

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: NIVT 10/25

MR DAMIEN VILLA - APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation tribunal

Chairman: Mr James Leonard, President

Members: Mr A Tough FRICS and Ms N McCartan

Belfast, 31 March 2026

DECISION

The unanimous decision of the tribunal is that the appeal succeeds and the appropriate Capital Value for the property is determined by the tribunal to be £140,000. The tribunal Orders the Capital Value in the Valuation List to be adjusted accordingly.

REASONS

Introduction

1. This is a reference under the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). This appeal was an oral hearing conducted remotely by WebEx, with the appellant representing himself and the respondent being represented by the respondent's Valuer, Mr Kelly, appearing together with Ms Joanne Attwood, Senior Valuer.
2. The appellant, Mr Damien Villa, by Notice of Appeal (Form 9) received 26 June 2025 appealed to the tribunal against a Valuation Certificate dated 27 May 2025 in respect

of a hereditament situated at number 58 Victoria Gate, Tamnymore, Londonderry BT47 2TP (“the property”).

The Law

3. The statutory provisions material to the determination of this matter are to be found in the 1977 Order. Two specific provisions of the 1977 Order are to be noted, these being Article 25B and Schedule 8B to the 1977 Order. Article 25B of the 1977 Order provides, in respect of new buildings and completion days and completion notices, as follows: -.

25B.—(1) Schedule 8B (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall have effect.

(2) Where—

(a) a completion notice is served under Schedule 8B; and

(b) the building to which the notice relates is not completed on or before the relevant day,

then for the purposes of this Order the building shall be deemed to be completed on that day.

(3) For the purposes of paragraph (2) the relevant day in relation to a completion notice is—

(a) where an appeal against the notice is brought under paragraph 4 of Schedule 8B, the day determined under that Schedule as the completion day in relation to the building to which the notice relates; and

(b) where no appeal against the notice is brought under that paragraph, the day stated in the notice.

(4) Where—

(a) a day is determined under Schedule 8B as the completion day in relation to a new building, and

(b) the building is not occupied on that day,

it shall be deemed for the purposes of Article 25A to become unoccupied on that day.

(5) Where—

(a) a day is determined under Schedule 8B as the completion day in relation to a new building, and

(b) the building is one produced by the structural alteration of an existing building,

with the hereditament which comprised the existing building shall be deemed for the purposes of Article 25A to have ceased to exist, and to have been omitted from the list, on that day.

(6) In this Article—

(a) "building" includes part of a building; and

(b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments.

Schedule 8B of the 1977 Order provides, in respect of completion notices, as follows: -.

Completion notices

1.—(1) If it appears to the Department that the work remaining to be done on a new building is such that the building can reasonably be expected to be completed within three months, the Department may serve a completion notice on the person entitled to possession of the building.

(2) If it appears to the Department that a new building has been completed the Department may serve a completion notice on the person entitled to possession of the building.

(3) The Department may withdraw a completion notice by serving on the person entitled to possession of the building a subsequent completion notice.

(4) Where an appeal under paragraph 4 has been brought against a completion notice, the power conferred by sub-paragraph (3) shall only be exercisable with the consent in writing of the person entitled to possession of the building to which the notice relates.

(5) The power conferred by sub-paragraph (3) shall cease to be exercisable in relation to a completion notice once a day has been determined under this Schedule as the completion day in relation to the building to which the notice relates.

(6) Except as provided by an order made by the Department, the Department shall not serve a completion notice if it appears to the Department that the building is, or when next in use will be, used wholly for the purposes of a private dwelling.

(7) The Department shall not make an order under sub-paragraph (6) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(8) An order under sub-paragraph (6) may contain such incidental, supplemental and transitional provisions as the Department considers necessary or expedient, including provisions modifying this Schedule.

(9) The Department shall not serve a completion notice in relation to a building of a prescribed class.

As the tribunal has mentioned in many prior decisions, the Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011 ("the 2011 Regulations") were implemented some years ago and the effect of the 2011 Regulations is that, from 1 October 2011, domestic buildings and parts of buildings as well as non-domestic buildings or parts of buildings for the purposes of Article 25A of the 1977 Order

became subject to rating, subject to certain statutory exceptions. Accordingly, Article 25A and Schedule 8A of the 1977 Order, when read with the 2011 Regulations, prescribe that rates are payable on an unoccupied domestic property at the same level as if the property were to be occupied.

The Evidence and Submissions

4. Any evidence and the appellant's submissions are available from the appellant's appeal to the tribunal and the oral evidence provided at hearing and the tribunal also considered the following documentation:
 - A Certificate of Valuation arising out of an appeal by the appellant to the Commissioner of Valuation and dated 27 May 2025 in respect of the property.
 - A Presentation of Evidence prepared by Mr Timothy Kelly MRICS on behalf of the respondent and dated 21 November 2025 as submitted to the tribunal (and copied to the appellant).

