

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

CASE REFERENCE NUMBER: NIVT 9/09

LIAM & BERNI FLANNIGAN – APPELLANTS
AND
COMMISSIONER OF VALUATION FOR NI - RESPONDENT

Northern Ireland Valuation Tribunal

Date of hearing: 20th March 2009

Chair: Ms Anne Grimes

Members: Mr Bill Deddiss and Mrs Louise Gordon

DECISION AND REASONS

The Hearing

1. The Appellants, Mr and Mrs Flannigan, appeared at the Tribunal and represented themselves. The Respondent was represented by Mrs Claire White and Mr Paul Boylan.
2. The property the subject of the appeal is 8 Corernagh Road, Tandragee (the subject property). It is a detached house with a gross external area (GEA) of 353 m² and a garage of 46 m². It is of block construction with a tiled pitched roof. It has mains electricity and water and septic tank sewage services and full oil central heating. The property is situated on a rural road approximately 4 miles from the town of Tandragee.
3. The Respondent initially assessed the capital value of the property as £350,000 but on 7th November 2007 revised the assessment to £320,000 as at 1st January 2005, the relevant capital valuation date. The Appellants appeal against that decision under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order").
4. This was a fresh hearing of this appeal following its remittal from the Lands Tribunal for Northern Ireland on 20th January 2009.
5. The following documents were before the Tribunal;
 - Notice of appeal along with grounds of appeal;

- Respondent's presentation of evidence;
 - Documentation submitted by the Appellants prior to and at the hearing;
 - Correspondence between the Tribunal and the parties.
6. The Tribunal heard evidence and submissions from Mr and Mrs Flannigan and from Mrs White.
 7. The Tribunal reserved its decision. This notice communicates the Tribunal's decision and contains the reasons for the decision in accordance with Rule 19 of The Valuation Tribunal Rules (NI) 2007.

The Law

8. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order").
9. The Tribunal considered the terms of the Schedule 12 of the 1977 Order as amended which 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 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.
10. Article 54(3) of the 1977 Order provides that, on 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 Tribunal's Findings

11. The Appellants relied on a number of submissions which we considered. We then went on to consider the comparable properties.

The Appellants' submissions

12. The Appellants submitted that the true value of their house in January 2005 should be in the region of £216,000. This was based on several methods of calculation which we deal with in turn.

13. The Appellants submitted that the property was built in 2002-2003. They said that in April 2003 it was valued under the previous rating system. All measurements were taken and the house was valued at that stage at £180,000. Mrs White argued that in 2003 the property was not valued on a capital value basis as rateable values were assessed in terms of Net Annual Value (NAV) based on 1970s rental levels. We are satisfied that in April 2003 different criteria applied in the assessment of the NAV of a property. Technically the house was not valued at £180,000 and this cannot be construed as a market capital valuation based on comparable sales evidence at that point in time. Under the new legislative system different criteria apply resulting in different valuations and different rates bills. We are satisfied that we cannot use valuations under the previous system as a basis of comparison for capital valuation under the current legislative provisions.
14. The Appellants argued in their letter to the Tribunal of 13 October 2008 that house prices in general in Northern Ireland would have increased by 10-12% between March 2003 and 1st January 2005. Applying this percentage increase they argued that the subject property would have increased in value from £180,000 in April 2003 to £216,000 on 1st January 2005. The Tribunal is satisfied that average statistics are not good evidence of locational market values at any particular time. We do not consider that this is an appropriate or accurate method of estimating capital values in a specific location on a particular date. In any event as the figure of £180,000 was not a market value as of 2003 it is not a figure to which a percentage increase could be applied even if that were an applicable basis for assessing capital values.
15. The Appellants argued that taking into account the costs of the site, the building costs and profit for the builders the subject property would have been worth £182,000. The Appellants also argued that a nearby property at 39 Tullymacann Tandragee was finished to a much higher specification than their property. We are satisfied however that the building costs and building specification of the property need not bear any relationship to the market value of a property. It might be assumed that a higher building specification would add value to a property but higher building costs are not always realized and do not always equate to a market valuation which is what someone is prepared to pay for the property. We are required to have regard to the statutory assessment of capital value as set out in paragraph 7 of Schedule 12 of the 1977 Order which states that the capital value of a property shall be the amount which it 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. This test does not necessarily take into account building costs or specification.

16. The Appellants argued that prior to building the subject property they owned a semi-detached property at Areema Heights in Banbridge. They argue that the house in Areema Heights sold in 2001 for £75,000 and that the subject property was valued at £180,000 in 2003. The comparison between the two properties is that the subject property was 2.4 times the price of the house in Areema Heights. On 1st January 2005 this same property in Areema Heights was valued at £90,000 and this price multiplied by 2.4 amounted to £216,000, which they therefore argued was the true valuation for the subject property in January 2005. We have considered this argument however we are satisfied that the semi-detached property at Areema Heights is not a reliable comparable to the subject property. There is no mathematical way to work out the market value of one property as compared to another. We are constrained by the legislative framework which requires in paragraph 7 (2) of Schedule 12 of the 1977 Order that we have regard to the capital values in the valuation list of comparable properties in the same state and circumstances as the subject property.
17. The Appellants submitted that regard should be had to a mortgage valuation carried out in relation to the subject property which valued the property at £200,000. We note that this mortgage valuation was carried out in October 2002 and April 2003 which was around two years prior to the capital valuation date of 1st January 2005. We are satisfied however that a mortgage valuation is quite distinct from a market valuation being a limited inspection and report produced for Building Societies, Banks and other Lenders to enable them to make a lending decision. The definition of 'market value' is the estimated amount which a property might reasonably have been expected to realize at a specific date, were it sold on the open market between a willing buyer and a willing seller in an arms-length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion.
18. The Appellants argued that the size of a dwelling was not a proper basis for an estimation of the capital value of a property. We are satisfied that the size of a dwelling may affect the value of a property positively or negatively depending on other relevant factors. However we are bound by the legislative framework and we are satisfied that size is one of a number of factors to be taken into account in assessing capital value.
19. The Appellants prepared a graph attempting to calculate the value of the subject property relative to the value of the property at Areema Heights Banbridge based on the square metres of the properties. Although we appreciate the effort and time the Appellants put into demonstrating the basis of their calculations we are satisfied that this is not a method which can be used under the statutory criteria which require that we have regard to comparable properties in estimating the capital value of the subject property.

20. The Appellants submitted a letter from Lennon Estates dated 20 March 2008 estimating the value of their property at £400,000. However this estimated the value of the property at a different time and in a different market. The valuation is not based on an actual sale. This estimate casts no light upon the value of the property in January 2005.
21. The Appellants submitted that in building the subject property they designed it so that there was an ensuite bedroom downstairs and they suggested that this would not appeal to all purchasers and could reduce the value of the subject property. We are satisfied that this is a factor relating to the internal layout of the property. We cannot speculate whether this would negatively or positively affect the value of a property. This is not something we are required to take into account in estimating the capital value of the property under the legislation. In accordance with the statutory assumption at paragraph 12 (1) of schedule 12 of the 1977 order we must assume that the property is 'in an average state of internal repair and fit out'.
22. The Appellants argued that in general properties in an urban location are of higher value than those in a rural location such as the subject property. However the Tribunal feels that this is a subjective argument and is not necessarily reflective in itself of the capital value of a property.

The Comparables

23. The subject property is map position number 1 in the Presentation of Evidence. It is a detached house with a GEA of 353m² and a garage of 46m². It is of block construction with a tiled pitched roof. It has mains electricity and water and septic tank sewage services and full oil central heating. The property is situated on a rural road approximately 4 miles from the town of Tandragee. We firstly consider the comparables put forward by the Respondent in the Presentation of Evidence in the schedule of comparables at Appendices 1 and 2.
24. According to the map the closest property is number 2 in the schedule of comparables, 11 Corernagh Road, which is on the same road as the subject property. This is a smaller property than the subject property at 318 m² with a slightly larger garage at 51 m². It is a detached house located on the same road as the subject property with the same access to amenities and it has a capital value of £300,000 which has not been challenged. We are satisfied that due to its proximity and size this is a reasonable comparable with the subject property.
25. Property 3 in the schedule of comparables is 32 Ballyshiel Road Tandragee. It is located on a similar type of rural road approximately 2 miles from the subject property and has a GEA of 324 m² which is smaller than

the subject property but it has a garage of 98 m² which is over twice the size of the garage at the subject property. It has similar access to amenities. It has been valued at £310,000 which has not been challenged. We are satisfied on the basis of its location and size that this is a similar property to the subject property and is therefore a reasonable comparable.

26. Property 4 on the schedule is 2 Monclone Road, Tandragee. This property is bigger than the subject property at 385 m². It is said to be a detached house located on a similar type of road approximately 2.8 miles from the subject with similar access to amenities. It has mains electricity and water, septic tank sewage and full oil fired heating. From the map it appears to be closer to a main road than the subject property. It has a capital value at £340,000 which has not been challenged. We are satisfied that given the size and location that this is a reasonable comparable with the subject property.
27. Property 5 on the schedule is 5 Cloghoge Road, Tandragee. This property is bigger than the subject property at 385 m². It is also a detached house and is located less than a quarter of a mile from the subject property. It is on a main road and has similar access to amenities. It also has mains electricity and water, septic tank sewerage and full oil fired heating. It has been valued at £340,000 which has not been challenged. Although this property is said to be a quarter of a mile from the subject property and closer to the main road we are satisfied on the basis of its size and location that it is a reasonable comparable to the subject property.
28. Property 6 on the schedule is 4 Buskhill Road, Newry. This property has a GEA of 395 m² and a garage of 49 m². It is a detached house located on a rural road accessed from the A1 dual carriageway. It has mains electricity and water, septic tank sewerage and full oil fired heating. It has a capital valuation of £350,000 which has not been challenged. There is sales evidence that it was sold on 8 February 2005 for £350,000. According to the schedule it is approximately 7 miles from the subject property. However the Appellants said that they had driven to this property and were satisfied that was over 10 miles from the subject property. This property is 4½ miles north of Newry and is just off the A1 dual carriageway. The Appellants said that they have spoken to a professional about houses off the A1 dual carriageway and were told that the location demands a high price. The Appellants said that there is a high demand for that area to the extent that too many houses are built there but this reflects the demand from the area which is not the case in the area in which the subject property is located. We were satisfied that the location of this property and its distance from the subject property meant that it was not a reasonable comparable to the subject property.

29. Property 7 on the schedule is 61 Moss Road Banbridge. This property is 318 m² with the garage of 50 m². It has a capital value of £280,000 based on a sale on 11th August 2003 of £250,000. This property is also off the A1. It is also smaller than the subject property. Property 8 on the schedule is 32 Creevy Loop Banbridge. It has a GEA of 275 m² with a garage of 32 m². It has a capital value of £320,000. It is located close to property 7 off the A1 dual carriageway. We were satisfied that both properties were off the A1 and indeed on the far side of the A1 from the subject property and that they were not appropriate or useful comparables to the subject property.
30. Property 9 is 20 Demoan Road, Poyntzpass. It has a GEA of 234 m² and has a capital valuation of £215,000. This property is significantly smaller than the subject property. It does not have a garage. It was sold in June 2004 for £220,000. We note that this property's value is consistent with the sales evidence and its capital value is similar to the value the Appellants argue should be attached to their property even though it is significantly smaller than the subject property and does not have a garage. However we are satisfied given its size and location that this is not an appropriate comparable in estimating the value of the subject property.
31. Property 10 is 26 Scarva Road Gilford. It has a GEA of 249 m² with a garage of 44 m². It was sold in September 2005 for £250,000 and has a capital value of £225,000. In light of the significantly smaller size of this property than the subject property as well as the distance between this property and the subject property we were satisfied that less weight should be attached to this comparable.
32. Property 11 in the schedule is 9 Demoan Road, Poyntzpass. The schedule states that this property is 254 m² and has a capital value of £220,000 which has not been challenged. In their letter of 6th May 2008 the Appellants submitted a further photograph of this property and said that this is a large four-bedroom house not much different from the subject property. They said that a reasonable valuation for this property would have been £200,000 based on its location, its specifications and finish and its size. Despite the Appellants' submissions in relation to this property we can only go on the evidence before us. The evidence before us is that this property is 254 m² which is significantly smaller than the Appellants' property and that it has been valued at £220,000. The property has no garage. The Appellants are asking us to go behind the capital value for this property. We do not have sufficient evidence before us to displace the presumption that the capital value of £220,000 for this property is correct. In view of its size and the sales evidence in relation to this property we are satisfied that the valuation of this property is consistent with the valuation of the subject property. However as this property is not as close to the Appellants property and is smaller than the subject property and we are satisfied that it is not as useful a comparable as some of the closer properties.

