

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: 12/18

RICHARD MCCLELLAND – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O’Neill

Members: Mr H McCormick FRICS and Ms Angela Matthews

Date of hearing: 3 September 2019, Belfast

DECISION

The unanimous decision of the tribunal is that the Decision of the Commissioner of Valuation for Northern Ireland is upheld and the appellant’s appeal is not allowed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). Both parties were content that the matter be dealt with on the basis of written representations.
2. The appellant by Notice of Appeal appealed against the decision of the Commissioner dated 13 June 2018.
3. This appeal is in respect of the valuation of a hereditament situated at 1 Crossnadonnell Road, Limavady, BT49 0BD (“the subject property”).

The Law

4. The statutory provisions are to be found 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 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, as these provisions have been fully set out in earlier decisions of this tribunal. All relevant statutory provisions were fully considered by the tribunal in arriving at its decision in this matter.

The Evidence

5. The tribunal had before it the following documents:
 - (a) The Commissioners Decision dated 13 June 2018;
 - (b) The appellants’ Notice of Appeal received by the tribunal office on 11 July 2018;
 - (c) A document entitled ‘Presentation of Evidence’ dated 3 January 2019 and prepared on behalf of the respondent Commissioner by Mr Rory O’Brien MRICS and submitted to the tribunal for the purposes of the hearing;
 - (d) Submission by the appellant in respect of the Presentation of Evidence;
 - (e) Email from the respondent dated 9 April 2019;
 - (f) Submission from the appellant.

The Facts

6. The subject property consists of a privately built detached bungalow situated at 1 Crossnadonnell Road, Limavady, BT49 0BD (“the subject property”). The property was built about 2003. The property has habitable space of 262m² and a garage of 45m².

The Appellant's Submissions

7. The appellant submits that the capital valuation of the property is incorrect and that the correct valuation should be £215,000. He relies on several grounds to assert this as outlined in the paragraphs below.

8. By way of background the appellant indicated that the subject property was built in or around 2001-2002 but was never finished to a habitable stage until 2015 when it was bought by a local builder who finished the dwelling. The appellant purchased it in May/June 2016. The appellant states that prices have dropped significantly since January 2005 rates.

9. The appellant indicated that the owner of 23 Crossnadonnell Road, had their property on the market for £475,000. This is a property which is 301m² in size and has a capital valuation of £230,000. This is 39m² bigger than his property. This is in contrast to his home which he bought for £265,000. Therefore, there is a significant price difference between the valuation of this property and the subject property.

10. The appellant made submissions relating to other properties he suggested were larger than his own on the same road and postcode examples of which were as follows:

Address	Size (m ²)	Capital value (£)	Comments by the appellant reference the subject property
17 Crossnadonnell Road,	269	205,000	13m ² larger
19 Crossnadonnell Road,	272	205,000	16m ² larger
23 Crossnadonnell Road,	301	230,000	45m ² larger
25 Crossnadonnell Road,	260	220,000	4m ² larger
27 Crossnadonnell Road,	266	200,000	10m ² larger
31 Crossnadonnell Road,	299	215,000	43m ² larger
1 Crossnadonnell Park,	277	215,000	21 m ² larger

11. The appellant also referred to nearby properties on Newton Road, Limavady which the appellant states is convenient to and directly beside Crossnadonnell Road, Limavady. The property details referred to were as follows:

Address	Description	Size (m ²)	Capital value (£)
45 Newton Road	House	163	140,000
47 Newton Road	House	163	140,000
51 Newton Road	Bungalow	164	140,000
53 Newton Road	Bungalow	150	140,000

The appellant uses these to argue that all these four properties are similar in size, all detached properties with a garage and are on the same road and in the same postcode and that therefore there is no difference between bungalows and houses in Newton Road.

12. The main contention of the appellant is that the respondent is only taking into account bungalows convenient to his property. He feels that other types of properties should be taken into account and that he is being discriminated against because his property happens to be a bungalow. He argues that published material by the respondent does not mention any difference being taken into account between a house and a bungalow as it only refers to domestic dwellings.

The Respondent's Submissions in relation to comparable properties

13. The Commissioner's Presentation of Evidence to the tribunal is that in deciding the capital value of the property regard was had to capital values in the valuation list of comparable hereditaments in the same state and circumstances. Details of these comparable properties were set out in a schedule to the Presentation of Evidence dated 3 January 2019, with further particulars of same, including in some instances photographs of the comparable properties. Four comparables were referred to in total. These were capital value assessments, the details of which are as follows:

- (a) The first comparable referred to was 3 Crossnadonnell Road, Limavady. This is a detached privately built post 1990 bungalow. It has habitable

space of 246m² and a garage of 46.8m². The assessed Capital Value is £225,000.

(b) The second comparable referred to was 8 Crossnadonnell Road, Limavady. This is a detached privately built post 1990 bungalow. It has habitable space of 235m² and a garage of 32m². The assessed Capital Value is £215,000.

(c) The third comparable referred to was 2 Crossnadonnell Road, Limavady. This is a detached privately built post 1990 bungalow. It has habitable space of 224m² and a garage of 42m². The assessed Capital Value is £210,000.

(d) The fourth comparable referred to was 5 Crossnadonnell Road, Limavady. This is a detached privately built post 1990 bungalow. It has habitable space of 229m² and a garage of 44m². The assessed Capital Value is £210,000.

(e) The fifth comparable referred to was 4 Crossnadonnell Road, Limavady. This is a detached privately built post 1990 detached chalet. It has habitable space of 236m² and a garage of 56m². The assessed Capital Value is £210,000.

14. In relation to the submission by the appellant in relation to the issue between the capital valuation of houses and bungalows the respondent indicated that it is considered that the best comparable evidence in respect of the subject property is of other properties considered to be in the same state and circumstances i.e. bungalows rather than houses, as evidence indicated that the property market may differentiate between these house types. The respondent considered that the comparables forwarded by the appellant were not in the same state and circumstances as the subject and he did not propose to place any weight or merit to the comparable evidence submitted by the appellant.

The Tribunal's Decision

15. Article 54 of the 1977 Order enables a person who is dissatisfied with the Commissioner's valuation as to capital value to appeal to this tribunal. In this case the capital value has been assessed at a figure of £230,000. On behalf of the Commissioner it has been contended that this figure is fair and reasonable in comparison to other properties. The appellant's contentions are as stated above and the appellant contends in the written appeal that the proper valuation should be £215,000.

16. It is appropriate to remember that there is a statutory presumption in Article 54(3) of the 1977 Order in terms that "On an appeal under this Article, any valuation shown in the valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown." It is therefore up to the appellant in any case to challenge and to displace that presumption, or perhaps for the Commissioner's decision to be self-evidently so manifestly incorrect that the tribunal must amend the valuation.

17. The general rule as to the basis of the value to be taken into account is contained in article 7(1) of the 1977 Order (as amended) in that

"(a) Subject to the provisions 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.

(b) 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."

18. The relevant capital valuation date is 1 January 2005.

19. In relation to the comparable properties, the tribunal has considered carefully the evidence put forward by the appellant and the respondent. The appellant in referring

to his comparables in Crossnadonnell Road does not state if these are houses or bungalows but one can assume that they are houses as the respondent in the Presentation of Evidence indicates that it did not consider these to be relevant comparables as they are not in the same state and circumstance as the subject property. It would have been helpful for the respondent in the Presentation of Evidence or elsewhere to amplify their position to the appellant in respect of this issue.

20. The appellant refers to the fact that the owner of the property at 23 Crossnadonnell Road was given an offer of £400,000 for this property (habitable space 301m²) whereas the appellant bought the subject property for £265,000 (habitable space 262m²). However it must be remembered that the proper basis for valuation is the amount (subject to the statutory assumptions) that the property 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 (1 January 2005).

21. In relation to the comparable evidence the tribunal finds that the best comparable is 3 Crossnadonnell Road, Limavady. It is a privately built post 1990 bungalow with habitable space of 246m² and a garage of 46.8m². It is in a similar state and circumstance to the subject. It is directly neighbouring the subject albeit that it is smaller than the subject. It has a capital valuation of £225,000.

22. This is also supported by 8 Crossnadonnell Road, which is smaller than the subject and has a capital valuation of £215,000.

23. The capital valuation of the subject is also supported by the valuation of 2 Crossnadonnell Road at £210,000.

24. The tribunal is less persuaded by the comparables mentioned by the appellant in the Newton development.

25. The tribunal has based its decision on the fact that regard has to be taken to the capital values in the valuation list of comparable hereditaments in the same state and

circumstances, it does not require to consider the question as to whether in general there is a difference in the valuation of houses to the valuation of bungalows.

26. The decision therefore is that the appellant has not provided sufficient evidence to displace the presumption of correctness of the valuation list and therefore the unanimous decision of the tribunal is that the capital valuation of the subject property at £230,000 is correct and that the appeal by the appellant is dismissed.

27. The tribunal is very grateful to both the appellant and the respondent for the skilfully prepared written presentations to the tribunal in this matter.

**Signed - Mr Charles O'Neill - Chairman
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to the parties: 10 October 2019