

**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: 19/22

GREGORY TURNER AND LOUANNE TURNER– APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O'Neill

Members: Mr Hugh McCormick and Ms Noreen Wright

Date of hearing: 16 December 2022, Belfast

DECISION

The unanimous decision of the tribunal is that the decision on appeal of the Commissioner of Valuation for Northern Ireland is upheld, and the appellant's appeal is dismissed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order"). This matter was listed for hearing on 16 December 2022. There were no appearances in this matter, both parties being content that the matter be dealt with based on the written submissions.
2. This appeal is in respect of the valuation of a property situated at 12 Market Court, Ballycastle, County Antrim, BT54 6FB (the subject property).

The Law

3. 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.

The Evidence

4. The tribunal heard no oral evidence. The tribunal had before it the following documents:
 - a) The Commissioner's Decision issued on 8 September 2022;

- b) The appellant's notice of appeal dated 22 September 2022;
- c) A document entitled Presentation of Evidence dated 18 October 2022, prepared on behalf of the respondent and submitted to the tribunal for the purposes of the hearing;
- d) An email from the Appellant dated 27 October 2022 in response to the Respondent's Evidence;
- e) An email from the Respondent attaching schedule 12 to the Rates (NI) Order 1977 (as amended).
- f) Correspondence between the parties and the tribunal office.

The facts

5. The subject property is a privately built detached house built in 2006. It has a gross external area of 139.4m². It has a capital value of £150,000.

6. By way of background, as stated by the Respondent, the subject property has been the subject of previous applications to the Valuation Tribunal. The Respondent has pointed out that in *Paul Reid v Commissioner of Valuation* on 28 June 2013 it was sought to have the capital value reduced from £150,000 to £120,000. Furthermore, on a second appeal to the Valuation Tribunal by Mr Reid on 25 September 2015 the Valuation Tribunal considered that the existing valuation of £150,000 was correct.

7. Subsequent to this, the Appellant has applied to the District Valuer to have the capital value changed. The most recent decision of the District Valuer was issued on 29 July 2022 and an appeal to the Commissioner of Valuation was received and a decision of no change to the capital valuation was issued on 8 August 2022 and this decision was appealed to the Valuation Tribunal.

The Appellant's submissions

8. The Appellant states that his rates bill is simply too high, unfair and not comparable with other rate payers within 40 feet of his home. He states that he purchased his home for £100,000 over 2 years ago. The other 11 homes in the square are either social housing or have been purchased for between £92,000 and £102,000 all within the last 2-3 years.

9. The Appellant asserts that his property was built in 2008 and similar comparable properties in the area are now costing over £200,000 and have a capital value of £100,000 all built at the same time, paying £500pa less than his.

10. The Appellant states that the Respondent has assessed his property as comparable with 10 Market Court but not taking into consideration any other worthy equal or similar properties within 40 feet of his home. He considers that it cannot be fair and reasonable that his property is judged only against properties in the same development and not any other similar rate paying properties. Specifically, the Appellant refers to 46 and 47 The Abbey Ballycastle which are stated to be closer to the subject property than 1 Market Court. He states that these have a capital value of £100,000 and the subject property has a capital value of £150,000. The Appellant states that the Abbey properties were built in 2005/2006 right at the peak of the housing boom and they were allocated a fair and reasonable capital valuation compared to the unfair and unreasonable figure awarded to his property.

11. The Appellant says that he has seen a property at 43 Whitehall Avenue advertised at over £320,000, over 50m² bigger with 5 bedrooms, 3 receptions and paying £100 less than he is paying. This has a capital value of £140,000. He states that he has checked website after website and there are properties for sale at £400,000 much bigger, lavish and still advertised with rates at less than his property and these are either similar age or earlier than his home.

12. He refers to 15 Whitehall View, which is a large spacious detached house with 4 bedrooms, 3 bathrooms newly built with a capital value of £130,000. Also 9 The Abbey is a 4-bedroom house paying over £300 less in rates than his property. He also refers to 10 Strandview a large 4-bedroom home listed at £395,000 with a capital value of £155,000.

13. The Appellant states that his property has no street lighting as it is on an unadopted road, no private driveway, no car-parking space, no garden, is half of the market value of any neighbouring property but has a capital value of £150,000.

14. The Appellant refers to a major recession and multiple properties being repossessed and lenders and owners making the necessary adjustments, and this is what he is asking the Respondent to do.

The Respondent's submissions

15. The Respondent's Presentation of Evidence to the tribunal is that in deciding the capital value of the subject property regard was had to capital values in the valuation list of comparable hereditaments in the same state and circumstances. The Respondent referred to four properties in a schedule to the Presentation of Evidence as follows:

- a) The first comparable referred to was 11 Market Court, Ballycastle, which has a gross external area of 139.4m² and a capital valuation of £150,000;
- b) The second comparable referred to was 10 Market Court, Ballycastle, which has a gross external area of 121.9m² and a capital valuation of £140,000;
- c) The third comparable referred to was 9 Market Court, Ballycastle, which has a gross external area of 121.9m² and a capital valuation of £140,000;
- d) The fourth comparable referred to was 1 Market Court, Ballycastle, which has a gross external area of 130.8m² and a capital valuation of £145,000;

16. The Respondent states that it must have regard to schedule 12 to the Rates (NI) Order 1977 and must consider comparable hereditaments which are in the same state and circumstances rather than taking into consideration recent sales evidence or market transactions. The Respondent is of the view that the best comparables are those outlined in the Presentation of Evidence.

17. While the Appellant has referred to properties in the Abbey Development, the Respondent states that this was considered by a previous tribunal in *Reid v Commissioner of Valuation (26/14)* and the tribunal in that case decided that comparable properties in the same development could not be disregarded and the appeal was dismissed.

The Tribunal's Decision

18. Article 54 of the 1977 Order enables a person who is dissatisfied with the Respondent's valuation to appeal to this tribunal. In this case the capital value of

the subject property has been assessed at a value of £150,000. On behalf of the Respondent, it has been contended that this figure is fair and reasonable in comparison to other properties.

19. It is appropriate to remember that there is a statutory presumption in article 54(3) of the 1977 Order in terms that "On 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 displace that presumption, or perhaps the Respondent's decision to be self-evidently so manifestly incorrect that the tribunal must amend the valuation.

20. In this case the tribunal must base its assessment on the amount which on the assumptions contained in the relevant legislation the subject property might reasonably have been expected to realise if it had been sold on the open market by a willing seller on 1 January 2005. The Appellant states that he purchased his home for £100,000 over 2 years ago. The other 11 homes in the square are either social housing or have been purchased for between £92,000 and £102,000 all within the last 2-3 years. However, the tribunal must assess the capital value at 1 January 2005.

21. The Appellant asserts that his property was built in 2008 and similar (undetailed) comparable properties in the area are now costing over £200,000 and have a capital value of £100,000 all built at the same time paying £500pa less than his.

22. The Appellant says that he has seen a property at 43 Whitehall Avenue, advertised at over £320,000, over 50m² bigger with 5 bedrooms, 3 receptions and paying £100 less than he is paying. This has a capital value of £140,000. He states that he has checked website after website and there are properties for sale at £400,000 much bigger, lavish and still advertised with rates at less than his property and these are either similar age or earlier than his home. However, it is not appropriate to consider present day market valuations to establish the capital value of the subject property.

23. He refers to 46 and 47 The Abbey Ballycastle. He states that these have a capital value of £100,000 and the subject property has a capital value of £150,000. The Appellant states that the Abbey properties were built in 2005/2006 right at the peak of the housing boom and they were allocated a fair and reasonable capital valuation compared to the unfair and unreasonable figure awarded to his property. He states that 46 and 47 The Abbey are closer to the subject property than 1 Market Court.

24. The Appellant in an email in response states that he provided numerous other examples in or around Ballycastle of housing built around 2007/08 with a less capital value and which are similar or much bigger than his property. He further states that he has spent a considerable time on the rating/LPS website and found it very difficult to find a property in close proximity to his with as high a capital valuation. The only ones he has seen would sell for many hundreds of thousands of pounds more and are much bigger.

25. He refers to 15 Whitehall View, which he describes as a large spacious detached house with 4 bedrooms, 3 bathrooms newly built with a capital value of £130,000. He also refers to 9 The Abbey a 4-bedroom house paying over £300

less than his property. 10 Strandview is referred to which is stated to be a large 4-bedroom mansion listed at £395,000 with a capital value of £155,000.

26. The Appellant states that the Respondent has assessed his property as comparable with 10 Market Court but not taking into consideration any other worthy equal or similar properties within 40 feet of his home. He considers that it cannot be fair and reasonable that his property is judged only against properties in the same development and not any other similar rate paying properties.

27. The Appellant states that his property has no street lighting as it is on an unadopted road, no private driveway, no car-parking space, no garden, is half of the market value of any neighbouring property but has a capital value of £150,000.

28. The question for the tribunal to consider is the comparables put forward by the Appellant and the Respondent.

29. In this case the tribunal prefers the comparables forwarded by the Respondent. The best comparable is 11 Market Court, Ballycastle which is the same size as the subject property, is in the same development and has an unchallenged capital value which is the same as that for the subject property. The capital valuation of the subject property is also supported by the other valuations stated by the Respondent namely 10 and 9 Market Court Ballycastle which are each 121.9m² and have a capital valuation of £140,000. Furthermore, 1 Market Court, Ballycastle has a gross external area of 130.8m² and has a capital valuation of £145,000.

30. The tribunal is less persuaded by the comparables forwarded by the Appellant.

31. In this case the tribunal carefully considered the issue as to whether the Appellant had provided sufficient challenge to the Commissioner's schedule of comparable. Taking all matters into account, in relation to the capital value of the subject property, the conclusion of the tribunal is that the Appellant has not placed before the tribunal sufficient evidence to displace the statutory presumption as to correctness of the capital value and therefore the appeal is dismissed and the tribunal orders accordingly.

Signed Mr Charles O'Neill

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: