

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: NIVT 22/20

STEPHEN DIVER & WENDY DIVER - APPELLANTS
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James Leonard, President

Members: Mr C Kenton FRICS and Mrs N Wright

DECISION

The unanimous decision of the Tribunal is that the appellants' 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"). The appellants requested an oral hearing which was arranged in the matter, listed on 17 January 2022 at the Tribunals' Hearing Centre, Belfast, where a "hybrid" oral hearing of this appeal took place on that date, with the Chair attending the hearing remotely by WebEx and with the two other Tribunal panel members being present in person at the Hearing Centre. Both appellants appeared in person at hearing and the respondent's representative, Mr Gerard Fitzpatrick MRICS, attended by WebEx. The tribunal, consequent upon the hearing, requested from the respondent certain additional evidence and information to assist in decision-making. This request made to the respondent concerned additional evidence and information in relation to valuation issues pertaining to properties with

a variety of non-traditional roof coverings, comparing these to traditional tile/slate roofed properties in the same locality. This additional evidence and information was provided by the respondent and the contention was advanced that there was no evidence that an allowance was properly to be applied merely to reflect the fact that an alternative roof covering had been selected by the property owner or ratepayer. This evidence and information, as duly provided by the respondent, was then shared with the appellants who were afforded an opportunity to make further comments or submissions, which they did; the respondent then responded briefly to the latter. The tribunal has fully considered all evidence, information and submissions made available to the tribunal in the course of reaching a determination of this appeal.

2. The appellants, by Notice of Appeal (in Form 3) dated 22 December 2020, appealed in respect of a listed hereditament situated at 24 Lochinver Avenue, Hollywood BT18 0NQ (“the property”).

The Law

3. The relevant statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). As is now the case in all determinations of this nature, the tribunal does not intend in this decision fully to set out the detail of the statutory provisions of Article 8 of the 2006 Order, which amended Article 39 of the 1977 Order as regards the basis of valuation, for the reason that these provisions have been fully set out in many previous decisions of the Valuation Tribunal, readily available. All relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in the matter. Antecedent Valuation Date (“AVD”) is the date to which reference is made for the assessment of Capital Values in the Valuation List. Until a further domestic property revaluation occurs, Capital Values are, under the statutory regime, notionally assessed as at 1 January 2005, that being the AVD for the purposes of the domestic rating scheme. The legislation, at Schedule 12, paragraph 7 of the 1977 Order provides that the Capital Value of a hereditament shall be the amount which, on the assumptions mentioned (materially paragraphs 11 and 12 of Schedule 12, the details of which are mentioned below), 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. The relevant paragraphs of Schedule 12 include the following statutory assumptions, which provide that –

- The hereditament is sold free from any rentcharge or other incumbrance;
- 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; and
- The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date..

The Evidence and Facts

4. The Tribunal noted the documentation adduced in evidence, including evidence relating to the comparables (these being potentially comparable properties from which evidence of Capital Value may be drawn for statutory purposes) put forward in the matter. The Tribunal, further, noted the additional evidence and information provided in response to the Tribunal's request following the 17 January 2022 hearing. The Tribunal heard evidence and submissions from the appellants and from Mr Gerard Fitzpatrick MRICS, for the respondent. The Tribunal had before it the appellants' Notice of Appeal to the Tribunal (Form 3) and the following:-

- 4.1 The Valuation Certificate dated 26 November 2020 signed by the Commissioner of Valuation.
- 4.2 A document dated 24 June 2021 entitled "Presentation of Evidence" prepared on behalf of the Commissioner, as respondent, by Mr Gerard Fitzpatrick MRICS and submitted to the Tribunal.
- 4.3 Copy communications between the Tribunal and the respondent, following the 17 January 2022 hearing, requesting additional evidence and information.
- 4.4 A document consisting of a schedule of stated comparable properties setting out the property and some additional

properties, together with a location map, received in response to the Tribunal's request following the 17 January 2022 hearing.

4.5 Copy correspondence from the appellants in response to the additional evidence submitted by the respondent and the respondent's reply to this.

