

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: 14/23

DAVID McCLINTOCK - APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James Leonard, President

Members: Mr T Hopkins FRICS & Dr P Wardlow

Hearing: 29 April 2025, Belfast

DECISION

The unanimous decision of the tribunal is that the appellant's appeal is successful to the following extent: the tribunal Orders the property to continue to be listed in the Valuation List, but with the Capital Value adjusted to a figure of £186,200 and the Valuation List is to be amended accordingly.

REASONS

Introduction

1. This appeal consists of a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appellant, by Notice of Appeal (Form 3) appealed against the decision of the Commissioner of Valuation dated 21 December 2023 in a Valuation Certificate in respect of the

Capital Value of a property situated at number 26 Belfast Road, Muckamore, Town Parks, Antrim BT41 1NY ("the property"). This Valuation Certificate applied a Capital Value to the property of £210,000.

2. The tribunal sat to hear the matter on 29 April 2025. The appellant had requested an oral hearing and he attended in person and the respondent was represented by Valuer, Mark Duffy MRICS, accompanied by Senior Valuer, Joanne Attwood MRICS. The tribunal panel members attended in person.

The Law

3. The relevant statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). As is now the case in all determinations of this nature, the tribunal does not intend in this decision fully to set out the detail of the statutory provisions of Article 8 of the 2006 Order, which amended Article 39 of the 1977 Order as regards the basis of valuation, for the reason that these provisions have been fully set out in many previous decisions of the Valuation Tribunal, readily available. All relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in the matter. Antecedent Valuation Date ("AVD") is the date to which reference is made for the assessment of Capital Values in the Valuation List. Until a further domestic property revaluation occurs, Capital Values are, under the statutory regime, notionally assessed as at 1 January 2005, that being the AVD for the purposes of the domestic rating scheme. The 2006 Order amending legislation applied to the 1977 Order, at Article 8 (2), provided that in Part 1 of Schedule 12 (concerning the basis of valuation), after paragraph 6 there was to be inserted paragraph 7. Paragraph 7 (3) provides that 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 circumstances as another, this being the statutory principle underpinning assessment of Capital Value. The material provisions, for the purposes of the tribunal's determination in this case and which the tribunal explored with the parties at hearing, read as follows:-

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.*

The Issue to be Determined and the Evidence

4. This case is a property renovation case. The appellant has set forth in his grounds of appeal the proposition that a vacant home may be entitled to 100% exclusion from rates if specific criteria are met. He argues that the property is entirely unoccupied, unfurnished and is not used for storage purposes and that it is a historic monument ("Dunmore House" former home to W A Green). Further to that, the proposition advanced is that, for a domestic property undergoing renovation, rates remain payable even if the property is unoccupied. However, in a limited number of cases involving major structural works which fundamentally change the character of the property, a reduction in rates may apply while the work is taking place: there was major structural work being carried out to the property. In the appropriate section of the appeal form where the following words introductory appear "*I/we believe that the actual valuation should be:.....*" the appellant has stated in manuscript, "*lower than 210 K while the building work is carried out*". The appellant's appeal points also include the following: "(1) *The property is uninhabitable and requires extensive work; (2) The property has historical importance as a main residence of the photographer W A Green (Dunmore House); (3) The LPS criteria states (sic):- in a limited number of cases involving major structural works which fundamentally change the character of the property a reduction in rates may apply while the work is taking place. The property has just passed planning the reference is as follows LA 03/2023/0635/f*". This scenario is, generally, relatively common in appeals to the Valuation Tribunal. There has been a number of decisions made by the Valuation Tribunal on the point, albeit in the context of a number of quite widely different factual scenarios, differing from one case to the next. As is also commonly the case in appeals of this type, regarding the issue of the physical condition of the property at the material time, the respondent has sought to rehearse arguments that are often deployed concerning the so called "hereditament test", more of which below. The tribunal had before it the appellant's Form of Appeal to the tribunal (Form 3) and the documents also included the following:
- 4.1 Copy Valuation Certificate in regard to the property, issue date 21 December 2023 and signed by the Commissioner of Valuation indicating a Capital Valuation of £210,000.
- 4.2 A document dated 2 February 2024 consisting of a Presentation of Evidence prepared on behalf of the Commissioner of Valuation, as respondent, by Mr Mark Duffy MRICS and submitted to the tribunal. This Presentation of Evidence includes a timeline which indicates, in a little detail, the following material dates:

8 November 2023: The District Valuer reduced the Capital Value of the property from £280,000 to £210,000 to reflect the removal of the domestic garages/outbuildings and a 20% reduction for very poor external repair.

