

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: 14/24

RAJVIR SANGHA - 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 not upheld and the tribunal Orders the property to continue to be listed in the Valuation List at the Capital Value such as has been determined by the respondent.

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) received by the tribunal on 28 August 2024 appealed against the decision of the Commissioner of Valuation in a Valuation

Certificate in respect of the Capital Value of a property situated at number 21 Belmont Crescent, Londonderry BT48 7RR (“the property”).

2. The tribunal sat to hear the matter on 29 April 2025. There were no appearances at hearing nor representation, as the appellant had indicated that she was content for the appeal to be dealt with on the basis of the documents presented. 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, 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. It is clear that a central issue in this case relates to the physical condition of the property at the material time. The appellant had indicated that she believed the property should be removed from the Valuation List. She further, in the Form of Appeal, stated: *“I believe that the above property should not be valued at £125,000 due to the fact that the property is not habitable. It is currently in a state of incomplete (sic). The renovation work has ceased due to no money being available to complete the work. Because the property is no longer being renovated and is not habitable, I believe it should be removed from the valuation list completely”*. It has to be remarked that this particular theme is relatively common in appeals to the Valuation Tribunal and there have been a number of previous decisions made by the Valuation Tribunal on the specific point, in the context of a number of quite widely different factual scenarios, 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 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) received 28 August 2024 and the documents also included the following:

- 4.1 Copy Valuation Certificate in regard to the property, issue date 11 July 2024 and signed by the Commissioner of Valuation, indicating an updated valuation of £125,000.

- 4.2 A document dated 3 February 2025 consisting of a Presentation of Evidence prepared on behalf of the Commissioner of Valuation, as respondent, by Mr Lee Smith MRICS and submitted to the tribunal. This Presentation of Evidence includes a timeline which indicates, in a little detail, the following material dates:

29 June 2022: There was an application for List Revision, with the then current Capital Value being challenged on the basis that the property had been extended, that it was vacant and that it was under renovation. The District Valuer retained the Capital Value at £175,000.

28 March 2023: There was an application for List Revision and it was noted that there were physical changes to the property and the Capital Value was revised downwards to £140,000 from £175,000, following a new survey being undertaken, due to areas being demolished.

12 June 2023: There was an application for List Revision on the basis that the property was uninhabitable. It was determined that the Capital Value would be retained at £140,000.

8 February 2024: There was an application for List Revision on the basis that the property was uninhabitable and the applicant felt that it should be exempt from rates. It was determined that the Capital Value would be retained at £140,000.

17 June 2024: There was an appeal to the Commissioner of Valuation, the outcome of which was that the property was deemed still to meet the hereditament test and that it should accordingly remain in the Valuation List. The Capital Value was revised downwards to £125,000 from £140,000. It is against this latter revised Capital Value figure that the appellant now appeals to the Valuation Tribunal.

- 4.3 The appellant made no specific response to the content of the Presentation of Evidence, for example by making a specific challenge to the comparables set forth therein or to the methodology employed in assessing the Capital Value by the respondent, nor by advancing any factual or legal submissions or arguments. The Presentation of Evidence was therefore largely unchallenged save as to the fundamental issue of whether or not the property ought, or ought not, to be included in the Valuation List. Because of this, that “listing issue” was the central issue requiring to be determined by the tribunal.
- 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 (1966-1990) in a suburban location, semi-detached, two storey of brick/block construction and tiled roof. It has habitable space of 104.20 m². The Presentation of Evidence records the appellant stating to the Valuer her disbelief as to how the property could be liable for rates in its current condition, as it could not be considered to be in average repair. The appellant had stated that part of the living accommodation and the attached garage had to be demolished as there had been an oil leak and that the property foundations had been compromised. The property was open to the elements and had no water or heating system. The Valuer had requested a copy of the proposed plans for the property and a schedule of works, but these had not been provided at the date of the Presentation of Evidence (and presumably not since then).
- 4.5 After having set forth a detailed resume of certain legal points as exemplified in the number of case reports, the Presentation of Evidence provides the Conclusion that it was clear that the property on the date of inspection was undergoing renovation works. However the property was not considered “truly derelict” as much of the external structural fabric was still intact and it was considered that, with a reasonable amount of repair

works, the property could be occupied once again as a dwelling. As a result, a hereditament continued to exist and the property therefore ought to remain in the Valuation List. The Presentation of Evidence in an Appendix set forth a number of comparables, again, which were not specifically challenged by the appellant. For that reason it is merely necessary for the tribunal to identify these comparables and the tribunal's conclusions as to whether or not these have provided useful evidence concerning the basic Capital Value that has been ascribed to the property. However, the basic information provided in the Presentation of Evidence concerning the property is that it was observed to be evident that the property was undergoing renovation works on the date of inspection and that, internally, the property was in a shell state. Externally, construction was underway for the replacement of previously demolished habitable areas with new foundations having been laid along with a new concrete slab. There was an opening in the left-hand side gable and at the front of the property, which provided access from the ground floor and which could be observed in the photographic evidence provided. With the exception of one window at the rear of the property all others appeared to be functioning. It was also noted that there was a small area of damage to roof tiles and a few missing ridge tiles.

5. The Appendix to the Presentation of Evidence provides details in respect of a total of four identified submitted comparables, in addition to the property. These are as follows (with a helpful location map provided in respect of all the identified properties, which are all in relatively close proximity):-
 1. 45 Lisnarea Avenue, Londonderry BT48 7SS (Capital Value £120,000).
 2. 30A Lisnarea Avenue, Londonderry BT48 7SS (Capital Value £135,000).
 3. 47 Lisnarea Avenue, Londonderry BT48 7SS (Capital Value £140,000).
 4. 23 Belmont Crescent, Londonderry BT48 7RR (Capital Value £170,000).

The Submissions

6. The Appellant

The appellant's submissions have been noted by the tribunal. In essence, the submissions are based upon the fundamental argument that the property ought not to be listed on account of the various factors indicated. In that regard the tribunal has inspected the evidence provided on behalf of the respondent, including mapping of the property and the four comparables, the comparables evidence and, specifically, a number of helpful photographs relating to the state and condition of the property. Accordingly, these

photographs were admitted into evidence and were considered to be quite useful by the tribunal in assessing the overall situation.

7. 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. The test of what is reasonable 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]*** (the latter being the first case in which the Valuation Tribunal interpreted ***Wilson v Coll*** as that judgment might be properly 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 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 ***Mary McCann v Commissioner of Valuation [NIVT 16/18]***, where the Tribunal had made reference to ***Lindsay v Commissioner of Valuation [NIVT 07/16]***. The current submission in this case 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. (That latter case has indeed been referenced in Northern Ireland by the Valuation Tribunal in such decisions as **Cooper v Commissioner of Valuation [NIVT 3/18]**. All this and the appropriate principles to apply to the matter has been carefully noted by the tribunal; it is accordingly not necessary in this determination to rehearse the full detail of the relevant principles and commentaries which have already been explored and commented upon extensively by the Valuation Tribunal in a number of earlier decisions, all of which are readily available. The same basic principles have been applied in the determination of this appeal.

8. The fundamental principle requiring to be scrutinised here is the proposition that, as has been clearly explained by the appellant, for financial reasons the appellant has been unable to proceed with the renovation works and accordingly the appellant has articulated an expectation of 100% rates relief, pending the resolution of this financial situation which has seemingly been impeding progress towards making the property habitable.
9. What is entirely clear and is derived from the guiding principles adopted in earlier determinations of the Valuation Tribunal in Northern Ireland (and following on from the seminal case of **Wilson v Coll**), is that there is no economic test emerging from the statutory provisions in neither England nor in Northern Ireland. Put simply, the individual financial circumstances of the individual appellant cannot be taken into account. That fundamental proposition must be adopted. However, that runs precisely against the argument advanced by the appellant. The appellant has put financial circumstances forward as a case for effectively inhibiting proceeding with and concluding the renovation works. However, any argument advanced along these lines is inevitably bound to fail in this jurisdiction.
10. Further to that, even quite significant renovation works which, at the material time under scrutiny, might render a property incapable of habitation, do not effectively counter the proposition that the subject property ought to be retained in the Valuation List as a hereditament, pending completion of any works. Perhaps it is a little difficult for the appellant in this case (and in other suchlike cases) to understand this concept and indeed perhaps it might seem unfair. However, that is the proper application of the law in cases of this type, as it currently stands in Northern Ireland. However, the tribunal must also guard against an extreme or entirely forced or artificial interpretation of things. That is why the comment has been made in earlier cases that each case will inevitably depend upon its own specific facts and circumstances. Thus the tribunal has carefully examined all of the relevant circumstances in this case under appeal.

The Tribunal's Determination

11. The fundamental issue is whether or not the property, at the material date, ought to have been included in the Valuation List. Taking everything into account, the tribunal's unanimous conclusion is that the property is to be included in the Valuation List. Further to that, the tribunal has considered the evidence available from the comparables (notwithstanding that there was no express challenge to these made by the appellant) and the determination is that the assessed Capital Value is in line with the evidence emerging from these comparables: it is appropriate and correct, as assessed. Because of this, the appeal cannot succeed. The tribunal Orders the property to continue to be listed in the Valuation List at the Capital Value such as has been determined by the respondent.

James Leonard

James Leonard, President

Northern Ireland Valuation Tribunal

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