

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND
THE VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007**

**CASE REFERENCE NUMBER: NIVT 27/17
ANGELINE TELFORD – APPELLANT
AND
COMMISSIONER OF VALUATION FOR NI – RESPONDENT**

Northern Ireland Valuation Tribunal

Date of hearing: 17th October 2018

CHAIRMAN: Stephen Wright

MEMBERS: Mr Timothy Hopkins FRICS and Ms Angela Matthews

DECISION

The Tribunal's unanimous decision is that the Appellants appeal is not allowed and the Capital Valuation (CV) assessed on, 4 James Lodge, Derrymore, Craigavon, County Antrim BT67 0WJ of £130,000 is correct.

Introduction

1. The appellant did not attend the hearing. The respondent did not attend the hearing.
2. The appeal was heard by virtue of rule 11(1) of the Valuation Tribunal Rules (Northern Ireland) 2007 which states “an appeal may be disposed of on the basis of written representations if all parties have given their consent in writing.”
3. The valuation of the property that is the matter of the appeal is 4, James Lodge, Derrymore, Craigavon, County Antrim BT67 0WJ (the subject property). The subject property is a modern semi-detached 2½ story dwelling. It was constructed in 2009 and the roof space was converted to habitable space

in circa 2017. The gross external area (GEA) was increased from 127m² to 147m². It is located just off the Derrymore Road very close to the shores of Lough Neagh approximately 3 miles from the villages of Aghalee and Aghagallon and 6 miles from Lurgan. The development comprises 15 houses, four of which are semi-detached and the remainder detached.

4. The appellant, by Notice of Appeal received by the secretary of the Northern Ireland Valuation Tribunal (NIVT) on the 8th February 2018, appealed against the decision of the Commission of Valuation (COV), issued on the 11th September 2017, which states that the valuation should be £130,000. The COV states that the rise of £15,000 in the CV (previous CV £115,000) was due to the roof space conversion. This notice was effective from the 1st April 2018.
5. On the 14th February 2018 Mr Flannigan, a Legal Chairman of the NIVT, granted an extension of time to the Appellant (with no objection from the respondent, to appeal pursuant to rule 9(2) (d)) and rule 20 of the Valuation Tribunal Rules (Northern Ireland 2007) as amended (2007 Rules).
6. The following documents have been considered by the Tribunal:-
 - (a) The Notice of Appeal against a valuation for rating purposes (Form 3) was received on the 8th of February 2018 dated the 3rd of February 2018.
 - (b) Valuation certificate issued on the 27th July 2017 and 11th September 2017.
 - (c) Presentation of Evidence for the COV dated 18th July 2018 by Mr Gordon Bingham MRICS including schedule of comparisons and photographs of the subject property.
 - (d) Order of the NIVT extending the time for appeal dated 14th February 2018.

The Law

7. The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). Article 54 of the 1977 Order enables a person to appeal to this Tribunal against the decision of the Commissioner on appeal regarding the capital value.

8. Schedule 12 of the 1977 Order as amended states as follows:

“7(1) subject to the provisions of this schedule, for the purposes of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in Paragraphs 9-15, the hereditament might reasonably expected to realise if it had been sold on the open market by a willing seller on the relevant capital valuation date.

(2) In estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised. ...

(4) In sub-paragraph (1) “relevant to capital valuation date” means 1st January 2005 or such date as the Department may substitute by order made subject to a negative resolution for the purposes of a new capital valuation list.”

(7) Article 54(3) of the 1977 Order provides that on appeal any valuation shown in a valuation list shall be deemed to be correct until the contrary is shown. Thus, any appellant must successfully challenge and displace the presumption of correctness otherwise the appeal will not be successful.

Background to the appeal

9. On the 26th November 2009 the subject property was added to the valuation list with a (GEA) of 127m² and a garage of 26m². The CV was assessed at £115,000.

10. On the 27th July 2017 following a roof space conversion on the subject property which increased the GEA to 147m² the CV was revised to £130,000. This was effective from the 1st of April 2018.

Appellants Representations

11. In the Notice of Appeal the appellant states that she believes the actual valuation should be between £123,000 and £125,000.
12. The appellant states that despite the loft conversion, the house remains a three bedroom property. The difference now is that the third bedroom is bigger, and in the loft. The original third bedroom was lost to the new staircase. The Appellant states that other three bed semi-detached properties in the area are valued at around £115,000. The loft conversion cost £8000 and the difference in market value is £10,000.
13. The Appellant further states that she does not oppose the principle of alteration but thinks that an increase of £15,000 is excessive, in view of the capital value of all the three bed semis in the area. The appellant believes that her house needs to be re-valued on the basis of the additional square footage of the new bedroom in comparison to the old bedroom and this could not result in an increase of £15,000.

Respondents Representations

14. Mr Bingham on behalf of the COV made the following representations in his Presentation of Evidence.
15. The appellant has stated that she accepts that the CV should be increased as a consequence of the works. However she does not agree with the revised CV assessment on the basis that the property is still only a three bedroom property, albeit with a larger area.
16. Mr Bingham states that when assessing the CV of a property, the District Valuer must comply with the Rates (Northern Ireland) Order 1977,

specifically schedule 12 which states “*regards shall be had to the capital values in the valuation list of comparable hereditament’s in the same state of circumstances.*” This is known as “tone of the list” and is designed to ensure fairness in the rating system. The subject

Property has been valued by reference to other semi-detached properties and is considered to be in the same state of circumstances in terms of GEA and location. Mr Gordon is of the opinion that the increase in GEA is a benefit to the subject property and the CV assessment correctly reflects this.

