

Appeal No. VA11/3/022

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

**O'Toole Composting**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2178974, Factory at Lot No. 26/1, Ballinrane, Templepeter, Carlow, County Carlow.

**B E F O R E**

**John F Kerr - BBS, FSCSI, FRICS, ACI Arb**

**Deputy Chairperson**

**Joseph Murray - BL**

**Member**

**Michael F Lyng - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF JANUARY, 2012**

By Notice of Appeal dated 28th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €13 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal, are :

*"On the basis that the RV as assessed is excessive & inequitable. It fails to take into account the type & nature of the buildings together with their rural location." "Greater allowance needs to be made to fairly reflect the subject's relative worth against the established tone for comparable properties already in the list."*

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 14<sup>th</sup> day of November, 2011. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, MRICS, MIAVI. The respondent was represented by Ms. Orla Lambe, BSc (Surveying), MIAVI, a valuer in the Valuation Office. Both parties having taken the oath adopted their respective précis, which had previously been received by the Tribunal, as their evidence-in-chief. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

### **Valuation History**

Part of the subject premises was revised in 2005 and a valuation of €62 was entered in the valuation list. In 2008 the property was again revised to include a large extension and a valuation of €70 was entered in the valuation list. In 2010 the current premises was revised to include another extension. On the 2<sup>nd</sup> November 2010 a draft certificate was issued with an RV of €31. On the 29<sup>th</sup> November 2010 following representation no change was made. On the 1<sup>st</sup> December 2010 the final certificate was issued with an RV of €31. On the 8<sup>th</sup> December the property was entered onto the Valuation List. On the 7<sup>th</sup> January 2011 an appeal was submitted to the Commissioner of Valuation. On the 8<sup>th</sup> July 2011 the Appeal Manager altered the Valuation from €31 to €09. This decision was appealed to the Valuation Tribunal on 29<sup>th</sup> July 2011.

### **Location**

The property is located near Fennagh, in the townland of Ballintrane, Co. Carlow.

### **Description**

The property comprises a large factory type complex used for the intake of raw material and for the production of compost. It is constructed of pre-cast concrete walls to 2.7 metres and insulated cladding to eaves complete with steel portal frame and Kingspan Roof. The eaves height vary between 5.0metres and 8.0 metres.

Floor area: Agreed floor area is 4,223.25 sq. metres

### **Appellant's Case**

Mr. Eamonn Halpin having taken the oath adopted his précis as his evidence-in-chief. Mr. Halpin advised the Tribunal that the property had been the subject of revisions three times over the years as detailed in the valuation history above. He stated that he did not agree with the principle of bolting on the value of an extension to a former valuation of a property (an action adopted by the Valuation Office) in particular in this case, having regard for the scale and size of the subject property. He expressed the view that:-

- a. the property should be looked at as a whole.
- b. the composting facility was rather rare in Ireland and therefore difficult to get comparable properties any where near the subject.
- c. important factors to take into account when valuing the subject were location, design and construction.
- d. the property is located in a very rural area and not near any industrial units. It is about seven miles from Carlow town.
- e. The subject relevant property was not purpose-built but evolved over time in a piecemeal fashion.
- f. the buildings on the site are fit for purpose but are not finished to a very high standard and should be regarded as a basic industrial-type complex.
- g. the Commissioner had failed to take into account the construction of these buildings together with their size and location.
- h. the Commissioner had failed to make any area quantum allowance which he believed was warranted in this case because of the large size of the subject property.
- i. the tone-of- the-list approach to valuation must be used for comparable properties and allowances for specific locational advantages and/or disadvantages should be factored into the calculations when formulating a fair NAV.

### **Valuation**

Mr. Halpin contended for the following valuation:

Office, WC, Store (Steel Container)	32.1 sq. metres	@ €13.67 per sq. metre	= € 439
Compost Intake Block 1	997.50 sq. metres	@ €17.08 per sq. metre	= €17,037
Composting Block 2	734.72 sq. metres	@ €13.67 per sq. metre	= €10,044
Composting Block 3	231.53 sq. metres	@ €17,08 per sq. metre	= €3,954
Composting Plant Block 4	75.0 sq. metres	@ €17.08 per sq. metre	= €1,281

Composting Block 5	1,658 sq. metres	@ €17.08 per sq. metre	= €28,319
Store Block 6	494.4 sq. metres	@ €13.67 per sq. metre	= € 6,758
Less 15% for quantum and unserved rural location allowances			-€10.174
Adjusted requested NAV = €7,657			
@ 0.5% = €288.29			
Say RV €288			

