

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL & COMPENSATION ACT (NORTHERN IRELAND) 1964

IN THE MATTER OF AN APPEAL

VR/1/2004

BETWEEN

R MILLIKEN - APPELLANT

AND

THE COMMISSIONER OF VALUATION – RESPONDENT

Re: 23A THE HILL, GROOMSPORT

Lands Tribunal

The Honourable Mr Justice Coghlin

and

Mr M R Curry FRICS IRRV MCI.Arb Hon.FIAVI

Belfast – 28th October 2004 & 4th February 2005

1. At the time of the Third General Revaluation, in 1976, the unit now known as 23A The Hill, Groomsport, Co Down was an unimproved detached cottage and valued at £25. Following some improvements and extension (not yet finished in part) the valuation was revised in 2003 and increased to £80. Mr Milliken appealed against the amount of the valuation to the Commissioner of Valuation. This is an appeal against the Commissioner's subsequent decision dated 7th January 2004 in which he declined to alter the entry in the Valuation List. He stated
"The Valuation is fair and relative with that of similar properties in the area".
As is his practice he did not give reasons for that conclusion.
2. Mr Ronald E J Milliken appeared in person. Mr Ed Quiery Solicitor of the Departmental Solicitor's Office appeared for the Commissioner of Valuation. Mr James Venning, an experienced chartered surveyor gave expert evidence.
3. Although the postal address of the unit is "The Hill", it is in part of what was the rear garden to a terrace house on The Hill and accessed only via a shared lane that runs behind and across all the houses on The Hill. This lane is unadopted and has no

street lighting. At the other end the lane is known as “Back Hill” and to distinguish between units on The Hill and units on the lane behind, the Tribunal will refer to the entire lane as “Back Hill”. In the interests of clarity the tribunal focuses on the basic pricing of each unit, leaving aside adjustments for items such as central heating, conservatories, garages and other outbuildings.

4. The Commissioner accepts that Mr Milliken’s house undoubtedly has deficiencies; there is no street lighting on Back Hill, there is no footpath, the lane is unadopted and partially unmade (deficiencies shared with the other houses on Back Hill) and its layout is poor. Mr Venning valued the house as $86\text{m}^2 @ £0.85/\text{m}^2 = £73$.
5. The Commissioner also accepts that at present the unit is unfinished in part and an agreed end allowance of 20% has been made for that.
6. Mr Milliken complained of the lack of local services – unadopted road, no pavement, no street lighting, no piped gas supply or telephone connection. The domestic rating system is a property tax based on the historic rental value of the unit not a charge for the use of local services. The availability or otherwise of such services is relevant only to the extent that it affects the rental value of the unit. Schedule 12 Part 1 of the Rates (NI) Order 1977 provides:

“ ... the net annual value of a hereditament shall be the rent for which, one year with another, the hereditament might, in its actual state, be reasonably expected to let from year to year, the probable average annual cost of repairs, insurance and other expenses (if any) necessary to maintain the hereditament in its actual state, and all rates, taxes or public charges (if any), being paid by the tenant.”

And:

“ ... in estimating the net annual value of a hereditament for the purposes of any revision of the valuation list, regard shall be had to the net annual values in the valuation list of comparable hereditaments which are in the same state and circumstances as the hereditament whose net annual value is being revised.”

7. The domestic Valuation List was prepared in 1976, for the Third General Revaluation. Evidence of actual rents from that time is not generally available and for this and other reasons, effectively the only basis now available for making and challenging domestic

valuations is by having regard to the net annual values in the valuation list of comparable hereditaments, properly adjusted to reflect any differences.

8. Mr Venning identified properties that he considered were comparables within the Schedule 12 criteria. One was a mid-terrace unit on The Hill the other three were detached units on Back Hill. He considered that

“a discernable pattern emerges which reflects the relative merits of these properties”

and that

“the subject has been valued within this pattern with due regard to its position and actual state”.

9. Following an adjournment and joint inspection of some units, Mr Milliken accepted that the areas were correct. However he questioned the method of survey at a unit at 3 Bangor Road, Groomsport. Mr Venning relied on Gross External Area i.e. the area of a building measured externally at each floor (areas with a headroom of less than 1.5m being excluded). The method has been widely used both in Northern Ireland and including use for council tax banding in England and Wales. There was no evidence that if properly applied it would lead to an unfair result in this case.
10. At 17 The Hill, a mid-terrace cottage, the valuation was $75\text{m}^2 @ £1.00/\text{m}^2 = £75$. After Mr Milliken submitted his Statement of Case to this Tribunal (13th April 2004) the valuation was revised and increased to take into account extensions and improvements to it. Mr Venning analysed it as $84\text{m}^2 @ £1.00/\text{m}^2 = £84$. On the one hand Mr Milliken's unit and all the other units put forward as comparables are detached, not mid-terrace and on the other hand, unlike the other 3 comparables on which Mr Venning relies, this unit is in a superior position and fronts an adopted road with street lighting. There is no analysis before the Tribunal that would reliably assist it to discern the effect on value of relative merits of these competing features and consider the valuation as part of a pattern that would relate it to Mr Milliken's unit.
11. On Back Hill, there were three detached units that like Mr Milliken's unit had been renovated and improved. Mr Venning analysed 25A The Hill (but on Back Hill) as $107\text{m}^2 @ £1.00/\text{m}^2 = £107$. After Mr Milliken submitted his Statement of Case the valuation was revised and increased by a spot figure of £30 to take into account a

conservatory that had not been valued. Having considered the survey in the context of a photograph, the Tribunal has reservations about the actual size; Mr Venning may have underestimated the size of the upper floor with its dormer windows. If so the analysis would support a slightly lower pricing. He analysed the others, 5 Back Hill as $94\text{m}^2 @ \text{£}1.03/\text{m}^2 = \text{£}97$ and 3B Back Hill as $60\text{m}^2 @ \text{£}1.10/\text{m}^2 = \text{£}66$, say $\text{£}65$.

