

## FOI DOF/2021-0472

### Request

Referring to case NIVT/132

I request FOI and discovery of the following:

1. All internal emails, notes, memos and reports, pertaining to the above case, between the inspecting officers/valuers and their line manager/supervisor.
2. All internal emails, notes, memos and reports, pertaining to the above case, between inspecting officers/valuers and [REDACTED]

### Response

I can confirm that DoF holds some of the information requested.

Due to the overlap in these two statements I have included all the relevant information requested within one response.

All documentation including e-mails, notes, memos and reports, pertaining to the above case, between the inspecting officers/valuers and their line manager/supervisor and Steven Jeffrey LPS are attached.

Please note, some staff and third party names have been redacted from the first attachment in accordance with section 40(2) of FOIA and in compliance with the Data Protection Act 2018.



Land &  
Property  
Services  
Seirbhísí  
Talún &  
Maoine

**To:** [REDACTED]

**From:** Angela McGrath  
Commissioner of Valuation

**Date:** 25/11/2020

**NIVT Case Ref:** 7181694-2

**Address:** [REDACTED] Gracehill, Ballymena, [REDACTED]

**Appellant:** [REDACTED]

I have appointed you to prepare a Presentation of Evidence on my behalf for submission to the NI Valuation Tribunal in respect of this appeal.

Timely completion of evidence is essential. Your first draft should be completed as soon as possible and forwarded to [REDACTED] within 28 days.

Please contact [REDACTED] as early as possible if there are circumstances which may prevent you completing a first draft within 28 days.

[REDACTED]

**Copy:** [REDACTED]

**From:** [REDACTED]  
**Sent:** 25 November 2020 13:46  
**To:** [REDACTED]  
**Subject:** Content Manager DoF Container : FI1-20-34043 : Rating & Valuation Services - Rating Assessments - NIVT Appeals 2020 - PID: 1047812 - [REDACTED] Gracehill, Ballymena [REDACTED]  
**Attachments:** Rating & Valuation Services - Rating Assessments - NIVT Appeals 2020 - PID 1047812 - [REDACTED] Gracehill, Ballymena [REDACTED]

[REDACTED]  
Please find attached the new container for the NIVT Appeal on the above address.

Case ref: 7181694-2  
PID: 1047812

[REDACTED]  
----< Content Manager Record Information >----

Record Number: FI1-20-34043  
Title: Rating & Valuation Services - Rating Assessments - NIVT Appeals 2020 - PID: 1047812 - [REDACTED] Gracehill, Ballymena [REDACTED]

2. E-mail to Appeal Valuer confirming the registration of this case

**From:** [REDACTED]  
**Sent:** 06 July 2021 14:22  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Emailing: NIVT Presentation of Evidence Report - [REDACTED] Gracehill, Ballymena, [REDACTED]  
**Attachments:** NIVT Presentation of Evidence Report - [REDACTED] Gracehill, Ballymena, [REDACTED]

[REDACTED] please find attached PoE in respect of the above property.

Regards

[REDACTED]

[REDACTED]

Rating Appeals  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

[REDACTED]

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

Your message is ready to be sent with the following file or link attachments:

NIVT Presentation of Evidence Report - [REDACTED] Gracehill, Ballymena, [REDACTED]

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

3. E-mail sent to the NIVT containing Presentation of Evidence Document (this has been included as a separate document)

**From:** [REDACTED]  
**Sent:** 06 August 2021 16:06  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: HPRM: RE: [REDACTED] Gracehill, Ballymena, [REDACTED]  
**Attachments:** LPS Response - [REDACTED] Ballymena 06.08.21.docx

Hi [REDACTED]

Please find attached response from LPS. It addresses both of [REDACTED] submissions.

Kind regards  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 03 August 2021 08:53  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: HPRM: RE: [REDACTED] Gracehill, Ballymena, [REDACTED]

Hi [REDACTED]

That's no problem, thanks for letting me know.

Kind Regards  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 03 August 2021 08:48  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: HPRM: RE: [REDACTED] Gracehill, Ballymena, [REDACTED]

Thanks [REDACTED] I had the response for this one almost ready to send through to you but I'll consider the attached and provide 1 response addressing both submissions from [REDACTED]

Regards  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 03 August 2021 08:01  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: HPRM: [REDACTED] Gracehill, Ballymena, [REDACTED]

Good Morning All,

Please see additional email and photos from the above appellant.

4. E-mail correspondence between LPS and the NIVT regarding the case

Thank you.  
Kind Regards

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 28 July 2021 08:32  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** HPRM: [REDACTED] Gracehill, Ballymena, [REDACTED]

Morning [REDACTED]

Just confirming LPS do wish to respond. I'll have a reply with you as soon as possible.

Many thanks

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 28 July 2021 08:17  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** [REDACTED] Gracehill, Ballymena, [REDACTED]

Good Morning All,

Please see attached appellant's response to POE.

I would be grateful if you can please advise if LPS wish to respond.

Thank you.

Kind Regards

[REDACTED]

[REDACTED]

NMT  
Tribunals Hearing Centre, 2nd Floor Annex, Royal Courts of Justice  
Chichester Street, Belfast BT1 3JF

[REDACTED]

Please note my working pattern: Monday, Tuesday & Half Day Wednesday(am)

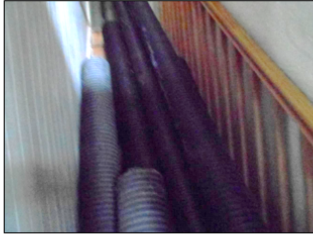


**LPS Response: 118 Nursery Road, Ballymena – Murphy**

LPS can confirm that the photographs provided in the Presentation of Evidence have not been cropped or altered. These images were taken during two separate inspections. One was completed on behalf of the District Valuer (DV) and a subsequent inspection was completed on behalf of the Commissioner of Valuation (COV). This appeal must consider the circumstances as they were on the date of the DV certificate. This means the observations from the first inspection must be taken into consideration.

At the date of the DV inspection it was noted that the ground floor was partially vacant and partially used to store bags of concrete and bricks. LPS does not consider that this use satisfies the definition of an agricultural building as detailed in Schedule 1 of the Rates (Northern Ireland) Order 1977 i.e. used solely in connection with agricultural operations. There was also no evidence on the day of the DV inspection to suggest that livestock was being handled in the subject. Mr Murphy confirmed previously that he is involved predominantly in forestry related agricultural operations.

The inspection on behalf of the COV noted a room within the dwelling which was bedded with straw. [REDACTED] stated that this area was used as a livestock pen. However no livestock were present in the property on the day of inspection. Other areas of the ground floor were being used to store tools, fencing materials and drainage pipes at this time as noted in LPS's Presentation of Evidence document. The first floor of the subject could not be inspected because the stairs were obstructed – see photograph below.



LPS would reiterate that this dwelling has neither been constructed nor adapted for the purpose of agricultural operations and is still clearly identifiable as a domestic house both internally and externally.

The Rutledge case confirms that a building must be used solely for the purposes of agricultural operations in order to be classed as an agricultural building. This principal

is applicable in this case where it has been determined that the subject was not used solely for the purposes of agricultural operations at the date of the DV certificate.

LPS believes that the comparisons provided are all similar in terms of their age, character, size and location. It is considered that these support the existing level of Capital Value (CV).

The property referred to by [REDACTED] was removed from the Valuation List with effect from 1 April 2011. The valuation certificate issued stated: *"dwelling no longer capable of beneficial occupation. Removed from Valuation List"*. This was prior to LPS's current approach to these matters, which requires that we refer to and apply The Hereditament Test. With this in mind a case has been registered to consider whether 71 Nursery Road should be re-added to the Valuation List.

It should be highlighted that the subject property was also removed from the Valuation List with effect from 1 April 2011 on the basis that it too was incapable of beneficial occupation. In light of LPS's revised approach it was reinstated via a Completion Notice in March 2017. Details are included in LPS's Presentation of Evidence document.

Any suggestion that the treatment of the appellant has been discriminatory is strongly refuted. LPS has a duty to interpret and apply the legislation both correctly and objectively.

[REDACTED]  
Senior Valuer  
Rating Appeals  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast BT1 3LP

5. LPS's response to [REDACTED] dated 6 August 2021 (referred to in the e-mail correspondence between LPS and the NIVT)



## REPORT TO THE COMMISSIONER OF VALUATION

PROPERTY ID

1047812

CASE REGISTRATION NUMBER

7181694-1

APPELLANT

[REDACTED]

ADDRESS

[REDACTED]  
Gracehill  
Ballymena  
[REDACTED]

DESCRIPTION

House Outbuilding Garden

CAPITAL VALUE

£145,000

ACTION AT CR

Occupation of subject does not meet the definition of 'agricultural building' for rating purposes. No change to CV.

INSPECTION DATE

10/11/2020

INTERVIEWED

[REDACTED]

SURVEY

Existing survey accepted.

TENURE

Assumed Freehold





Land &  
Property  
Services  
Seirbhísí  
Talún &  
Maoiné

## PROPERTY DESCRIPTION

██████████  
Gracehill  
Ballymena  
██████████

### Domestic Details:

- **Sub Class:**  
Pre-1919  
Detached House
- **Hab Space:**  
170.9m<sup>2</sup>
- **Outbuilding:**  
36.6m<sup>2</sup>
- **External Repair:**  
Average
- **Grade:** C
- **Location:** Rural
- **CV:** £145,000





## APPELLANT'S GROUNDS OF APPEAL

I BELIEVE THE PROPERTY MEETS THE DEFINITION OF AN AGRICULTURAL BUILDING IN ACCORDANCE WITH SCHEDULE 1 OF THE N.I. ORDER 1971 AS THE BUILDING IS SOLEY USED FOR THOSE PURPOSES.

I ALSO BELIEVE I AM BEING DISCRIMINATED AGAINST AS THERE IS A VERY SIMILAR PROPERTY ON/OR IN THE AREAS WHICH HAS BEEN GRANTED THIS STATUS.

## COMMENT / DISCUSSION

I inspected the subject on 10/11/2020, accompanied by the appellant (the inspection was conducted in accordance with current social distancing guidance).

This appeal arises from an external application where Mr Murphy contended that the property should now be classed as an agricultural store. In support of this, the appellant has also referred to another property on Nursery road, which he believes was removed from the Valuation List for similar reasons.

During my inspection I confirmed that the existing survey data recorded is correct. I also took the time to explain the legislation to Mr Murphy, including the statutory assumptions and the implications of the current AVD in assessing CV.

The appellant stated that the subject is situated on and held together with approx. 80 acres of agricultural land. This land is predominantly planted for commercial forestry with a smaller area used on occasion for grazing sheep. Mr Murphy states the subject property is used for storage in conjunction with the farming operations on this adjoining land.



### **Consideration as an Agricultural Store**

The crux of the issue is whether or not the property under appeal should be classified as an agricultural store. Agricultural buildings are not considered to be hereditaments and consequently they do not generate a rates liability. The definition of an agricultural building is contained in Schedule 1 of the Rates (NI) Order 1977 which states:

*“In this Order, “agricultural buildings”:*

*(a) Means buildings occupied together with agricultural land and used solely in connection with agricultural operations thereon, or buildings being or forming part of a market garden and used for the purposes thereof.”*

At the date of my inspection I was able to inspect the ground floor internally. I noted some hand tools, fence posts, wire, drainage pipe, hay and other agricultural items. One room was empty, but bedded with straw. The appellant stated that this room was used as an isolation pen, however it was not in use at the time of my inspection because no livestock required isolation at that time. It was not possible to inspect the first floor of the property because the staircase was obstructed.

This appeal must consider the circumstances as they existed at the date of the DV's certificate. With this in mind, I have to consider the evidence available from the original DV application which confirms that the ground floor was partially vacant and partially used for the storage of concrete and bricks.

The issue of whether a property should continue to be classed as a hereditament, or removed from the Valuation List due to adaptation into an agricultural store was considered under NIVT case 7023520-2: Ernest Rutledge -v- Commissioner of Valuation. The NIVT concluded that the property could not be classed as an agricultural building on the basis that only part of the property was used to store items used for agricultural purposes. The Tribunal also commented that based on a visual inspection the property was still clearly identifiable as a dwelling house.

Schedule 5, paragraph 3 of the Rates (NI) Order 1977 is also of relevance and states: *“a hereditament shall not be deemed to be used otherwise than wholly for the purposes of a private dwelling by reason of either or both of the following circumstances —*

*(b) that part of the hereditament, not being a garage, outhouse, garden, park, pleasure ground, yard, court, forecourt or other appurtenance, is used partly for the purposes of a private dwelling and partly for other purposes, unless that part was constructed, or has been adapted, for those other purposes.(emphasis added)*

With this in mind it cannot be said the subject property has undergone any adaptation for the purposes of agricultural storage. The layout and configuration of the subject is still very much in the nature of a dwelling.

Additionally, in estimating CV, one must envisage a hypothetical sale of the property in accordance with the statutory provisions. Of particular relevance to this case is the assumption that the property is to be sold with vacant possession. To ensure a consistent approach it is assumed the hypothetical seller and buyer are both reasonable people. Another way to approach this matter would be to consider what a reasonable person would market the subject property as if they were to sell i.e. would they market the property as an agricultural outbuilding or as a dwelling house? I contend that they would market the subject as a dwelling.

71 Nursery Road, Ballymena



The appellant has also referred to the above property, which was removed from the Valuation List effective from 01/04/2011. It was considered by the DV to be derelict and no longer capable of beneficial occupation, however this pre-dates the Rating of Empty Homes Legislation and the creation of what we now know as “The Hereditament Test”. A case has been registered to consider re-entering this property into the Valuation List based on LPS’s current practice.

In conclusion, it is my view that the subject should not be classed as an agricultural building. It has neither been adapted nor was it substantially used as an agricultural building at the date of the DV certificate. The property bears all the characteristics of a dwelling house and therefore should be assessed based upon an estimate of its Capital Value.





Land &  
Property  
Services  
Seirbhísí  
Talún &  
Maoinne

Based on the best available comparable evidence and in considering the case history of the subject, which includes a prior appeal to the NIVT, I believe the current CV of £145,000 is fair and reasonable.

#### **RECOMMENDATION**

**THE SUBJECT SHOULD REMAIN IN THE VALUATION LIST AND SHOULD CONTINUE TO BE ASSESSED AS A DWELLING. PROPOSE NO CHANGE TO EXISTING CV OF £145,000.**

#### **COMMISSIONERS COMMENTS**

**VALUATION, AS ASSESSED, IS CONSIDERED FAIR AND REASONABLE IN COMPARISON TO SIMILAR PROPERTIES.**

**VALUER**



**[REDACTED]**  
I confirm that I have no conflict of interest in dealing with this Appeal.

**DATE**

16/11/2020





## Appendix 1 – Comparable Schedule

				CV	PID	
Subject	██████████ Road, Gracehill, Straid, Ballymena ██████████	Habitable Space: 170.9 sq m Outbuilding: 36.3 sq m	Class/Subclass/Type: 111/Pre1919Detached/House  Year Built: 1910 Grade: C Repair: Average Storeys: 2  District: Mid & East Antrim Ward: Grange NBH: 94 - Maine	Current CV: £145,000  Proposed CV: £145,000	1047812	
1	██████████ Road, Gracehill, Straid, Ballymena ██████████	Habitable Space: 164 sq m	Class/Subclass/Type: 111/Pre1919Detached/House  Year Built: 1910 Grade: C Repair: Average Storeys: 2  District: Mid & East Antrim Ward: Grange NBH: 94 - Maine	CV: £140,000	486194	



### Appendix 1 – Comparable Schedule

				CV	PID	
2	██████████ Road, Gracehill, Straid, Ballymena ██████████	Habitable Space: 190 sq m	<b>Class/Subclass/Type:</b> 111/Pre1919Detached/House  <b>Year Built:</b> 1910 <b>Grade:</b> C <b>Repair:</b> Average <b>Storeys:</b> 2  <b>District:</b> Mid & East Antrim <b>Ward:</b> Grange <b>NBH:</b> 94 - Maine	<b>CV:</b> £155,000	486198	
3	██████████ Road, Clare, Randalstown ██████████	Habitable Space: 180 sq m	<b>Class/Subclass/Type:</b> 111/Pre1919Detached/House  <b>Year Built:</b> 1910 <b>Grade:</b> C <b>Repair:</b> Average <b>Storeys:</b> 2  <b>District:</b> Mid & East Antrim <b>Ward:</b> Grange <b>NBH:</b> 94 - Maine	<b>CV:</b> £165,000 <b>Adj CV:</b> £132,000	485676	





Land &  
Property  
Services  
Seirbhísí  
Talún &  
Maoine

## Appendix 2 – Additional Photographs

