

**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: 2/18**

**SREG LIMITED – APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Charles O’Neill**

**Members: Mr D McKinney FRICS and Dr P Wardlow**

**Date of hearing: 14 August 2019, Belfast**

**DECISION**

The unanimous decision of the tribunal is that the Decision on Appeal 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”). Mr O’Reilly, a Director of SREG, appeared in a personal capacity and was represented by Mr O’Prey of O’Reilly Stewart, Solicitors. The Commissioner was represented by Ms Gail Bennett and Ms Seline McClelland.
  
2. The appellant by Notice of Appeal, appealed against the decision of the Commissioner issued on 21 March 2018.

3. This appeal is in respect of the valuation of a hereditament situated at 28 Sixmilewater Mill Drive, Antrim, County Antrim, BT41 4FG (“the subject property”).
4. At a preliminary hearing in this matter on 16 January 2019 pursuant to Rule 9 of the Valuation Tribunal Rules (Northern Ireland) 2007 (as amended), inter alia the respondent was given permission to amend the Presentation of Evidence dated 29 June 2018.
5. The matter was listed for hearing on 14 August 2019.

### **The Law**

6. 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 and principles were fully considered by the tribunal in arriving at its decision in this matter.

### **The Evidence**

7. The tribunal heard oral evidence on behalf of the appellant and the respondent during the hearing of this matter.
8. The tribunal had before it the following documents:
  - (a) The Commissioners Decision issued on 21 March 2018;
  - (b) The appellant’s Notice of Appeal received 18 April 2018;

- (c) A document entitled 'Presentation of Evidence' dated 29 June 2018, prepared on behalf of the respondent Commissioner by Seline McClelland BSc (Hons) MRICS and submitted to the tribunal for the purposes of the hearing;
- (d) the appellant's response to the Presentation of Evidence dated 28 August 2018;
- (e) A document entitled "Additional Appellant Evidence" submitted by the appellant;
- (f) Correspondence between the parties and the tribunal in relation to the preliminary hearing;
- (g) Order of the tribunal dated 17 January 2019 inter alia that the respondent be permitted to amend the Presentation of Evidence dated 29 June 2018;
- (h) A document entitled "Addendum of Evidence" dated 14 March 2019 and prepared on behalf of the Commissioner by Seline McClelland BSc (Hons) MRICS;
- (i) A document entitled Response to LPS "Addendum of Evidence" submitted on behalf of the appellant;
- (j) Further correspondence between the parties and the tribunal.

## **The Facts**

- (1) The subject property is a semi-detached house built circa 2008. It has a gross external area (GEA) of 114.6m<sup>2</sup>. The property has full central heating and double-glazed windows in PVC frames.

- (2) On 22 November 2017 a District Valuer alterations case was raised arising from an appeal in respect of another property in the Sixmilewater Mill development. As a result of consideration of the properties in the development the capital value of the subject property was increased to £120,000 from £110,000.
- (3) This change in the valuation of the subject property was appealed to the Commissioner of Valuation who made no change to the valuation. The matter was then appealed to this tribunal.

### **The Preliminary Point**

9. At the opening of the hearing in this matter the appellant referred to a decision which he considered could have a bearing on this case in that he believed that it referred to public build housing and is not being considered relevant as comparable evidence. He had not had access to the full decision, although it had been referred to in papers to which he had placed before the tribunal and which had emanated from the respondent.
10. In the light of this the tribunal rose for a period of time and it sourced a copy of the decision of the Lands Tribunal for Northern Ireland in *RZ v Commissioner of Valuation* and copies of this decision were circulated to the parties. The parties were each then given time to consider the decision and the hearing recommenced a short time thereafter.

### **The Respondent's Submissions**

11. In this case, with the consent of the parties the tribunal invited the respondent to make its submissions first of all, not least to clarify the position in relation to the Presentation of Evidence and subsequent Amendment to the Presentation of Evidence.

12. The Commissioner's Presentation of Evidence to the tribunal was dated 29 June 2018. It stated 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 with further particulars of same, including photographs of the comparable properties.

13. Due to further research carried out by the respondent after the submission of the Presentation of Evidence it appeared that the comparable evidence within the Sixmilewater Mill development submitted could not be relied upon due to some inaccuracies in the gross external area measurements. In the light of this the respondent sought to retract the Presentation of Evidence dated 29 June 2018. This preliminary issue was listed for hearing on 16 January 2019 and an order of the tribunal subsequently was issued permitting the respondent to amend its Presentation of Evidence.

14. The respondent then submitted an Addendum of Evidence dated 14 March 2019.

15. The respondent confirmed that it had verified the measurement of the subject property from aerial photography and from other measurements of other Type C dwellings in the development to be 114.6m<sup>2</sup>.

16. Thirteen comparables in total were referred to by the respondent. These were capital value assessments, the details of which are as follows:

- (a) The first comparable referred to was 6 Sixmilewater Mill Close, Antrim which has a GEA of 120.3m<sup>2</sup>. This is a post 1990 terrace house. It has a capital valuation of £110,000.

- (b) The second comparable referred to was 1 Sixmilewater Mill Drive, Antrim which has a GEA of 108.45m<sup>2</sup> and a garage of 24.9m<sup>2</sup>. This is a post 1990 terrace house. It has a capital valuation of £105,000.
- (c) The third comparable referred to was 18 Sixmilewater Mill Drive, Antrim which has a GEA of 78.8m<sup>2</sup>. This is a post 1990 terrace house. It has a capital valuation of £80,000. The respondent clarified in the Addendum to the Presentation of Evidence that this property had originally been given an incorrect gross external area and that the correct GEA is 78.8m<sup>2</sup> and the capital valuation is £80,000. It was accepted by the respondent that it is considerably smaller than the subject and was therefore no longer considered directly comparable.
- (d) The fourth comparable referred to was 4 Sixmilewater Mill Walk, Antrim which has a GEA of 115.2m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £120,000.
- (e) The fifth comparable referred to was 1 Sixmilewater Mill Road, Antrim which has a GEA of 120.48m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £125,000.
- (f) The sixth comparable referred to was 2 Sixmilewater Mill Road, Antrim which has a GEA of 113.94m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £120,000.
- (g) The seventh comparable referred to was 25 Sixmilewater Mill Drive, Antrim which has a GEA of 112m<sup>2</sup>. This is a post 1990 terrace house. It has a capital valuation of £105,000.

(h) The eighth comparable referred to was 20 Sixmilewater Mill Road, Antrim which has a GEA of 124.72m<sup>2</sup>. This is a post 1990 terrace house. It has a capital valuation of £115,000.

17. The respondent also referred to other evidence from other developments in the locality. These were as follows:

(a) 3 The Cedars, Antrim which has a GEA of 121.25m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £120,000.

(b) 28 The Cedars, Antrim which has a GEA of 122.55m<sup>2</sup>. This is a post 1990 terrace house. It has a capital valuation of £110,000.

(c) 33 Ferrard Meadow, Antrim which has a GEA of 119m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £115,000.

(d) 18 Ferrard Meadow, Antrim which has a GEA of 114m<sup>2</sup>. This is a post 1990 terrace house. It has a capital valuation of £100,000

(e) 3 Balloo Manor, Antrim which has a GEA of 132.96m<sup>2</sup> and a garage of 20m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £125,000.

18. In relation to the comparables in The Cedars Development the respondent stated that this is accessed via Cunningham Way which is primarily made up of two large public built housing developments. The Cedars is situated between the two developments with a section of the Cedars backing onto one of the public built housing developments. It was stated not to have the superior landscaping that the Sixmilewater Mill development has. No. 3 The Cedars was therefore considered to be less attractive than the Sixmilewater Mill development and therefore had a lower capital valuation.

19. In relation to the comparables in Ferrard Meadow, the respondent stated that these are located in the Junction One Retail Park and are in close proximity to the Holiday Inn Express and this was why they have a lower capital valuation.

20. In relation to the comparable at 3 Balloo Manor, Antrim it was suggested that this is larger than the subject, with the additional benefit of a garage. It is also located in a development further from Antrim town centre and this was reflected in its capital value.

21. In relation to the appellant's use of comparables in Moylena Grove, the respondent contended that as this was a 1966-1990 public built housing development, it was not in the same state and circumstance as a privately built post 1990 development such as the Sixmilewater Mill development.

### **The Appellant's Submissions**

22. The appellant set out very detailed submissions which are summarised below. Of necessity, this decision can only set out a summary of the appellant's case but all papers submitted by the appellant were considered in arriving at this decision.

23. The appellant described the subject property as one of two attached houses, referred by the respondent as a semi-detached house. He stated that the property has carparking on the part of the frontage where usually there would be a garden private area in semi-detached properties. He confirmed that the property does not have any front garden but has a small enclosed rear garden.

24. The appellant stated that on the right-hand side of the property there is a public walk through to the development on the other side of the subject property. It links to the car parking at the rear of the subject property and the houses and apartments to the rear of the subject. This was considered to be a negative aspect of the subject property. Another downside of the subject property was



stated to be that it has regular pedestrian and car traffic which passed by its front door.

