

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

CASE REFERENCE NUMBER: 19/10

RONALD POOLE and DOROTHY POOLE – APPELLANTS

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr. Alan Reid

Members: Mr. Brian Sparkes and Mr Hugh Mulholland

Belfast, 25th May 2011

DECISION

The unanimous decision of the Tribunal is that the Decision of the Commissioner of Valuation for Northern Ireland in respect of the valuation of the property at 33 Corernagh Road, Crew Beg, Tandragree, County Armagh BT62 2DY contained in the Certificate of Alteration dated 25th November 2010 is upheld and the Appellant's Appeal is dismissed.

REASONS

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").
- 1.2 By a Notice of Appeal dated 15th December 2010 the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision of the Commissioner of Valuation for Northern Ireland ("the Commissioner") in respect of the Valuation of a hereditament situated 33 Corernagh Road, Crew Beg, Tandragree, Co Armagh BT62 2DY as contained in the Certificate of Alteration dated 25th November 2010.
- 1.3 The Appellants, Mr and Mrs Poole, appeared and Mr Poole represented them with assistance from Mrs Poole. Mr. Gareth Neill accompanied by Mr. Martin McGrath appeared for and represented the Commissioner as Respondent.

2. The Law

The statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). It is perhaps desirable to set out some detail in respect of the statutory provisions applicable to the basis for valuation and the mechanism for appeals to this tribunal in this type of case. Material to the case, Article 8 of the 2006 Order amended Article 39 of the 1977 Order (the basis of valuation) as follows:-

"8. —(1) In Article 39 of the principal Order (basis of valuation), for paragraph (1) there shall be substituted the following paragraphs—

"(1) - .

(1A) For the purposes of this Order the following hereditaments shall be valued upon an estimate of their capital value—

- (a) any dwelling-house;
- (b) any private garage;
- (c) any private storage premises.

(1B) - .

(1C) - .

(2) In Part I of Schedule 12 to the principal Order (basis of valuation), after paragraph 6 there shall be inserted the following paragraphs—

"Capital value – general rule

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 subparagraph 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."

The 2006 Order also amended the 1977 Order (regarding appeals) as follows:-

“Appeals from the Commissioner

33. For Article 54 of the principal Order.... there shall be substituted the following Articles—

“Appeal from decision of Commissioner

54. — (1) Any person, other than the Department, who is aggrieved by—
(a) the decision of the Commissioner under Article 49A or on an appeal under Article 51; or
(b) an alteration made by the Commissioner in a valuation list in consequence of such a decision, may appeal to the appropriate Tribunal.

(2) On an appeal under this Article the Tribunal may—
(a) make any decision that the Commissioner might have made;
and
(b) if any alteration in a valuation list is necessary to give effect to the decision, direct that the list be altered accordingly.

(3) On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

(4) In this Order "the appropriate Tribunal" means—
(a) in relation to such appeals as may be prescribed, the Valuation Tribunal;
(b) “

3. The Evidence

3.1 The Tribunal had before it the Appellants’ Notice of Appeal dated 15th December 2010 and copies of various documents including:-

- District Valuer’s Certificate of Valuation to Correct a Clerical Error dated 25th November 2010
- A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Mr Gareth Neill of Land and Property Services.
- A series of documents submitted by the Appellants incorporating copies of the following –