33. Property 12 is 39 Lissummon Road, Newry. It has a GEA of 292 m² and garage. It has a capital value of £265,000 which has not been challenged. It was sold in October 2004 for £225,000. This property is smaller than the subject property and further away from the subject property than some of the other comparables. However we are satisfied that the capital value in this property reflects the sales information and there is a reasonable relationship between the sales evidence and the capital valuation. We are also satisfied that the capital values for properties 10, 11 and 12 are reasonable given the differences in size between them. We feel that these are less significant comparables given that they are smaller than the subject property and further away from it than some of the other comparables. However taking into account the sale evidence and capital values we find that properties 10, 11 and 12 support the valuation of the subject property.
34. Property 13 is in appendix 2 of the presentation of evidence. It is 39 Tullymacann Road, Tandragee. It has a GEA of 354 m² and capital value assessed at £300,000. It is a detached chalet bungalow located close to the subject property. It has mains electric and water services, a private septic tank system and full oil fired central heating. The property was sold in April 2004 for £190,000. The Appellants submitted that there are significant differences in specification between this property and the subject property. This property was built with bricks and finished with rosemary tiles which are a very specialized finish. They said that this property is their closest neighbour. This property was initially assessed as having a capital value of £220,000 which was increased to £300,000. The Appellants believe that the valuation of the subject property is closer to the original valuation of this property. We have considered this property in some detail. We know that it was built in 1985 and is a chalet bungalow. It is therefore significantly older than the subject property. A chalet bungalow is not a two-storey property. There is no evidence before us that there is a garage with this property. Mrs White said that she had spoken to the selling agent about the sale in 2004 for £190,000 and was told by the agent that this property was marketed as being in need of repair. She said that the Respondent had therefore revised the capital value of this property to £300,000 in light of the statutory assumption that the property is in average state of repair.
35. We have considered all of the arguments before us in relation to 39 Tullymacann Road. We are satisfied that the higher specification of the finish of this property is not necessarily a factor which affects its market value. We take into account the sales evidence and the statutory assumption that the property is in an average state of repair. We also take account of the fact that the capital value was not challenged following its revision. In the circumstances we are not satisfied that there is sufficient evidence before us to go behind the capital value of £300,000 assessed for this property. As a comparable to the appellant's property we are satisfied

that it is a similar size to the appellant's property however we note that it appears to have no garage. We are also satisfied that it is an older property than the Appellants and a different style being a chalet bungalow and we are satisfied that these differences should be taken into account in using this property as a comparable to the subject property.

36. We have considered the comparable of 17 Tullymacann Road. This is in Appendix 3, which sets out comparables put forward by the Appellants, and map position 14 in the Presentation of Evidence. The property has a GEA of 495 m² and no garage, its capital value is £420,000. This property is within sight of the subject property. The Appellants said that this value has been challenged but there is no record that there has been any amendment to the capital valuation and we have to assume that any challenge was not pursued or not successful. The Appellants submitted that we should go behind the capital value assessed for this property as they believe it is too high. The Appellants said that this property is built at the side of a farmyard through which it has a right of way. The Appellants obtained a copy of a Bank of Scotland valuation in relation to this property dated 18th May 2006 valuing the property at £250,000. They said that it was sold in the summer of 2006 at around £275,000. The Appellants argued that the significant difference between the mortgage valuation and the capital value is evidence that the capital value is too high. The Tribunal considers however that a mortgage valuation is prepared for the purposes of lending which is distinct from the capital valuation which is estimated in accordance with the legislative definition set out above. We also take into account that the mortgage valuation was prepared in May 2006, one and a half years after the capital valuation date. There is no evidence of the sale before us and we note that it appears to have been in the summer of 2006, a different time from the capital valuation date. We do not know the circumstances of the sale. The Tribunal also takes account of the fact that the capital valuation was not challenged. In the circumstances we are not satisfied that there is sufficient evidence before us to go behind the capital value of this property. With the capital value as it stands we find that this is a reasonable comparable with the subject property.
37. We have considered the comparable of 11 Mullaghglass Road, Scarva which is at map position 15. This is said to be a detached farmhouse built prior to 1910 with a GEA of 446 m². It has no garage and has oil fired central heating it has a capital value of £216,000 including an agricultural allowance. The Appellants argued that if this property was put on the open market it would fetch £150-£200,000 more than the subject property and there is no explanation as to why this property has been valued at this amount. Again the Appellants have asked us to look behind the capital value of this property on the basis that it has been assessed wrongly. We considered that this property is over 100 years old; it is not necessarily the type of house that would appeal to the average house buyer. It is not the

same sort of property as the subject property and there also appears to be an agricultural allowance affecting its capital value. We are satisfied that, given the differences between the properties, this property is not a good comparable for the purposes of estimating the subject property's capital value.

