

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: 16/16

ROBERT & RUTH NEWELL - APPELLANTS
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James V Leonard, President
Members: Mr T Hopkins FRICS and Dr P Wardlow

Hearing: 29 October 2018, Belfast

DECISION

The unanimous decision of the tribunal is that the appeal is dismissed.

REASONS

Introduction

1. This appeal consists of a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appellants, by Notice of Appeal (Form 3) appealed against the decision of the Commissioner of Valuation in a Valuation Certificate dated 24 October 2016 in respect of the valuation of a hereditament situated at number 7 Corick Way, Magheramurphy, Kilkeel, Newry BT34 4EP ("the subject property").
2. The appellants, in making their appeal, indicated that they were content to rely upon written submissions. The tribunal initially sat to hear the matter "on the papers" but

was not satisfied regarding some aspects of the written evidence adduced and further evidence was requested by the tribunal and was then received, enabling the appeal hearing to proceed upon the basis of consideration of all of the written evidence and any other information available to the tribunal. On this basis, the matter proceeded to a hearing on 29 October 2018.

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”). As is now the case in all determinations of this nature, the tribunal does not intend in this decision fully to set out the detail of the statutory provisions of Article 8 of the 2006 Order, which amended Article 39 of the 1977 Order as regards the basis of valuation, for the reason that these provisions have been fully set out in many previous decisions of this tribunal, readily available. All relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in the matter. Antecedent valuation date or “AVD” is the date to which reference is made for the assessment of capital values in the Valuation List. Until a further domestic property revaluation occurs, capital values are, under the statutory regime, notionally assessed as at 1 January 2005, that being the AVD for the purposes of the domestic rating scheme. The legislation, at Schedule 12, paragraph 7 of the 1977 Order, as amended, provides that the capital value of a hereditament shall be the amount which, on the assumptions mentioned (materially in paragraphs 11 and 12 of Schedule 12, mentioned below), 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. The relevant paragraphs of Schedule 12 include the following statutory assumptions, which provide that –

- The hereditament is sold free from any rentcharge or other incumbrance;
- The hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality,
- The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date.

The Evidence and Submissions

4. The central issue in this case relates to any enhancement to the capital value of the subject property attributable to a "sea view" and the tribunal was required to consider this issue in terms of the evidence available and the principles properly to be applied to this matter. The tribunal considered the documentary evidence emerging from the papers and the photographic evidence adduced, including evidence relating to the comparables put forward in the matter (these being potentially comparable properties from which evidence of capital valuation may be drawn for statutory purposes). The tribunal had before it the appellants' Notice of Appeal to the tribunal (Form 3) and the following:-
- The Valuation Certificate dated 24 October 2016.
 - A document dated 27 February 2017 entitled "Presentation of Evidence" prepared on behalf of the Commissioner, as respondent, by Ms Clare Curran B.Sc. (Hons) MRICS and submitted to the tribunal.
 - Additional Presentation of Evidence provided on behalf of the respondent in response to the Tribunal's request, including photographic and other evidence provided in regard to the "sea view" issue in the matter and including illustrative locational mapping and also the inclusion of details of an additional 9 properties for "sea view" evidence and information purposes.
5. The subject property is number 7 Corick Way, Magheramurphy, Kilkeel, Newry BT34 4EP. It has been further described in the Presentation of Evidence. The appellants do not take issue with many of the details provided in this document as far as description and characteristics of the subject property are concerned and the tribunal will focus upon specific points of issue, which are mentioned below. The subject property is a two-story privately-built house (constructed in 2016) located within a

rural village location on the outskirts of the town of Kilkeel in the Council District of Newry, Mourne and Down. It has a habitable space (gross external area (“GEA”)) of 213 m² with a garage of 23 m² and full central heating, double glazed PVC windows, mains services and it is classified as having average external repair. Regarding the designation of "site positive", the subject property has attributed to it in the Presentation of Evidence what is described as a “sea view”.