- a. Letter dated 17th May 2004 from Joyce Estate Agents Limited to Mr Poole.
 - b. Letter dated 31st (sic) September 2004 from Health and Safety Executive Northern Ireland to Mr Poole.
 - c. Agreement dated 8th January 2005 between Mr Cecil McClure and Armagh City and District Council in respect of an Appeal against an Article 38 Notice, under the Pollution Control and Local Government Order (NI) Order 1978
 - d. Letter dated 12th January 2009 from Mr Paul McCullough, Principal Environmental Health Officer (Environmental Protection) of Southern Group Environmental Health Committee to Mr Leslie Craig, Technical Officer, Ulster Farmers Union.
 - e. A copy of what Mr Poole described as part of a “Noise Chart”.
 - f. A Noise Complaint Record form compiled by Mr Poole between 18th December 2004 and 8th January 2005 for Mr John Ellis, Senior Environmental Health Officer, Armagh City and District Council.
 - g. Letter dated 17th May 2011 from Mr Poole to Mrs Fionnuala Loughran, Deputy Director of Environmental Services and Audit, Armagh City and District Council.
 - h. Letter dated 19th May 2011 from Fionnuala Loughran, Armagh City and District Council to the Appellants, Mr and Mrs Poole.
 - i. Letter dated 16th May 2011 from the Office of the Police Ombudsman for Northern Ireland to Mr Poole.
 - j. Letter dated 30th December 2010 from Dr M Nicholson, Consultant Psychiatrist addressed “to whom it may concern”.
 - k. Letter dated 25th June 2007 from Dr B B Cupples.
 - l. Letter dated 11th July 2007 from Mr F G D’Arcy Consultant ENT Surgeon to Dr B B Cupples.
 - m. An extract from a leaflet issued by Armagh City and District Council.
 - n. 8 photographs of the parts of the locality surrounding and in the vicinity of 33 Corernagh Road, Crew Beg, Tandragee, Co Armagh BT62 2DY taken by the Appellants.
- 3.2 At the commencement of the hearing of the Appeal the parties confirmed that all of these documents had been provided to each of them and that they had had an opportunity to consider them prior to the hearing.

4. **The Facts**

On the basis of such information as was before it, the Tribunal determined, upon the balance of probabilities, the following facts:-

- 4.1 The hereditament is a detached split level bungalow situated at 33 Corernagh Road, Crew Beg, Tandragee, Co Armagh BT62 2DY (“the

- Subject Property”). The Subject Property was stated to be owned by the Appellants who confirmed that they were the rate payers.
- 4.2 The Subject Property is of brick and/or block rendered construction with a tile pitched roof and partly PVC double glazed windows. It has mains electricity and water and is serviced by a septic tank. It has full oil fired central heating. Its gross external area (“GEA”) is 169 m² and in addition there is an integral double garage with a GEA of 73 m².
 - 4.3 The Subject Property is located on a slightly elevated rural site on Corernagh Road.
 - 4.4 The Capital Value Assessment of the Subject Property is £180,000 less Agricultural Allowance resulting in a net Capital Value Assessment of £144,000 at the Antecedent Valuation Date (“AVD”) that date being 1st January 2005.
 - 4.5 The Certificate of Alteration dated 25th November 2010 had been issued to correct a clerical error whereby previously Agricultural Allowance had been allowed twice in respect of the Capital Value Assessment of the Subject Property, as a result erroneously allocating to it a net Capital Value Assessment of £115,200.00.
 - 4.6 In arriving at the gross Capital Value Assessment figure of £180,000 (before the application of Agricultural Allowance), regard was had to assessments in the Valuation List of properties considered by the Respondent to be comparable. These comparables were set out in a Schedule to the “Presentation of Evidence” submitted on behalf of the Commissioner. There were a total of three comparables with short particulars provided including photographs.
 - 4.7 At 19 Ballyreagh Road which is approximately 1000 metres from the Subject Property there is a commercial shooting range operation known as “Tannyoky Guns and Ammo” (“Tannyoky”). This is visible from the Subject Property across agricultural land which slopes down and away from the Subject Property before rising again toward 19 Ballyreagh Road.
 - 4.8 The commercial shooting operation at Tannyoky has been in operation since the mid to late 1990’s and sound in connection with that commercial operation (most particularly the sound of gun fire) is clearly audible at the Subject Property and in the general locality.

5. **The Appellants’ Submission**

The Appellants, in summary, made the following submissions:-

- 5.1 Excessive noise from Tannyoky was having a detrimental effect on Mr Poole’s physical and mental health and in particular was the cause of substantial damage to his hearing. Furthermore it was the Appellants’ submission that the proximity of the Subject Property to Tannyoky and the noise from Tannyoky had a detrimental effect upon their “enjoyment of living” in the Subject Property and therefore upon its value.

