

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: 16/25

DR EDWARD COLE MILLER - APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James Leonard, President

Members: Mr Christopher Kenton FRICS & Mrs Nichola McCartan

Hearing: 30 September 2026, Belfast

DECISION

The unanimous decision of the tribunal is that the appellant's appeal does succeed to the following extent. The tribunal Orders that the Capital Value shall be amended to £80,300 in the Valuation List.

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) dated 17 October 2025, appealed against the decision of the Commissioner of Valuation in a Valuation Certificate dated 9 October 2025 in

respect of the Capital Value of a hereditament situated at number 15 Fairman Place, Edenballymore, Londonderry BT48 7LD (“the property”).

2. The tribunal sat to hear the matter on 30 September 2026. The appellant attended remotely by WebEx and the respondent’s representatives attended in person by Valuer Jonathan Bell MRICS, accompanied by Sonya McIntyre, Senior Valuer. The 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 legislation, at Schedule 12, paragraph 7 of the 1977 Order provides that the Capital Value of a hereditament shall be the amount which, on the assumptions mentioned (materially paragraphs 11 and 12 of Schedule 12, the pertinent details of which are mentioned below), the hereditament might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant Capital Valuation date. The relevant paragraphs of Schedule 12 include the following statutory assumptions, which provide that –

- The hereditament is sold free from any rentcharge or other incumbrance;
- 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; and
- 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 appeal is an “unoccupied premises” rating case. Many such cases appealed to the Valuation Tribunal relate to issues of listing in the Valuation List and to arguments concerning potential dereliction or poor property condition. In the course of this appeal the appellant, very helpfully, clarified to the tribunal that his fundamental challenge was not made concerning the issue of whether or not this property should be included in the Valuation List and thus subject to rating (unlike many challenges made concerning what might be termed the “listing issue” emerging from a number of appeals made to the Valuation Tribunal). The appellant clarified that he did not seek to challenge the “listing issue” and thus that he accepted the proposition that the determination by the respondent Commissioner that the property ought to be included in the Valuation List was not, of itself, under appeal. This slightly departs from the position stated by the appellant in his initial appeal, where he appeared to seek to challenge the listing issue, in addition. The appellant also made clear that he did not seek to challenge the comparative valuation method and the identification of comparators in the Presentation of Evidence. The sole focus of his appeal, accordingly, related to the percentage reduction in rating assessment that had been applied by the respondent Commissioner in respect of the property, arising from the condition and circumstances of the property at the time of assessment for rating.
5. The tribunal is most grateful to the appellant for his helpful clarification of the issues, on account of which the tribunal shall focus the substance of this appeal upon the discrete issue of the condition and circumstances of the property and the correctness of assessment of rating under appeal, on that account. Notwithstanding that this has not been challenged by the appellant, the tribunal would normally reserve an entitlement to subject any rating assessment to scrutiny, in more general terms, by the use of the comparative valuation method, in order to ensure that the tribunal is entirely satisfied that the process has been fairly and properly conducted concerning assessment. The tribunal shall comment in a little further detail on this latter point below.
6. On account of the foregoing, notwithstanding that these matters have been referred to in the Presentation of Evidence, it is not necessary for the tribunal to go into much detail regarding what might be termed the “Wilson v Coll” (*Wilson v Josephine Coll (Listing Officer) [2011] EWHC 2824 (Admin)*) listing issues, as these are otiose in this appeal as there is no specific challenge, as has been clarified by the appellant at hearing. Regarding the specific issue of challenge, concerning the physical condition and circumstances of the property at the material time, the tribunal noted the appellant’s arguments advanced in the appeal, both in writing and also orally at hearing. The arguments may be reduced, as it were, to the proposition that the respondent Commissioner “got it wrong” in reasonably and properly assessing the material condition of the property when applying a percentage reduction to the “headline” Capital Value arrived at on account of the assessment of comparable properties, by using the statutory method of valuation.
7. The tribunal had before it the appellant’s Form of Appeal to the tribunal (Form 3) and the documents also included the following:

