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 07/26

BRIAN McKEOWN - 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 not succeed and the appeal is dismissed by the tribunal.

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 in this appeal, who currently resides in Australia, proceeds by way of an Enduring Power of Attorney made on 24 May 2021 under the Enduring Powers of

Attorney (Northern Ireland) Order 1987 and registered with the Office of Care and Protection on 14 January 2025, thereby entitling the appellant to bring this appeal, which appeal the appellant is conducting on behalf of his parent, William McKeown, who is residing in residential care and not in the property. The appellant, by Notice of Appeal (Form 3) dated 26 May 2026 appealed against the decision of the Commissioner of Valuation in a Valuation Certificate dated 15 May 2026 in respect of the Capital Value of a hereditament situated at number 72 Corbally Road, Carnew, Dromara BT25 2EX ("the property").

2. The tribunal sat to hear the matter on 30 September 2026. The appellant, being a resident of Australia, indicated that he was content for the appeal to be disposed of by written representations and, likewise, the respondent's case was presented by means of written representations. 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 is a case where, in the opening part of the Form of Appeal, the appellant has stated "property is derelict" and then "Property should not be rated". This case therefore, in fundamental terms, is a challenge to the determination by the respondent Commissioner to maintain the property in the Valuation List. The appellant has provided extensive detail in the form of appeal and the appellant has also engaged in an extensive series of communications with the Office of the Tribunal setting out his case. A considerable part of the appellant's correspondence related to his seeking clarification concerning procedural issues with Land & Property Services and also with the Valuation Tribunal Secretariat. Without reciting the entire content, the tribunal shall endeavour to summarise the arguments advanced by the appellant in this appeal and the tribunal shall also address the arguments put forward on behalf of the respondent, these respective arguments being to the intent that the property, on one hand for the appellant, ought not to be included in the Valuation List and, on the other, for the respondent, that it is proper that the property is to be included in the Valuation List.

5. Regarding the issue of the physical condition and circumstances of the property at the material time (and concerning the appellant's arguments that the property ought not to be rated), the respondent has sought to rehearse arguments that are often deployed concerning the "hereditament test", more of which below. The tribunal had before it the appellant's Form of Appeal to the tribunal (Form 3) dated 26 May 2026 and the documents also included the following:

5.1 Copy Valuation Certificate in regard to the property, issue date 15 May 2026, signed by the Commissioner of Valuation (unaltered Capital Value of £150,000 maintained upholding the previous Capital Value of that amount).

5.2 A document dated 17 June 2026 consisting of a Presentation of Evidence prepared on behalf of the Commissioner, as respondent, by Mark Duffy MRICS and submitted to the tribunal. This Presentation of Evidence includes a timeline which indicates the following material dates:

18 May 2017: following a change of occupier, agricultural allowance was removed from the property by the District Valuer.

28 October 2023: District Valuer maintained the property in the Valuation List and made no change to the Capital Value of £150,000.

22 July 2024: District Valuer maintained the property in the Valuation List and made no change to the Capital Value of £150,000.

25 July 2024: the decision of the District Valuer was appealed to the Commissioner of Valuation and a decision of no change to the Capital Value was issued on 20 August 2024, with the property maintained in the Valuation List.

30 March 2026: the District Valuer maintained the property in the Valuation List and made no change to the Capital Value of £150,000.

17 April 2026: the decision of the District Valuer was appealed to the Commissioner of Valuation and a decision of no change to the Capital Value was issued on 15 May 2026, with the property maintained in the Valuation List.

26 May 2026: the appellant appealed the decision of the Commissioner of Valuation to the Valuation Tribunal.

5.3 There have been extensive communications between the appellant and the Valuation Tribunal Secretary, the content of all of which communications have been carefully noted by the tribunal. The appellant has included photographic evidence with the appeal form and details concerning a number of properties which the appellant wishes the tribunal to take into consideration in determining this appeal. The tribunal shall refer to the appellant's case more fully below.

6. For the respondent, the Presentation of Evidence provides a property description. The property is located in a rural location on Corbally Road and it is accessed via a private road from both Corbally Road and also from Fedany Road. It comprises a pre-1919 detached farmhouse extending to 176.70 m² of habitable space and with 26.90 m² of ancillary space. The property is considered by the respondent to be in an "average" state of external repair, commensurate with its age. Photographic images are included with the Presentation of Evidence which were taken on 22 April 2026 and thus which are reasonably contemporary. Also included are ground floor and first floor plans which provide further helpful information. The further information set forth in the Appendix (Schedule of Comparisons) to the Presentation of Evidence provides the information that the property is a pre-1919 detached farmhouse of 1.5 stories, built 1900 with habitable space of 176.70 m² and ancillary space of 26.90 m² set in a rural location and with full central heating, being in an average state of external repair, with access type described as being "standard" and with a septic tank.

7. The Presentation of Evidence provides details in respect of a total of six identified submitted comparables, including the property. These are as follows (with a location map provided):-

72 Corbally Road, Dromara BT25 2EX (the property)(described as above). The Capital Value is £150,000.

38 Corbally Road, Katesbridge BT32 5PP Privately-built pre-1919 detached farmhouse, two-storey, built 1910, habitable space 209.00 m², location rural, full central heating, average external repair, access type standard, sewerage septic tank. This property is situated circa 0.9 miles south-west of the property. The Capital Value is £165,000.

37 Carnew Road, Katesbridge BT32 5PS Privately-built pre-1919 detached farmhouse, two-storey, built 1910, habitable space 181.00 m², location rural, heating (not stated), average external repair, access type standard, sewerage septic tank. This property is situated circa 1 mile west of the property. The Capital Value is £150,000.

15 Fedany Road, Dromara BT25 2EY Privately-built pre-1919 detached farmhouse, 2-storey, built 1910, habitable space 157.90 m², location rural, partial central heating, average external repair, access type standard, sewerage septic tank. This property is situated circa 0.7 miles north-east of the property. The Capital Value is £135,000.

17 Ballela Road, Banbridge BT32 3TF Privately-built pre-1919 detached farmhouse, 1.5-storey, built 1910, habitable space 104.00 m², outbuildings 104.00 m², location rural, full central heating, Grade C, average external repair, access type standard, sewerage septic tank. This property is situated circa 2.8 miles north-west of the property. The Capital Value is £110,000.

72 Ardtanagh Road, Dromara BT25 2NG Privately-built pre-1919 detached farmhouse, two-storey, built 1910, habitable space 138.00 m², location rural, heating (not stated), Grade C, average external repair, access type standard, no sewerage disposal system. This property is situated circa 3.6 miles north-west of the property. The Capital Value is £125,000.

8. The tribunal has noted the submissions. Extracts from the appellant's grounds of appeal as set forth in the form of appeal, which grounds having been fully considered by the tribunal, include the following case and submissions:

"*With respect to the grounds for appeal, I have over the last 2 years had various interactions regarding the rateability of the property…. I have however attached a document (Compared Properties May 2026. pdf) that I authored and recently shared with LPS, the DoF and the Minister of Finance, regarding the latest LPS initiated valuation (dated 15th May 2026) which demonstrates the grounds of my appeal. In summary, the LPS rely on a comparison of similar properties when determining the capital value of a property and consequently its rateability. With the*

previous valuation initiated by me, questions were posed regarding the election of alleged "similar" properties and why 2 properties deemed similar by me where [sic] *not compared. Provisional responses offered reasons for exclusion of my nominations, but failed to explain why the same exclusions did not apply to 72 Corbally Road with reliance on the "hereditament" test being applied inconsistently when defending lack of rateability. Whilst I waited a full compliment* [sic] *of responses, LPS decided to raise their own appeal, resulting in the 15th May 2026 valuation certificate. Said certificate was accompanied by a new list of compared properties, differing in totality from the previous list, and failing to consider the 2 properties I had nominated. Furthermore, the valuation process fails to consider the sewage system and its vintage. Being a rural property, built in the 1960s, it is equipped with a compliant sewage system, which would prevent both its lease and its sale. However, this aspect of the rating/valuation process and its outright disregard of the environment is, in my view negligent…. The valuation process has been proffered by the LPS as the only mechanism for determining rateability, hence the repeated valuations. Further, requests for definitions of "derelict" and "demolished" were made as was detail of policy managing the readability of dwellings assuming said traits. LPS refuse to offer definitions nor advise rateability of dwellings in these categories. One individual however appeared to rely on "overgrown" as a contributing reason as to why a property did not attract rates. So in summary, if the valuation (and hence rateability) process relies on comparison, the rules of election of the property is to be compared must be robust and testable. Further, electing compared properties, when executed by two different appointees, should not result onto completely different sweets/list of properties. Please consult the attached document, which in any reasonable person view, demonstrates LPS's latest erratic election of comparative properties. It also nominates two properties that are similar to 72 Corbally Road…. If 72 Corbally Road, is rateable, then demonstrable proof of the supporting and repeatable assessments should be available. LPS have not yet demonstrated adherence to such an assessment.*"

