

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: NIVT 08/24

MARTIN CLERKIN

APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND

RESPONDENT

Northern Ireland Valuation Tribunal

Date of hearing: 9 March 2026

Chair: Sarah Ramsey

Members: Andrew Tough (Valuer) and Nichola McCartan (Lay)

Decision

The unanimous decision of the tribunal is that this appeal is upheld in that the property is not considered an agricultural building, however the CV should be revised to allow a discount of 20%, namely to reflect a 10% reduction to reflect the farmyard location and shared access and a further 10% to reflect comparable evidence and poor external repair. The Assessed Capital value should therefore be £90,250

Reasons

1. The appeal is a reference under Art 54 of the Rates (NI) Order 1977 (as amended) ("the 1977 Order"). The matter proceeded on the papers, the Appellant having indicated he did not intend to attend the hearing.
2. By an Appeal registered on 13 May 2024, the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") in respect of the removal of the agricultural

- allowance on 1 April 2019 and the increase of the Capital value from £92000 to £115,000
3. On 16 October 2023 the Appellant contended that the property is used as an agricultural store.
 4. A valuer inspecting the property on behalf of the District valuer concluded the agricultural storage in the property was minimal and the subject property was to remain in the valuation list as a domestic hereditament. A 10% allowance was applied to reflect the farmyard location and shared lane access to the property which reduced the capital value from £115000 to £103000. A further 5% allowance was allowed for poor repair. Capital value was reduced from £103000 to £95000.
 5. The subject property, 55 Deerpark Road is a two-storey dwelling located up a shared lane of the minor Deerpark Road, approximately 1.3 miles as the crow flies from Rosslea village in County Fermanagh
 6. An inspection took place on 21.03.25 and photographic evidence was supplied of the inspection which showed the property to be in a poor state of repair externally.
 7. The property is 105m from a 16000bird poultry house.
 8. On the day of the inspection the front room was being used to store bales of hay. However, the remainder of the building was not wholly attributable to agricultural use, and photographic evidence was provided in relation to this.
 9. The COV provided four comparable values of properties and the corresponding reductions for poor repair. It is of note that the Tribunal considered the subject property to be in a poorer state of repair than the comparables provided.
 10. The Appellant responded via Mr Seamus Green, Councillor. The submissions on appeal were as follows:
 - a) The Appellant had provided a valuation from a local estate agent - McCaffrey Brothers of 16 July 2025 valuing the property at £18500,
 - b) The Appellant submitted the property is no longer used or capable of being used as a dwelling,
 - c) The property is now exclusively for agricultural purposes.
 - d) The building is in close proximity to a significant poultry infrastructure, which severely impairs its habitability.
 - e) The comparables do not have the proximity of the poultry.
 - f) Planning for the Hen House did not mention the subject property in consultation documents as it was considered to be agricultural
 - g) Planning for hen houses close to residential homes was refused and a planning case referred to.
 - h) The property was effectively abandoned in or around 2008 when the Appellant's aunt went in to a pensioner's bungalow.

The Evidence

11. The following documents were before the Tribunal;

- Appellants' original Notice of Appeal to the Tribunal dated 23 April 2025
- Appellant's provision of Evidence
- LPS response
- Appellant's response to LPS
- LPE presentation of evidence
- Appellant's response to POE
- Property valuation dated 16 July 2025 from McCaffrey Brothers, Estate Agents

The Law

12. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (hereinafter the 2006 Order). The statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). The Tribunal, as is customary, does not intend in this decision to fully set out 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 decisions of this tribunal, which are readily available. All relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in the matter.
13. Further relevant legislation for the purposes of this appeal is Article 2(2) of the 1977 Order which defines a 'hereditament' as follows;

"hereditament" means property, which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in a valuation list.
14. Article 25A and Schedule 8A of the 1977 Order provide that rates are payable on unoccupied properties which fall within a class prescribed by Regulations. The Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011 ("the 2011 Regulations") came into force on 1 October 2011. These prescribe that, subject to the exceptions set out in the schedule to the Regulations, unoccupied domestic properties are liable to rates.
15. Article 54(3) of the 1977 Order provides that, on appeal, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.
16. The issue before the Tribunal in this appeal is whether the subject property is a hereditament "which is or may become liable to a rate" within the definition of a hereditament set out in Article 2(2) of the 1977 Order or unoccupied properties which fall within the categories of exceptions set out in the 2011 Regulations.