5. The property is located at 24 Lochinver Avenue, Holywood BT18 0NQ. A central issue emerging in this case relates to the contention made by the appellants, as this is stated in the appeal form by Mr Diver: *"My house was originally valued at £195,000. The original increase was due to an Extension. Two valuers confirmed that my house had no extension. However, they incorrectly measured my house and added an additional 13 square metres. On this basis they changed the valuation to 205,000. When I appealed this valuation, they confirmed there was a discrepancy and that the square metre of my house remained the same as original. Yet refused to amend back to my original value. They stated that my house was compared to other houses on the Street. I can confirm that there is no similar properties on my street. My bungalow has a flat roof"*. Accordingly, the initial appeal raised issues of assessment of Capital Value in the context of the comparative method of valuation.

6. The concluding remarks, in response to the additional evidence from the respondent, are stated by Mr Diver thus: *"Following your email I would just like to highlight a few points. I feel my home had the rateable value of £195,000 because it resembles nothing else on the street and my garage is part of my bungalow. All the other homes have detached garages. As [the Valuation Member] ...mentioned at the tribunal LPS have not considered the fact that I have sacrificed my garage to move the utility up to the same level as the bungalow and therefore my property has not changed as confirmed by LPS. I feel that an increase in my rates by LPS is unjustified and if there can be no reduction for my roof covering then surely my rates should not increase by £10,000 but return to the original price of £195,000."* Thus the appellants seek to emphasise the unique characteristics of the property which they contend have not been properly taken into account by the respondent in assessing Capital Value.

7. The Tribunal carefully explored at hearing (and also in the further assessment of any evidence and submissions received after the oral hearing) all of the available evidence concerning location and circumstances pertaining to the property. There was photographic evidence presented, as an annexure to the original Presentation of Evidence, and Mr Fitzpatrick was questioned by the Tribunal regarding that. There was further photographic evidence contained within the supplemental evidence as received from the respondent, together with location mapping. (Any references hereinafter are taken to refer to the first-named appellant, representing both appellants jointly).

8. The evidence on behalf of the respondent contained within the Presentation of Evidence sets forth the following material dates:-
 - 8.1 **14 December 2017**: a notification was received by Land and Property Services from Building Control advising of a garage conversion and alterations to the property.
 - 8.2 **5 June 2020**: The District Valuer issued a Valuation Certificate confirming that alterations to the property had been valued. Due to Covid-19 restrictions this was completed as a desk-based exercise. The Capital Value was increased from £195,000 to £210,000 with effect from 1 April 2021.
 - 8.3 **28 September 2020**: The appellants submitted an application to the District Valuer challenging the amended Capital Value of £210,000. On 14 October 2020 a Valuation Certificate was issued by the District Valuer confirming an amended Capital Value of £205,000.
 - 8.4 **5 November 2020**: The decision of the District Valuer was appealed to the Commissioner of Valuation. This resulted in a decision of no change and a Valuation Certificate was issued on 26 November 2020 confirming this outcome.
 - 8.5 **4 January 2021**: The appellants appealed the decision of the Commissioner of Valuation to the Tribunal.

9. In the Presentation of Evidence the property is described as being a privately built 1966 to 1990 detached bungalow, constructed circa 1970. The property is located in a suburban setting on the periphery of Holywood, approximately 6 miles from Belfast. The property extends to a Gross External Area (GEA) of 112 m² with an integral garage measuring 12.6 m². Mr Fitzpatrick states that he inspected the property in November 2020 and recorded a GEA of 112 m² for the main dwelling and 12.6 m² for the integral garage. Mr Diver explained that he had purchased the property for years before and had recently replaced the roof. During Mr Fitzpatrick's inspection he also noted that a section of the garage had been converted into habitable space to create a utility room.

10. Mr Fitzpatrick sought to respond to the specific grounds of appeal as follows: (1) historically the GEA of the property had been recorded as 100.35 m² with a garage of 20.13 m². The creation of the utility room had resulted in an increase in habitable space (GEA) and accordingly the GEA of the garage had decreased. (2) Mr Diver (on behalf of the appellants) was of the opinion that there were no comparable properties located on Lochinver Avenue. Mr Fitzpatrick, however, confirmed that there were a number of privately built 1966-1990 detached bungalows situated in close proximity to the property and the foremost appropriate comparables, so he contended, were detailed in the Presentation of Evidence Appendix, Schedule of Comparisons. (3) On inspection, Mr Fitzpatrick noted that the property had recently been fitted with a new roof. It was not of typical construction, however it was in a good state of repair and appeared to have been finished to a good standard. An allowance might be considered in circumstances where a property was in poor external repair owing to issues with the roof; however there was no evidence in the Valuation List that suggested an allowance was appropriate to reflect the existence of a flat or trol roof. Mr Fitzpatrick had included details of what he considered to be the most appropriate comparables in terms of age, character and location in the Appendix and it was accordingly his view that the existing Capital Value of £205,000 was fair and reasonable. The original Presentation of Evidence also set forth plans of the alterations made to the property and provided an internal photograph of the utility room. The Presentation of

