

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED)
AND THE VALUATION AND TRIBUNAL RULES (NORTHERN IRELAND) 2007
Case Reference: 34/15**

BETWEEN:

PATRICIA GRIMES - APPELLANT

-and-

**THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -
RESPONDENT**

**NORTHERN IRELAND VALUATION TRIBUNAL
CHAIRMAN: MR KEITH GIBSON B.L.
MEMBERS: MR PHILIP MURPHY FRICS; MS NOREEN WRIGHT**

INTRODUCTION

1. This appeal, by way of written submissions only, took place on the 20th July 2016.
2. The Appellant is the owner of property situate at 15 Ashgrove Lodge, Portadown, a privately built three bedroom terraced house constructed in or about 2009. The house itself is part of an estate which has been the subject of some problems occasioned primarily by the insolvency of the developer, which resulted in the developer entering into administration. The problems present on site were further exacerbated by the subsequent purchaser from the Administrator himself entering into bankruptcy and there can be no doubt that the development of the estate has been adversely affected by these financial problems.
3. The property was first entered into the valuation list on the 21st February 2014 with a capital value of £87,500. Notification of the decision was not issued to the Appellant until the 19th October 2015 and the Appellant thereafter exercised her statutory right of appeal pursuant to the Rates (NI) Order 1997 (As Amended).

GROUND FOR APPEAL

4. The Appellant's grounds for appeal may be summarised as follows:
 - (i) The development was not completed until September 2015 and prior to that date the roads were incomplete with raised manholes, cracked and broken pavements and walkways. In addition, there was no street lighting.
 - (ii) The property which she purchased was of poor quality construction.
 - (iii) There were ongoing problems regarding the walkways around the property which are not covered by the Building Warranty.
 - (iv) The sewerage systems were/are insufficient.
 - (v) The front of the property is subsiding and / or cracked which, in turn, has led to an infestation of rodents.

THE RESPONDENT'S SUBMISSIONS

5. 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.
6. The Respondent also, in interpreting the grounds of appeal, took into account the provision for a temporary reduction in the capital value due to the unfinished nature of the estate. Notably, the Respondent provided a number of photographs, namely those contained in Appendix 1 to the Respondent's statement of case, photographs 2 and 3 showing the state and condition of the property on the 8th August 2015. Copies of the aforementioned photographs can be found appended to this decision at Appendix A.

DECISION

7. It is common case between both Appellant and Respondent that the site was completed in its entirety in or around September 2015. In or around the 8th August 2015 the condition of the site appears to be that it was substantially complete, that the majority of the houses had been constructed and that the roads had been, at the very least, base-coated with lighting poles in place and in certain areas there were raised manholes, indicating that, not only was the basecoat in place, but also an intermediate coat was present with only the application of the final coat to be applied. The condition of the pavements appears also to be substantially complete and the impression, as conveyed from the photographs, is that the estate in August 2015 had been completed or was in the very final stages of completion.

TRIBUNAL'S FINDINGS

8. In relation to the grounds proffered by the Appellant as justifying a reduction in capital value, each and every one is unmeritorious. The Appellant has produced no evidence to suggest that the capital value is incorrect by way of expert evidence from a valuer and does not herself suggest what the appropriate capital value should be. A number of comparables were identified by the Respondent including:
 - (i) Number 25 Ashgrove Lodge, Portadown, a townhouse with an identical gross external area, number of bedrooms and capital value to the subject property.
 - (ii) Number 17 Ashgrove Lodge, Portadown – again a three bedroomed semi-detached or townhouse property with a GEA of 117 m² with a capital value of £92,500.
 - (iii) Number 23 Ashgrove Lodge, Portadown – a property identical to number 17 Ashgrove Lodge, Portadown.

- (iv) Number 13 Ashgrove Lodge, Portadown, a property which again is part of the as-built estate with a GEA of 117m², three bedrooms but having a slightly different layout, more in line with the moniker “semi-detached”.

DECISION

9. Schedule 12 of the 1977 Order indicates that “*regard shall be had to the capital of the house and the valuation list of comparable hereditaments in the same state and circumstances.*” In the absence of any obvious direct comparables, it may well be appropriate to seek out comparables of differing sizes and make appropriate adjustment. This is however an unnecessary exercise in this particular instance as the comparables identified by the Respondent all were within an extremely tight range.
10. The Respondent, quite rightly, in the view of the Tribunal, places significant reliance on the sufficiency of these comparables, as comparables. They are all properties within a short distance of the subject property, are of similar size, age, nature and type of construction. The Tribunal finds, as a matter of fact, that the tone of the list is well settled and on that basis the Respondent finds, pursuant to Schedule 12 Part 1, Paragraph 2(1), that the tone, as aforementioned, is settled. No comparables have been provided by the Appellant, and the duty and obligation is on the Appellant, pursuant to Article 54(2) to demonstrate that the capital value is incorrect. This, she has failed to do.
11. The issue regarding a temporary reduction which, on the face of the facts as presented on this appeal, must only be between February 2014, being the date of admission to the list, and September 2015, when it is acknowledged the development was complete, has been the subject of consideration in the case of **Paul Trimble and Sonia McCusker –v- Commissioner of Valuation for Northern Ireland** (Case Reference 33/11) and **McGarvey –v- Commissioner of Valuation for Northern Ireland** (Case Reference 43/13). The decision of **Trimble and McCusker –v- Commissioner of Valuation for Northern Ireland** made clear that Land & Property Services had the power and discretion to take into consideration the aspects of the economic downturn which gave rise to estate developments remaining unfinished. Internally the policy of the Land & Property Services was to allow for a reduction in capital value where:
- (1) The builder had gone into administration (or presumably some other insolvency event) and was no longer able to complete the works or adding sufficient cash flow to do so. A perceived rule of thumb was some 12 – 18 months of development ceasing.
 - (2) Where the inhabitants of the estate had made attempts to exhaust all avenues of redress or resolution of the impasse.
 - (3) The majority of the site had not been developed leaving large areas of derelict land and / or many unoccupied houses.
12. The grounds and rationale for such a policy appear clear and have been cited with approval in the aforementioned decisions. The fact that the estates or development is unfinished and in a derelict state, naturally leads to a reduction in the capital value and the reasoning appears clear and unarguable. In order to justify such a temporary reduction, however, it is necessary to establish that the estate or condition of the estate is such that it would lead to a capital reduction. The onus and burden of proof, quite obviously, is on the Appellant to justify why such a reduction in capital value is made out. Here the Appellant has failed to do so. The best evidence of the state and

condition of the estate came, not from the Appellant, but from the Respondent and the evidence which was produced tended towards the view that the estate was substantially complete. There was nothing in the factual evidence as presented which would give rise to the conclusion that the estate was in such poor condition that it would lead to a reduction in capital value.

DECISION

13. It is therefore the unanimous decision of the Tribunal that the appeal be dismissed.

Keith Gibson – Chair

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 5 August 2016

Appendix 1 - Photographs

Photograph 1
Aerial view showing layout of the development



Photograph 2



Photograph 3
Showing raised man hole at entrance to the development



Taken During District Valuer's
Inspection – Whilst very advanced
some limited work remains to be
completed

Photograph 4



Taken During Appeal Inspection –
Shows work had been completed

Photograph 5



Taken During Appeal Inspection –
Shows work had been completed

Photograph 6



Taken During Appeal Inspection –
Shows work had been completed

Photograph 7



Photograph 8