- 5.2 The Appellants (and in particular Mr Poole) have for a number of years had contact with various authorities including Planning Service, Armagh City and District Council, and Police in relation to the Appellants' complaints of excessive noise and disturbance caused by the activities of Tannyoky. The Appellants are aggrieved that, in their view, appropriate steps have not been taken by relevant authorities to cause the noise and vibrations from Tannyoky to be stopped or abated. The Appellants also allege that they have been subjected to harassment and intimidation arising directly and indirectly from their complaints about Tannyoky and the Appellants informed the Tribunal that some of those matters have been the subject of recent court proceedings although the Appellants accepted that this was not directly relevant to their Appeal in respect of the valuation of the Subject Property.
- 5.3 The Appellants submitted that the sale of a building site opposite the Subject Property which had been agreed in 2004 had fallen through as a result of noise problems associated with Tannyoky and that the site still remained unsold for the same reason.
- 5.4 The Appellants contended that one of the photographs submitted by them showed a portion of Corernagh Road in a very poor state of repair. This photograph depicted a potholed and muddy stretch of road which had the appearance of an unadopted rural laneway rather than an adopted road which the statutory authorities have responsibility to maintain. The Appellants contended that whilst the section of Corernagh Road on which the Subject Property is located was in a good state of repair they used the poorly maintained stretch on a regular basis when going to and from the Subject Property.
- 5.5 The Appellants also referred the Tribunal to two photographs showing a sharp 90 degree bend on a different and better maintained stretch of Corernagh Road. These photographs showed a "Road Closed Ahead" sign affixed to a gate pillar on private property. The Appellants' evidence was that this sign had been erected but was visible to traffic on the road giving the mistaken impression that the Corernagh Road was closed some distance beyond the sign. The Appellants' evidence was that despite complaints made by them to the relevant authorities including the Police, no action had been taken to have the sign removed and that the impression which this gave of the road being closed to traffic adversely affected the valuation of the Subject Property.
- 5.6 In response to an enquiry from the Tribunal Mr Poole's evidence was that Corernagh Road (including the two stretches shown in the Appellants' photographs) were used by the owners and occupants of approximately twelve properties.
- 5.7 Addressing the matter of the properties which Mr Neill for the Respondent had put forward as comparables the Appellants contended that the property at 35 Corlust Road, Tandragee was not an appropriate comparable because although it was of a similar type and size to the Subject Property, it was located considerably further away from Tannyoky

- than the Subject Property and was therefore much less likely to be affected by noise from that source.
- 5.8 Whilst conceding that the Respondent's proposed comparable at 23 Ballyreagh Road was broadly similar in type and size to the Subject Property and was located much closer to Tannyoky than the Subject Property, the Appellants' evidence was that they did not believe it to be as adversely affected by noise from Tannyoky as the Subject Property because of an earth bank which lay between 23 Ballyreagh Road and Tannyoky. In comparison, the Appellants contended that although the Subject Property was located further away from Tannyoky than 23 Ballyreagh Road, the adjacent topography was such that the sound from Tannyoky could more easily travel across what Mr Poole described as a "shallow valley" from Tannyoky to the Subject Property. The Appellants further contended that the property at 23 Ballyreagh Road lay "behind" whereas the Subject Property lay "in front of" Tannyoky. They contended that as a result it was not so badly affected by noise from Tannyoky. When the Tribunal sought clarification of the Appellants' evidence in this regard Mr Poole stated his opinion that, while the property was to an extent "protected" from Tannyoky by the earth bank, it was still exposed to a lot of noise though perhaps not to as much vibration as the Subject Property.
- 5.9 The Appellants agreed that the suggested comparable property which was closest in proximity to the Subject Property was a property at number 27 Corernagh Road. This property was of fairly recent construction. Whilst it's GEA of 127 m² was somewhat smaller than the Subject Property and it did not have a garage, it was a detached bungalow with services similar to those of the Subject Property. It had a Capital Value of £140,000. Again the Appellants did not consider this to be an appropriate comparable because in their submission it was less severely affected by the noise from Tannyoky as a result of it being a little further along Corernagh Road and being more low lying than the Subject Property. The Appellants also contended that because the occupants of 27 Corernagh Road tended not to be at home during the day they were less badly affected by noise from Tannyoky than the Appellants who were usually at the Subject Property all day.
- 5.10 The Appellants contended that only one other property in the locality was as adversely affected by noise from Tannyoky as the Subject Property. They believed this property to be No 30 Corernagh Road but no evidence was presented as to the Capital Value of that property or the extent to which noise from Tannyoky could be heard at that property.
- 5.11 During the course of his submissions to the Tribunal Mr Poole described at length his grievances in respect of Tannyoky and his efforts to persuade various statutory bodies to address his concerns. The Tribunal sought clarification from Mr Poole with regard to the letter dated 12th January 2009 sent by the Principal Environmental Health Officer (Environmental Protection) of the South Group Environmental Health Committee, Mr Paul