- 7.1 Copy Valuation Certificate in regard to the property, issue date 9 October 2025, signed by the Commissioner of Valuation (Capital Value of £85,000).
- 7.2 A document dated 16 January 2026 consisting of a Presentation of Evidence prepared on behalf of the Commissioner, as respondent, by Jonathan Bell MRICS and submitted to the tribunal. This Presentation of Evidence includes a timeline which indicates the following material dates:
- 1 March 2024:** external application for List Revision, with the outcome that the Capital Value was revised from £115,000 to £110,000, due to removal of outbuildings/garage.
- 29 August 2024:** external application for a List Revision, with an outcome of no change to the Capital Value and the property being retained in the Valuation List.
- 22 October 2024:** appeal to the Commissioner of Valuation, with the outcome that the Capital Value was reduced to £85,000 on appeal and that the property was retained in the Valuation List. It is also recorded that a complaint was processed whereby the ratepayer stated that he wished to go forward to the Valuation Tribunal and therefore a further appeal was raised.
- 29 August 2025:** external application for List Revision, with an outcome of no change to the Capital Value and with the property being retained in the Valuation List.
- 22 October 2025:** appeal to the Commissioner of Valuation, with the outcome of no change to the Capital Value and with the property being retained in the Valuation List.
- 7.3 Copies of various emails with the Tribunal Secretary confirming the progression of the appeal.
8. The Presentation of Evidence provides a property description (with which basic description the appellant do not appear to take issue). The property is an inter-war terraced house located in Fairman Place, Londonderry, and built circa 1950. Fairman Place is described as being a short cul-de-sac of around 20 terraced properties, all of similar age and construction and situated in the Northland Road area in the Cityside of Londonderry. The property is a 2.5 storey mid-terraced house, constructed of traditional cavity block wall with a tiled pitched roof. It has a small front garden and a rear yard. The Presentation of Evidence contains photographic images of the front and rear elevations and further photographic evidence is contained within an appendix to the Presentation of Evidence, being

internal and other images to add to the evidence. In the assessment of Capital Value, the property is described as having a habitable area of 144.6 m². It is indicated that at a previous appeal in October 2020, a 20% reduction for the poor condition of the property was applied and a Capital Value of £85,000 was deemed as fair and reasonable.

9. The Presentation of Evidence sets forth (by quoting this directly from the appeal form) the appellant's grounds of appeal, together with recording specific observations that have been made, firstly, by Total Property Management, a Mr Ray Carlin, engaged by the appellant, who confirms that he carried out work on the property to address a damp and dry rot issue, which is stated by Mr Carlin to have left the property structurally unstable and to have required a lot of remedial work. These works were considered to be ongoing at the time of the making of these comments, by Mr Carlin. In addition, the Presentation of Evidence records comments from a Mr Steven North, who states that he carried out damp-proofing work and who confirms that work was carried out to address significant damp and fungal infection which, he states, had compromised the building structure and left sections unstable. It is stated by Mr North that many timber joists and wall plates were rotted and that the retaining walls were structurally unsafe and required significant input to remediate.
10. The appellant's grounds of appeal as set out in the Presentation of Evidence read as follows: *"in March 2023 I purchased a derelict property that I am currently refurbishing. As per the initial survey of the Property it was deemed unfit for habitation as the walls were crumbling and structurally unsafe. These were shown to have dry rot and needed extensive restructuring and repair. The floor on the ground floor was also structurally unsound and needed to be removed and the concrete base to the house repoured with damp insulation. Over the course of the last two years, I have contracted with various teams to remedy the structural issues in the property, and the property is still a shell without a kitchen or any habitable spaces. I kindly direct your attention to the rating exclusion on empty homes regulation stated on the LPS NI Direct website: 'Rate Exclusions are available on certain empty homes; LPS rates are not due on an empty home that cannot be legally occupied by you or anyone else'. Given the structural instability of the property and the fact that there are no stairs or kitchen and the property is empty and legally uninhabitable, I feel it is fair to request a rates exclusion. I'm attaching the various structural reports as well as certification on the various works carried out to the property that are aiming to remedy the structural instability"*. In the Respondent's Opinion/Comment section of the Presentation of Evidence, the Valuer has provided a helpful analysis of various issues with reference to observations made and by analysing the effect on the various structural components of the property with reference to: Main walls, roof structure, ceilings, walls and partitions, floors, woodwork, bathroom fitting, electricity and heating. The analysis therein set out is that, regarding the main walls, there is an excess of damp and the recommended advice from Total Property Maintenance is recorded. Regarding the roof structure, there is active woodworm infestation and moisture ingress, with high moisture readings recorded and repair work is necessary to repair the chimney and works are still ongoing by Total Property Maintenance, with a full rotten roof to be replaced and

both sets of stairs of the three stories, as these had all suffered from dry rot. Regarding the ceilings and walls and partitions, high moisture readings are recorded. Regarding the floors, the suspended timber floors are defective and concrete on the ground floor is defective due to a lack of damp proof membrane. Regarding woodwork, bathroom fitting, electricity and heating, it is recorded that these are in “average internal repair”, which is assumed despite defects. Further observations are made which were noted by the tribunal in assessing the circumstances and condition of the property. It is apparent that challenges were made at the time of appeal by the appellant to the maintenance of the property on the Valuation List and the Presentation of Evidence has thus gone into some detail by referencing appropriate case law and principles emerging from this (for example *Wilson v Coll* and *Whitehead v Commissioner of Valuation* (2013) to mention but two examples).