6. The rating history is that in September 2016 the subject property was entered into the Valuation List with a capital value of £320,000. In October 2016 the District Valuer’s decision was appealed to the Commissioner of Valuation who, after review, recommended a reduction in the capital value to £270,000 in line with comparable properties in the area. The decision of the Commissioner of Valuation has now been appealed to this tribunal by the appellants. As set forth in the appellant’s Form 3 and in the Presentation of Evidence, the appellants’ grounds of appeal are stated as follows: *“We purchased our house after viewing 25 Corick Close, Kilkeel (231, sqmts). Our house is smaller at 213 sqmts yet 25 Corick Close is valued at £215,000. Both houses are on a development. Other houses position [sic] facing the sea are all privately built whereas ours is in a housing development. This was never mentioned to us by the builder Hanna Developments at time of purchase. Site plans show the position of our house along with others”*. A plan was attached to the appellants’ appeal form and this indicated the site location of the subject property and that of 25 Corick Close, Kilkeel.

7. In the Presentation of Evidence there are six comparables presented in total, in addition to the subject property (these being numbered from No. 2 to No. 7), all of these being, in accordance with any information provided, located in relatively close proximity to the subject property. The respondent’s submitted comparables all are presumed to have unchallenged capital valuations (for that would have been otherwise stated if any such were to be under challenge). In addition to the subject property, the following six properties, with brief material particulars provided, are stated to be as follows:-

[No.2] 25 Corick Close, Kilkeel BT34 4GD – privately built detached two-storey house (post 1990) in the same locality; “site positive” – “none” (in other words, no

“sea view”), habitable space of 226 m², garage (1) of GEA 23 m², garage (2) of GEA 25 m². The Capital Value is £215,000. It is this property which was expressly referred to for comparative purposes by the appellants.

[No.3] 84 Manse Road, Kilkeel BT34 4BN – privately built detached two-storey house (post 1990) in the same locality; “site positive” – “sea view”, habitable space of 194 m², (no garage). The Capital Value is £240,000.

[No.4] 42 Manse Road, Kilkeel BT34 8BN – privately built detached two-storey house (post 1990) in the same locality; “site positive” – “none” (in other words, no “sea view”), habitable space of 232 m², garage of GEA 37 m². The Capital Value is £215,000.

[No.5] 14 Corick Way, Kilkeel BT34 4EP – privately built detached 1.5-storey bungalow (1946-1965) in the same locality; “site positive” – “sea view limited” (in other words a partial “sea view” but assessed as not properly to be classified as a “full” sea view), habitable space of 195 m², garage of GEA 39 m². This property carries a “site negative” attribution in the Presentation of Evidence by reason of the proximity of this property to a sewage works, with a negative factor of 5% attributed on that account. The Capital Value is £230,000.

[No.6] 5 Needham Court, Kilkeel BT34 4JQ – privately built detached 1.5 - storey bungalow (1966-1990) in the same locality; “site positive” – “none” (in other words, no “sea view”), habitable space of 202 m², garage of GEA 22 m². The Capital Value is £205,000.

[No.7] 6 Mourne Esplanade, Kilkeel BT34 4DB – privately built detached 1.5 - storey chalet (1966-1990) in the same locality; “site positive” – “sea view limited”, habitable space of 208 m², garage of GEA 63 m². The Capital Value is £240,000.

The supplemental Presentation of Evidence provided helpful particulars of an additional 9 properties in the immediate locality, with location details. This evidence included additional photographs of properties comprised in the original Presentation of Evidence and additional details and photographs of aspects of the additional properties, with reference to any “sea view” issues.

8. On behalf of the respondent, it is submitted to be clear, from the comparables put forward, that in this locality, as is the case in many coastal locations and reflecting sales evidence, a premium is added to the capital values of properties with a “sea

view". On behalf of the respondent, Ms Curran has submitted an illustration for this proposition to be the inclusion in the Presentation of Evidence of three pairs of broadly similar comparables, one of which has a "sea view" and the other which does not. It is accordingly submitted on behalf of the respondent that, conducting an analysis of these specific comparables in pairs, adjusting for differences in habitable space and for garages, suggests, so it is argued, that there is properly a premium of approximately 35% to be attributed in capital valuation terms for a "sea view", such as is enjoyed by the subject property and a premium of 20% is properly to be attributed for what is described as a "sea view limited" aspect.

9. The appellants have advanced a relatively straightforward argument in this appeal, which requires the tribunal carefully to consider the evidence of comparables and any apparent effect of a "sea view", in terms of capital valuation.