25. The appellant stated that the view from the front door of the subject property was other houses at the other side of the road. This meant that the property was in no way private.

26. The appellant submitted detailed evidence in relation to the comparables used by the respondent.

(a) The appellant was of the view that 6 Sixmilewater Close (the respondent's first comparable) is a house in a high part of the development and thus is in a better location than the subject property. He stated that it is larger than the subject. It is in a block of four houses and is attached to one house at ground level and another house at first floor level. It was stated that the houses are very private with no passing pedestrian or vehicular traffic with carparking at the lower level to the front.

(b) 1 Sixmilewater Drive (the respondent's second comparable) was stated by the appellant to be an end-terrace house of four (it is only attached to No 3 Sixmilewater Drive). The appellant was of the view that it has a better front and rear outlook than the subject. It is a bigger house than the subject with more privacy. Therefore, the appellant would submit that it having a revised capital valuation of £105,000 is evidence that the capital valuation of the subject property should be much lower than this. The appellant submits that notwithstanding that this is a terraced house and the subject is a semi-detached property, the respondent has not provided any evidence by way of sales figures to support a price differential between semi-detached houses and terraced houses.

- (c) The appellant also referred to the fact that 25 Sixmilewater Drive, a middle-terraced property identical to and close to the subject was sold in February for £110,000. The appellant bought the subject property in December 2016 for £99,000.
- (d) The appellant stated that 4 Sixmilewater Mill Walk is marginally bigger than the subject and has a capital valuation of £120,000. He would state that this house is in a superior part of the development when compared to where the subject is located.
- (e) The appellant stated that 1 Sixmilewater Mill Road is situated close to the entrance to the development and is in a private location and it does not resemble a semi-detached and may on first appearance be thought to be a detached house.
- (f) In respect of 2 Sixmilewater Mill Road, the appellant stated that this is located in a much superior location to the subject. He would submit that this is not properly comparable with the subject property.
- (g) The appellant stated that 20 Sixmilewater Mill Road is a terrace house and is very much larger than the subject and has a capital valuation of £115,000.
- (h) In relation to the other developments used by the respondent as comparables, the appellant stated that 3 The Cedars, is part of a traditional housing development on a very extensive site with plenty of green open space trees etc. The semi-detached houses are capable of being extended and some have done so while this is not the case in the Sixmilewater Mill houses. There are no apartments in The Cedars and it has a different feel from the mixed Sixmilewater development. Specifically, in relation to 3 The Cedars, it is a semi-detached house set back from the road with garden

area frontage and community grass areas and a footpath to the road. It is larger than the subject. It is not overlooked at the rear. It has a capital valuation of £120,000.

- (i) The appellant referred to 28 The Cedars as a mid-terraced house, it is much bigger than 28 Drive and has a capital valuation of £110,000.
- (j) Another development that the appellant commented on was Ferrard Meadow. In relation to this development generally the appellant would state that in this development there are detached, semi-detached and terraced houses but no apartments. Ferrard Meadow houses are substantially bigger than subject property.
- (k) No 3 Balloo Manor, the appellant considers is part of a development of attractive substantial houses and have a completely different and much more exclusive feel with its individual architectural features of brick and stone frontage house and nothing in common with the development of which the subject forms part.
- (l) The appellant argued that in its capital value revisions of this development the respondent has increased the capital valuations of the semi-detached houses by £10,000 and decreased the value of the terraced houses.

27. By way of additional evidence, the appellant referred to Moylena Grove development. It is a development of 57 houses bungalows and terraced houses. This is a development built by the Northern Ireland Housing Executive. He would argue that this is a better guide to the assessment of capital values of the Sixmilewater development. There is one house in this development with a capital valuation of £100,000, two of £82,500 and the vast majority are £80,000.

28. The appellant has also used to plot the size of the properties against their capital valuations for houses in Moylena Grove and in the Sixmilewater development. This is used to show a very significant disparity in tone between the two developments. The appellant comments on the following properties in Moylena Grove –

(a) 3 Moylena Grove, size of 110m<sup>2</sup>, capital valuation of £82,500.

(b) 19 Moylena Grove, size of 118m<sup>2</sup>, capital valuation of £82,500.

(c) 16 Moylena Grove, size of 103m<sup>2</sup>, capital valuation of £77,500.

(d) 62 Moylena Grove, size of 103m<sup>2</sup>, capital valuation of £77,500.

