

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: 48/13

Peter McAree and Angela Bassett – APPELLANTS

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O'Neill

Members: Mr David McKinney FRICS and Dr Peter Wardlow

Date of hearing: 29 May 2015, Belfast

DECISION

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

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order"). There was no appearance before the tribunal by or on behalf of the appellant and the respondent, both parties being content to rely on written representations.
2. The appellant by Notice of Appeal appealed against the decision of the Commissioner dated 4 February 2014.
3. This appeal is in respect of the valuation of a hereditament situated at 121 Upper Dunmurry Lane, Dunmurry, Belfast, BT17 0EP ("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 heard no oral evidence. The tribunal had before it the following documents:
 - (a) The Commissioners Decision dated 4 February 2014;
 - (b) The appellant’s undated Notice of Appeal;
 - (c) A document entitled ‘Presentation of Evidence’ dated 18 September 2014, prepared on behalf of the respondent Commissioner by Mr James Martin and submitted to the tribunal for the purposes of the hearing;

The facts

- (1) The property is a privately built two storey house built in the inter war era (approximately 1930). It has oil fired central heating, double glazed windows and mains water and electricity. The accommodation on the ground floor comprises two reception rooms and a kitchen. On the first floor there are four bedrooms and a bathroom. It has a gross external area (GEA) of 244m². It has an additional separate building of 86m² at the side which is a former dental surgery and which is currently being treated as part of the domestic property. The capital value has been assessed at £310,000.
- (2) The matter was listed for hearing on 16 January 2015. On that date the tribunal adjourned the matter to enable clarification that the former dental surgery did fall within the jurisdiction of the Northern Ireland Valuation Tribunal.

The respondent's submissions

6. 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 18 September 2014, with further particulars of same, including photographs of the comparable properties. Five 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 119 Upper Dunmurry Lane, Belfast. It has a detached house and garage built during the inter war period. It has a gross external area of 168m² and a garage of 28m². The assessed Capital Value is £210,000. There is no sales evidence for this property.
 - (b) The second comparable referred to was 19 The Green, Dunmurry. It has a detached house and garage built during the inter war period. In the Presentation of Evidence it is stated to have a gross external area of 240.8m², outbuildings of 16.5m² and a garage of 19.2m². However in the schedule to the Presentation of Evidence it is stated to have a gross external area of 240.8m², and a garage of 16.5m². The assessed Capital Value is £380,000. There is no sales evidence for this property.
 - (c) The third comparable referred to was 28 Upper Green, Dunmurry, Belfast. It has a detached house and garage built in the inter war period. It has a gross external area of 226.6m² and a garage of 20.9m². and outbuildings with an area of 17.5m². The assessed Capital Value is £350,000. There is no sales evidence for this property.
 - (d) The fourth comparable referred to was 4 The Green, Dunmurry, Belfast. It has a detached house and garage built in the inter war period. It has a gross external area of 215m² and a garage of 14m². The assessed Capital Value is £350,000. There is no sales evidence for this property.

- (e) The fifth comparable referred to was 31 The Green, Dunmurry, Belfast. It has a detached house and garage built in the inter war period. It has a gross external area of 214m² and a garage of 18m². and an outbuilding with an area of 19m² The assessed Capital Value is £350,000. There is no sales evidence for this property.

In passing the tribunal notes that it would be helpful if in the Appendix to the Presentation of Evidence reference was made to the subject property in addition to the properties referred to as comparables.

7. The respondent considered that based on comparable properties referred to in the Presentation of Evidence the existing capital valuation of £310,000 was fair.
8. In relation to the issue as to whether the former dental surgery is part of a dwelling-house for the purposes of the 1977 Order, the respondent confirms that the former dental surgery with the dwelling-house form part of one hereditament in the ownership of the appellants. Reference was made to schedule 5 to the Rates (NI) Order 1977 which states that a hereditament shall not be deemed to be used otherwise than wholly for the purposes of a private dwelling by reason that it includes a garage, outbuilding... or other appurtenance.

The appellant's submissions

9. The appellants submit that the capital valuation of the property is incorrect. They state that the comparables are situated in a different electoral ward and are not a like for like comparison. They have referred to two large properties directly across the road from the subject property: 122 Upper Dunmurry Lane which has an area of 253m² and has a capital value of £275,000 and 124 Upper Dunmurry Lane, has an area of 261m² and a capital value of £290,000. In the light of this the appellants submit that a minimum drop of £15,000 from the valuation of 122 Upper Dunmurry Lane is fair and reasonable. Therefore the appellants are of the view that the capital valuation of the property should be £260,000.

