

**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: 20/18**

**KEVIN SMYTH – APPELLANT**

**AND**

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

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Charles O'Neill**

**Members: Mr Brian Reid FRICS and Mr Peter Somerville**

**Date of hearing: 9 October 2019, 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"). The appellant Mr Noble attended the hearing and the Commissioner was represented by Mr Gary Humphrey and Mr James Martin.
  
2. The appellant by Notice of Appeal, appealed against the decision of the Commissioner issued on 4 September 2018.

3. This appeal is in respect of the valuation of a hereditament situated at 17 Quay Meadows, Largymore, Lisburn, County Antrim, BT27 5FL (“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 and principles were fully considered by the tribunal in arriving at its decision in this matter.

### **The Evidence**

5. The appellant had indicated in his notice of appeal that he was content that the matter would be disposed of by written representations. However, in subsequent correspondence he stated that he would wish to attend the hearing. An oral hearing subsequently took place on 9 October 2019 and the tribunal heard evidence from the appellant and the respondent.
6. The tribunal had before it the following documents:
  - (a) The Commissioners Decision issued on 4 September 2018;
  - (b) The appellant’s Notice of Appeal dated 28 September 2018;
  - (c) A document entitled ‘Presentation of Evidence’ dated 21 February 2019, prepared on behalf of the respondent Commissioner by James Martin MRICS and submitted to the tribunal for the purposes of the hearing;

- (d) Letter from the appellant to the tribunal dated 5 April 2019;
- (e) Correspondence between the parties and the tribunal.

7. The tribunal would like to express its gratitude to the appellant and the respondent for the way in which the oral and written submissions were presented to the tribunal.

### **The Facts**

- (1) The subject property is a privately built apartment built circa 2018. It is located approximately one mile from Lisburn City centre. It has habitable space of 85.80m<sup>2</sup> and has a capital value of £150,000.
- (2) By way of background, the subject property was entered into the valuation list on 2 August 2018 with a capital value of £150,000.
- (3) On 14 August 2018 an appeal was submitted to the respondent querying the capital valuation. No change was made to this value and the appellant subsequently appealed to this tribunal.

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

- 8. The appellant stated that he had purchased the subject property in 2018 for £135,000 and used this to argue that the market value for the property in 2005 could not have been £150,000.
- 9. The appellant referred to the fact that the comparables used in the appendix to the Presentation of Evidence by the respondent are all apartments in the same development as the subject and are the same size as the subject. Therefore, he would argue that if one of these is incorrect then all are

incorrect and this presents a circular argument and is of no relevance and should be disregarded.

10. The appellant referred to NI apartment index for Q1 of 2005 being £115.3 and Q2 2018 being £124.00. This would show that the value at 2005 was 93% of the 2018 price. Therefore, the value of the property for rating purposes should be 93% of 2018 and this would mean that the actual valuation should be £125,000.

11. The appellant also referred to a property at 7 Dalboyne Park which has a valuation of £160,000 and a current market value of about £200,000. This he argues is a better reflection of the change in property values over this period of time.

12. The appellant referred to two sets of comparables in his evidence before the tribunal. The first set were as follows:

	Address	Size	Valuation	£ per m <sup>2</sup>
1	6 Wallace Apartments	60.67m <sup>2</sup>	£65,000	1071.37
2	2 Wallace Apartments	80.75m <sup>2</sup>	£80,000	990.71
3	9 Wallace Apartments	72.9m <sup>2</sup>	£70,000	960.22
4	8 Wallace Apartments	67.59m <sup>2</sup>	£70,000	1,035.66

13. These were stated to be two bedroom luxury apartments, currently worth £135,000. However, their capital valuation is in the region of £65,000 to £85,000. These properties were built about 10-15 years ago and are located in central Lisburn.

14. The second set of comparables referred to by the appellant were:

	Address	Size	Valuation	£ per m <sup>2</sup>
1	Apt 4 Block A, Hillsborough Road Mews	65.7m <sup>2</sup>	£100,000	1,522.07
2	Apt 2 Block A, Hillsborough Road Mews	92.3 m <sup>2</sup>	£125,000	1,354.28
3	Apt 3 Block A, Hillsborough Road Mews	80.7 m <sup>2</sup>	£115,000	1,425.03

15. These properties were stated to have been new build apartments built at the same time as the subject. These are more central than the subject in that they are 0.5-0.75 miles from the city centre. The appellant stated that the subject is in a less prominent area, across the river and further from the city centre. He further stated that there is an industrial estate opposite the Quay Meadows development.

16. The appellant referred to a calculation of capital valuation/area to give a price per m<sup>2</sup> for each of the properties and used this to argue that this meant that the capital valuation of the subject is incorrect.

17. The appellant suggested that Hillsborough Road, where the Hillsborough Road Apartments are situated is a better location than the Hillsborough Old Road.