29. The appellant referred briefly to the decision in *RZ v Commissioner of Valuation* indicating that he considered that case to be fact specific. While the decision did make reference to public housing, he had no issue with the case and considered that in valuation matters it is important to measure “apples with apples” as he put it.

30. The appellant also referred to historical house price analysis. The appellant would suggest this shows that the value of the subject property on 1 January 2005 would have been of a significantly lower value than the original valuation of £110,000. The UJJ house price index in the Antrim/Ballymena areas would reveal that the average property price for Q1 2017 was £137,595 and in Q4 2004 was £104,825. The subject property was sold on 2 December 2016 for £99,000. Applying the 31% reduction suggested by analysis of the UJJ figures this would give a Q4 2004 valuation of the subject property of £75,572.50. The appellant further stated that the Nationwide calculator tool suggests that a property sold for £99,000 in A4 2016 would have been valued at £84,875 in Q4 2004. This shows that the capital valuation of the subject is too high.

## The Tribunal's Decision

31. 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 £120,000. On behalf of the Commissioner it has been contended that this figure is fair and reasonable in comparison to other properties.

32. 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.

33. It is also important to state the basis on which valuations have to be assessed in the legislation. This has already been set out in decisions of both this tribunal and indeed the Lands Tribunal. As has been pointed out in a recent decision of the Lands Tribunal in *RZ v Commissioner of Valuation* (VT/2&3/2016 [2017]) the tribunal in deciding cases derives assistance from the following cases

*McKeown Vintners v Commissioner of Valuation* VR/9/1985

"When, however, a revision of an entry in a valuation list is under consideration different principles come into play; in particular paragraph 2(1) and the concept of comparable hereditaments. The reason is simple. The very completion of the list, at general revaluation, by itself creates comparables, and paragraph 2(1) can begin to play its role. That role is this. There can, as the Tribunal has already stated, be no challenge to the principles applied at general revaluation. Any challenge before the Lands Tribunal must be by way of an application for revision of an entry already in the list. As time progresses, if actual rental levels and turnover figures were used for the revision of a particular entry in the valuation list, it would inevitably result in that entry being increased to a level significantly higher than other entries in the list. There must therefore be a limiting factor, and this provided by paragraph 2(1) which, in essence, produces what is often

termed a 'tone of the list', and which ensures fairness and uniformity. It does this by providing that at revision stage regard 'shall be had' to the net annual values in the valuation list of comparable hereditaments. Its role will be discussed in greater detail later. Suffice to say that the significance of this role increases with the passage of time..."

In the subject reference for "paragraph 2(1)" read "paragraph 7(2)" for "net annual value" read "capital value" and for "rent/rental levels" read "capital value/capital value levels".

*A-Wear Limited v Commissioner of Valuation* VR/3/2001

"The early days are important and the Tribunal agrees with Mr Hanna that the practical reality is that, if entries are not challenged, or if challenges are abandoned, the point will have been reached within a relatively short space of time at which it would have to be said that these settlements establish a reliable Tone of the List for the hereditaments in a location or category. At that stage, although still a question of balance, by virtue of paragraph 2 of schedule 12, a district valuer is almost obliged to apply that level. Skilled assessment based on proper research may justify an adjustment or allowance in individual cases, but the Tone of the List provision, although protecting ratepayers from unfairness resulting from inflation, does make anything other than a first phase challenge difficult."

*Elias Altrincham Properties v Commissioner of Valuation* VR/15/2011

"For the following reasons the Tribunal is not persuaded that Mr Elias has succeeded in displacing the presumption that the valuations shown in the valuation list were correct. Both in law and in practice the time for an effective challenge to the evidential basis, that set the tone of the list at the relevant General Revaluation, is long past. (See *A-Wear Ltd v Commissioner of Valuation* [2003] and *McKeown Vintners Ltd v Commissioner of Valuation* [1991].) Any attempt now to reconsider the principles and basis on which the tone was set would be mainly speculation ... At the time the list came into operation, apart from one exception, the assessments were not challenged..."

34. The appellant made reference to the Ulster University House Price Index to argue that the subject property should have a capital valuation of £75,572.50 and the Nationwide House Price Calculator tool to argue that the property should have a capital valuation of £84,875. However, it cannot be said that it is just a matter of a simple calculation involving the taking a valuation figure at a point in time and applying a figure for house price inflation to it to arrive at another valuation at another defined point in time. Rather, the capital valuation must be based on the statutory provisions as outlined in the 1977 Order.

