

Appeal No. VA02/1/024

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Lidl Ireland GmbH

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Warehouse at Map Reference: Unit 1 Great Connell Business Park, Naas 1 County Kildare

B E F O R E

John O'Donnell - Senior Counsel

Chairperson

Michael McWey - Valuer

Member

William K. Nowlan

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 31ST DAY OF MARCH, 2003

By Notice of Appeal dated the 10th day of January, 2002, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €6,983.56 on the relevant property described above. The grounds of appeal as set out in the Notice of Appeal are that "the RV £5,500 is excessive, inequitable and bad in law. "

The oral hearing took place in the Arbitration Centre, Distillery Building, Dublin on the 9th of December 2002. Mr. Joseph Bardon FSCS., FRICS., appeared on behalf of the appellant and Mr. Joseph McBride ASCS, MRICS, MIAVI District Valuer, Valuation Office appeared on behalf of the respondent

General Background

A new rateable valuation of this property of €6,983.55 was assessed during the course of the 2001/2 revision to take effect from the 1st January 2002. A notice of first appeal was lodged by Bardon & Company on the 5th June 2001. However no reduction was granted on appeal, accordingly the appellant appealed to this Tribunal.

The Property

The property is situate within the Great Connell Business Park on the east side of the Great Connell Road, little over a mile south of the Naas Road in Newbridge. The property comprises a modern purpose built distribution warehouse which caters for all of the Lidl stores through the 32 counties. The evidence indicated that Lidl had examined some 40 possible sites before choosing this one and building the property in question on it. The site is 18.3 acres. The premises in question also has the office headquarters of Lidl. The accommodation includes a three-storey administration office building to the front and a large distribution warehouse behind. This warehouse incorporates various chill rooms and freezers together with various plant rooms and other ancillary constructions. The cold store have varying eaves heights of either 6 or 10 metres whereas the warehouse has an eaves height of 10metres rising to 15metres in the centre. There are 90 “dock levellers” or loading bays for loading and unloading purposes on both sides of the warehouse. Property is served by two sets of stairs and a goods lift and two thirds of the warehouse is heated. The accommodation (which was agreed with the parties) comprises over 331,000 sq.ft. gross floor area. In addition a canopy and yards were also included in the valuation, though these may be of limited value, they are undoubtedly of some value to the occupier.

Evidence

At the hearing Mr. Colm Lundy, Property Director of Lidl gave evidence on behalf of the appellant. He said that he was responsible for acquisitions. He indicated his disappointment about the fact that the remainder of the Great Connell Business Park had not been developed. A new access road was to be built from the Business Park, this has not occurred, apparently due to objections by local residents as well as difficulties in acquiring the relevant land. He indicated that there were also some objections to additional developments in the Business Park.

He gave evidence that the access road which was in use was in reasonable condition in some parts but not in others.

In cross-examination he accepted that there were some 57 Lidl stores in Ireland with a plan ultimately that there would be over 100 shops. Another warehouse is being built in Northern Ireland which is likely to be almost identical to the building here. The warehouse facilities would be similar. In his view fit out was simple rather than state of the art. It is new but no better than basic. He felt that the main problem to the current access road was at the entrance, and accepted that the appellant had undertaken, as a condition of obtaining planning permission, to build a roundabout on the internal road; this has not yet occurred.

Mr. Joseph Bardon then gave evidence and adopted his précis as his evidence in chief.

In his view there were four principal issues arising out of the appeal.

- (i) Location
- (ii) Building quality
- (iii) Eaves height
- (iv) Scale

(1) Location

In his view this was a semi-rural location. It was rendered less attractive because of the undevelopment of other sites within the business park. He felt other competitors such as the Millennium Business Park off the Naas Motorway, the Newbridge Industrial Estate, the Tougher's Industrial Estate (or even the IDA Estate near the Curragh) rival the Estate in which the subject property is located.

(2) Building Quality

In his view the property was of basic construction. It was a “glorified warehouse”. In his view it is not comparable to the comparators offered by the Valuation Office.

(3) Eaves Height

He accepted that the eaves height was a factor to be taken into account when assessing the valuation (and that buildings with higher eaves heights will frequently attract higher rates per square metre), but that does not mean that other factors can or should be ignored.

(4) Scale

In his view the scale of the facility meant that there would be little or no demand for a facility of this size in Newbridge were it placed on the open market for rent. Indeed he was of the view that it took a considerable length of time to sell or rent such properties when they come on the market as a result of business closures. He referred to the Tarkett Factory on the outskirts of Mullingar which had been vacant for over two years. He also referred to the Fruit of the Loom property, which was the subject of determination VA92/3/028. He then referred the Tribunal to his various comparators. In his view the Celtic Hampers premises in Newbridge constituted the most appropriate comparator. It was in his view a superior building in that it had higher eaves along with sprinklers and air-conditioning. In addition it was closer to town and had high visibility. However it was considerably smaller than the subject property.

He also referred to the Oral B premises although again he felt that this was more accessible from the motorway than the subject property and that it also had superior offices. In addition the DFDS property was also a similar but smaller operation. He referred to other comparators in Blanchardstown, Cork, Clondalkin and Tallaght. While these are less useful as comparators than comparators in the general locality of the subject property, the very existence of the number of these large facilities indicated some degree of demand in the market place for facilities such as the subject property. It was accepted however that these facilities would be in somewhat less

demand in a rural location. However the Newbridge area also had ready access to high quality roads.

Mr. Bardon also outlined what the RV would have worked out at had the contractor's cost method of valuation been utilised (an issue which had been the subject matter of a discovery application by the Valuation Office earlier in the proceedings). However as it was clear that there were plenty of appropriate properties to be used as comparators to the subject property the Tribunal indicated that it did not propose to consider the contractor's cost method of valuation.

In cross-examination Mr Bardon accepted that the site had been chosen out of 40 possible sites. He was not convinced that a hypothetical tenant would want all 90 "dock levellers" and he took the view that this might be as much a minus as a plus. He was concerned that the rest of the park was in limbo and also concerned about the absence of a new access road. He believed that while there might be only four to five hypothetical tenants for an operation such as this, most would not wish to use the amount of floor space available in the warehouse. He pointed out that while the warehouse was certainly unique in terms of size, he did not believe that the other attributes of the property were exceptional.

An exhaustive analysis of the various comparative properties then took place by way of cross-examination. Mr. Bardon remained of the view that the Celtic Hampers property was the most appropriate comparator. The absence of development in the Great Connell Business Park was a mixed blessing. There was considerable debate over the merits and demerits of the other business parks in the Newbridge area. There was also considerable debate over the usefulness of the comparative properties outside of the Newbridge area.

Evidence of the Respondent

Mr. McBride then gave evidence. He adopted his précis as a summary of his evidence.

He felt that the presence of the Lidl's personnel department, in what was the distribution warehouse operation in Ireland, added prestige and profile to the premises. In his view the operation was very flexible and efficient. Excluding the

cold store the warehouse could be regarded as having eaves height of 10metre (except where otherwise agreed). He believed the office premises were highly satisfactory. In his view these premises were unique. They had been designed and built to the specification of Lidl.

He then gave evidence of a number of comparators some of which already have been referred to by Mr. Bardon. He also indicated that as a result of his admittedly limited survey of properties in the region (and comparative properties chosen in Dublin) he considered that good offices in Kildare would be valued at €47.83 per m² and standard warehouse accommodation with 10 metre eaves would be valued in the same location at €37.58 per m². Indeed his first comparator, Barlo Packaging Ltd. (which is a new factory in the IDA Industrial estate south of Newbridge town) contained offices and a 10metre eaves height warehouse, both of which were valued on this basis. Interestingly the same offices or warehouse in Dublin would attract values of €61.51 per m² and €45.15 per m² respectively, making a difference in value of €13.66 per m² and €7.57 per m² respectively.

In all, some 10 comparators were carefully analysed by Mr. McBride in his evidence. These included premises in the immediate vicinity of the subject property as well as other properties nearer Dublin or Cork. However his basic point was that the premises were unique. He felt that there should be no quantum allowance; the property was purpose built and designed by Lidl.

In cross-examination he agreed that while the quality of construction was not unique, the presence of 90 dock levellers and the offset position of the offices combined with the size of the premises, rendered the premises unique. He accepted that profile was not relevant in this context. He accepted that Newbridge was not the geographical centre of Ireland although he did point out that Lidl had in their own application for planning described the premises as being geographically central to the road network in Ireland. He did not feel that the comparators nearer the M50 were necessarily in a better position.

There was considerable debate about whether or not a quantum allowance should be applied. There was no evidence to suggest that large buildings such as this one were

rented for less than smaller units. He believed a similar business would rent the premises without requiring a quantum allowance.

In cross-examination he was referred to a survey carried out in 1988 by HOK which appeared to indicate that rents per square foot in the Dublin area were lower once one went over 25,000 sq. ft. However the relevance of this survey was limited having regard to when it was carried out and the location where it was carried out; in addition it did not deal with premises the size of the subject property. There was then an equally comprehensive cross-examination of Mr. McBride by Mr. Bardon of the comparators offered by Mr. McBride. He did not agree that he had made insufficient allowance for the distance of the subject property from the main road network compared to other properties closer to e.g. the Red Cow Roundabout. Both sides then made closing submissions.

Determination

Utilising the headings suggested by Mr. Bardon, the Tribunal has come to the following conclusions:

(i) Location

The property is to some extent in “splendid isolation” in the Great Connell Business Park. However since it is a warehouse rather than a retail unit, its lack of profile in this regard is irrelevant. While the existing access road may be of less than optimum standard there is no evidence that it is impeding Lidl from carrying out its business. The Estate in question is certainly at least as good as some of the others within the Newbridge area; indeed it may be better.

As such it appears to us that the local comparators suggested by the parties are probably of most use in valuing the property in question; the units nearer Dublin and Cork are of only the limited assistance described above.

(ii) Building Quality

The Tribunal accepts that the property is relatively basic though it is also fairly new. The fact that the offices are offset is not unique. The presence of the 90 'dock levellers' may ultimately prove to be something of a hindrance in letting the premises though there is no evidence of this, despite the fact that there are other large warehouses in use around the country. In addition it is interesting to note that the appellant is building an almost identical warehouse in the North of Ireland indicating that its experience in relation to this warehouse design has been a commercially useful one.

(iii) Eaves Height

The Tribunal accepts that the warehouse eaves height of 10m is not the only factor to be taken into account when assessing the valuation in question.

(iv) Scale

There was considerable debate between the parties as to whether or not a quantum allowance should apply. The Tribunal accepts that there would probably be a relatively limited market for a property of this size. There is however no evidence that a quantum allowance would automatically be granted for a large unit such as this. The Tribunal noted that at least one large premises (the Tarkett premises referred to above) had remained unused for some two years after being placed on the market. However there was insufficient evidence to indicate why this was; certainly there was not enough evidence to allow the Tribunal conclude that this was because no quantum allowance has been granted in that case.

On these grounds the Tribunal feels that it is not appropriate in this case to grant a quantum allowance. However the Tribunal wishes to emphasise that this is only because the evidence before it in the instant case did not justify the granting of such a quantum allowance. The Tribunal is not concluding as a general rule that no such quantum allowance should be granted for a premises of this size; rather the Tribunal is simply saying that on the evidence before it in this case it did not appear obvious that a quantum allowance should be granted. The Tribunal expressly reserves the right to consider the issue of the quantum

allowance in other circumstances where the appropriate evidence is before the Tribunal division in question.

Turning to the valuations put forward by the parties, the Tribunal felt that the figure suggested by the Valuation Office in relation to offices of €47.83 per m² was probably the appropriate one. The Tribunal also felt that the canopy and concrete yard should be given the value suggested by the Valuation Office, despite the very low value suggested by the appellant's valuer Mr. Bardon. The Tribunal also preferred the evidence of the Valuation Office in relation to freezer, cold rooms, plant rooms, warehouse W.C.'s and 4-6 m eaves height buildings.

However the Tribunal did have concern about the Valuation of the warehouse of 10m eaves height. Mr. McBride's own figures suggest that a standard warehouse of 10m eaves in the Kildare area attracts a value of 37.58m². Indeed the Barlo Packaging premises had similar valuations. Curiously although the Celtic Hampers premises, a warehouse with 11m high eaves would attract a value of €41 per m², the Green Isle Foods property in Naas again had its factory valued at 37.58 per m² (increased slightly by subsequent addition about which the Tribunal was not given a great deal of information). In the view of the Tribunal the respondent's valuation of the warehouse area of some 19,328 sq. m. @ 43.74 per m.sq. is too high. Indeed it is even internally inconsistent with the respondent's own comparators and in particular the Barlo packaging comparator. The respondent has suggested that there should be no quantum allowance. If this is so, then there is no reason why the warehouse in the property concerned should be valued at over €6/sq. m. more than e.g. the Barlo Warehouse. There is no evidence that the construction of the Warehouse is substantially different. Mr. McBride did not feel that the Barlo property was in a superior estate though he accepted it was closer to the motorway.

Taking all of these matters into account the Tribunal is of the view that the appropriate value for the 10m eaves height warehouse, is the sum of €37.58 pm² being the average figure suggested for the Kildare area by the Valuation Office. Accordingly we substitute this figure for the figure of €43.74 per m² set out in the respondent's report. It does not however propose to alter the other values put forward by the respondent.

Accordingly this gives the following result.

Total value of premises (that is other than 10m eaves warehouse)	€51,816
add 10m eaves warehouse 19,328 m ² @ €37.58 per sq. m. =	€726,346
Total	€1,278,162
RV @ 0.5% of NAV =	€6,390.81
Say	€6,391

Accordingly the Tribunal upholds the appeal and varies the Valuation Office valuation to the extent set out above and determines the rateable valuation at €6,391.