- McCullough, to Mr Leslie Craig the Technical Officer of Ulster Farmers Union which the Appellants had introduced in evidence. Mr Poole confirmed that this letter had been written by Mr McCullough following investigations carried out by Mr McCullough as outlined in the letter, and that those investigations had been carried out following complaints made by or on behalf of the Appellants in respect of the noise associated with Tannyoky. Mr Poole conceded that Mr McCullough had concluded that the noise from the shooting activities at Tannyoky did not give rise to a statutory noise nuisance at the Subject Property, but said that he disputed Mr McCullough's findings and conclusion.
- 5.12 In their Notice of Appeal the Appellants had not provided a specific figure with regard to their view of what the actual valuation of the Subject Property should be, instead indicating that it should be "significantly lower". When invited by the Tribunal to specify a figure Mr Poole contended that an appropriate figure would be £90,000 (before the application of Agricultural Allowance).

6. **The Respondent's Submissions**

Mr. Neill on behalf of the Commissioner in summary made the following submissions-

- 6.1 Whilst acknowledging the Appellants' complaints of noise in relation to Tannyoky Mr Neill contended that in carrying out the Capital Value Assessment of the Subject Property proper regard had been had to paragraphs 7 and 9-15 inclusive of the 1977 Order with a view to determining the value 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", that date being 1st January 2005. He further contended that as required by Schedule 12 of the 1977 Order regard had also been had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances.
- 6.2 It was contended on behalf of the Respondent that the most relevant comparables were No 35 Corlust Road and No 23 Ballyreagh Road as these properties, like the Subject Property, were farmhouses and were similar in size to the Subject Property and also with double garages. The respective Capital Values of those properties were £175,000 (£140,000 after applying Agricultural Allowance) and £180,000 (£144,000 after applying Agricultural Allowance) which Mr Neill contended supported the assessment of the Capital Value of the Subject Property at £180,000 (£144,000 after applying Agricultural Allowance).
- 6.3 As regards the comparable at No 27 Corernagh Road, whilst this was not a farmhouse, and was also smaller than the Subject Property and had no garage, Mr Neill contended that this was reflected in its lower gross

Capital Value Assessment of £140,000 and that it accordingly provided support for the Capital Value Assessment of the Subject Property of £180,000 gross.

- 6.4 Mr Neill's evidence was that he had given consideration as to whether an allowance in the Capital Value on the Subject Property should be made as a result of its proximity to Tannyoky. He had visited the Subject Property and the surrounding locality. He contended that there were many other properties in the locality which were closer to or at a similar distance from Tannyoky and that none of those rate payers had challenged their Capital Values and indeed that new properties had been built in the locality since Tannyoky commenced operation. He said that as a result of his own visits to the Subject Property and on what the Appellants had told him he had determined that noise from Tannyoky whilst evident, was intermittent, and was dependant on weather conditions and on the location of firing within Tannyoky itself. In summary he concluded, primarily because of the distance of the Subject Property from Tannyoky and the intermittent nature of the noise he did not consider the Subject Property any more adversely affected than the comparable properties or to be devalued as a result of proximity to Tannyoky.
- 6.5 In response to questions from the Tribunal, Mr Neill confirmed that he had approached his assessment of the Valuation on the assumption that noise from Tannyoky would travel equally in all directions. He contended that in considering the effect of any nuisance on a property or properties that, in the absence of specific evidence to the contrary, the extent to which a particular nuisance affected properties should be "radius based".
- 6.6 With regard to the condition of some stretches of Corernagh Road, whilst Mr Neill conceded that the poor condition of a road might in some specific circumstances affect the value of a property if that were the means of access to the property, Mr McGrath contended that in compiling the Valuation List there were many properties situated on poor standard rural roads and that it would be contrary to the basis of valuation set out in Schedule 12 of the 1977 Order (as amended) for a reduction on the Capital Valuation of a specific property to be made in comparison to other properties in similar situations.

7. The Tribunal's Decision

- 7.1 The Tribunal thanks the parties for their thorough submissions and for the courtesy extended to one another and to the Tribunal during the presentation of those submissions.
- 7.2 Article 54 of the 1977 Order enables a person to appeal to the Tribunal against the decision of the Commissioner as to Capital Value. In this case the Capital Value has been assessed at the AVD at a figure of £144,000 (net of Agricultural Allowance). On behalf of the Commissioner it has been contended that that figure is fair and reasonable in comparison

- to other properties, that the statutory basis for valuation has been referred to and that especially reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment.
- 7.3 The Tribunal must begin its task by taking account of an important statutory presumption contained within the 1977 Order, articles 54(3) of which provides: *“On an appeal under this Article, any valuation shown in a 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 on appeal to be seen to be so manifestly incorrect that the Tribunal must take steps to rectify the situation.
- 7.4 The Tribunal is satisfied on the evidence that the initial assessment as to Capital Value of the Subject Property has been carried out in accordance with the prescribed manner as set out Schedule 12 of the 1977 Order. The evidence submitted as to comparables and the submissions on behalf of the Commissioner lead the Tribunal to conclude that the correct statutory approach has been followed.
- 7.5 The Tribunal then turns to consider on the balance of probabilities whether there is sufficient evidence in the arguments made by the Appellants to displace the statutory presumption.
- 7.6 In this Appeal, the Appellants’ contentions have focused primarily on the proximity of the Subject Property to Tannyoky and the extent to which the Subject Property is adversely affected by noise and vibration which are the result of the shooting activities at Tannyoky. The Appellants contend that the Capital Value Assessment of the Subject Property does not properly take this into account. The Tribunal heard at length from the Appellants, and Mr Poole particularly, in relation to their concerns both with regard to their perception of the impact upon the valuation of their property and indeed in relation to other complaints relating to Tannyoky which lie outside the statutory jurisdiction of the Northern Ireland Valuation Tribunal. The Tribunal accepts that the Subject Property does suffer to some extent from noise and at times vibration from Tannyoky. This clearly is (and has been for some time) a source of irritation and concern to the Appellants. The Tribunal has carefully considered all of the documentary and oral evidence presented by the parties in relation to this matter. The Appellants’ perception of the extent of the noise from Tannyoky is that it is much more extensive than Mr Neill considers it to be. Mr Neill further contended that the noise was a factor which would affect in a similar way all of the properties in the vicinity and in particular the comparable properties put forward. The Appellants contended that the Subject Property was more severely affected than any of the comparable properties but no specific evidence was presented to support that contention. The Tribunal also noted that the Principal Environmental Health Officer, Mr McCullough, after he had investigated the matter following complaint by the Appellants, had concluded that the noise from Tannyoky did not give rise to a statutory noise nuisance at the Subject

- Property. On the evidence available to it the Tribunal therefore finds on the balance of probabilities, that there is no persuasive evidence to distinguish the relative extent of the effect of noise and vibrations from Tannyoky on the Subject Property and other properties in the locality including the comparables at 23 Ballyreagh Road and 27 Corernagh Road which would justify any alteration in the Capital Value of the Subject Property.
- 7.7 The Tribunal has also considered the evidence presented with regard to the poor condition of some stretches of Corernagh Road and the presence of the “unofficial” “Road Closed Ahead” sign. Having considered the evidence, the Tribunal finds on the balance of probabilities that these are factors which affect not only the Subject Property but also other properties on Corernagh Road, one of which, 27 Corernagh Road, is one of those put forward as a comparable by Mr Neill on behalf of the Respondent.
- 7.8 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 AVD (in this case 1st January 2005) regard must be had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances. Mr Neill has put forward a number of comparable hereditaments on behalf of the Respondent. The Appellants challenged the relevance of 35 Corlust Road, Tandragee as a comparable contending that it was much further from Tannyoky than the Subject Property or either of the other suggested comparables at 23 Ballyreagh Road and 27 Corernagh Road. The Tribunal agrees with the Appellants that the suggested comparable at 35 Corlust Road, Tandragee is not appropriate as it is somewhat remote from the other comparables put forward and because of its distance from Tannyoky is not a proper comparable to the Subject Property and the other comparables.
- 7.9 The Tribunal however does take note of the detached bungalows at 23 Ballyreagh Road and 27 Corernagh Road. The property at 23 Ballyreagh Road has a GEA of 155 m² compared to that of the Subject Property at 169 m². Like the Subject Property it is a detached bungalow with a double garage and mains electricity and water and septic tank with full central heating. It is somewhat smaller than the Subject Property and slightly older. The Capital Value for 23 Ballyreagh Road is £180,000 (£144,000 after Agricultural Allowance) and has not been challenged. The Appellants have not sought to challenge the accuracy of this Capital Value which is identical to the Capital Value of the Subject Property.
- 7.10 The Property at 27 Corernagh Road is a detached bungalow constructed in 2007. Like the Subject Property it has mains electricity and water and septic tank and full central heating. It has a GEA of 127 m² which is significantly smaller than the GEA of the Subject Property at 169 m². 27 Corernagh Road is not a farmhouse and does not therefore benefit from Agricultural Allowance. It has an unchallenged gross Capital Value of

- £140,000 compared to the gross Capital Value for the Subject Property of £180,000.
- 7.11 Taking account of the nature of the properties at 23 Ballyreagh Road and 27 Corernagh Road and their relative GEAs and locations, the Tribunal is satisfied that they lend support to the Respondent's submission that the Capital Value of the Subject Property at £180,000 gross (£144,000 net of Agricultural Allowance) should not be altered.
- 7.12 For the reasons already referred to, the Tribunal is satisfied on the balance of probabilities that the activities at and noise from Tannyoky affect 23 Ballyreagh Road and 27 Corernagh Road in a broadly similar fashion to the way in which they affect the Subject Property. The Tribunal therefore considers that those factors are fully reflected in the Capital Values of the Subject Property and of both of those relevant comparable properties. The Tribunal also takes the view on the balance of probabilities that the poor condition of parts of Corernagh Road and the erection of the "Road Closed Ahead" sign affect the Subject Property and other properties on Corernagh Road, including the comparable at number 27, to very largely the same extent.
- 7.13 Having considered the submissions of the parties in relation to these matters, the Tribunal is therefore of the view that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £180,000 gross (£144,000 after Agricultural Allowance) as it presently appears in the Valuation List.
- 7.14 Accordingly the unanimous Decision of the Tribunal is that the Decision of the Commissioner of Valuation for Northern Ireland in respect of the Subject Property contained in the Certificate of Alteration dated 25th November 2010 is upheld and the Appellants' Appeal is dismissed.

**Mr Alan Reid, Chairman
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: 1 June 2011