THE SUBMISSIONS

5. The Presentation of Evidence fully reproduces the appellant's grounds of appeal (by copying these grounds) which grounds in summary, as stated by him, include the following asserted matters: the property is a new build and is not and cannot be completed as there are underground tanking and damp issues that need to be resolved. The property will not be able to get the necessary approvals to be able to get a Completion Certificate or for sale or mortgage until work has been rectified. The house is in a shell finish and the floors at ground level have been taken out in order to resolve the damp issue. The house is stated to be only half finished, with no tiling, no kitchen, no bathrooms and no fit out. Outside, the area is described as being a "building site".
6. The Presentation of Evidence includes a helpful timeline of rating history as follows:
 - 25 September 2023** – a 90 day Completion Notice Certificate was issued by the District Valuer.
 - 7 November 2023** - the Completion Notice Certificate was appealed by the appellant to the Commissioner of Valuation.
 - 9 February 2024** - the Completion Notice which deemed that the property could reasonably be completed on 25 December 2023 was determined as valid by the Commissioner of Valuation.
 - 15 May 2024** - the property was entered into the Valuation List with a Capital Value of £200,000 effective from 25 of December 2023.

17 October 2024 - an application was made by the appellant to the District Valuer, and the appellant raised the issue that the Developers' Exclusion was to end in December 2024, that the property was still unfinished and that there was a damp proofing issue being investigated.

21 March 2025 - a Certificate was issued by the District Valuer, and the property was retained in the Valuation List and there was no change to the Capital Value of £200,000.

29 April 2025 - an appeal case from the appellant to the Commissioner of Valuation was registered.

27 May 2025 - a Certificate was issued by the Commissioner of Valuation, and the Capital Value was reduced from £200,000 to £160,000 (20% allowance) to account for external repair issues relating to an external wall located below ground.

1 July 2025 - notification was received by the respondent from the tribunal confirming an appeal made by the appellant.

The Presentation of Evidence, with helpful photographs, describes the property as being a circa 2022 detached three-storey dwelling constructed of traditional cavity block wall with a tiled pitched roof. The back part of the ground floor is one storey below the back garden ground level of what is described as being a steep site and is made of basement type construction, including concrete walls and a basement waterproof tanking system. Although on the same level with the front part of the ground floor, one of the rooms against the wall is referred to as a basement store on the planning drawing. The subject property is a one-off house type within the Victoria Gate housing development. The photographic images were taken on 20 May 2025 and additional images illustrating the interior are also appended to the Presentation of Evidence. A ground floor plan is also appended, illustrating that the relevant external wall is made of heavier construction than the other external walls because it is below ground and therefore retaining the rear garden.

7. The Presentation of Evidence recounts a discussion with the appellant which occurred on the inspection day, 20 May 2025, when the appellant had explained to the Valuer that investigations had established that the property had likely suffered a failure of the external waterproof tanking system around the parts of the external walls that were below the rear ground level. The appellant believed that the failure had resulted in water penetration through the external tanking system which was rising up inside the external walls and making them damp. On inspection by the Valuer, the other external and internal walls felt dry on the inside, but the basement store walls felt damp. The appellant explained to the Valuer that until the waterproofing failure issue was rectified, Building Control would not grant a Certificate of Completion, which prevented the house from being lived in or sold. The appellant felt that the property should not be valued for its purposes due to these issues. The appellant referred to two contractors who had been consulted, Stronghold Preservation and Rentokil and that the solution proposed by Stronghold Preservation compromised creating a new cavity wall on the inside of the existing basement type wall and within that installing a cavity drainage system to divert to the outside any water seeping through the existing wall. The proposed works would also comprise treating concrete walls and floors with a lime inhibitor and installing new waterproof membranes to walls and floors. At the time, the appellant estimated the total cost of works to mitigate the failure to be in the region of £40,000 including the amount quoted by Stronghold Preservation which was between £24,000 – £26,000 for their part of the solution, but this did not include ancillary works.

