

**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: 25/14**

**BETWEEN:**

**TREVOR CARSON**

**Appellant:**

**-and-**

**THE COMMISSIONER OF VALUATION**

**Respondent:**

---

**NORTHERN IRELAND VALUATION TRIBUNAL**  
**CHAIRMAN: MR KEITH GIBSON B.L.**  
**MEMBERS: MR BRIAN SPARKES FRICS; MR ALAN MARTIN**

**INTRODUCTION**

1. This appeal was heard on the 25<sup>th</sup> March 2015 by way of oral hearing. The Appellant attended in person along with Mr Gary Thompson, who presented the case on Mr Carson's behalf. The Respondent was represented by Ms Colette Quinn BSC (Hons) MRICS and Mr Michael McGrady.
2. The subject property, namely 67 Manse Road, Carryduff, BT8 8AE, is a detached house complete with integrated garage, gardens with a GEA of 445m<sup>2</sup> and the garage comprising some 58m<sup>2</sup>. The property was constructed in or around 2005 and, as is apparent from the gross external area, is a substantial dwelling. The property was first entered in the valuation list on the 9<sup>th</sup> March 2009 with a capital value of £600,000. The capital value remained unchallenged until March 2014 when an application to the District Valuer was made by the Appellant. At the time of the application the capital value was considered to be in line with similar properties and no change was made to the initial assessment at £600,000. An appeal was made to the Commissioner of Valuation and whilst the unadjusted capital value of £600,000 was found to be justified, the Commissioner made a reduction of £60,000 to reflect the following disadvantages:

- a) The proximity of the site to boarding kennels.
  - b) The proximity of the site to a working farm.
  - c) To take account of an agricultural right of way across the front of the dwelling and the nuisance appurtenant.
3. Notification of the capital value was issued on the 18<sup>th</sup> August 2014 assessing the total capital of the property at £540,000 and on or about the 22<sup>nd</sup> September 2014 the Appellant appealed as against this decision.

## **THE APPELLANT'S CASE**

4. The Appellant's case was that the assessment was incorrect because:
- a) The dwelling referred to is in an unfinished state.
  - b) No completion of the complete dwelling has ever been achieved.
  - c) Visibility splays are required over third party land and no permission for these have been granted.
  - d) 67 Manse Road is erected on the site of a previous landfill.
  - e) A discharge consent has not been granted.
  - f) The Planning Permission in respect of the property is conditional upon the occupant being an employee or connected with Carryduff Boarding Kennels.
  - g) That finance has been declined on the property in that the conditions of Planning Approval render the property unsellable.
  - h) Correspondence from a local Estate Agent indicates that the property is not a feasible marketable asset.
  - i) The property is without value.
5. These written submissions were added to by the submissions at hearing and, in addition to relevant pieces of correspondence, were produced to the Tribunal, namely a short letter from Michael Chandler Estate Agent dated the 13<sup>th</sup> November 2012 reiterating the points mentioned above and a further letter from Templeton Robinson dated 3<sup>rd</sup> November 2014, again reiterating the points made in respect of the marketability of the premises. The point reiterated by Mr Thompson on behalf of the Appellant was that there was no Building Control Approval for the property and in its present state the property was unlikely to obtain Building Control Approval. Mr Thompson went on to indicate that the comparables that had been identified by the Respondent were not proper comparables as they were all completed and occupied.

## **THE RESPONDENT'S CASE**

6. The Respondent's case set out in their written submissions of the 26<sup>th</sup> January 2015 highlighted the relevant provisions of the Rates (Northern Ireland) Order 1977 and Schedule 12 thereof which provide statutory stipulations as to how the value of the property is to be assessed on the relevant capital valuation date, namely the 1<sup>st</sup> January 2005. The Respondent identified a total of four comparables, namely:
- a) 4 Beechmount Road, a recently constructed dwelling, (i.e. post 1990) approximately 1.5 storeys in height of GEA 416m<sup>2</sup>, with a garage of 73m<sup>2</sup> and a capital value of £550,000.
  - b) 24 Beechmount Road, a property again constructed relatively recently, a two storey house with a GEA of 467m<sup>2</sup>, a garage of 59m<sup>2</sup> and a store of 8m<sup>2</sup>. The capital value of this property was some £700,000.
  - c) 72 Mealough Road, again a recently constructed property, 1.5 storeys high with a GEA of 474m<sup>2</sup>, a garage of 68m<sup>2</sup>. The capital value of this property was assessed at £650,000.
  - d) 410 Mealough Road, again a recently constructed property, 1.5 storeys high with a GEA of 416m<sup>2</sup>, a garage of 46m<sup>2</sup> and a capital value of £650,000.
7. As aforementioned the Respondent assessed the capital value at £600,000 but made an allowance of 10% to reflect the nuisance in the area.

### **THE TRIBUNAL'S FINDINGS**

8. In respect of the capital value of the property, the Tribunal finds as a matter of fact that the tone of the list is settled. There has been no challenge to the capital valuation of the four comparables, which are all in a similar location, of similar size and of similar construction. The fact that the property is poorly finished inside, does not have the benefit of a Building Control Completion Certificate, does not have the necessary easements which might secure its marketability or has onerous planning restrictions, is not something which can be taken into account by the Tribunal pursuant to the legislation. Whilst there can be little or no doubt that the difficulties with the property highlighted above may well reduce its value on the open market, this is something separate and distinct from the considerations which must be applied pursuant to the provisions of the Rates (Northern Ireland) Order 1977 and the statutory provisions referred to above.
9. What the Tribunal was concerned with, however, was the impact of the close proximity of the kennels and the fact that an agricultural right of way runs from the county road down to the subject property and then carries across the face of the subject property to an adjoining farm. The adjoining farm is owned by the Appellant's mother, however, it is contained in a separate and distinct Folio from the subject dwelling. The farm, whilst presently utilised by the Appellant, his brother and his mother, is obviously subject to sale or transfer and there is no guarantee that the same level of usage will be maintained. To that end, the Tribunal adopts the view that the use of the right of way as

access to a working farm, must bring with it a reduction in capital value. This has already been assessed by the Commissioner at 10%, however, after considering the evidence and taking into account the range proffered by the Respondent and its witnesses, of 5% - 20%, a reduction depending on the type of nuisance, the Tribunal is minded to increase the 10% reduction in capital value previously afforded to the Appellant to 15%.

10. To that end, the Appellant's appeal is allowed and the capital value is reduced to £510,000. It was further directed that the list be amended accordingly.

Keith Gibson Chair  
Northern Ireland Valuation Tribunal  
Date 13<sup>th</sup> May 2015