffic disruption to allow movement of animals or equipment. Such factors are reflected in the allowance of 20% which is applied to the capital value”

Under the agricultural lands the figure to be allowed is 20%, but this depends on the house being occupied in connection with agricultural land by a farmer. It would be wrong for the Tribunal in this instance to extend the 10% reduction applied by the Respondent to anywhere approaching 20% and this aspect of the Appellant’s claim is rejected.

11. In relation to the area rated, no contrary evidence was called by the Appellant and the Tribunal therefore readily accepts the evidence given by the Respondent.
12. In respect of the comparables, it is beyond peradventure that the three comparables at 96 Glenavy Road, 21 Glenavy Road and 75 Glenavy Road are of a better state of repair externally than the Appellant’s property. The Respondent has, however, given allowance for this and made an allowance of a further 10%. To the unadjusted capital value of £155,000, there must therefore be applied a discount of 20%. The Respondent has rounded this figure up from £124,000 to £125,000. Whilst it is appreciated that valuation is by no means a science, there does not appear to be any justification for an amendment upwards to £125,000. To an extremely limited extent, therefore, the Appellant’s appeal has been successful because the Tribunal orders that the list be amended to insert the capital value as being £124,000 rather than £125,000.

Signed Keith Gibson B.L. – Chair

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties – 25th May 2017