LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

CALL FOR VIEWS ON EMPTY HOMES IN SCOTLAND

SUBMISSION FROM GERRY McCANN

I am told that you are collating feedback about individual case histories and practice in this context.

I have a case where the property in question had been empty for 17 years before acquisition. At time of last occupation by the previous owner (aged 88) it was barely habitable, and the passage of 17 Scottish winters had rendered it totally derelict by date of purchase in June 2016.

Council Tax (CT) was initially charged at 200% but was then reduced, but the core issue is whether the property had ceased to be a dwelling in the interval between last occupation and purchase. If it was no longer a dwelling, then the property would not be within the charge to CT in the first instance, making discounts, exemptions and discretion irrelevant.

At a Valuation Appeals Committee it was accepted that the property was clearly uninhabitable, but it was still a dwelling for CT purposes, because the structural envelope was essentially intact and it had the external appearance to a passer-by of being a dwelling house. In addition the internal issues that rendered it uninhabitable were “repairable”, and other nearby dwellings in a similar state of disrepair were being lived in and subjected to CT. No evidence was given to support this latter assertion.

I am trying to raise funding (by Crowdfunding) for a test case to the Court of Session about what are the “essential characteristics” of a dwelling. The courts have ruled that a dwelling ceases to be a dwelling when is ceases to have those “essential characteristics”, but the court did not go so far as to define what it considered them to be.

The net effect of all of this is that instead of being incentivised to restore a derelict property to the housing stock, this young couple faced a significant financial obstacle in the form of a tax bill for a property that was uninhabitable by any measure and beyond any reasonable doubt, as fully backed up by photographic and other documentary evidence.

Clearly I have summarised, but would be happy to elaborate further as necessary.

Thanks and regards,

Gerry McCann