

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

**CASE REFERENCE NUMBER: 24/09**

**RAYMOND CASSIDY - APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Date of hearing: 14 September 2009**

**Chairman: Ms A Grace**

**Members: Mr W Deddis and Mr H Mulholland**

**DECISION AND REASONS**

**Introduction**

1. There was no appearance before the Tribunal by or on behalf of the appellant and the respondent; both parties having indicated that they were content for the appeal to be disposed of on the basis of written representations.
2. The property the subject of the appeal (“the property”) is 70 Drumshimuck Road, Derrylin, County Fermanagh, BT92 9BD. It is situated off the Drumshimuck Road approximately 2 miles from the village of Derrylin. It is a detached single storey bungalow originally built circa 1910 and has a gross external area of 118 m<sup>2</sup> plus garden.
3. On 20 April 2009 the respondent issued the Commissioner’s Decision on Appeal and assessed the capital value of the property as £100,000.00 as at 1 January 2005.
4. The appellant appealed against that decision by a notice of appeal dated 28 April 2009.

5. On 27 July 2009 the appellant's appeal was adjourned to enable the Land and Property Services to respond to points the appellant had raised in his submitted letter received 24 July 2009.
6. The following documents were before this Tribunal:
  - Commissioner's decision dated 20 April 2009
  - Notice of appeal dated 28 April 2009
  - Respondent's presentation of evidence including report from Mr McVitty, Chartered Valuation Surveyor, dated 10 June 2009
  - Letter from the appellant received 15 July 2009 plus photographs
  - Email from Mr Bell MRICS on behalf of the respondent dated 20 July 2009
  - Letter from the appellant received 24 July 2009
  - Email from Mr Bell MRICS dated 24 July 2009
  - Additional evidence from Mr Bell MRICS dated 27 August 2009

### **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.
8. Paragraphs 7 to 15 of Part 1 of Schedule 12 to the 1977 Order, as amended, state 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 to 15, 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.
  - (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.
  - (3) The assumptions mentioned in paragraphs 9 to 15 shall apply for the purposes of determining whether one hereditament is a comparable hereditament in the same state and circumstances as another with the omission of sub-paragraphs (2) and (3) of paragraph 12.

(4) In sub-paragraph (1) "relevant capital valuation date" means 1st January 2005...

*Capital value – the assumptions*

8. In this paragraph and paragraphs 9 to 15—  
"development" has the meaning given by Article 2(2) of the Planning Order;  
"flat", in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building;  
"incumbrance" means any incumbrance, whether capable of being removed by the seller or not, except service charges;  
"permitted development" means development for which planning permission is not required or for which no application for planning permission is required;  
"Planning Order" means the Planning (Northern Ireland) Order 1991 (NI 11);  
"planning permission" has the meaning given by Article 2(2) of the Planning Order;  
"rentcharge" has the meaning given by section 27(1) of the Ground Rents Act (Northern Ireland) 2001 (c. 5).
9. The sale is with vacant possession.
10. The estate sold is the fee simple absolute or, in the case of a flat, a lease for 99 years at a nominal rent.
11. The hereditament is sold free from any rentcharge or other incumbrance.
- 12.(1) 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.
- (2) The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date.
- (3) In sub-paragraph (2) "relevant date" means 1st April 2007 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.
13. The hereditament has no development value other than value attributable to permitted development.

- 14.(1) A hereditament falling (or deemed to fall) within any sub-paragraph of Article 39(1A) will always fall within that sub-paragraph.
- (2) A hereditament falling (or deemed to fall) within paragraph (1B) of Article 39 will always fall within that paragraph.
- 15.(1) There has been no relevant contravention of—  
(a) any statutory provision; or  
(b) any requirement or obligation, whether arising under a statutory provision, an agreement or otherwise.
- (2) In sub-paragraph (1) "relevant contravention" means a contravention which would affect the capital value of the hereditament.
9. Article 54(3) of the 1977 Order, as amended, provides that on an appeal any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

### **The Appellant's Evidence and Submissions**

10. The appellant's evidence can be summarised as follows. He submitted that the true value of his property as at 1 January 2005 should be £80,000.00. His reasons for this and grounds of appeal were dampness in walls, lack of privacy, dust from Quinn's cement plant and a derelict farm building next door. His letter received 24 July 2009 stated that the dampness is in two bedrooms, the bathroom and utility room and not just in one bedroom and that the roof is also leaking. He submitted photographs of walls inside his property to show dampness. The appellant further submitted that property at 101 Belturbet Road, Derrylin was valued only at £80,000.00.

### **The Respondent's Evidence and Submissions**

11. The respondent's evidence can be summarised as follows. The initial evidence is the report from Mr McVitty, Chartered Valuation Surveyor, dated 10 June 2009. Mr McVitty stated that he inspected the property on 3 April 2009 and found it to be in average condition with evidence of damp in one of the bedrooms to the rear of the property but it was only minor. Mr McVitty stated that the property is situated up a laneway with the nearest dwelling approximately 25 metres away. The farmyard situated next door is not within the boundaries of the appellant's property and is hidden from view by a mature boundary hedge. The property is situated approximately 3 miles from the cement plant and far enough removed not to be significantly affected by the plant. Mr McVitty considered the capital value assessments of other properties that he considered to be comparable located within the same general locality. Comparable

properties at 97 Belturbet Road, Derrylin, and 101 Belturbet Road, Derrylin, were considered to be the best available evidence. He was of the opinion that the capital valuation of £100,000.00 was fair and reasonable in comparison to similar properties.

12. The subsequent email dated 24 July 2009 from Mr Peter Bell, MRICS on behalf of the respondent stated that the leaking roof was not apparent at the time of the initial inspection nor had this problem been drawn to Mr McVitty's attention.
13. The respondent's additional evidence from Mr Bell dated 27 August 2009 stated that Mr Bell inspected the property on 25 August 2009. Mr Bell stated that it was apparent that there is a problem with rising damp along the rear wall and part of the side walls of the property and that this dampness was clearly evident in 2 bedrooms, utility room, bathroom and hot press. He stated that the problem with the roof leaking was not immediately apparent on inspection but acknowledged that remedial works to the roof are required to remedy this. Mr Bell stated that while the valuation of £100,000.00 is based on the assumption that the property is an average state of internal repair, he accepted that the dampness on the internal walls is due to what could be considered an external defect. He stated that while it is not unusual to find some dampness in a property of this age and character, he would however concede that in this particular case the dampness problem is such that a potential purchaser may adjust his bid to reflect this. Mr Bell submitted that the existing valuation is reasonable but then stated that he conceded that the dampness problem may have a marginal impact upon capital value. He indicated that a reduction in the capital value from £100,000.00 to £95,000.00 would be reasonable.

### **The Tribunal's Findings**

14. In light of the evidence in Mr McVitty's report, the Tribunal accepts that the nearest dwelling to the appellant's property is 25 metres away, that the derelict farmyard next door is hidden from view by the boundary hedge and that Quinn's cement plant is approximately 3 miles from the property. The appellant has not provided any evidence to the contrary. Accordingly the Tribunal finds that there is not a lack of privacy at the appellant's property that affects the value of his property and that the derelict farm building is not visible and does not have an adverse affect on the value of the property. In view of the evidence that the property is situated approximately 3 miles from the cement plant, the Tribunal finds that it is far enough away not to be significantly affected by this plant. Furthermore the property would not be affected by this plant more than the comparable properties in the same locality as the property.

15. The Tribunal considered the comparables put forward by the respondent. Of the four comparable properties considered by Mr McVitty, the two closest to the appellant's property are 97 Belturbet Road, Derrylin, and 101 Belturbet Road, Derrylin, which are located nearby, and Mr McVitty stated that they are of a similar size, age and external appearance. The property at 97 Belturbet Road has a capital value of £100,000.00. The property at 101 Belturbet Road has a capital value of £80,000.00. The other two properties are located further away and both have an additional detached garage and their capital value assessments are £105,000.00. The Tribunal therefore accepts that the properties at 97 Belturbet Road and 101 Belturbet Road are the best comparable properties.
16. The appellant made the point that the comparable property at 101 Belturbet Road is only valued at £80,000.00. However Mr McVitty's report explained that the valuation of this property was actually £100,000.00 less 20% agricultural allowance. Similarly the email from Mr Bell dated 24 July 2009 stated that the property at 101 Belturbet Road has been treated as a farmhouse and valued accordingly. He explained that this property has been valued on the basis that it is held with agricultural land and is occupied by a person whose main occupation is farming and therefore a 20% allowance has been made to reflect this. He also explained that this is the case with farmhouses in general. There is no evidence that the appellant's property is a farmhouse and satisfies the conditions of entitlement for an agricultural allowance. Accordingly the Tribunal finds that the capital value of the appellant's property cannot be reduced by a 20% agricultural allowance. The Tribunal finds that the capital value assessment of £100,000.00 is in accordance with the most comparable two properties.
17. The general rule of capital valuation is comprised in the said paragraph 7(1) of Part 1 of Schedule 12 to the 1977 Order, as amended, which provides that "the capital value of a hereditament shall be the amount which...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 provision in paragraph 7(1), while subject to the assumptions in paragraphs 9 to 15, is clearly directed towards establishing a market value for the premises on the relevant date, the 1 January 2005; in other words how much could the owner reasonably expect the property to sell for on that date. In light of both the appellant's and Mr Bell's evidence, the Tribunal finds that the property has dampness in walls that is evident in two bedrooms, the utility room, bathroom and hot press and that this dampness is such that a potential purchaser would adjust his bid to reflect this. In light of Mr Bell's evidence, the Tribunal also finds that this dampness is due to what could be considered an external defect. The Tribunal finds that the evidence concerning the dampness in the property and the effect on a prospective purchaser is

sufficient to displace the presumption that the valuation on the register was correct.

18. The Tribunal also took into account Mr Bell's evidence that the remedial work required to remedy the dampness is an effective replacement damp proof course and to remedy the leaking roof is the removal of three roof tiles and the replacement of underfelt in this area. In light of all this evidence the Tribunal finds that a reduction in the capital value in the amount of £5,000 will be a reasonable reflection of the impact of the dampness upon the value of the property in order to establish the amount that the property might reasonably have been expected to realise had it been sold on the open market by a willing seller on the valuation date of 1 January 2005. A reduction of £5,000.00 to the original capital value assessment of £100,000.00 results in a capital value of £95,000.00.

### **Decision**

19. The unanimous decision of the Tribunal is that the appeal is allowed and the correct capital value of the property is £95,000.00.
20. The Tribunal directs that the valuation list be altered accordingly.

**Ms A Grace, Chairman  
Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to parties:**