

**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: 9/15

BETWEEN:

MISS JOSEPHINE WRAY

Appellant:

-and-

THE COMMISSIONER OF VALUATION

Respondent:

**NORTHERN IRELAND VALUATION TRIBUNAL
CHAIRMAN: MR KEITH GIBSON B.L.
MEMBERS: MR GARRY McKENNA MR HUGH MCCORMICK**

**Date of hearing: 25TH November 2015
Belfast**

THE SUBJECT PROPERTY

The subject property has an address at 56 Slane Road, Carnlough, Co Antrim, BT44 0LF. The property is located in a rural setting comprising a detached bungalow built in or about 2013, some 0.5 miles south from the junction of the Slane Road and the Carnlough Road and approximately 3 miles south west of Carnlough village. The property has a GEA of 167.90m² and notably, in the context of this appeal, does not have a garage, whether attached or separate or distinct from the dwelling. On the 4th March 2015 the property was entered into the Domestic Valuation List with a capital value of £175,000, effective from the 1st February 2015 for rates bill purposes. On the 24th March 2015 an appeal to the Respondent was made by the Appellant seeking that the capital valuation be revised. The Respondent issued its decision was issued on the 13th April 2015 and on the 9th May 2015 the Appellant appealed to this Tribunal.

THE APPELLANT'S APPEAL

The Appellant's Notice of Appeal submitted, inter alia, that:

1. The current valuation was too high.
2. The valuation did not reflect the construction cost, market value or facilities provided by the Council (the Appellant pointing out that there was no street lighting, mains sewer or road gritting and only sporadic bin collection).
3. That other bungalows in the area supported her contention that the value was closer to £155,000. The Appellant provided a number of comparables. Of those comparables, it is possible to collate them into the following addresses:
 - (i) Nos 3 and 6 Hillview Park, Drumacool, Carnlough, Ballymena.

- (ii) Nos 6, 26 and 26A Killycarn Road, Ballymena, BT42 4LY.
 - (iii) 115 Bay Road, Carnlough, Ballymena.
 - (iv) 70 Ballymena Road, Carnlough, Ballymena.
 - (v) 5 Longmore Road, Ballymena.
- (All of the above were described by the Appellant as having a house and garden.)

And further addresses which the Appellant contended had a house, outbuildings and garden, namely:

- (i) Nos 1, 2, 4, 5 Hillview Park, Drumacool, Carnlough.
 - (ii) 2 Galdanagh Road, Carnlough.
 - (iii) 17A Killycarn Road, Ballymena.
 - (iv) Nos 87, 89, 91 and 113 Bay Road, Carnlough.
 - (v) 548 Ballyvaddy Road, Glenarm.
4. The properties which had a house and garden referred to above, ranged in size from 88.83m² - 286.94m² with a comprising range of rateable values of £80,000 - £250,000.
5. In respect of the properties that had a house, outbuildings and garden, the size of the properties ranged from 100.6m² - 217.6m² with an associated range in value from £110,000 - £210,000.

THE RESPONDENT'S SUBMISSIONS

The Respondent highlighted that the basis of the valuation (which is dealt with below) had been explained to Mrs Wray (prior to the Appeal process) and that the date of valuation for domestic properties is the 1st January 2005. The Respondent identified a total of six comparables, namely:

- (i) 119 Ballymena Road, Carnlough, Co Antrim, BT44 0LA, a property with a GEA of 166m², being a detached bungalow built in 2000 with a rateable capital value (all references hereinafter to 'value' are to the rateable value) of £175,000 (it was acknowledged that in utilising this comparable the property had a garage which had not yet been assessed).
- (ii) 93 Ballyvaddy Road, Glenarm, Antrim, BT44 0BY, a property with 160.40m² GEA, being a detached bungalow built in 1987 with a capital value of £165,000.
- (iii) 8 Doonan, Carnlough, Antrim, BT40 4LE being a detached bungalow with a GEA of 137m² with a garage of 61.50m² being a detached bungalow built in 2010 with a capital value of £160,000.
- (iv) 147 Ballymena Road, Carnlough, Co Antrim, BT44 0LA being a property with a GEA of 144.10m² being a chalet bungalow built in 1992 with a capital value of £155,000.
- (v) 15 Curragh Hill, Carnlough, Co Antrim, BT44 0JB being a property with a GEA of 186.16m² being a bungalow built in or around 2002 with a capital value of £195,000.

- (vi) 98 Croft Road, Carnlough, Co Antrim, BT44 0JX being a property with a GEA of 157.4m² with outbuildings of 72.6m² being a detached bungalow built in 1984 with a capital value of £170,000.

THE TRIBUNAL'S FINDINGS

The comparables identified by the Appellant may be divided into the following categories:

1. Hillview Park

The properties identified by the Appellant in this bracket are not suitable as comparators. The properties exist in an established residential development or estate, separate and distinct from the location and surroundings of the subject property. Although the property is of a similar size and similar capital value, the properties are of little use as comparables for the reasons set out above.

2. 115 Bay Road, Carnlough.

Unlike the subject property, this property was constructed in or about 1930 and again though a similar size, is not of any direct or immediate benefit as a comparable given that the subject property is of recent and very different construction. In the absence of better comparables it may well have been worthy of further consideration but this was not the case.