29 November 2023: The decision of the District Valuer was appealed to the Commissioner of Valuation and a decision of no change was issued by the Commissioner on 21 December 2023.

20 December 2023: The District Valuer updated the Valuation List to reflect the property's revised Capital Value of £210,000.

19 January 2024: The appellant appealed the decision of the Commissioner of Valuation to the Northern Ireland Valuation Tribunal.

- 4.3 The Presentation of Evidence provides helpful evidence and information concerning the property description and photographic evidence of the state and condition of the property externally, with front rear and side elevations and floor plans and current measurements and also provides details of the planning permission that was granted on 30 November 2023 for an extension and alterations to the dwelling. After proceeding to set forth a submission concerning applicable legal authorities and the specific legal and other principles which it is submitted are engaged and should be applied, both emerging from case law authorities and also from the applicable statutory considerations, the Presentation of Evidence provides a helpful commentary upon various properties which have been subject to an allowance for poor external repair and for other issues. It is clear from the few examples provided in the Presentation of Evidence that this allowance can range from 10% up to 20% (but no greater than that latter figure). From this, for the respondent, the case is put forward that an allowance for condition amounting to 20% was justified in the instant case for ("very poor external repair"). This has produced an adjusted Capital Value which has been assessed at £210,000. The Appendix to the Presentation of Evidence sets forth a schedule of comparisons, which include the property and also another three properties for comparative purposes. As the appellant has not specifically sought to challenge the appropriateness of selection of these three additional comparable properties or the assessed Capital Values in respect of these latter, it is not necessary to provide full details save to say that the addresses of the comparable properties are as follows:

28 Belfast Road Antrim BT41 1NY (Capital Value £270,000).

44 Belfast Road Antrim BT41 1NY (Capital Value £250,000).

33A Belfast Road Antrim BT41 1NY (Capital Value £270,000).

- 4.4 The Presentation of Evidence provides a property description (with which basic description the appellant does not appear to take issue). The property is privately built housing (inter-war detached), two story, built

circa 1930 in a suburban location. It has habitable space of 271.20 m². It has no heating system and is in very poor external repair. The Capital Value, as mentioned, is £210,000. The Valuer attending on site noted that the property was then currently vacant and that it was in a very poor state of internal and external repair, with water ingress throughout the property across the ground and first floor and with penetrating damp from a skylight and from a removed chimney stack. The Valuer understood that the external refurbishment works included the following: garages and outbuildings have been demolished to the rear; two story rear extension to be built; single-storey annex extension to the side to be built; chimney stacks to be removed (one already removed at time of inspection); dwelling to be re-roofed; new rainwater goods to be installed; extensive repair works to spalled brickwork at ground floor level to ground floor windowsill level; timber framed single glazed windows to be removed and replaced with modern double glazed units throughout; structural cracking to brickwork between ground and floor bay windows to front. It was also remarked, in reference to the planning permission granted, given the existing condition of the house and the scale of the renovations, which included a proposed two-storey extension to the rear and single-storey extension to the side which would significantly increase the habitable area, that the appellant was of the view that the property should be temporarily removed from the Valuation List. However the removal of the garages and outbuildings situated to the rear of the house which had been demolished were taken into consideration and the Capital Value had been subsequently reduced on that account.

- 4.5 The Presentation of Evidence then turned to the technical position regarding listing. After having set forth a detailed resume of certain legal points and principles, as exemplified in the number of case reports (further referenced in the Submissions section of this decision below), the Presentation of Evidence provides a Summary conclusion. This conclusion is that the Capital Valuation has been assessed in accordance with the provisions of Rates (Northern Ireland) Order 1977. The submission is made that the Capital Value of £210,000, as assessed, is considered to be fair and reasonable in comparison to similar properties, taking everything into account.

The Submissions

5. The Appellant

The appellant's submissions have been noted by the tribunal. In addition to the case made in the Form of Appeal, the appellant has submitted additional material whereby he seeks to argue that a significant structural concern regarding the property has emerged. He states that, at the time of purchase, the surveyor identified a cracked external lintel and visible cracking in the

surrounding brickwork, which indicated a potential underlying structural issue. Following this, all window lintels throughout the property were fully exposed and, upon inspection, the appellant states that it became clear that the original timber lintels had deteriorated severely and were no longer structurally sound. As a result, cracks had formed in the exterior brickwork. The appellant submits that the condition of the lintels posed a serious risk to the stability of the building and required urgent remedial action. He also states that, in the course of this work, clay floors had to be removed and replaced with insulated concrete floors, this being necessary to improve the overall stability of the structure, particularly as the building did not have traditional concrete foundations. During this renovation process it was also discovered that the right-hand side of the building experienced flooding during periods of wet weather and it was revealed that a drainpipe from a neighbouring property was discharging water into the sub-floor level of the building. The building was accordingly upgraded to meet current building regulations and additional work was carried out to make the property safe and habitable. He recites the details of this work. At hearing, further, the appellant has, in some detail, explained to the tribunal details of the nature of the works required and of the original construction, which information the tribunal found to be helpful. The additional submission from the appellant has also included a number of photographs relating to the state and condition of the property which were considered to be useful by the tribunal in assessing the facts of the overall situation.

6. The Respondent

Regarding the issue of whether or not the property ought to be included in the Valuation List, the submissions made on behalf of the respondent in the Presentation of Evidence are ones which have now become relatively familiar to the tribunal; indeed, submissions of this nature are advanced in the majority of cases of this type. It is not necessary to rehearse these arguments in detail as the fundamental arguments and propositions have been thoroughly addressed in a number of prior decisions of the Valuation Tribunal over a number of years, all of which are publicly-available. The respondent's submission in this case proceeds with a commentary upon the "hereditament test" and references the commonly-cited case of ***Wilson v Josephine Coll (Listing Officer) [2011] EWHC 2824 (Admin)***, this being a judgment of the High Court in England which, as mentioned, has been the subject of previous observations set out in a number of previous decisions of the Valuation Tribunal in Northern Ireland. Thus, it is submitted that ***Wilson v Coll*** is relevant to the determination of this appeal as it proposes the appropriate test to be applied – a physical rather than an economic test. The critical distinction here is not between repairs which would be economic to undertake (or uneconomic) but rather the proper distinction is to be drawn between a truly derelict property, incapable of being repaired to make it suitable for its

intended purposes and repairs which would render it capable again of being occupied for the purpose for which it was intended.

7. The test of what is reasonable in regard to the foregoing has been applied by the Valuation Tribunal in previous determinations. The submission made on behalf of the respondent also referenced the previously-determined case of ***Eric McCombe v Commissioner of Valuation [NIVT 43/15]*** which itself references ***Whitehead Properties Ltd v Commissioner of Valuation [NIVT 12/12]*** (that latter being the first case in which the Valuation Tribunal interpreted ***Wilson v Coll*** as that judgment might properly be applied in Northern Ireland). It has been accordingly submitted for the respondent, applying the approach derived from ***Wilson v Coll*** (as exemplified in ***Whitehead*** and ***McCombe***) that, with a reasonable amount of repair works, the property could be occupied for its intended purpose, as a domestic dwelling. It is accordingly submitted that the current circumstances did not prevent the property from being capable of occupation as a dwelling. The respondent's submission also referred to ***Catherine Stewart v Commissioner of Valuation [NIVT 30/19]*** and ***Gargan & McCartney v Commissioner of Valuation [NIVT 34/21]*** (both of these latter being what might be termed "renovation cases"). The submission for the respondent also referred to the English Valuation Tribunal (VTE) decision in ***Baiyelo -v- Corkish (Listing Officer)*** where the demolition of a gable wall was not considered by the VTE to render the property in question truly derelict. (It is noted that this latter case has been referenced with approval in Northern Ireland by the Valuation Tribunal in such decisions as ***Cooper v Commissioner of Valuation [NIVT 3/18]***).
8. On a further point and addressing the argument that the property also has historical significance, with a "blue plaque" being present at the entrance to the property (with photographic evidence provided in respect of this) the Valuer for the respondent has stated that he has checked the online database for historic monuments and has noted that the property is not included on the database. Further, the property is not listed and concerning any application for exclusion from rating, the property would not be eligible on that account. All this and the appropriate principles applicable to the matter have been carefully noted by the tribunal; it is accordingly not necessary in this determination to rehearse the details emerging from the cases cited in argument, again which been extensively explored and commented upon by the Valuation Tribunal in a number of earlier decisions, all of which are readily available. The same principles have been applied in the determination of this appeal.

The Tribunal's Determination

9. One central issue is whether the property, at the material date, ought to have been included in the Valuation List. As has been previously remarked, some of the concepts might appear entirely artificial and at times abstract, but underpinning this there must be a sound application of common sense and it is essential that an overly rigid and entirely unrealistic view of matters is not adopted (as has been observed in **Whitehead**). The tribunal has been mindful of that approach in this case. The second issue, if the property is to be retained in the Valuation List, is an assessment of the correct Capital Value, in the light of the 20% reduction that has already been afforded.
10. Taking everything into account, including the substantial amount of evidence in the case and the arguments advanced by both parties, the tribunal's unanimous conclusion is that the property is to be included in the Valuation List. It is not to be exempt from listing in the light of all the facts. For the avoidance of doubt, that also includes the "blue plaque" issue. The second issue, as mentioned, is the assessment of the correct Capital Value. The comparables have not been challenged and these are found by the tribunal to provide useful evidence of what otherwise would be the unadjusted Capital Value for the property, were it to be rendered habitable, without additional works being conducted which would otherwise have the effect of enhancing the Capital Value.
11. A significant issue relates to a scrutiny of the 20% reduction applied. The tribunal questioned the Senior Valuer attending the hearing about how this, seemingly, "outer limit" of 20% for the adjustment for poor condition or renovation works condition had been arrived at. The tribunal's best understanding is that this is a "rule of thumb" which is felt to be a reasonable allowance for a property at one end of the potential spectrum of repair. The tribunal was unable to ascertain (nor was any argument presented, whether on account of binding or persuasive established procedure nor on account of any authoritative judicial determination) why the tribunal might not extend this allowance further in any given case, such as the instant case upon the specific facts.
12. Having carefully considered all the facts of the case (without this specific determination in this case being of itself capable of being transposed to the facts of any other case without further and full scrutiny, for each case will be factually different) the tribunal considered that the allowance of 20% in this case, on balance, was too low and that it ought properly to be extended to figure equivalent to 30%. The original assessed capital value was £280,000. This was reduced to reflect two factors, firstly the removal of part of the structure (the outbuildings) and, secondly, a reduction of 20% to reflect poor external repair. Whilst the overall reduction is not broken down in respect of each of these two separate components, the reduction being from £280,000 to £210,000, taking 20% of 280,000 that produces a figure of £56,000, with the balance of £14,000 seemingly being a reduction in respect of the outbuildings removal. If one therefore takes the £14,000 for the outbuildings removal from the base unadjusted figure of £280,000, that produces a (reduced but otherwise unadjusted) figure of £266,000, to which the 30% reduction must then be applied. All of this produces an adjustment figure of

£79,800 for the 30% applied. Accordingly, the adjusted Capital Value is £186,200.

13. On account of this, the tribunal's unanimous determination is that the appeal is successful to this extent: the tribunal Orders the property to continue to be listed in the Valuation List, but with the Capital Value adjusted to a figure of £186,200 and the Valuation List is to be amended accordingly.

James Leonard

James Leonard, President

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 21st May 2025