17. Originally the CV of the subject property was in tone with the three semi-detached properties in the development, namely £115,000. However, when the roof space, of the subject property, was converted to habitable space, the increased GEA resulted in an increase in the CV to reflect the alteration. This revised assessment was by reference to CV’s of similar sized modern semi-detached houses in the locality, as per schedule 12. Mr Gordon refers to a list of nearby comparable properties at ‘Schedule of Comparisons’.
18. Mr Gordon considers comparable 1, 2 James Lodge is comparable .It is situated in the same development, is of similar size to the subject property and also includes a roof space conversion it measures 153m² (GEA) and has a CV of £130,000.
19. Mr Bingham states that the other two semi-detached houses on the development both have a GEA of 127m² and are valued at £115, 000, in tone with the CV of the subject property prior to the roof space conversion.
20. Mr Gordon refers to comparable 2 and 3 which are situated in the nearby Loughview is a smaller development, considered similar to that of the subject property. Both are semi-detached properties of a similar size; however these properties were built in the early 1990s.
21. Mr Bingham refers to comparable 2, 9 Loughview. This property is smaller than the subject property, 143m², has a smaller garage of 19m² and was built in around 1991, with a capital value of £125,000.

22. Mr Bingham file refers to comparable 3, 12 Loughview, which is larger than the subject property, 156m² and does not have a garage and was built in around 1994 this property, has a capital value of £130,000
23. Mr. Bingham concludes that having reviewed comparable evidence, he is of the opinion that an increase in capital value from £115,000-£130,000 is well supported by other similar properties in the valuation list.

Decision of the Tribunal

24. The appellants case to the tribunal is the capital value assessment of the valuation on the property of 130,000 should be between £123,000 and £125,000.
25. The purpose of the tribunal is to consider the evidence and apply the relevant law to the issue of capital valuation. The value of the subject property has been assessed in accordance with the legislation contained in the Rates (Northern Ireland) Order 1977. Schedule 12 paragraph 7 as set out at paragraphs 6 and 7 of this Decision.
26. Article 54 (3) of the 1977 order provides that, on appeal any valuation shown in the valuation list should be deemed to be correct until the contrary is shown and that any appellant must successfully challenge and displace the presumption of correctness otherwise the appeal will not be successful.
27. The appellant has raised the issue that whilst she is not disputing that there should be some rise in the capital valuation but she thinks it is excessive to raise it from 115,000 to £130,000. The appellant indicates that the measurement should be done on the arithmetical square footage basis. In this context the tribunal refers the case of *Ashraf Ahmed v Commissioner for Valuation NIVT 12/15*, and to paragraphs 7.6 -7.7 of the judgement. The chairman, Mr Reid stated “*the tribunal does not except the Capital Value of a property can be determined or compared with the Capital Value of another property by comparing its size and Capital Value and arithmetically*

calculating the Capital Value per metre squared of either property. Rather Schedule 12 of the 1977 order requires that in assessing the amount which the subject property might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant Antecedent Valuation Date (in this case 1st January 2005) regard must be had to the Capital Values in the valuation list of comparable hereditament in the same state and circumstances.” The Tribunal as it has affirmed in other cases concurs with this approach.

- 28.** The Tribunal’s function is to determine an appeal against the COV’s refusal to decrease the CV of £130,000 to £123,000 - £125,000. The assessment of the valuation of property is based on Statute as set out in Schedule 12 of the 1977 Order. Article (7) (2) states, *“in estimating the capital value of the hereditament for purposes of any revision of a valuation list, regard shall be had for the capital values in the valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.”*
- 29.** A schedule of comparable evidence was gathered to illustrate the CV assessments of similar properties to the subject property. This is known as the *“Tone of the List”* and in essence confirms that comparability is a cornerstone of the rating system. The Comparability of Rating Hereditament was described in the case of *Dawkins (VO) v Ash Brothers and Heaton (1969) 2 A C336* in which Lord Pearce stated *“Rating seeks a standard by which every hereditament in this country can be measured in relation to every other hereditament. It is not seeking to establish the true value of any particular hereditament, but rather its value in comparison with the respective values of the rest.”*
- 30.** The Tribunal’s analysis of the evidence from the respondent's selected comparables is that these are not inappropriate. The Tribunal was referred to Appendix 1 of The Presentation of Evidence. The subject property is a modern semi-detached 2½ storey dwelling. It was constructed in 2009 and the roof

space was converted to habitable space in c 147m², **circa** 2017. The GEA was increased from 127m² to **147m²**, a garage of 26m² and has a **CV of £130,000**.

- 31.** The Tribunal takes the view that the best comparable property is number 1 on the Schedule of Comparisons, namely 2 James Lodge, Derrymore. The property is situated in the same development of the subject property and, is of similar size to the subject property and also includes a roof space conversion. The property has a GEA of 153m² a garage of 26m², and has a CV of £130,000. The Tribunal consider this comparable supports the current Capital Valuation of £130,000 of the subject property.
- 32.** Comparable Property number 2 namely 9 Loughview, .Derrymore is smaller than the subject property, 143m², a garage of 19m², and was built in around 1991, with CV of £125,000.The Tribunal takes the view that this is supportive of the CV of the subject property
- 33.** Comparable 3, 12 Loughview, Derrymore is larger than the subject property, 156m² and does not have a garage and was built in around 1994. This property has a CV of £130,000. The Tribunal takes the view that this property is also supportive of the CV of the subject property.
- 34.** The Tribunal’s unanimous decision is that the appellants appeal is not allowed and the CV assessed on, 4 James Lodge, Derrymore, Craigavon, County Antrim BT67 0WJ of £130,000 is correct.

Signed: Mr Stephen Wright – Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to all parties: 17th January 2019