11. The concluding comment in the Presentation of Evidence sums up the matter by stating that, whilst it is believed that the external fabric of the property had a number of issues, a hereditament currently existed and the fact that the appellant was undertaking repairs supported the decision that the property continued to be a hereditament. Having decided that this was the case, the comparative method of valuation had been employed and reference was made to comparables contained within an appendix in the Presentation of Evidence.
12. An appendix to the Presentation of Evidence contains a schedule of properties stated to be comparable, for valuation purposes, taking into account the statutory considerations.
13. The Presentation of Evidence provides details in respect of a total of five identified submitted comparables, including the property. These are as follows (with a location map provided):-

15 Fairman Place, Londonderry (the property). Privately-built inter-war terraced house built 1930, 2.5-storey, habitable space 144.60 m², urban location, external repair “poor”. The Capital Value is £85,000 (including a stated 20% reduction for poor external repair).

13 Fairman Place, Londonderry. Privately-built inter-war terraced house built 1930, 2-storey, habitable space 141.00 m², outbuilding of 4.00 m², urban location, external repair “average”. The Capital Value is £110,000 (note: no reduction for external repair condition).

17 Fairman Place, Londonderry. Privately-built inter-war terraced house built 1930, 3-storey, habitable space 146.00 m², urban location, external repair “average”. The Capital Value is £110,000 (note: no reduction for external repair condition).

20 Fairman Place, Londonderry. Privately-built inter-war terraced house built 1930, 2.5-storey, habitable space 141.00 m², outbuilding of 3.00 m²,

urban location, external repair “average”. The Capital Value is £110,000 (note: no reduction for external repair condition).

19 Fairman Place, Londonderry. Privately-built inter-war terraced house built 1930, 2-storey, habitable space 132.00 m², outbuilding of 4.00 m², urban location, external repair “average”. The Capital Value is £105,000 (note: no reduction for external repair condition).

14. The tribunal has noted the submissions. The appellant submits, in his helpful oral submissions, that whilst he felt that the rating of the property by inclusion in the Valuation List was permissible, due to the particular condition and circumstances of the property insufficient reduction had been applied. The appellant specifically wished to make reference to the Valuation Tribunal case of **McClintock v Commissioner of Valuation** [NIVT 14/24] which case the claimant argued was a useful illustration of the position adopted by the Valuation Tribunal concerning a case where the facts were, he submitted, equivalent to those of his own case and where a 30% reduction had been applied to the unadjusted Capital Value. The appellant’s submission was that the applicable reduction in his case ought to be 35% but, if not, at least 30%, in parallel with the determination made in **McClintock**. The respondent’s argument concerning this issue was that the Capital Value had been correctly assessed on the basis of the 20% reduction applied.
15. There was reference made in the Presentation of Evidence to three other Londonderry properties which had attracted the following reductions: (a) 2 Rock Terrace, condition assessed as “poor” with damp issues and with a £70,000 Capital Value assessment reduced to £60,000 by the affording of a 17% allowance; 13 Aubrey Street, condition assessed as “poor” with damp issues and with a £40,000 Capital Value assessment reduced to £34,000 by the affording of a 15% allowance and, thirdly; 29 Francis Street, condition assessed as “poor” with damp issues (stated to be like the property) and a £140,000 Capital Value assessment reduced to £110,000 by the affording of a 27% allowance. Regrettably, whilst the Presentation of Evidence did provide some photographic evidence concerning the three examples specifically chosen to illustrate potential reductions applied (in the broader locality) on account of property condition (“damp issues”) these three examples chosen illustrate a reduction range from 15% to 27%, without identifying specific factors that dictated these individual assessments and why these figures were specifically applied to the three cases chosen. When the tribunal endeavoured to explore with the Valuer the reasoning behind the disparity in reductions, the Valuer was unable to provide further information to assist. The tribunal specifically noted that the position adopted in respect of the property was that a 20% reduction on account of condition was

deemed appropriate and yet a 27% reduction had been afforded in respect of the Francis Street property, which is expressly described as “Poor-**damp issues like the subject property**” (the tribunal’s emphasis). The question must arise accordingly that if the damp issues were “like the subject property”, what is the thinking behind the disparity between the 20% and 27% applied in the two cases? The Valuer was unable to assist the tribunal.