Evidence also contained details of the following four properties (submitted as comparables), all located on Lochinver Avenue, in addition to the property:

8 Lochinver Avenue, Holywood BT18 0NQ, Holywood Ward, privately built 1966-1990 detached bungalow, built circa 1970, external repair average, GEA 104m², garage 15 m², located on the same street as the property, Capital Value £200,000.

2 Lochinver Avenue, Holywood BT18 0NQ, Holywood Ward, privately built 1966-1990 detached bungalow, built circa 1970, external repair average, GEA 105m², garage 15 m², located on the same street as the property, Capital Value £205,000.

1 Lochinver Avenue, Holywood BT18 0NQ, Holywood Ward, privately built 1966-1990 detached bungalow, built circa 1970, external repair average, GEA 129m², garage 23 m², located on the same street as the property, Capital Value £220,000.

13 Lochinver Avenue, Holywood BT18 0NQ, Holywood Ward, privately built 1946-1965 detached bungalow, built circa 1955, external repair average, GEA 111m², garage 17 m², slightly older property located on the same street as the property, Capital Value £210,000.

11. In response to a request for further evidence and information from the Tribunal, the supplemental evidence adduced by the respondent provided details concerning the following additional properties, with photographs and property details being provided, together with associated submission. The supplemental submission stated: "*LPS does not record the angle of roof pitch for individual properties within the Valuation List. However it is considered that the 5 properties detailed below have similarly low pitched roofs to that of the subject. These 5 properties also contain a mixture of traditional and non-traditional roof finishes*":

7 Gairloch Park, 1946-1965 detached bungalow, low pitched roof with non-traditional roof covering, GEA 106 m², garage 17 m², Capital Value £200,000.

20 Invergarry Avenue, 1946-1965 detached bungalow, low pitched roof with non-traditional roof covering, GEA 118 m², garage 16.6 m², Capital Value £215,000

24 Invergarry Avenue, 1966-1990 detached bungalow, low pitched roof with traditional tiled roof covering, GEA 96 m², garage 19 m², Capital Value £190,000

11 A Gairloch Park, 1946-1965 detached bungalow, low pitched roof with non-traditional roof covering, GEA 95 m², garage 25.4 m², Capital Value £200,000.

(There was one other property, presumably mistakenly described as being "11 A Gairloch Park", but references are clearly to a different property possessing different subject details and photographs. This latter was disregarded by the tribunal on account of being of no evidential assistance, on account of this error).

12. The respondent also introduced into evidence particulars of the following properties, with associated commentaries which are also mentioned:

39A Creevytenant Road, Ballynahinch, post-1990 detached chalet, 1.5 storey, brick/block construction with thatched roof, external repair average, rural location outside Ballynahinch, GEA 228.7 m², garage 56.1 m², outbuilding 43.8 m², Capital Value £260,000. The respondent's commentary made is that this property is a post 1990 detached chalet with a thatched roof covering and that there was no distinction in the level of Capital Value applied to each following.

60A Glasdrumman Road, Ballynahinch, post-1990 detached chalet, 1.5 storey, brick/block construction with tile or slate roof, external repair average, rural location outside Ballynahinch, GEA 232.4 m², Capital Value £250,000.

189 Belfast Road, Ballynahinch, post-1990 detached chalet, 1.5 storey, brick/block construction with tile or slate roof, external repair average, rural location outside Ballynahinch, GEA 234.4 m², outbuilding 80.5 m², Capital Value £250,000.

28 Glasdrumman Road, Ballynahinch, post-1990 detached house, 2 storey, brick/block construction with tile or slate roof, external repair average, rural location outside Ballynahinch, GEA 227 m², Capital Value £250,000.

13. The further commentary is made that both 82A Old Belfast Road and 94B Monlough Road are post 1990 detached bungalows with modern roof finishes. The three comparable properties referred to feature tiled or slate roof coverings. There is stated to be no distinction in the level of Capital Value applied to each.

82A Old Belfast Road, Saintfield, post-1990 detached bungalow, brick/block construction with roof recorded as "other modern finish" i.e. not traditional tile or slate, external repair average, rural location outside Ballynahinch, GEA 254m², outbuilding 130m², Capital Value £315,000.

94B Monlough Road, Saintfield, post-1990 detached bungalow, steel framed construction with roof recorded as "other modern finish" i.e. not traditional tile or slate, external repair average, rural location outside Saintfield, GEA 260m², outbuilding 51.9m², Capital Value £325,000.

84 Old Belfast Road, Saintfield, post-1990 detached bungalow, brick/block construction with tile or slate roof, external repair average, rural location outside Saintfield, GEA 254.6m², outbuilding 91m², Capital Value £330,000.

132 Lisburn Road, Saintfield, post-1990 detached bungalow, brick/block construction with tile or slate roof, external repair average, rural location outside Saintfield, GEA 227m², Capital Value £300,000.

159 Listooder Road, Saintfield, post-1990 detached bungalow, brick/block construction with tile or slate roof, external repair average, rural village location outside Saintfield, GEA 231m², outbuilding 54.8 m², Capital Value £300,000.

THE TRIBUNAL'S DECISION

14. The Tribunal has carefully noted the evidence, including the additional evidence provided following the initial hearing of the matter and the tribunal's subsequent request. The tribunal has also carefully noted the respective submissions made by both parties. There is now a reasonable body of evidence to assist in the tribunal's deliberations. The specific point of note which emerged as a consequence of the oral hearing and submissions made by the appellants related to the issue of the specific characteristics of the property with the low-pitched roof (determined by the valuer to be in good condition and a recent construction) and thus it was necessary to explore any additional evidence and information in relation to valuation issues relating to properties with a variety of non-traditional roof coverings, comparing these to traditional tile/slate roofed properties in the same locality. This additional evidence was determined by the tribunal to be quite helpful. The appellants' further response to that additional evidence has also been carefully noted.
15. In summary, for the respondent the argument is advanced that there is no evidence that an allowance was to be properly applied merely on account of the existence of a low-pitched roof or because of an alternative roof covering to traditional tile/slate roof finishes. From the evidence provided, that appears to be the case. Mr Fitzpatrick has helpfully clarified that a low-pitched roof in poor condition might attract an allowance, but not on the facts of this case, as the roof in question is in good condition.
16. The Tribunal's task is carefully to consider and to assess, in accordance with the statutory principles, all of the relevant evidence put forward in the case. Having conducted this task, the tribunal's considered assessment is that, taken in the round, there are no observed deficiencies or manifest errors in

the manner in which the assessment of Capital Value has been conducted in this case.

17. As the Tribunal has often observed, there is a statutory presumption contained within the 1977 Order, Article 54(3). Because of this, any valuation shown in a Valuation List with respect to a hereditament shall be deemed to be correct until the contrary is shown. In order to succeed in an appeal to the Tribunal, any appellants must either successfully challenge and displace that statutory presumption of correctness or perhaps the Commissioner's decision on appeal, objectively viewed, must be seen by the Tribunal to be so incorrect that the statutory presumption must be displaced and the Tribunal must adjust the Capital Value to an appropriate figure. The Tribunal, in assessing this appeal, saw nothing in the general approach taken to suggest that this has been approached for assessment in anything other than the prescribed manner, as provided for in Schedule 12 of the 1977 Order. This being so, as the appellants has not put forward any effective and persuasive challenge to the respondent's comparables nor any evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation, the presumption of correctness is not displaced.
18. For the avoidance of doubt and relating to the specific issues argued by the appellants, the tribunal's determination is that the Capital Value assessment has properly taken into account the internal restructuring of the property and the existence of the low-pitched roof covering, when taken in the context of any material available from the body of comparables evidence. The additional evidence has assisted the tribunal in reaching this determination.
19. For these reasons the Tribunal's unanimous decision is that the appellants' appeal cannot succeed and accordingly, the appeal is dismissed.

James Leonard

James Leonard, President
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 21 June 2022