35. Therefore, the appellant in comparing the ratio of capital value to current market value in respect of the subject property using a general house price index to conclude that the capital value of the subject property is not using the correct basis for valuation.
36. The appellant also referred to the fact that the subject property was purchased by the appellant on 2 December 2016 for £99,000. However, the basis of the capital valuation is at the antecedent valuation date of 1 January 2005 rather than this date of completion of a sale.
37. In relation to the subject property itself the respondent indicated that measurements of properties in general are conducted using a mix of physical measurement, aerial photography and evidence regarding a property submitted to the Building Control Department of the local council. The subject had not been measured but the respondent in the Addendum to the Presentation adduced by the respondent confirmed that the gross external area was verified by aerial photography and that it had not been necessary to inspect the subject property. The appellant did not adduce evidence to contradict this and therefore the tribunal finds that the subject property is a semi-detached house with a GEA of 114.6m<sup>2</sup>.
38. It may be appropriate to reflect on how the subject property became the subject of this appeal. The subject was originally assessed with a capital valuation of £110,000. As a result of an appeal in respect of another property in the Sixmilewater development, the District Valuer raised what is referred to as an alterations case in respect of the subject property and its capital valuation was increased from £110,000 to £120,000. Indeed, from the original Presentation of Evidence of the respondent it would appear that a substantial number of the properties in this development were the subject of alterations. The tribunal can appreciate that it can be somewhat unsettling for ratepayers to have a capital valuation reassessed after a period of time however this can happen from time to time.

39. The tribunal had before it a substantial amount of evidence of what was stated to be in varying degrees by one or other of the parties to be suitable comparable evidence.
40. The reference, in the initial Presentation of Evidence by the respondent to 18 Sixmilewater Mill Drive, Antrim has been discounted by the tribunal. When this property was remeasured by the respondent it was found to be a terraced house with a GEA of 78.8m<sup>2</sup> with a capital valuation of £80,000. This is substantially smaller than the subject (which has a GEA of 114.6m<sup>2</sup>) and therefore admitted by the respondent not to be considered directly comparable. Therefore, the tribunal has taken no account of this property as a comparable property.
41. The tribunal finds the comparable at 4 Sixmilewater Mill Walk, Antrim to be very helpful. This has a GEA of 115.2m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £120,000. The subject is located in the same development and has a GEA of 114.6m<sup>2</sup>.
42. This is further supported by 2 Sixmilewater Mill Road, Antrim which has a GEA of 113.94m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £120,000.
43. These are supported by the valuations of the other semi-detached houses in the Sixmilewater development. For instance, 1 Sixmilewater Mill Road, Antrim which has a GEA of 120.48m<sup>2</sup>. This is a post 1990 semi-detached house. It has a capital valuation of £125,000. It is bigger than the subject.
44. The tribunal finds the comparables in the Cedars development less helpful than those referred to above which are located in the development of which the subject forms part.



45. The tribunal finds the comparables referred to in Ferrard Meadow less helpful in that they are in a different location and context as they are close to the Junction One Retail Park. Therefore, the tribunal places less weight on these.
46. In relation to 3 Balloo Manor, the tribunal finds that this property is in a different location to the subject property and has a garage and the tribunal gives less weight to this comparable.
47. In relation to the comparables given by the appellant in Moylena Grove namely 3, 19, 16 and 3 Moylena Grove, the tribunal finds that these are not in the same state and circumstance as the subject property being properties built before 1990. Therefore, the tribunal gives little weight to these properties in this case.
48. Therefore the tribunal considers that the starting point in relation to the capital valuation of the subject should be £120,000. However, there are also certain features of the subject property which merit attention. The subject is in what the appellant refers to as an in-fill portion of the Sixmilewater Mill development. It is a semi-detached house with carparking at the front door. It does not have any garden at the front. The view from the front door is of houses at the other side of the road. It is in no way private. There is also the issue of the public pedestrian right of way to be taken into account.
49. The subject property has a pedestrian right of way which is adjacent to the subject property (on the right-hand side of the property, facing the front door). This right of way is outside the area of the subject property but has an effect on it. The appellant states that this is used by the public as a walkway to link another part of the development. It has regular pedestrian traffic who use this right of way. In the light of this the tribunal is of the view that an allowance should be made for this right of way and that the capital valuation of the subject property should be £118,000.

50. The unanimous conclusion of the tribunal is that in the light of the above matters the appeal in this case is allowed and the valuation list should be amended so that the capital valuation of the subject property at 28 Sixmilewater Mill Drive, Antrim be amended to £118,000.

**Mr Charles O'Neill**

**Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to the parties: 4 December 2019**