The respondent's views on the comparables forwarded by the appellants

10. In relation to the comparables put forward by the appellants the respondent indicates that 122 Upper Dunmurry Lane is a pre 1919 detached house with a gross external area of 253m² and a garage of 16m². The assessed Capital Value is confirmed as £275,000. The respondent contends that it is slightly larger than the subject property and has a small garage and no ancillary space. It is older than the subject property and therefore it is submitted is not a particularly good comparable. However it is submitted that it is broadly in line with the capital value of the subject property when the ancillary space of the subject property is taken into account.

11. In relation to 124 Upper Dunmurry Lane Belfast, the respondent states that this is a modern detached house with a gross external area of 261m² a conservatory of 20m² and a garage of 25m². The assessed Capital Value is confirmed as £290,000. The respondent contends that it is a much more modern dwelling and of a different style to the subject property. Therefore it is submitted that the property is not in the same state and circumstance as the subject property.

The Tribunal's Decision

12. 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 £310,000. 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 that the proper valuation should be £260,000.

13. In relation to the preliminary point as to whether the former dental surgery is properly part of the hereditament and falls within the jurisdiction of this tribunal, the tribunal is grateful to the clarification by the respondent. The tribunal is satisfied that the subject property consists of a dwelling-house and that the former dental surgery may be categorised as ancillary domestic accommodation and therefore that they both form the hereditament in question. In any event the tribunal is satisfied that under paragraph 3 of Schedule 5 to the Rates (NI) Order

1977 that “a hereditament shall not be deemed to be used otherwise than wholly for the purposes of a private dwelling by reason of either or both of the following circumstances—

- (a) that it includes a garage, outhouse, garden, park, pleasure ground, yard, court, forecourt or other appurtenance which is not used, or not used wholly, for the purposes of a private dwelling....”

14. In relation to the main issue in this matter relating to the capital value of the subject property, 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.

15. 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.”

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

17. Thus the basis of valuation for these purposes is that referred to above.

18. In relation to the comparables submitted by the respondent, 119 Dunmurry Lane is a property built in the inter war period. However it is substantially smaller than

the subject property and has a capital valuation of £210,000. In relation to the other comparables forwarded by the respondent great emphasis has been placed on the fact that these comparable properties are built during the inter war period i.e. in the same period as the subject property was built. Reference is made to 19 The Green which is slightly smaller than the subject property but has a garage and outbuildings. It is admitted by the respondent that the subject property in comparison to this property is valued very much on the low side, given that it has extra ancillary space. In respect of 28 Upper Green, this property is again smaller than the subject property but has a garage and outbuildings. Again the respondent states that the subject property is valued very much on the low side given that it has the additional ancillary space when compared to 28 Upper Green. In relation to 31 The Green, this property is again an inter war property with an area of 214m² and a garage of 18m² and outbuilding of 19m². Again it is acknowledged by the respondent that the subject property is assessed very favourably given that it is 40m² bigger and has 86.06 m² of additional ancillary space. The fact that the comparables suggested by the respondent mean that the subject property is valued 'on the low side' may mean that the comparables given are not the most appropriate comparables to the subject property.

19. In relation to the location of the comparable properties, those chosen by the appellants are much closer in location to the subject property in that they are across the road from the subject, albeit that the age of the properties is different to the subject property.
20. 122 Upper Dunmurry Lane is an older (pre 1919) detached house with a gross external area of 253m² and a 16m² garage. It is slightly larger than the subject property and has a garage. It has a capital value of £275,000.
21. 124 Upper Dunmurry Lane, a modern detached house, has a larger GEA than the subject property and has a conservatory and a garage. It has a capital value of £290,000.

22. The tribunal finds that the most appropriate comparable properties are 122 and 124 Upper Dunmurry Lane. They are much closer to the subject property than those situated in the Green and Upper Green. Also preferred is 119 Upper Dunmurry Lane which is closer to the subject property albeit that it is much smaller than the subject.
23. The tribunal prefers these properties mentioned directly above in preference to those at 19 The Green, 28 Upper Green and 4 The Green Dunmurry which are located further away from the subject property.
24. In view of the comparables referred to above, the tribunal finds that the capital valuation of the subject property should be amended to £285,000. Therefore the appeal in this case is allowed and the valuation list should be amended so that the capital valuation of the property at 121 Upper Dunmurry Lane, Dunmurry, Belfast should be reduced to £285,000.
25. The tribunal is very grateful to both the Commissioner's representatives and the appellant for the skilfully prepared presentations to the tribunal in written evidence.

Mr Charles O'Neill
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 23rd June 2015