3. 70 Ballymena Road.

This is a property of considerably less size than the subject property and of considerably less capital value. It was also constructed prior to 1919 and again is of even less value as a comparable than that of 115 Bay Road.

4. Longmore Road, Ballymena.

This property was of considerably greater size than the subject property being some 286.94m² with a considerably greater capital value. Its date of construction, which was some time post-1990, also made it of limited value as a comparable.

5. 6, 26 and 26A Killycarn Road.

These properties are situated some distance away from the subject property and again are all of much greater size and value than the subject property. They have little or no value as comparables.

6. 1, 2, 4, 5 Hillview Park.

The same comments in respect of these properties apply as per the previous properties reviewed in Hillview Park.

7. 2 Galdanagh Road, Carnlough.

Whilst of a similar size and capital value, the date of construction of this property was in or about 1968, whilst the age of the property indicated against its use as a comparable, both its size and capital value and location allowed it to be of some use as a comparable. Although not identified by the Respondent as a comparable, the Tribunal is satisfied that there is some merit in consideration of this property. The property itself is of a smaller size than the subject property, 167.90m² for the subject property and 134m² habitable space and 28.10m² of garage for this property. The total rateable space for this comparable is circa 162.10m², however, the habitable space is 134m². Taking into account the difference in size, when compared to the difference in valuation the comparison in the capital value of the subject property is not displaced by use of this property as a comparable, and indeed it supports the Respondent's case regarding capital values (and the corresponding tone of the list), rather than that of the Appellant.

8. 17A Killycarn Road, Ballymena.

This property is located some distance away and so caution must be applied in relation to its use as a comparable. Given the existence of other more suitable comparables it can be discounted.

9. 87, 89, 91 and 113 Bay Road, Carnlough.

These properties were all constructed in or about 1930 and are of considerably less size and value than the subject property. They have limited or no value as comparables.

10. 48 Ballyvaddy Road, Glenarm.

Again, this was a property constructed pre-1990 with habitable space of 132m² and a capital value of £135,000. Again, whilst the age of the property, which was constructed in or around 1977, mitigates against its use as a comparable, the capital value of £135,000, when compared with the habitable space of 132m², does not suggest that it supports the Appellant's contention that her property has not been valued correctly.

THE HEARING

The matter was heard on the 25th November 2015 by way of written submissions only. As set out above, the Tribunal considered the various comparables and reminded itself of its jurisdiction pursuant to 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). Material to the case, Articles 7 and 8 of the 2006 Order amended Article 39 of the 1977 Order (the basis of valuation) as follows:

"Capital value — general rule

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

Capital value — the assumptions

8. In this paragraph and paragraphs 9 to 15—

“development” has the meaning given by Article 2(2) of the Planning Order;

“flat”, in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building;

“incumbrance” means any incumbrance, whether capable of being removed by the seller or not, except service charges;

“permitted development” means development for which planning permission is not required or for which no application for planning permission is required;

“Planning Order” means the Planning (Northern Ireland) Order 1991 (NI 11);

“planning permission” has the meaning given by Article 2(2) of the Planning Order;

“rentcharge” has the meaning given by section 27(1) of the Ground Rents Act (Northern Ireland) 2001 (c. 5).

9. The sale is with vacant possession.

10. The estate sold is the fee simple absolute or, in the case of a flat, a lease for 99 years at a nominal rent.

11. The hereditament is sold free from any rent charge or other incumbrance.

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.

(3) In sub-paragraph (2) “relevant date” means 1st April 2007 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.

13. The hereditament has no development value other than value attributable to permitted development.

14. —(1) A hereditament falling (or deemed to fall) within any subparagraph of Article 39(1A) will always fall within that subparagraph.

(2) A hereditament falling (or deemed to fall) within paragraph (1 B) of Article 39 will always fall within that paragraph.

15. —(1) There has been no relevant contravention of—

(a) any statutory provision; or

(b) any requirement or obligation, whether arising under a statutory provision, an agreement or otherwise.

(2) In sub-paragraph (1) ‘relevant contravention’ means a contravention which would affect the capital value of the hereditament.”

The 2006 Order also amended the 1977 Order (regarding appeals) as follows:

For the purposes of assessment the relevant capital valuation date is the 1st April 2005. Paragraph 7(2) of the Order makes clear that, 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 has been revised (“the tone of the list”).

Decision

The comparables put forward by the Respondent and the relevant comparable put forward by the Appellant, all went to establishing the tone of the list. There have been no challenges to any of the capital valuations in respect of the comparables identified by the Tribunal (those of the Respondent and the 1 relevant comparable attributed to the Appellant) and the Tribunal is therefore satisfied that the tone of the list has been well set.

For a new build bungalow with a GEA of circa 160m², the capital value was in or around £170,000 - £180,000 with the comparator which the Tribunal took greatest comfort from being that of 93 Ballyvaddy Road, Glenarm, being a property of

160.40m², a detached bungalow built in 1987 with a capital value of £165,000. The Appellant's property is larger and of a newer construction, and a corresponding increase in its capital value appears proportionate and in line with the statutory assumptions outlined above.

The capital value of £175,000 is therefore reflective of the capital value of the property at the relevant time, reflective of the tone of the list and the appeal must be dismissed.

**Keith Gibson Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: 7th January 2016