8. The Presentation of Evidence advances the submissions for the respondent and in doing so refers to a number of “hereditament test” cases dealt with by the Valuation Tribunal in Northern Ireland, following **Wilson v Coll (Listing Officer)**, these including **Whitehead v COV** (2013), **McGivern v COV** (2017), and **Cooper v COV** (2019). There is an extensive extract set out in the Presentation of Evidence from the **Whitehead** case where the Valuation Tribunal first addressed the issues emerging in the light of **Wilson v Coll** and made some observations as to the applicability of the principles emerging in that case to Northern Ireland. The submission in this case for the respondent was that, based upon the consideration of the hereditament test it was believed that a hereditament existed, because the property was capable of being made suitable for occupation by undertaking a reasonable amount of repair works. Four comparables in the same housing development had been identified which were considered broadly similar in subject in terms of age, size and construction, all of which were in an average state of external repair. It was the opinion of the respondent that the (unadjusted) Capital Value of £200,000 was fair and reasonable and in tone with the Valuation List.
9. An appropriate allowance was then considered and it was accepted that there was a waterproofing repair issue with the external fabric of the building, sitting as it did outside the assumption of average internal repair (in that regard see the Rates (Northern Ireland) Order 1977, Schedule 12 and the statutory assumption that: “*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*”). Therefore, a poor external repair allowance could be applied to the Capital Value to account for the issue. It was accepted that internal solutions to the external repair problem might be necessary including an internal cavity drain system as proposed by Stronghold Preservation. Under these circumstances it was believed that a reduction for very poor external repair was warranted in the amount of £40,000, which equated to a 20% reduction. It was submitted that the approach, accordingly, to reduce the Capital Value was supported by previous cases referred to where reductions had been made for external repair issues and the case of **McCintock V COV** (2025) was specifically referred to, where the District Valuer had already reduced the figure by 20% and where the tribunal reduced the Capital Value further, equating to a final reduction of 30%. Examples were provided of other hereditaments where allowances, respectively, of 15%, 20% and 20% had been afforded.
10. In his oral evidence given to the tribunal by WebEx, the appellant went into considerable detail in describing the issues with the property and the works that had been undertaken to rectify the issues. All of this evidence was carefully noted by the tribunal and there is no doubt that the work required were substantial. This work had to be conducted in stages to avoid disturbing the structural integrity of the building and involved excavating the affected area one section at a time and reinstating flooring. The appellant explained that the works were nearly completed as far as the structural element was concerned and then the fitting out of the property could proceed.

THE TRIBUNAL'S DECISION

11. As mentioned above, the legal position adopted by the Valuation Tribunal in cases of this nature has been settled in a number of earlier cases, some of which are

expressly mentioned in the Presentation of Evidence. The tribunal in this case sees no reason to depart from the fundamental principles stated in the earlier cases.

12. The first and rather fundamental principle is that any personal circumstances and financial considerations applicable to the appellant are irrelevant to the determination. There is indeed an implied suggestion from the appellant that his personal and financial circumstances ought to be taken into account, insofar as these might affect the rate of progress of finishing the property, but any issue in that regard cannot be taken into account by the tribunal, nor can any issue which would be set against the assumption of average internal repair, which assumption must be applied by the tribunal and in respect of which there is no discretion. The tribunal's focus must accordingly be entirely upon the external disrepair issue and the works required to rectify that, insofar as that these can be properly taken into account as affecting the Capital Value of the property.
13. The tribunal notes the case of **McClintock** which has been referred to in the Presentation of Evidence (and the other "disrepair" properties used as comparables where reductions were applied arranging from 15% to 20%), but the distinguishing factor in this case is that, whilst **McClintock** was an old building, the subject of this appeal is of recent construction and, accordingly, is in a different situation. However, the concession on the part of the respondent has been noted that an appropriate reduction in the Capital Value of 20% ought to be applied, considering the external disrepair matter, which of itself is not in contention. The tribunal shall observe below whether or not this reduction applied is reasonable and appropriate.
14. The second matter to be examined is whether or not the outstanding work necessary to complete the property could have been completed by the Completion Date as specified in the Completion Notice. The tribunal has noted the appellant's evidence regarding what was required to attend to the necessary work. Expert or technical evidence might have been helpful to the appellant, perhaps in an endeavour to challenge the timeline provided, but none specifically has been forthcoming. The appellant did benefit from the so-called Developers' Exclusion. Examining any evidence and information available to the tribunal in this case, the appellant has not presented any robust and effectively persuasive challenge to the respondent's contention that the property could indeed be effectively completed, with due diligence, within the period specified with reference to the Completion Date. The tribunal's unanimous determination is that the Completion Notice is valid. That leaves then the issue of an appropriate reduction in the Capital Value.
15. The tribunal is required to be generally satisfied that the assessment of Capital Value in the context of the statutory provisions applicable is correct. The tribunal notes Appendix 1 to the Presentation of Evidence which sets forth details of four comparable properties in addition to the property, where Capital Values range from £210,000 to £195,000. The details of these comparables are noted, and the property sits comfortably within tone in the context of this comparables evidence. In this instance and in the light of there being no express challenge as such, the tribunal is prepared to make the reasonably-grounded assumption that the primary Capital Value (before reduction) of £200,000 is correct. Accordingly, the Capital Value is determined by the tribunal to have been correctly assessed, and this is consequently upheld by the tribunal, subject importantly to an appropriate reduction now being applied.

16. In this case, having carefully considered all of the evidence available, the tribunal's considered assessment is that an appropriate reduction ought to be 30% (that is to say an additional 10% afforded upon the 20% already allowed). Taking account of the primary (unadjusted) Capital Value of £200,000, this produces a reduction of £60,000 and therefore an adjusted Capital Value of £140,000. Accordingly, the appeal succeeds to this extent and the appropriate Capital Value for the property is determined by the tribunal to be £140,000. The tribunal Orders the Capital Value in the Valuation List to be adjusted accordingly.

James Leonard

**James Leonard, President
Northern Ireland Valuation tribunal**

Date decision recorded in register and issued to parties: 20 April 2026