Is the subject property liable to rates?

17. In relation to the question as to whether a hereditament exists the Respondent made reference to Mr. Justice Singh's judgment in *Wilson v Coll*
18. The Respondent asserted that the property constitutes a hereditament. Photographs of the subject property taken in June 2024 presented in the written evidence of the Respondent.
19. The Appellant asserts that the property should not be considered as a hereditament, in that it is not physically and legally capable of being occupied as a home and furthermore that it is not used or intended to be used for such occupation as it is in fact an agricultural building, should be reclassified as such, and therefore should be removed from the list.

The Tribunal's findings

20. The appellant's assertion that the property should be reclassified as an agricultural building was, not, as a matter of fact an assertion the Tribunal found any substance to.
21. Schedule 11 of the 1977 Order declares that agricultural properties are not to be treated as hereditaments.
22. The definition of an agricultural building is found in Schedule 1 of the 1977 Order, where it states that an agricultural building is a

"building occupied together with agricultural land and used solely in connection with agricultural operations thereon.
23. On the date of inspections in 21 March 2024, and 5 February 2024, and confirmed in the photographic evidence, whilst one room was being used to store bales of hay the remainder of the dwelling was not wholly attributable to agricultural storage and in addition there was no evidence that the property had also been used to house calves or sheep as the Appellant had asserted in his NIVT Form 3.
24. Whilst assertions had been made as to the planning authorities' treatment of the property, the proper test to be applied was in fact Schedule 1 of the 1977 Order.
25. Accordingly, The Tribunal found the subject property did not satisfy the conditions of Schedule 11 of the 1977 Order and should be considered a hereditament under Art 2 (2) of the Rates (NI) Order 1977.
26. Applying the average internal repair presumption as per schedule 12, paragraph (12) of the Rates (NI) Order 1977 should be applied, and the subject property should be valued in accordance with the tone of comparable properties.
27. The Tribunal noted that the Estate Agent's valuation provided valued the property as an agricultural building and not as a residential property or one capable of mortgage.
28. Therefore of fact, on the evidence presented to it, the Tribunal considered the property to be one that is or could be capable of beneficial occupation with a reasonable amount of repair and is

therefore liable to rate. In accordance with the ratio in Wilson -v- Coll 2011 EWHC 2824

29. The Tribunal then went on to consider the comparables setting the tone of the list as proffered by the Respondent.
30. The Tribunal must take account of the statutory presumption contained in Article 54(3) of the 1977 Order. It states “On an appeal under this article any valuation shown in a Valuation List with respect to a hereditament shall be deemed to be correct until the contrary is shown “. It is therefore up to the Appellant in any case to challenge and to displace the presumption or perhaps for the Commissioner’s decision on appeal to be seen to be so manifestly incorrect that the tribunal must take steps to rectify the situation.
31. The Tribunal agreed that given the proximity to the poultry operation, a 10% reduction was appropriate in all the circumstances
32. Whilst the properties were within the local and were of a similar age and design to the subject property, the Tribunal did consider the subject property to be in a substantially poorer state of repair to the comparables. They therefore determined that a 15% reduction for the repair of the property to be more appropriate in all the circumstances of the case.
33. The unanimous decision of the Tribunal is that the appeal is dismissed in relation to a determination that the subject property is redesignated property but that there should be a reduction in the valuation of the property, namely 10% to represent the proximity of the poultry farm and 15% to reflect the poor repair of the property.

Ms. Sarah Ramsey, Chair

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties:

23 June 2026