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

18. 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 an

amended schedule to the Presentation of Evidence with further particulars of same, including photographs of the comparable properties. Four 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 Apartment 8, 21 Quay Meadows, Largymore, Lisburn, County Down, which has habitable space of 85.8m<sup>2</sup> and a capital value of £150,000.
- (b) The second comparable referred to was Apartment 5, 21 Quay Meadows, Largymore, Lisburn, County Down, which has habitable space of 85.8m<sup>2</sup> and a capital value of £150,000.
- (c) The third comparable referred to was Apartment 4, 21 Quay Meadows, Largymore, Lisburn, County Down, which has habitable space of 85.8m<sup>2</sup> and a capital value of £150,000.
- (d) The fourth comparable referred to was Apartment 1, 21 Quay Meadows, Largymore, Lisburn, County Down, which has habitable space of 85.8m<sup>2</sup> and a capital value of £150,000.

19. In relation to the development in Quay Meadows generally the respondent indicated that there are 12 apartments in the development and 11 of these have not been challenged. Indeed, there are 25 properties in the development overall and 24 have not been challenged. Therefore, it was suggested that there is a settled tone in the development.

20. When asked by the tribunal as to whether there is a difference in valuation of a ground floor apartment as opposed to a first floor apartment, the respondent indicated that for valuation list purposes no difference is made between these type of apartments.

21. Mr Martin on behalf of the respondent stated that the comparables submitted were in a similar state and circumstance to the subject. They are

all the same size as the subject, in the same development and have the same capital valuation.

22. In relation to where the capital values of the apartments in the Quay Meadows (which include the subject) were derived from, Mr Martin said that the first property in Quay Meadows that was entered into the valuation list was Apartment 3, 21 Quay Meadows. It has habitable space of 79m<sup>2</sup>. It is smaller than the subject and the capital valuation of £135,000 (subsequently clarified to be £145,000) reflects this. To set this capital value comparables at Harryville Court, Lisburn and Blaris Drive, Lisburn were used. The details of these are as follows:

(a) Harryville Court is a nearby purpose built block, built in 2008. These apartments are 400m from the subject. They have habitable space of 71m<sup>2</sup> and a capital value of £135,000.

(b) Blaris Drive apartments are private purpose built apartments, built in 2017. These are 69m<sup>2</sup> which are 17m<sup>2</sup> smaller than the subject and have a capital value of £135,000. These properties are in the same electoral ward as the subject. Blaris Drive is 0.83 miles from the subject.

23. In relation to the appellants' comparables in Wallace Apartments, the respondent states that these are smaller than the subject and are located in a different electoral ward, Hilden, and therefore are not in similar state and circumstances as the subject. The respondent contended that in different wards there are different spread of values and values could differ significantly. The respondent further argued that the Wallace Apartments further front onto a busy street. Quay Meadows has views of the river and is quieter and is more salubrious. The hypothetical purchaser would pay more for an apartment in Quay meadows than one in Wallace Apartments. There is also a disparity in the size of the apartments in that for instance, 9

Wallace Apartments is 13m<sup>2</sup> smaller than the subject and 8 Wallace Apartments is smaller than the subject.

24. In relation to the appellant's comparables at Hillsbrough Road Mews, the respondent stated that these are in a different ward to the subject, Lagan Valley ward and this ward would have a different spread of values differing from the subject. The respondent argued that this development is not in as attractive a location as Quay Meadows and does not have a river view.

### **The Tribunal's Decision**

25. 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 £150,000. On behalf of the Commissioner it has been contended that this figure is fair and reasonable in comparison to other properties.

26. 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.

27. 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. Therefore, it is not appropriate to consider present day market values to establish this.

28. The appellant has referred to a NI apartment index to show that the capital valuation of the subject is incorrect. Again, this does not present the correct basis upon which the capital valuation can be established. Similarly, the use of a calculation to derive a price per m<sup>2</sup> and to use this to compare with different properties is not the correct method of valuation for these purposes.
29. In relation to the comparable evidence forwarded by the appellant, the property at 7 Dalboyne Park can be discounted quickly in that it is a house and therefore is not in the same state and circumstances as the subject. In fairness to the appellant, he appears to have used this property merely as an illustration of a concept rather than as a direct comparable.
30. The tribunal in this case was presented with comparables presented by the appellant and the respondent. The tribunal prefers the comparables forwarded by the respondent. The apartments 8, 5 and 1 Quay Meadows are the same size as the subject and have the same capital valuation. They have been forwarded as unchallenged capital valuations. This is supported by the oral evidence given by Mr Martin on behalf of the respondent in which he indicated that the valuations in this development were supported by comparables in Blaris Drive apartments which are purpose built apartments, built at the same time as the subject.
31. In this case the tribunal is less persuaded by the apartment properties advanced as comparables by the appellant in Hillsborough Road Mews as these are in a different electoral ward to the subject and do not have river views.
32. Neither is the tribunal persuaded by the Wallace Apartments as these are again in a different ward, front onto a busy street and were built about 10-15 years ago.

33. The tribunal carefully considered the issue as to whether the appellant had provided sufficient challenge to the Commissioner's schedule of comparables. Taking all matters into account, in relation to the capital value of the property, the conclusion of this 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, Chair  
Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to the parties: 13 November  
2019**