38. We considered the property at 159 Scarva Road, Banbridge. It is as at map position 16. It is a detached chalet with a GEA of 484 m² including an integral garage. It is between Banbridge and Scarva close to the main road. We note that this property appears to be larger than the subject property but when the detached garage is added to the subject property the total GEA comes to 400m² and the difference between the two properties is therefore 84 m² and £55,000. This difference is not so great. However this property is in a very different location from the subject property and we have no evidence to substantiate its value relative to other comparables in that area. In light of this and the distance from the subject property we are satisfied that this property is not a good comparable for the purposes of estimating the subject property's capital value.
39. The final comparable in Appendix 3 is 15 Castle Lodge Banbridge which is at map position 17. It is a detached chalet bungalow built around 1995 with a GEA of 236.8 m²; a double garage and oil fired central heating. It has a capital value of £185,000. The Appellants argued that this property is in a prime location and is finished to a high specification. The subject property is based on the same design but the Appellants said that due to planning permission restrictions they were unable to use the same style of windows upstairs and therefore the subject property is bigger than this one. The design and specification of a property is not something that we are required to give significant weight to in our considerations. We take into account that this property is in a development in an urban location and is significantly smaller than the subject property. We are satisfied that this property is in such a different location from the subject property that it is not a reasonable comparable for the purposes of estimating the capital value of the subject property.
40. The Appellants made reference to several more properties in the course of their written and oral arguments. One such property was 1 Corernagh Road which belongs to Mr Flannigan's brother. We note that this property has a GEA of 250 m² and capital value of £245,000. The Appellants argued that this property was also too high and again have asked us to go behind the capital value. However there is no further evidence before us to support such a submission. We are satisfied that this property is significantly smaller than the subject property and that this has been reflected in the capital value.

41. The Appellants produced a sales brochure for a property at Scarva Road Gilford however there was no evidence of the property's capital value and we were satisfied that we could not take this property into account. The Appellants also submitted sales documents in relation to properties located in Lisburn. However again whilst some details have been submitted in relation to these properties we are satisfied that these are not suitable comparables to the subject property.
42. The Appellants referred to properties at 55 Barronstown Road, Dromore and 169 Newry Road, Banbridge which had previously been put forward by the Respondent as comparables to the subject property. However at the hearing Mrs White acknowledged that these were not appropriate comparables and were no longer being relied on.
43. The Appellants produced a print-out from the LPS list of capital valuations covering properties on Corernagh Road and Tullymacann Road, Tandragee. The Appellants said that they produced it to give a flavour of the valuations of properties on their road. We considered this list. The difficulty is that it does not show any details other than the address and capital values of the properties. A number of these properties are listed as agricultural. This document does not give us enough information to assess whether any of these properties are comparables in the same state and circumstances to the subject property in accordance with paragraph 7 (2) of Schedule 12 of the 1977 Order. We therefore cannot attach any weight to it.
44. The Appellants argued that just because the capital values of properties have not been challenged does not mean that the owners are happy with the capital values assessed for their properties. We took account of this argument. We are satisfied however that the properties identified above as being similar in state, circumstances and location to the subject property which have unchallenged capital values can be considered due to their number and the period of time which has passed since these values were set.
45. The Appellants argued that the whole capital valuation system is flawed. Essentially they argued that comparable properties in their area are over valued. They said that there is no evidence that houses in their area have sold at anywhere near £300,000. They said that the Respondent's figures were therefore wrong. In essence they argued that unchallenged values were not appropriate comparables. The wording of paragraph 7 (2) of Schedule 12 of the 1977 Order means that unchallenged values eventually set the overall tone of values in an area and regard must be had to these as comparables. We have considered the Appellants' submission in this regard but we are satisfied that there is not sufficient evidence before us to show that the tone of the list for this area is wrong. We considered the significant amount of evidence before us but were not satisfied that the Appellants had

discharged the burden upon them to displace the presumption that the valuations on the register for this area are correct.

46. Having considered all of the comparables before us we were satisfied that, in accordance with schedule 12 paragraph 7 set out above, the most appropriate comparable properties in the same state and circumstances as the subject property were properties 2, 3, 4 and 5 in the Presentation of Evidence. These properties have been assessed as having capital values of £300,000, £310,000, £340,000 and £340,000 respectively. We take into account the difference in size as between these properties and the subject property and we find that the capital value of the subject property is consistent with these properties.
47. We also take account of properties numbered 10,11,12,13 and 14 in the Presentation of Evidence. We attached less weight to these properties but for the reasons set out above we are satisfied that these are appropriate comparables for the estimation of the capital value of the subject property. We find that these properties are consistent with the capital value of the subject property and support its capital value.

Decision

48. In all of the circumstances and in light of the findings above the Tribunal was satisfied that the valuation shown on the valuation list in relation to the subject property is correct.
49. The unanimous decision of the Tribunal is that the appeal is dismissed.

Ms Anne Grimes, Chair
Northern Ireland Valuation Tribunal
Date decision recorded in register and issued to parties: