

**LANDS TRIBUNAL FOR NORTHERN IRELAND**  
**LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964**  
**IN THE MATTER OF AN APPEAL AGAINST VALUATION FOR RATING PURPOSES**  
**VR/17/1975**  
**BETWEEN**  
**D A C SMYTH - APPELLANT**  
**AND**  
**THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**VR/18/1975**  
**BETWEEN**  
**H R SPEERS - APPELLANT**  
**AND**  
**THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**VR/19/1975**  
**BETWEEN**  
**JOHN B MILLS - APPELLANT**  
**AND**  
**THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Lands Tribunal for Northern Ireland - F Malcolm McKibbin MA(Cantab) FRICS**

**Belfast - 12<sup>th</sup> April 1976**

These were three appeals against the rateable values of three adjoining detached villas, nos 22, 24 and 26 Netherleigh Park, Belmont, Belfast. By consent the parties agreed that they should be heard together.

Each of the three Appellants appeared in person without legal representation or expert witnesses, while the Respondent was represented by Mr John B Barclay ARICS, an officer of the Valuation Division of the Department of Finance.

The subject hereditaments comprised three attractive detached villas and out- offices situated in Netherleigh Park, a quiet cul-de-sac off Castlehill Road near its junction with Massey

Avenue. This area was developed and the subject hereditaments built about 1955. The Net Annual Values were:-

|                        |     |
|------------------------|-----|
| No 22 Netherleigh Park | £55 |
| No 24 Netherleigh Park | £63 |
| No 26 Netherleigh Park | £55 |

These NAVs were accepted by the Appellants until Netherleigh House together with its grounds at the rere of Netherleigh Park was acquired by the Government of Northern Ireland from Campbell College and in 1975 the construction of a large three-storey office block of some 150,000 square feet was commenced. This office block is about 150 feet from the back of the dwelling house no 22 Netherleigh Park, 140 feet from the back of the dwelling house no 24 Netherleigh Park, and 130 feet from the back of the dwelling house no 26 Netherleigh Park.

The three Appellants were concerned about the effect of this building on the value of their hereditaments and applied in 1975 for reductions in their NAVs. At the first appeal stage the Respondent, having come to the conclusion that there was an equal adverse effect on each of the three subject hereditaments and that they were the only hereditaments in the Netherleigh Park complex so affected, reduced each of the NAVs by £3, thus assessing no 22 Netherleigh Park at £52, no 24 Netherleigh Park at £60 and no 26 Netherleigh Park at £52.

These reductions were considered by the Appellants to be inadequate and accordingly in December 1975 they appealed to the Lands Tribunal. The Appellants agreed that the only point at issue was the effect of the new three-storey office block on the three subject hereditaments and so advised the Respondent.

The three Appellants complained that their hereditaments had been affected in the following ways:-

1. The construction of the three-storey office block had affected the privacy of the subject hereditaments since it overlooked the living rooms and bedrooms at the rere of the subjects. The rere gardens have lost all privacy.
2. Some 400 staff will be housed in the new office block. In addition considerable numbers of the public will in the ordinary course of business visit these offices. Of necessity large

numbers of cars can be expected to enter and use the car park at all hours of the day with resulting noise and atmospheric pollution.

3. The volume of traffic in the Massey Avenue - Castlehill Road area will be greatly increased and the amenities of the area eroded both on account of this commercial building in a residential neighbourhood and the increase in traffic.
4. Prior to the construction of the new office building there was a pleasant rural outlook from the rear of the subject hereditaments over the wooded and shrub planted gardens of Netherleigh House. Now the three-storey office building obstructs the skyline and sunsets can no longer be seen. The protecting shrubbery has been largely cut down and in the case particularly of no 24 Netherleigh Park, the outlook is into a three storey high brick wall. A high wire mesh fence has been constructed for security purposes along the boundary at the back of the gardens of the subject premises. This has a claustrophobic effect and would give the hypothetical tenant the impression of being in a prison camp such as Long Kesh.
5. The security provisions, which of necessity have to be made, will be disagreeable and unpleasant. Floodlight standards some 6½ metres high are situated at intervals along the boundary, some close to the subject dwellings. These will result in a blaze of lights all night and make the occupation of bedrooms and living rooms at the rear of the subject premises most unpleasant and quite unlike what they were before.
6. Apart from the security lighting it seems probable that the cleaning procedure in operation at the other large office premises at Stormont and Dundonald House will apply to the Netherleigh building also. It can be expected that cleaners will come on duty at 10 pm and work through until 6 am with the new building fully lighted during the whole nightly period, in the same way as Stormont and Dundonald House nearby are illuminated.
7. Following the usual security pattern, in addition to security staff and guard dogs, it can be expected that there will be frequent Police, Army and UDR patrols at night with inevitable noise and additional excessive car lights moving around.