THE TRIBUNAL’S DETERMINATION

16. In this case the appellant has appealed against the 20% discount or reduction applied, for the reason that he states this 20% discount is insufficient to reflect the condition of the property. The appellant has presented evidence to support his contention that the property was structural unstable, suffered extensively from dry rot fungus and water penetration and that the property required substantial works of repair and renovation, some of which had already been carried out (for example replacement floors, some brickwork and the installation of a damp proof membrane). The appellant has also drawn the tribunal’s attention to the fact that the second floor was inaccessible and that all the staircases and much or all of the internal joinery had been removed, including the kitchen fittings. The property thus is uninhabitable at present (with specific focus upon the appeal date). The respondent did not challenge or dispute any of these assertions of fact. Departing from his original position in the appeal, the appellant has agreed that the property should remain listed as a hereditament and he has sought only to appeal the amount of the allowance for poor condition applied on behalf of the respondent Commissioner. The 20% allowance for condition is stated for the respondent to be supported by three comparables, with allowances of 17%, 15% and 27%, respectively. It is apparent to the tribunal from both the range of values applied and the selection of a mid-range value as a suitable allowance, that some reasoning has gone into the selection of these allowances. However, with regret it is noted that in giving evidence to the tribunal the Valuer was unable to advise the tribunal concerning the rationale adopted in respect of any of the comparables chosen - nor indeed the allowance (20%) selected for the property. Because of this, it is left to the tribunal to determine an appropriate allowance in this case.
17. The appellant, in making his case, proposed that a suitable allowance ought to lie in the range of between 30% and 35%. Here, he cited the case of **McClintock v Commissioner of Valuation** as supporting this assessment. In **McClintock** a discount of 30% was allowed by the Valuation Tribunal to reflect the substantial disrepair suffered by a property known as 'Dunmore House', that being a larger detached property, in comparison to the appellant’s property. Dunmore House had, like the property, suffered years of neglect before restoration/repair was

attempted. Noting the facts of **McClintock** the works of repair required to Dunmore House were considered to be more extensive than any required to the appellant's property. In **McClintock** works required included the removal of two chimney stacks, the demolition of both a two-storey and a single-storey extension and the replacement of all windows to the property in addition to those comparable works of repair required to make the property watertight and to treat damage caused by chronic water penetration and fungal decay.

18. When assessing Capital Value, any allowance that might be made against this should both relate to the individual circumstances of the case and also must possess a transparent rationale, such that others can follow the reasoning behind those selections. Whilst the respondent's representative has not been able to provide such justifications in this case, it follows that the tribunal, if choosing an alternative to any existing figures, must likewise support this with a transparent rationale. As mentioned, the state of disrepair of Dunmore House in **McClintock** is considered to be of a greater magnitude than that presented in this case. There existed greater dilapidation in respect of Dunmore House, as evidenced by the works required to restore and to repair that property. Furthermore, Dunmore House was of substantially greater size than the appellant's property (approximately 87% bigger) and, as a detached property, had greater potential for structural instability. Considering this, a 30% allowance would represent an upper limit, save in a truly exceptional case, and the appropriate allowance in the instant case must be a lesser figure.
19. In the evidence presented for the respondent in support of the assessment of 20% as a suitable allowance, the Valuer categorised 29 Francis Street as demonstrating the greatest allowance - 27%. As mentioned above this was described as being '*Poor - Damp issues like the subject property*', a description which the tribunal notes was not applied to the other two properties identified. In view of this identification and in the absence of any further supporting evidence or justification for the allowance selected, the tribunal considers it reasonable to assume that this Francis Street property represents the most appropriate evidence available to apply to the appellant's property. Accordingly, this suggests that an allowance of 27% would be the most appropriate allowance properly to reflect the poor condition of the appellant's property in this case.
20. As the Capital Value assessed was £110,000 (before allowances), considering the comparables evidence this (unadjusted) figure of £110,000 comfortably lies within "tone of the list" and that is deemed to be entirely appropriate. Having considered the available evidence, the tribunal's conclusion is that the unadjusted Capital Value of £110,000 is appropriate and an allowance for poor condition of 27% should be applied, resulting in an adjusted Capital Value of £80,300.

21. For these reasons the tribunal's unanimous decision is that the appellant's appeal does succeed to this extent and the tribunal Orders that the Capital Value of the property shall be amended to £80,300 in the Valuation List.

James Leonard

James Leonard, President

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 13 October 2026