9. The Presentation of Evidence states that the respondent's Valuer organised inspection with the appellant via email which took place on 22 April 2026. On the date of inspection it was noted that the property was vacant. The ground floor extension to the rear and porch area to the front were of light construction and the Valuer agreed that they should be assigned as "ancillary space" as they were of low quality, compared to the main dwelling. Overall, in the Valuer's view the property was in an average state of repair in keeping with

the age of the house, which was built pre-1919. The case for the respondent, in regard to the proposition that the property ought to be included in the Valuation List, is one commonly advanced in appeals of this nature. Arguments in this case (as in many others) centre around the case of ***Wilson v Josephine Coll (Listing Officer) [2011] EWHC 2824 (Admin)***. This is a judgment of the High Court in England and a case which has been the subject of previous observations in a number of decisions of the Valuation Tribunal in Northern Ireland***.*** For the respondent, it is submitted that ***Wilson v Coll*** is relevant in that it proposes the appropriate test to be applied: that test is a physical rather than an economic test. The critical distinction is not between repairs which would be economic to undertake (or uneconomic) but rather the proper distinction is between a truly derelict property which is 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 Tribunal notes in this regard that the respondent's submission references the previously-determined Northern Ireland case of ***Anne O'Hare v Commissioner of Valuation [NIVT 88/12]*** which case in itself further references the proper approach to be taken in Northern Ireland in the light of ***Wilson v Coll***, as considered by the Valuation Tribunal in determining the first case of this type emerging in this jurisdiction, a case called ***Whitehead Properties Ltd v Commissioner of Valuation [NIVT12/12]***. ***Whitehead*** addressed these issues and the principles to be established in considerable detail. The Presentation of Evidence also has made reference to an English Valuation Tribunal case called ***Baiyelo v Corkish (Listing Officer)***, this being a case where demolition of a gable wall was not considered a matter so as to render the property in question truly derelict. The Presentation of Evidence also sought to reference the cases of ***Gargan & McCartney v Commissioner of Valuation [NIVT 34/21]*** and ***Catherine Stewart v Commissioner of Valuation [NIVT 30/19]***. In that latter case of ***Stewart*** the Valuation Tribunal had concluded, in the light of the reasoning advanced in ***Wilson v Coll*** (and ***Whitehead***)***,*** that the appeal ought to be dismissed in relation to a property whereby the appellant had argued that, since acquiring the property, it had not been habitable due to lack of facilities (plumbing, heating and water) and that extensive works were required for the

property, including replacing roof cross trusses, re-felting and slating and installing steel supports for the roof. The Presentation of Evidence also referenced the case of ***McCormick v Commissioner of Valuation [NIVT 24/22]*** which latter case made reference to a property deemed to be in poor repair but which still existed as a hereditament**.** The Valuation Tribunal in the instant case accepts as valid the established principles emerging from the foregoing cases, which are applied in the tribunal's determination of this case.

THE TRIBUNAL'S DETERMINATION

10. Notwithstanding the somewhat lengthy grounds of appeal such are as set forth by the appellant, the tribunal believes that it is entitled to rely primarily upon the appellant's closing statement which reads: "*If 72 Corbally Road is rateable then demonstrable proof ... should be available*". These words constitute a clear statement that the appellant believes that the property does not comprise a rateable hereditament and this forms the fundamental basis of his challenge. He seeks "demonstrable proof" of the correctness (or otherwise) of the respondent's position. He seeks to challenge both the "listing issue" and also the comparative valuation assessment by the respondent.