8. Security can never be guaranteed and the provision of a prime target for terrorists so close to the subject hereditaments represents a new and unexpected risk for the residents.

Mr Barclay agreed that the effect of all these factors was to a very large extent a matter of opinion. For example, floodlighting was not yet operational and the effect was difficult to assess. He had discussed this with the contractor's clerk of works who considered that the floodlighting would have little adverse effect and might be mitigated though how this could be done was not made clear. Mr Barclay dealt with the complain that the windows of the new office building overlooked windows in the subject dwellings and stated that he considered that this factor was exaggerated. He had looked at the subject premises from various windows of the new office building and considered there was little ground for complaint on this score. Nevertheless he accepted that there was some adverse effect on the subject premises and he had reduced the NAV of each of the three appeal hereditaments by £3. In doing this he had had regard to the decision of the Tribunal in McMaster v The Commissioner of Valuation VR/2/1975 where a rather similar situation had existed.

## **DECISION**

The Tribunal has inspected the subject hereditaments. It has also considered carefully the effect of the new office building on the subjects in the light of the evidence given and views expressed by the Appellants and by Mr Barclay.

The measurement of such effect must be a matter of opinion, but the Tribunal notes that Mr Barclay for the Respondent agreed in principle with the Appellants that there was an adverse effect on the attractiveness of the subject hereditaments to the hypothetical tenant.

Mr Barclay said that he had had regard to the Tribunal's decision in McMaster v The Commissioner of Valuation in arriving at the reductions of £3 in the NAV's of each of the three subject hereditaments. In the McMaster case the only complaint was that of having living and bedroom windows overlooked by a new three storey office building, and the Tribunal reduced the NAV of the subject in that case by £6 from £54 because it was more seriously affected than an adjoining bungalow which had been reduced by £4 from £60. In the present cases, though the 'overlooking' factor is less acute, and most of the other factors of which the

Appellants complain were present to some extent in the McMaster case, the results of the security requirements, particularly the floodlighting, guard dogs, the prospects of Police and Army patrols and high wire mesh fence, are additional matters which must affect the hypothetical tenant.

In the precis of evidence and the supplementary oral evidence given by Mr Barclay, the Tribunal is satisfied that as far as it goes he has assessed the overlooking loss of privacy and view obstruction factors of the new building fairly and the Appellants have not shown that any greater reduction than £3 is warranted on account of these factors.

Mr Barclay did not attach much importance to the noise from cars and the considerable use during office hours from 8 am to 6 pm and to increased traffic in Massey Avenue and Castlehill Road. He said that in his opinion these were of little consequence in relation to the hypothetical tenant's attitude. The Tribunal is not satisfied that his view of this is wrong. As regards the security matters, floodlighting, Army and Police patrols at night, guard dogs etc, he said that the effects were difficult to assess since none of these were as yet operational. He did not indicate that he had given any consideration to the cleaning procedure normally employed in Government Offices though he agreed with Mr Mills that it could be expected that the normal Stormont and Dundonald House procedure would apply and that the hypothetical tenant would expect the new building to be "a blaze of lights from 10 pm to 6 am" when the cleaners were on duty.

The Tribunal is satisfied that these security and lighting factors would affect the hypothetical tenant's bid for each of the subject hereditaments and that full allowance has not been made for these by the Respondent. It is, as the Appellants and Mr Barclay agreed, a matter of opinion what any allowance should be. Certainly the Tribunal cannot from its experience agree that any large percentage reduction such as the 30% abatement asked for by the Appellants could be justified, and prefers Mr Barclay's approach. Making the best assessment possible, in the understandable absence of any precise evidence, the Tribunal considers that Mr Barclay's reduction of £3 should be increased to £5. The appeals are allowed to that extent and the net annual values of the subject hereditaments will be assessed as follows:-

|                        |     |
|------------------------|-----|
| No 22 Netherleigh Park | £50 |
| No 24 Netherleigh Park | £58 |

No 26 Netherleigh Park

£50

After the reading of this decision the Appellants informed the Tribunal that they did not wish to make any application and accordingly there will be no order as to costs.

**ORDERS ACCORDINGLY**

**F MALCOLM McKIBBIN**

**30<sup>th</sup> April 1976**

**LANDS TRIBUNAL FOR NORTHERN IRELAND**

**Appearances:-**

**Appellants - Personally.**

**Respondent - Mr John B Barclay FRICS, Valuation Division, Department of Finance,  
Belfast.**