10. Examining all of the evidence, the tribunal considered the respondent's general submission, which is that in arriving at the capital value assessment in respect of the subject property, regard was had to the statutory basis of valuation. Accordingly, reference was made to schedule 12, paragraph 7 of the 1977 Order, as amended. It was submitted that regard was had, when valuing the subject property for the purpose of the Valuation List, to the capital values in the Valuation List of comparable hereditaments in the same state and circumstances as the subject property. These are the comparables identified as set out in a schedule to the Presentation of Evidence. The appellants have not made specific comment in this appeal and associated submissions concerning any of these selected comparable properties, save for the specific comparison that is identified in the appeal, as mentioned above.

THE TRIBUNAL'S DECISION

11. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner, being the respondent to this appeal, regarding capital value. In this case, the capital value at AVD of the subject property has been assessed (after an initial challenge and revaluation) at £270,000.

12. Examining the appellants' contention, the tribunal carefully considered the attribution of a capital value enhancement arising from a "sea view" in relation to the subject property and also to the comparables which were classified, variously, as having a "sea view", a "sea view limited" and the absence of any such. Examining the photographic evidence supporting these classifications, the tribunal was unable to draw much, evidentially, from certain comparables which were classified as having a "sea view limited". For example, the reason underlying a classification of "sea view limited" to comparable [No.5] (14 Corick Way, Kilkeel), when compared to the subject property was not fully clear. Furthermore, the apparent view from comparable [No.7] (6 Mourne Esplanade, Kilkeel), when compared to the subject property did not, as far as the tribunal was concerned, clearly and apparently support a disparity in enhancement as between the subject property at 35% and [No.7] at 20%. However, leaving those issues to one side, it was clear to the tribunal from an examination of comparables [No. 3] (84 Manse Road, Kilkeel) and [No. 4] (42 Manse Road, Kilkeel) that the evidence and information does support the 35% enhancement attributed to the subject property in capital valuation terms. The tribunal found comparable [No.6] (5 Needham Court, Kilkeel) to be less useful, evidentially. Comparables [No. 2] (25 Corick Close, Kilkeel, [No. 3] (84 Manse Road, Kilkeel) and [No. 4] (42 Manse Road, Kilkeel) were determined by the tribunal to be useful for comparative purposes. The additional evidence available from the supplemental Presentation of Evidence also supported the general conclusions. For these reasons the tribunal's conclusion and determination is that this evidence does support the attribution of a 35% valuation enhancement to the capital value for a "sea view" at this specific locality and also this evidence supports the proposition that the subject property is correctly valued at a capital valuation of £270,000.
13. As the tribunal has often observed in its decision-making, there exists a statutory presumption which is contained within the 1977 Order, Article 54(3). On account of this, any valuation shown in a Valuation List with respect to a hereditament shall be deemed to be correct until the contrary is shown. In order to succeed in an appeal, any appellant must either successfully challenge and displace that statutory presumption of correctness or perhaps the Commissioner's decision on appeal, objectively viewed, must be seen by this tribunal to be so incorrect that the statutory

presumption must be displaced and the tribunal must adjust the capital value to an appropriate figure.

14. The tribunal, in assessing this appeal, saw nothing in the general approach taken to suggest that this has been approached for assessment in anything other than the prescribed manner, as provided for in Schedule 12 of the 1977 Order. This being so, the tribunal examined the essential issue of whether or not the appellants had put forward sufficient challenge to the respondent's schedule of comparables and sufficient evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation.
15. Noting the argument made on behalf of the appellants and the response thereto, the statutory provisions specify that the capital value of the property shall be the amount which (on the statutory assumptions) the property 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. Further, in estimating the capital value regard shall be had to the capital values of comparable properties in the same state and circumstances as the subject property. The tribunal, in conducting this exercise, gave full consideration to all of the evidence and argument including an analysis of the appropriateness of selection and the weight to be attached to the properties put forward as comparables.
16. The tribunal's unanimous decision is that the appellants have not put forward sufficient evidence and argument effectively to displace the statutory presumption of correctness in respect of the capital valuation applied to the subject property. For that reason, the appeal cannot succeed and it is dismissed by the tribunal.

James V Leonard, President
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 6 November 2018