

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

**CASE REFERENCE NUMBER: 38/14**

**JEFFREY McMINN**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chair: Ms. Monica McCrory**

**Members: Mr. Tin Hopkins FRICS and Mr. Alan Martin**

**Hearing 22<sup>nd</sup> June 2015**

**DECISION**

The unanimous decision of the tribunal is that the Commissioner of Valuation for Northern Ireland's Decision of Appeal 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").
2. The Appellant by Notice of Appeal dated 13<sup>th</sup> April 2015 appealed against the decision of the Commissioner on Appeal issued 8<sup>th</sup> September 2014 and effective from 21<sup>st</sup> May 2014 in respect of the valuation of a hereditament situated at 29 Mulnagore Road, Mulnagore, Cookstown BT80 9BS ("the property") wherein the Commissioner had amended the valuation list for the property to a figure of £240,000.

3. The parties to the Appeal had indicated that they were each content that the Appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Valuation Tribunal Rules (NI) 2007 and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

### **The Law**

4. The statutory provisions are set out 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 fully 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; these provisions have been fully set out in earlier decisions of the tribunal.

### **THE EVIDENCE**

5. The following documents were before the Tribunal;
  - Notice of Appeal dated 11<sup>th</sup> November 2014.
  - The Commissioner's Decision on Appeal issued 8<sup>th</sup> September 2014 and effective from 21<sup>st</sup> May 2014.
  - Respondent's "Presentation of Evidence" dated 13<sup>th</sup> April 2015.

### **The Facts**

6. On the basis of the information before it the tribunal determined the following facts upon the balance of probabilities. The property:-
  - is a detached bungalow of block construction
  - has a gross external area ("GEA") of 269.81m<sup>2</sup>
  - has a detached garage of 48.87m<sup>2</sup>
  - has four bedrooms and a bathroom and two half bathrooms
  - has oil fired central heating

The property was originally entered into the valuation list on 25<sup>th</sup> July 2014 with a capital value assessment of £250,000 but on appeal to the Commissioner of Valuation and after inspection this valuation was amended to £240,000 to bring it better into line with other properties in a similar state and circumstance.

### **THE APPELLANT'S CONTENTIONS**

7. The Appellant described his ground of appeal in the Form 3, Notice of Appeal, as the property valuation being too high in comparison to larger new houses within a 1.5-2 mile radius as he understood valuation was determined

by size and he put forward three comparables situate at 6 Tulnagall Road, Donaghmore, 10 Tulnagall Road, Donaghmore Road and 30 Tullyaran Road, Dungannon. The three properties were situate in the same ward as the Appellant.

### **THE RESPONDENT'S CONTENTIONS**

8. The Respondent's contention is that in arriving at the capital value figure, regard was had to assessments in the valuation list of properties considered comparable. These comparables are set out in a schedule to the Respondent's Presentation of Evidence and there are eight comparables in total. The Respondent contends the fact properties are in the same ward is not an indicator that houses are valued at the same level and the best comparables are those in the same state and circumstance and are very often closest in terms of physical location.

### **THE TRIBUNAL'S DECISION**

9. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner on appeal regarding capital value. In this case the capital value has been assessed at a figure of £240,000. On behalf of the Commissioner it has been contended that that figure is fair and reasonable in comparison to other properties; the statutory basis for valuation has been referred to and reference has been made to Schedule 12 to the 1977 Order in arriving at the assessment.
10. In these matters there is a statutory presumption that, on appeal, any valuation shown in a valuation list with respect to a hereditament (in this case the property) shall be deemed to be correct until the contrary is shown. Thus, any appellant must successfully challenge and displace the presumption of the correctness, otherwise the appeal will not be upheld.
11. Looking at the general approach taken by the respondent to the valuation of the property, the tribunal saw nothing to suggest that the matter had been dealt with in anything other than the prescribed manner provided for by Schedule 12 of the 1977 Order.
12. In determining this case, the tribunal will examine the essential issue of whether or not the appellant has put forward sufficient challenge to the Commissioner's schedule of comparables and advanced sufficient evidence or argument effectively to displace the statutory presumption of correctness in regard to assessment of capital value.
13. Dealing firstly with the schedule of comparables submitted by the Respondent the position would appear to be as follows:-

- (a) 31 Mulnagore Road, Cookstown. This is a detached house built 2007 and next door to the subject property. The GEA is larger than the subject property at 308.76 m<sup>2</sup> and the GEA of the garage similar in size at 47.10 m<sup>2</sup>. This property similarly has four bedrooms and one bathroom although it has the benefit of three half bathrooms with full amenities. This property has a capital value (unchallenged) of £260,000.
- (b) 6 Mulnagore Road, Cookstown. This is a 1.5 storey detached house built 2007. The GEA is smaller than the subject property at 255.51 m<sup>2</sup> and does not have a garage. This property similarly has four bedrooms and one bathroom although it has the benefit of three half bathrooms with full amenities. The capital value was challenged but remained unchanged at £210,000.
- (c) 33 Lisnagowan Road, Dungannon. This is a detached house built 2009. The GEA is similar than the subject property at 268.44 m<sup>2</sup> and smaller garage with GEA 29.05 m<sup>2</sup>. This property has four bedrooms and 1.5 bathrooms with full amenities. The property has a capital value (unchallenged) of £240,000.
- (d) 61 Lisnagowan Road, Dungannon. This is a detached chalet built 2006. The GEA is similar to the subject property at 270.40 m<sup>2</sup> and smaller garage with GEA 27.30 m<sup>2</sup>. This property has four bedrooms and one bathroom and two half bathrooms with full amenities. The property has a capital value (unchallenged) of £240,000.
- (e) 64a Cookstown Road, Dungannon. This is a detached chalet built 2008. The GEA is similar to the subject property at 273.35 m<sup>2</sup> and the garage larger with a GEA 63.40 m<sup>2</sup>. This property has five bedrooms and one bathroom and three half bathrooms with full amenities. The property has a capital value (unchallenged) of £255,000.
- (f) 33 Thornhill Road, Pomeroy. This is a detached house built 2007. The GEA is similar to the subject property at 273.86 m<sup>2</sup> and the garage smaller with a GEA 30.60 m<sup>2</sup>. This property has four bedrooms and one bathroom and one half bathroom with full amenities. The property has a capital value (unchallenged) of £240,000.
- (g) 32c Glencon Road, Dungannon. This is a detached chalet built 2008. The GEA is similar to the subject property at 276.56 m<sup>2</sup> and a larger garage GEA 81.70 m<sup>2</sup>. This property has four bedrooms

and one bathroom and one half bathroom with full amenities. The capital value was challenged but remained unchanged at £250,000.

- (h) 17 Mulnagore Road, Cookstown. This is a detached bungalow built 2008. The GEA is smaller than the subject property at 200.05 m<sup>2</sup> and there is no garage or rateable outbuilding. This property has four bedrooms and one bathroom and one half bathroom with full amenities. The property has a capital value (unchallenged) of £200,000.

14. The Appellant submitted that there were other relevant comparables as follows:-

- (a) 6 Tulnagall Road, Dungannon. This is a detached house built 2008. The GEA is similar to the subject property at 268.56 m<sup>2</sup> and a larger garage GEA 63.40 m<sup>2</sup>. This property has five bedrooms and one bathroom and one half bathroom with full amenities. The property has a capital value (unchallenged) of £215,000.
- (b) 10 Tulnagall Road, Dungannon. This is a detached house built 2008. The GEA is similar to the subject property at 270.96 m<sup>2</sup> and a larger garage GEA 59.60 m<sup>2</sup>. This property has four bedrooms and one bathroom and two half bathroom with full amenities. The property has a capital value (unchallenged) of £225,000.
- (c) 30 Tullyaran Road, Dungannon. This is a detached house built 2007. The GEA is larger than the subject property at 307.31 m<sup>2</sup> and a larger garage GEA 67.80 m<sup>2</sup>. This property has four bedrooms and one bathroom and three half bathroom with full amenities. The property has a capital value (unchallenged) of £220,000.

15. The Tribunal accepted the Respondent's contention that the fact properties are located in the same ward is not a consideration taken into account when assessing capital valuation. The question for the Tribunal was essentially which of the differing comparables before the Tribunal were the most persuasive in assessing the capital value.

16. The tribunal considered and made an assessment of the usefulness or otherwise of the evidence concerning potentially comparable properties. The properties presented by the parties were similar in size, age and type of construction. The Tribunal then looked at the location of the comparables on the maps attached to the Respondent's Presentation of Evidence. It would have been helpful to have had one map showing all comparable properties

for ease of comparison rather than as in this case one map showing the location of the Respondent's comparables and another map showing the location of the Appellant's comparables.

17. The Tribunal considered the most useful comparables to be:-

- (a) 31 Mulnagore Road, Cookstown : this is closest in proximity to the property as it is situated next door. The garage and facilities are similar to the property and although the house has a larger GEA this is reflected in the higher capital valuation of £260,000.
- (b) 6 Mulnagore Road, Cookstown: in close proximity to the property and similar in size but without the benefit of a garage. The Tribunal considered the £30,000 disparity in the capital value assessment in the properties was reflective of the substantial garage (GEA 48.87 m<sup>2</sup>) on the property.
- (c) 33 Lisnagowan Road, Dungannon: in close proximity to the property and similar in size but with a smaller garage (GEA 27.30 m<sup>2</sup>) with the same unchallenged capital value of £240,000.

18. The other eight comparables advanced by the Respondent and the three comparables presented by the Appellant were considered less persuasive given their location and distance from the property. It is however noted by the Tribunal that two tones appear to have developed in respect of properties situated in a relatively small geographical area. No explanation is given for the lower capital value assessment of 30 Tullyran Road, Dungannon. It may be that Land & Property Services would give consideration to this to bring the two tones into line with each other.

19. It is the Tribunal's unanimous decision having examined all of the evidence that the Appellant has not displaced the statutory presumption that the valuation shown in the valuation list in respect of the subject property shall be deemed to be correct until the contrary is shown. Accordingly the tribunal's unanimous decision is that the Commissioner's Decision on Appeal issued 8<sup>th</sup> September 2014 is upheld and the appeal is dismissed.

**Ms Monica McCrory, Chair**  
**Northern Ireland Valuation Tribunal**  
**Date decision recorded in register and issued to parties**