

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

CASE REFERENCE NUMBER: NIVT 13/24E

Between:

AIDAN McERLEAN – APPELLANT
and
COMMISSIONER OF VALUATION – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Keith Gibson BL

Members: Mr Brian Reid FRICS and Mr Peter Wardlow

Date of hearing: 19th June 2025

DECISION

INTRODUCTION

1. This is an appeal by Mr Aidan McErlean in respect of premises situate at 42 Thomas Street, Town Parks, Ballymena, BT43 6AZ under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the Rates Order"). The matter was heard by the Tribunal on the 19th June 2025 with the Appellant attending himself along with a friend, Mr Cathal McKillen. The Respondent was represented by Mr Duffy and Ms Atwood.
2. The appeal touches and concerns a semi-derelict property which was purchased by the Appellant in or around January 2024 for the sum of £62,000. At the time of his purchase the property was in an extremely poor state of repair with damp coming through the ceiling and with mould also growing through the ceilings and considerable water leaks throughout the property. The floors were in a poor state of repair, having decayed throughout. At the hearing, the Appellant produced photographs which showed that the property had been stripped internally to reveal the wooden joists between ground and first floor and considerable excavation and mounds of earth throughout the property.
3. These were supplemented by photographs from the Respondent which showed the property from an external perspective. The property itself is a terraced house, and, from an external perspective, the property was watertight with both the walls and roof being

intact. The main difference between the property and the neighbouring properties was the absence of a garage. The garage, as explained by the Appellant at the hearing, was demolished by him shortly after the acquisition of the property. The initial assessment of the value of the property on the 19th June 2024 was some £87,500. Pausing here, it is important to note that this valuation of £87,500 is not the value of the property as of the 19th June 2024 or the date of the hearing or the date of the decision.

4. For the purposes of any NIVT appeal the relevant capital valuation date is the 1st January 2005 (see Schedule 12, paragraph 7(4) of the Rates Order). The other point in time which is often referenced in the context of these appeals is the 1st April 2007 which is the date upon which the valuation lists for domestic properties became operative. What this means, in practice, is that for the purposes of any appeal the Tribunal can only consider whether or not the capital valuation was correct as of the 1st January 2005.
5. Self-evidently, this can cause a number of problems both for homeowners and valuers alike. The most obvious practical difficulty is in respect of properties which are built or constructed or substantially renovated post the 1st January 2005 valuation date. In those instances, the valuer, using his or her skill and expertise, must try and assess the value of the new property with reference to similar properties already built and valued earlier (those similar properties are often referred to in valuation term as “the comparables”).
6. For homeowners, they face two significant problems in advancing their appeals; one is an evidential problem; the other, a legal one (what is known as the ‘tone of the list’ statutory presumption). In respect of the evidential problem, homeowners have to seek to establish to the satisfaction of the Tribunal (and the onus and burden is on them as Appellants) that other properties sold or agreed for sale at the relevant time (the 1st January 2005) demonstrate that their 1st January 2005 valuation was wrong. Gathering that evidence is often very difficult, even for professional valuers.
7. The second difficulty faced by Appellants is that contained at paragraph 7 of Schedule 12 to the Rates Order which states, in a fine example of legalese;

“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 hereditaments whose capital value has been revised.”

8. This is what valuers know as the “*tone of the list*” or the “*tone of the comparables*.” What this means in practice is that if within a relatively short period of time in a particular area (which in an urban setting, might well stretch only to one street, but in a rural setting may stretch to many miles) there are no or limited challenges to a number of valuations or, if challenges are abandoned or ultimately unsuccessful, then a point can be reached within a relatively short space of time although it would have to be said that a reliable tone of the list for the hereditaments (basically the buildings) in a location or category has been settled - see **A-Wear Limited –v- Commissioner of Valuation VR/3/2001**.
9. Reverting to the facts of the current Appeal, following the aforementioned assessment of the value at £87,500, the Appellant appealed the decision of the District Valuer valuing the property at £87,500 to the Commissioner of Valuation. Arising out of that appeal, the

area of the property was re-measured and, despite the initial measurement of the property being some 116.6m², upon a re-measurement the area was reduced to 107.2m². This in turn led to a reduction in the capital value from £87,500 to £80,000.

10. Having been successful in that first appeal, the appellant pursued this current appeal on the 11th September 2024. The main ground of the Appellant's appeal, as set out in his Notice of Appeal, was that given that the property was uninhabitable, derelict and that he had made an application to redevelop the property, the valuation for rates purposes should be zero, i.e. the property was "non-rateable".
11. The Appellant went on to explain that there was an application to turn the property into two flats and that there was a current extant planning application under reference LA/02/2024/0767/F. Although a copy of the plans was not available at the hearing, that planning application notes that the current permission sought is for replacement of a two-storey dwelling with two numbered apartments. It was estimated by the Appellant that planning would be achieved within the next two or three months but that approval for his Building Control plans was required and that, realistically, building work would not commence for a period of twelve months.

RESPONDENT'S POSITION

12. The Respondent's position was to point to the case of **Wilson –v- Josephine Coll** [2011] EWHC 2824 which described the key question as being;

"Having regard to the character of the property and a reasonable amount of repair works being undertaken, could the premises be occupied as a dwelling?"

13. Building on the aforementioned decision, the Respondent also referred to two decisions in Northern Ireland, namely **Gargan & McCartney –v- The Commissioner of Valuation** [NIVT34/21] and **Catherine Stewart –v- The Commissioner of Valuation** [NIVT30/19]. Both of those cases made clear that the property would continue to exist as a property suitable for inclusion in the valuation list notwithstanding that an extensive programme of renovations was required (**Gargan & McCartney**) or that the roof had to be replaced (**Catherine Stewart**).

THE TRIBUNAL'S DECISION

14. As of the date of this decision, in the months of April and May 2025 the Valuation & Lands Tribunal issued two similar decisions exactly on the same point, namely **McClintok v The Commissioner of Valuation** NIVT 14/23E and **Kerr v The Commissioner of Valuation** NIVT 12/23E.
15. The crucial point is that it is not for the Tribunal to consider whether or not such the necessary repairs are economic or uneconomic, i.e. whether or not it makes good business sense to carry out the repairs or renovations, the test is whether, physically, it is possible to carry out the repairs or renovation in order to make the property habitable. At the one end of the scale, conceivably any property, even one only with foundations, might be capable of repair but, crucially, the distinction is between a property which has to be substantially rebuilt rather than repaired. Often however the distinction is a fine line.

16. Therefore, a property which only had foundations, or partial walls would be the subject largely of rebuilding works as opposed to renovation or repair. Here, in this particular instance, it is beyond peradventure that the property could be repaired. All the external walls are present together with the roof and windows and whilst it is the Appellant's intention to demolish the property and rebuild it as apartments, it is not the Appellant's intention which is relevant. What is relevant is the Tribunal considering, from an overall perspective, whether or not the property could be repaired to make it habitable. Here, quite clearly it could, and, on that basis, this aspect of the Appellant's appeal is dismissed.

COMPARABLES

17. It would be remiss of the Tribunal not to note, however, that a number of comparables were supplied by the Respondent being numbers 44 Thomas Street (obviously the neighbouring property), 46 Thomas Street, 50 Thomas Street, and 52 Thomas Street. All of the properties were terraced houses of a similar size to the current property, all with garages and central heating. Numbers 50, 44 and 52 all have a capital value of some £80,000, the only outlier being number 46 Thomas Street which had a value of £85,000 but which was larger than the three aforementioned properties.
18. In circumstances where the current property neither has a garage nor heating, it is the Tribunal's view that there should be a further reduction in the capital value. For the removal of the garage, the Tribunal considers that there should be a further reduction of £7,500, with the absence of central heating leading to a further reduction of some £1,500. The subject property is, however, slightly bigger than the three aforementioned properties and looking at matters in the round and employing the Tribunal's discretion, the net reduction in the capital value is assessed at some £5,000 overall.

CONCLUSION

19. The Tribunal therefore allows the Appellant's appeal in part, reducing the capital value from £80,000 to £75,000.

Chairman: *Mr Keith Gibson*

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 18th August 2025