

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

**J Doyle – APPELLANT 18/13**  
**AND**  
**COMMISSIONER OF VALUATION FOR NI - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Date of hearing: 26<sup>th</sup> February 2014**

**Chair: Mr M Flanigan**  
**Members: Mr E Spence and Ms A Matthews**

**DECISION AND REASONS**

1. Both the appellant and the respondent appeared and both parties relied upon their written submissions and oral evidence
2. The subject property (“the property”) situate at 27 Kinallen Road, Ballyward, Castlewellan, County Down BT31 9QU. The property is owned by the appellant and is unoccupied. The property is a single storey detached cottage situate beside a working farm yard.
3. On 30<sup>th</sup> May 2013, the Commissioner’s decision on appeal confirmed the capital valuation of the property in the sum of £115,000. The appellant appealed against that decision.

Evidence and Submissions.

4. The appellant by his Notice of Appeal dated 25<sup>th</sup> June 2013 sought to have the property removed from the list on the grounds that it was unfit for habitation due to the extent of necessary repairs. The notice of appeal referred to the premises as needing “new roof and re-plumbed as well as a new heating system. The exterior walls are damp and needs new windows”. The evidence from the appellant was that he had inherited the cottage from his father and that his mother had lived in it until her death in 2009. Water pipes had burst in the past but had not been repaired. The appellant’s intention had been to fix up the premises to a standard which would allow them to be let out as private accommodation. Although the appellant had not yet approached an estate agent to let out the premises, his own view was that the premises would have to be refurbished to a modern standard in order to achieve a letting. The appellant had obtained a rough estimate from speaking to various tradesmen that the costs of the works which he envisaged would be between £20,000 and £30,000. The appellant did not suggest that these repairs were uneconomic when compared to the value of the building, but did stress that he himself could not afford to pay for the works at this time. The appellant did not dispute the capital valuation given to the property.

5. The respondent in their evidence did not dispute the appellants description of the condition of the property but did emphasise that the building was repairable and internally was still carpeted, decorated and furnished. The respondent in their written submission relied upon the High Court decision in *Wilson v Coll* (LO) 2011.

## Discussion and Decision

6. Given that the appellant did not dispute the capital valuation attached to the property, the only issue to be addressed by the Tribunal was whether the property was a hereditament under the terms of Article 2 (2) of the Rates (Northern Ireland) Order 1977 ("the Order") or sufficiently derelict to be removed from the valuation list. Article 2 (2) of the Order 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".

7. The question of how to deal with vacant properties that were either derelict or in very poor condition was addressed by the High Court of England and Wales in *Wilson v Coll* (LO) 2011. In that case, Mr Justice Singh drew a distinction between derelict properties and those in need of repair in the following terms.

"The distinction which is correctly drawn by the respondent, in my view, is between a truly derelict property which is incapable of being repaired to make it suitable for its intended purpose and repair which would render it capable again of being occupied for the purposes for which it is intended".

8. Mr Justice Singh went on to state that those repairs did not have to be economic in order to render the property a hereditament.

"Even if repairs which are uneconomic are required, will mean that the property is not derelict because it is capable of being rendered suitable for occupation for its purpose by some repair, even if in fact that is a repair which would be uneconomic to undertake".

9. In this appeal the appellant was candid and straightforward as to his circumstances. He did not submit that the works were uneconomic to carry out when compared to the value of the property but rather that they were repairs which he simply could not afford to carry out at the present time. This was not therefore an appeal about repair being economic or uneconomic but rather the affordability of necessary repairs. The Tribunal has considerable sympathy with the appellant in his current circumstances and it is clear that the provisions relating to the rating of vacant property can on occasions cause hardship, however the condition of the property was not such as would permit it to be removed from the list as the kind of derelict property incapable of repair envisaged by the court in *Wilson v Coll*.

10. The Tribunal found that given that the property was structurally sound and capable of being repaired that it remained a hereditament and therefore should remain in the list for valuation. The capital valuation was not in dispute and therefore the capital valuation affirmed.

Appeal dismissed.

Michael Flanigan

**Date decision recorded in register and issued to parties: 20<sup>th</sup> March 2014**