11. The tribunal notes that the property has been subject to three reviews and to two previous appeals. No change to the Capital Value of £150,000 has emerged in any of these, hence the appeal to the Valuation Tribunal. The property appears from photographic evidence (from April 2026) and other evidence to be older farmhouse in a run-down but apparently weathertight condition. The roof, windows, and doors are in place and it would appear from the photographic evidence that the property has, at some time in the relatively recent past, been re-roofed. Access to the property is, as stated, by means of a shared private laneway. It is located within a farmyard and it is surrounded by fields.

12. Concerning the listing issue, the appellant cites the stated non-compliance of the sewerage system as a reason for not listing the property. The tribunal notes that there is no requirement to keep such systems up-to-date, merely to ensure that they operate effectively. The appellant does not appear to claim that the system is non-operational, rather that it is non-compliant. The tribunal determines that this issue, of itself, ought not to be a bar to the listing of the property in the Valuation List. The appellant also seeks to mention additional arguments in his correspondence, including issues of sustainability and the

relevance of historic legal precedents. The tribunal shall address these matters further below. The appellant also appears to state that “external structural/subterranean” assessments have been carried out, but no further detail of these have been provided in any of the evidence. Other than the sewers issue which is mentioned above, the tribunal has nothing further, of an evidential nature, to take into account in determining the listing issue. It is perhaps worthwhile mentioning at this point (regarding the cases cited above) that there has been no judgment handed down from any superior court or tribunal in Northern Ireland to the effect that any of the cases mentioned above nor any of the principles decided in these cases have been incorrectly determined or made subject to any effective challenge; the appellant has not put forward any persuasive or effective argument in that regard. The appellant seems to have raised this as an issue and hopefully the explanation afforded shall explain the tribunal’s determination in this regard and the fact that the tribunal is entitled to look to such assistance as might be available from earlier determinations of the Valuation Tribunal.

13. Turning then to the issue of comparables evidence, specifically in respect of the listing issue challenged, the appellant has sought to include a number of comparables designed to support his contention that the property should be removed from the Valuation List. The first of these is 35 Katesbridge Road, Dromore BT25 2PN. The second is 65 Diamond Road, Dromore BT25 1PH. The appellant has provided no additional information other than the identification of these two properties as being removed from the Valuation List. As no further detail has been provided by the appellant, in order to complete the picture, the tribunal must consider what has been stated on behalf of the respondent regarding these. For the respondent it is stated that 35 Katesbridge Road was removed from the Valuation List in 2012 and this is now in the process of demolition by reason of a planning condition for a replacement dwelling. The tribunal determines that this cited comparable is not a valid or useful comparable for this case. Regarding the second instance, 65 Diamond Road, this was also removed from the Valuation List in 2012, having been vacant for 20 years and it is stated to have been suffering from subsidence. The tribunal notes that the issue of subsidence (other than simple thermal or settlement cracking) is considered to be “major” and shall often involve substantial rebuilding works, underpinning, new floors, the rebuilding of external walls, etc. Whilst the tribunal has insufficient information properly and usefully to comment on the condition of this latter property or on the extent of any works required, the tribunal is of the opinion that any property suffering from subsidence will be in a much poorer condition than a property suffering from simple neglect, due to unoccupancy or other cause. Considering the foregoing, the tribunal does not consider this latter property,

65 Diamond Road, to be an appropriate or useful comparable for the purposes of the tribunal's determination.

14. In summary, and taking account of the body of determined cases following on from ***Wilson v Coll*** and considering the principles to be extracted from these cases of particular applicability to this case (specifically commencing in the Northern Ireland jurisdiction with the case of ***Whitehead v Commissioner of Valuation*** and the detailed observations made by the tribunal in that case), the property in this appeal cannot be deemed to be anything close to the "true dereliction" end of the notional spectrum of condition or circumstances, which concept has been commented upon in previous cases. This is a concept that there will exist, at one end of a notional spectrum, properties which are truly derelict and which are self-evidently not capable of reasonable repair and, in contrast, those at the other end of the notional spectrum which are self-evidently readily capable of reasonable repair in order to bring these back again into occupancy. Having considered the applicable principles and the facts in this case, the tribunal's determination is that the property under discussion, without difficulty, passes the test of being reasonably capable of repair and restoration. The tribunal's determination, taking full account of the principles emerging from the Valuation Tribunal cases cited above, is that the property is correctly included in the Valuation List and ought to be subject to rating. This accomplishes the first task of the tribunal.

15. The tribunal then considered the Capital Valuation issue. The property is entered into the Valuation List with a Capital Value of £150,000. Five comparables have been put forward by the respondent in support of this valuation in the Presentation of Evidence. Considering these in turn, the first of these is 38 Corbally Road, being a larger two-storey dwelling surrounded by outbuildings and described as being in average condition. This is valued at £165,000 and appears to the tribunal to be a valid comparable. The next is 37 Carnew Road, being a two-storey property of similar size and age and also described as being in average condition. This is valued at £150,000 and the tribunal determines that this is also a valid comparable. The third is 15 Fedany Road, being a smaller two-storey property of similar age. This is valued at £135,000 (unadjusted) and this is considered by the tribunal as being a valid comparable. The fourth is 17 Ballela Road, which is a much smaller (104 m²) property. The tribunal carefully considered whether this was a valid comparable and determined that this was not a useful comparable, by virtue of the considerable size differential. The fifth is 72 Ardtanagh Road, which is a smaller farmhouse property that would otherwise be an appropriate comparable, despite being smaller, if it were not for the comment that this

property does not possess a sewerage system. On account of this issue, this property is not determined as being a useful comparable.

16. The appellant has also sought to provide evidence and argument concerning comparables. The first of these is 38 Corbally Road, which is a larger two storey farmhouse with a Capital Valuation of £132,000. The tribunal notes that this is listed as an agricultural property and is thus presumably subject to agricultural rates relief. However, no unadjusted Capital Value evidence has been made available. Examining then 37 Carnew Road, this property was also put forward on behalf of the respondent, as has been 15 Fedany Road, 17 Ballela Road and 72 Ardtanagh Road.

17. The tribunal notes that there appears to have been no allowance applied in respect of the property and the issue of poor repair. Although not universally applied, it is relatively common for properties in poor condition to receive some mitigation to reflect this fact. However, the tribunal notes that the appellant has specifically mentioned only the age of the sewerage system as evidence of poor condition (a matter which has been dealt with above) and has only made what might be described as passing reference to “external structural issues” and “subterranean issues”, but without further clarification concerning these references. Accordingly, it is somewhat difficult for the tribunal, from any evidence or submissions, to quantify the impact of such issues. On account of this, the tribunal’s determination, based upon the extent of the evidence and submissions, is that the tribunal does not think it appropriate to determine that any allowance ought to be applied to take account of condition. Assessing all of the available evidence, the tribunal does not detect any significant deficiency or manifest error in the assessment of the Capital Value of the property. Examining the range of unadjusted Capital Values concerning the properties presented, including the property, the valuation regime applied to the property seems to have correctly and accurately assessed the Capital Value.

18. As the tribunal has often observed, there is a statutory presumption contained within the 1977 Order, Article 54(3). Because of this, any valuation shown in a Valuation List with respect to a hereditament shall be deemed to be correct until the contrary is shown. In order to succeed in an appeal to the tribunal, any appellant must either successfully challenge and displace that statutory presumption of correctness or perhaps the Commissioner's decision on appeal, objectively viewed, must be seen by the tribunal to be so incorrect that the statutory presumption must be displaced and the tribunal must adjust

the Capital Value to an appropriate figure. The tribunal, in assessing this appeal, saw nothing in the general approach taken to suggest that this has been approached for assessment in anything other than the prescribed manner, as provided for in Schedule 12 of the 1977 Order. This being so, as the appellant has not put forward (or may not be deemed to have put forward) any effective and compelling challenge to the respondent's schedule of comparables, nor any evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation, the presumption of correctness is not displaced.

19. Taking everything into account including any available evidence and after full consideration of the submissions from both parties in this appeal, the tribunal's determination is that the Capital Value of £150,000 is appropriate and this should be confirmed.

20. For these reasons the tribunal's unanimous decision is that the appellant's appeal cannot succeed and, accordingly, the appeal is dismissed.

James Leonard

James Leonard, President

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 27 October 2026