

Appeal No. VA08/2/006

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

W.F. Manufacturing Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory at Lot No. 15A/ Unit 1, Tullowbeg, Tullow Urban, Carlow, County Carlow.

B E F O R E

John Kerr - BBS. ASCS. MRICS. FIAVI

Deputy Chairperson

Aidan McNulty - Solicitor

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF JULY, 2008

By Notice of Appeal received on the 1st day of May, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €1,000 on the above described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are:

"The expected rental income is unrealistic for a provincial town. Attached proposed rental schedule as per comparable rental in Tullow. Comparable rental evidence."

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin, 7 on the 16th day of June, 2008. Mr. Matthew Conry, MIAVI, Dawson Real Estate Alliance, represented the appellant and Ms. Orlaith Ryan, Staff Valuer in the Valuation Office, represented the respondent. At the oral hearing both parties, having taken the oath, adopted their précis as being their evidence-in-chief.

Location

The property concerned is located within Lough Feilim Business Park, a recent development on the Carlow Road on the edge of Tullow approximately 1.5kms from the town centre. Carlow town is approximately 13km away.

Description

The subject property, identified as Unit 1, was first built in 2004, and is a modern, detached industrial unit incorporating two production sections with eaves height of 10.75 metres and standard two storey offices to the side along with a separate detached showroom cabin located at the entrance to the site. There are eight roller doors facing onto the fronting yard and three to the rear of the complex.

The agreed floor area of the property, measured on a GEA basis, is:

Production Areas:	7,680.90 sq. metres
Office Accommodation:	486 sq. metres
Cabin/Showroom:	53 sq. metres
Horse power:	200 (estimated)

Tenure

Freehold

Valuation History

The property was valued for commercial rates for the first time in 2005 at a rateable valuation of €600 which was agreed with the occupier. Having been extended, the subject property was revised in 2007, and a rateable valuation of €1,000 was assessed. An appeal on behalf of the

occupier was then filed and, having considered same, the Commissioner made no change. An appeal to the Valuation Tribunal was subsequently lodged on the 1st May, 2008.

Appellant's case

Mr. Matthew Conry, having taken the oath, adopted his written précis and valuation, which had been received by the Tribunal, as being his evidence-in-chief. He stated that the NAV adopted by the Commissioner of Valuation was too high in view of the following:

- Tullow is a small market town with a population of 2,500 and a number of small employers.
- The area is well served by its own industrial estate together with the ongoing construction of two new industrial estates.
- There is an oversupply of warehouse space in the town and a limited number of users.
- The demand for warehousing in the area is in Carlow town where large warehousing is available.

Mr. Conry contended for a rateable valuation as set out below:

Offices (Level 0):	243 sq. metres	@ €32.28 per sq. metre	= €7,844.04
Offices (Level 1):	243 sq. metres	@ €16.14 per sq. metre	= €3,922.02
Factory (Block 2):	3,774 sq. metres	@ €16.14 per sq. metre	= €60,912.36
Factory (Block 4):	3,666.90 sq. metres	@ €16.14 per sq. metre	= €59,183.76
Factory (Block 3):	240 sq. metres	@ €16.14 per sq metre	= €3,873.60
Showroom			
Cabin:	53 sq. metres	@ €27.33	= €0
Horse power:	200	@ €12.70 /HP	= €2,540.00

Total NAV: €138,281.78

RV @ 0.5% €691.41 Say €691

Mr. Conry repeated that the property is located at Lough Feilim Business Park, Tullowbeg, Tullow, Co. Carlow, is owned by Jonathan Goodwin, and trades as W.F. Manufacturing Ltd. He described the structure as a modern steel-framed industrial unit built in 2004, laid out in two large warehouses and used for the manufacture and assembly of timber-framed houses. He stated that part of the property comprises of a two-storey office area with canteens and

workers rest rooms. From his visual inspection of the property, Mr. Conry said that it appeared to be in good structural and decorative condition throughout. He felt that a number of factors affected rental values of property in Tullow, particularly the oversupply of industrial units and the construction of two more new industrial estates at Loughmartin Business Park and Slaney Valley Business Park. He also advised the Tribunal that the demand for warehousing in the area is catered for by the large selection of business parks located in Carlow town.

Mr. Conry referred to his six comparisons (see Appendix 1 hereto), all in Tullow. Five were available to rent but no tenants were available and his sixth comparison was rented at €0.75 per sq. foot. His referenced sixth comparison property was disregarded as it was located within another rating authority area. In his opinion the size and scale of the subject property in its current location would make it difficult to attract a tenant. He declared that the layout of the premises would not easily facilitate subdivision. This, taken into consideration with the oversupply of warehousing in Tullow and a NAV of €138,315 would, in his opinion, make this premises unattractive to any prospective tenant.