12. In his Statement of Case Mr Milliken referred to 3 Windmill Cottages, Bellevue, Bangor (a mid-terrace house about 2 miles away but on an unadopted/unmade road) and 3 Bangor Road, Groomsport (a 2 bedroom detached house at the edge of Groomsport, on the main road and with substantial gardens front and rear).
13. Again after Mr Milliken submitted his Statement of Case the valuations of both these units were subsequently revised and increased to take into account extensions and improvements that had not been valued. At Windmill Cottages the valuation had been analysed as $53\text{m}^2 @ \text{£}0.94/\text{m}^2 = \text{£}50$; it became $88\text{m}^2 @ \text{£}0.85/\text{m}^2 = \text{£}75$. Mr Milliken questioned why the price per square metre for the improved house was less than that for the unimproved house. Mr Venning explained that the pricing reduced with scale - the bigger the house, the lower the pricing. Mr Milliken also questioned the general levels of value at Bangor and Groomsport. A comparison between levels of value of different types of house with different levels of amenity at and near Windmill Cottages might have provided some guidance but the Tribunal largely accepts Mr Venning's opinion that the unit at Windmill Cottages, Ballyholme is too far away to provide a relevant guide to the unit at Back Hill. However the reduction of pricing with scale (about 66% larger, about 10% less) is interesting.
14. At Bangor Road the valuation had been analysed as $78\text{m}^2 @ \text{£}1.99/\text{m}^2 = \text{£}155$; it became $157\text{m}^2 @ \text{£}1.50/\text{m}^2 = \text{£}236$. The Tribunal agrees with Mr Venning's opinion that this unit is not a helpful comparable given the differences in size, location and overall quality.
15. In Mr Venning's opinion the relevant matters to be taken into account in analysing the pattern on Back Hill to arrive at a pricing for Mr Milliken's unit were size (a reduction for scale) and quality of layout, finish and site.

16. Having regard to size, 25A The Hill was 107m² @ £1.00/m², 5 Back Hill was 94m² @ £1.03/m² and 3B Back Hill was 60m² @ £1.10/m². If size was the only factor, the Tribunal notes that the pattern would not be inconsistent with Mr Venning's explanation for the reduction of pricing with scale at Windmill Cottages. All other things being equal, the pricing on Back Hill would suggest that Mr Milliken's unit should be priced at between £1.00/m² and £1.10/m² and more accurately about £1.05/m² or, having regard to the doubts about the correctness of the survey of 25A The Hill, slightly less.
17. Mr Milliken stressed that his house is not a new build – it consists of a building that dates to before 1900 with a new extension. Mr Venning said, and Mr Milliken did not dispute, that although the other units on Back Hill were all also the results of renovations and extensions, they were superior in terms of finish. Further although 5 Back Hill shared a driveway with 3B Back Hill he said it was also better in terms of siting. He said that 25A The Hill was also superior in terms of layout and site. Mr Venning produced no analysis that would allow the Tribunal to discern his view of the measure of the effect on value of each of the relative merits of these properties. But there is no other evidence before the Tribunal to suggest that the pricing of £0.85/m² that he adopted (and which is well below the figure of about £1.05/m² suggested by other considerations) is not a sufficient recognition of these factors.
18. Mr Milliken drew attention to the absence of mains gas and what he said would be extraordinary charges for the provision of a telephone connection and mains water. The Tribunal is not persuaded that the absence of mains gas is a matter affecting the valuation for rating. Unfortunately, despite an adjournment, no evidence of telephone connection charges could be produced and the Tribunal is not persuaded that there should an allowance for that either. As a consequence of the generally poor water pressure in Groomspout the lack of a direct water supply to this unit, which is being treated as unfinished, is only a slight further disadvantage and the Tribunal is not persuaded that any further adjustment to reflect the effect of that factor is justified at present.
19. Mr Milliken has no central heating and nothing has been added for that. He has a number of outbuildings and £27 has been added for those. This figure was not

disputed. After the 20% end allowance for the unfinished site and house the total valuation in the List therefore is £80.

20. In his Notice of Appeal Mr Milliken said he was unable to find any coherent system of calculating NAVs. The lack of any reasons in the decision of the Commissioner and the fact that the valuations of 4 of the 6 possible comparables under consideration were out of date and incorrect at the time of the Commissioner's decision on the appeal cannot have helped. However having considered all the material put before it the Tribunal is satisfied that it does not show that his NAV is incorrect.

ORDERS ACCORDINGLY

11th May 2005

**The Honourable Mr Justice Coghlin and
Mr M R Curry FRICS IRRV MCI.Arb Hon.FIAVI
LANDS TRIBUNAL FOR NORTHERN IRELAND**

Appearances

Applicant: Mr Ronald E J Milliken appeared in person.

Respondent: Mr Ed Quiry Solicitor DSO appeared for the Respondent