Cross-examination

Mr. Conry in reply to Ms. Ryan confirmed that his Comparison No. 7 was located outside the Carlow County Council rating area. Ms. Ryan pointed out that Section 49 (1) of the Valuation Act, 2001 requires that comparisons be located in the same local authority rating area as the subject property. Mr. Conry stated that he was aware of this, but that he used it to show the rental value of similar sized buildings in the area. He also stated that he did not analyse the rateable valuation of his comparisons and introduced them for market rental evidence only. He agreed that his comparisons one to six were examples of vacant units in Tullow rather than comparison properties for NAV analysis. He stated that his opinion of rental values was based on what was available in Tullow and what he believed could be achieved from the subject property based on its size and location. He agreed with Ms. Ryan that the properties listed in her précis located adjacent to the subject property were comparable with the subject but stated that he believed that the valuations were agreed with the tenants and, in his opinion, though considered the “tone-of-the-list”, were in fact far greater than they should have been. Mr. Conry also agreed with Ms. Ryan that he had no comparable evidence in Tullow to support his valuation of €16.14 per sq. metre on the production section of the subject property. In reply to a question from the Tribunal relating to

the area of same, Mr. Conry stated that the showroom/cabin building should not have been rated as it served as a display or stock unit only, and was not connected to utility services. He also confirmed that the building specification of the extension was similar to that of the original structure built in 2004.

Respondent's case

Ms. Orlaith Ryan, having taken the oath, adopted her précis as being her evidence-in-chief. She assessed the rateable valuation of the subject property as follows:

Offices:	486.00 sq. metres	@ €34.17 per sq. metre	= €16,606.62
Production:	7,680.90 sq. metres	@ €24.60 per sq. metre	= €188,950.14
Cabin Showroom:	53.00 sq. metres	@ €27.33 per sq. metre	= €1,448.49
Horse Power (Estimated):	200 HP	@ €12.70/HP	= €2,540.00
Total NAV €209,545.25			

RV @ 0.5% = €1,047.73

Say €1,000 to reflect quantum allowance of 4.5%

Ms. Ryan in her evidence agreed with the majority of what the appellant had recited in direct evidence relating to the location, size and condition of the subject property.

Referring to her schedule of comparison properties (see Appendix 2 hereto) she stated that her Comparison No.1, i.e. the subject property prior to revision, was valued in 2005 and an RV of €600 was agreed. She also stated that her other two comparisons, namely Contech Accessories Ltd., adjacent to the subject, and Shuttering Technology Ltd., also within Lough Feilim Business Park, were valued on the same basis as the subject. She stated that she was valuing a modern purpose-built industrial unit, she adhered to the “tone-of-the-List” and had had full regard to the size of the subject property in her valuation. She also stated that she carried out her valuation under Section 49 (1) of the Valuation Act, 2001 and no evidence had been produced to undermine this approach.

Cross examined by Appellant

Ms. Ryan stated in reply to Mr. Conry that the “tone-of-the-List” was established by the subject property because it was the first to be valued in Lough Feilim Business Park, though

regard had also been had at the time to other similar properties around Tullow town. She also stated that a quantum allowance of 4.5% was adequate in her opinion. In reply to a question from the Tribunal, Ms. Ryan stated that the quantum allowance provided for by the Commissioner was at the higher end of what was normally offered. Referring to the showroom/cabin, she felt it was capable of beneficial occupation and therefore should be rated. The appellant had earlier stated that the showroom/cabin was merely stock for display/sale, and was not used for other purposes and that no utility services were available or connected to it.

Conclusions & Findings

The Tribunal has considered all the evidence and arguments adduced by both parties and concludes that:

1. The subject property is a modern, purpose-built, industrial unit.
2. Tullow is over-supplied with similar properties for rent and/or for sale.
3. Demand for large industrial units in the Tullow area is very limited.
4. A quantum allowance has been made by the Revision Officer.
5. The showroom/cabin is effectively a display/stock unit available for sale without utilities serving same.
6. There was no dispute between the parties on the assessed rateable valuation on the supply of the 200 horse power utility.
7. The appellant's valuer did not produce evidence, either written or oral, to support his proposed NAV calculations on the office and production areas.
8. The respondent followed the provisions of the Valuation Act, 2001, complying with Section 49 and in the manner required to determine the net annual value of the subject property.
9. The comparison properties set out in the respondent's précis of evidence, as submitted by the Valuation Office, were valid as all three were taken from the same Rating Authority area, were similarly circumstanced and represent the "tone-of-the-List" for the purpose of determining the net annual value.
10. Whereas an argument was made challenging the proposed net annual values applicable to the office and production areas in particular, by reference to the initial revision agreed on the subject back in 2005, and the net annual values of the other two comparison properties, noted in (9) above, the Tribunal was not provided with evidence challenging or rebutting same.

11. Based on the foregoing, the rates per sq. metre on the office accommodation and warehouse/production areas of ₹34.17 and ₹24.60 respectively, as set out in the respondent's submission, are considered fair, reasonable and in accordance with the concept of the "tone-of-the-List".
12. The Tribunal was advised that the cabin was not attached in any formal or structural manner to the ground below same and was in fact a mobile display or stock unit serving to promote the production capacity and finish of the appellant's manufacturing operations. Accordingly, the Tribunal is of the view that the subject cabin was not capable of beneficial occupation and not rateable.

Determination

Having regard to all of the above, the Tribunal determines that the net annual value and rateable valuation of the subject relevant property should be calculated as follows:

Production Area:	7,680.90 sq. metres	@ ₹24.60 per sq. metre	= ₹188,950.14
Offices:	486 sq. metres	@ ₹34.17 per sq. metre	= ₹16,606.62
Horse Power:	200 HP	@ ₹12.70/ HP	= ₹2,540.00

NAV ₹208,096.76

@ 0.5% = RV ₹1,040.48

Less the agreed quantum allowance of 4.5% = ₹93.66

Say ₹90

And the Tribunal so determines.