In support of his opinion of net annual value (NAV) of the subject property, Mr. Halpin put forward four comparisons. His first comparison was the Tanco Engineering factory complex Bagenalstown which he maintained is much superior to the subject where the factory and stores premises are valued at a level of €17.08 per sq. metre. He stated that it is an IDA factory in a recognised industrial location with 8 metre eaves. His second comparison, Carlow Furniture Ltd., is located on the quay in Bagenalstown which he advised is a much better location than the subject and valued at €13.67 per sq. metre. His third comparison, Millstream Recycling near Fennagh in County Carlow, is a modern warehouse in a rural location which he described as broadly similar to the subject. This warehouse he added is also valued at €17.08 per sq. metre. The fourth comparison in his précis is a property located outside the subject rating authority area, and with the concurrence of Mr. Halpin, details of same were not considered. His fifth comparison property was Burnside Autocyl, Tullow Industrial Estate. The Consultant Valuer stated that this building is of similar quality and construction to the subject. The factory levels established there range from €20.50 per sq. metre down to €17.08 per sq. metre. This, he stated, reflects a 17-31 % premium applied to the subject despite its rural location and construction.

### **Cross-Examination**

Mr. Halpin confirmed to the Tribunal that the revision arising from a material change of circumstance was prompted by the addition of block 6 which measures 497.70 sq. metres, (and not the 494.4 sq. metres erroneously cited in the appellant's précis). He agreed with Ms. Lambe that it is not uncommon for properties to be located in rural areas. He also agreed that the subject property had good access to the N80 but he would not accept that it was close to the M9. Ms. Lambe referred to two of her comparisons which were in the same area as the subject, namely Carlow Precast Tanks Ltd, Kilnock, Ballon, Carlow and Redmond Civil Engineering Ltd, Lackabeg, Clonegal. Both are large properties and no quantum allowance was applied to their valuations. Mr. Halpin stated that the subject cluster of buildings

comprises basic industrial units noting again that block 6 has no heating, lighting or door, just an opening for same, and, the buildings feature varying eaves heights and internally are largely dark and generally dusty. In reply to further questions from Ms. Lambe, Mr. Halpin stated that he did not know when his first comparison property namely Tanco Engineering, Bagenlstown was constructed. With regards to his second comparison property, he would not agree it is of poor construction specification, he felt it is fit-for-purpose but valued at a lower level than the subject. Ms. Lambe put it to Mr Halpin that there was no basis for a 15% allowance on the NAV of the subject property to reflect a floor area quantum consideration or the subject's rural location. Mr. Halpin expressed dissatisfaction with the bolt-on approach to the valuation of this property and in his opinion such concerns should have been declared by the appellant and challenged by him at the last revision.

### **Respondent's Case**

Ms. Orla Lambe, having taken the oath, adopted her written précis which had previously been received by the Tribunal as being her evidence-in-chief. She stated that the subject is located near the N80 and M9. It is built to a good standard of construction. She said the RV was assessed at 0.5% of the net annual value (NAV), which is in line with the basis adopted for the determination of other revised properties in the same rating area.

### **Valuation**

Ms. Lambe contended for the following valuation.

Factory (block1)	997.50 sq. metres	@ €24.60 per. sq. metre	= €24,538.50
Factory (block2)	734.72 sq. metres	@ €24.60 per. sq. metre	= €18,074. 11
Factory (block3)	231.53 sq. metres	@ €24.60 per. sq. metre	= € 5,695.63
Factory (block4)	75.00 sq. metres	@ €23.92 per. sq. metre	= € 1,794.00
Factory (block 5)	1,688.50 sq. metres	@ €24.60 per sq. metre	= €11,537.10
Factory (block 6)	*497.70 sq. metres	@ €20.50 per sq. metre	= €10,202.85
Factory (block 7)	32.10 sq. metres	@ €23.92 per sq. metre	= € 767.32
Total NAV			€102,609.51
RV	€13		

\*Note: These area measurements are at variance with the appellant's calculations. When these were raised by the Tribunal at the hearing, the parties amended and agreed as follows.

Ms. Lambe adjusted her area calculation on block 5 to correspond with Mr. Halpin's, i.e. 1,658.50 sq. metres, and Mr. Halpin accepted that Ms. Lambe's calculation of the area of block 6 was correct in her précis at 497.7 sq. meters. Accordingly the NAV of Block 6 at €20.50 per sq. metre in the respondent's précis is arithmetically correctly stated at €10,202.85 but block 5 should have read NAV of €40,799.10. When these adjustments are made to the respondent's précis page 5 with the other component parts of the complex, the resulting NAV would total €101,871.51 based on a total floor area of 4,227.05 sq. metres (and not that shown of 4,257.05 sq. metres in the respondent's précis page 5). This in turn would produce a rounded RV figure of €509.36, say €509.

The revision of the subject property was carried out in 2010 to include a new extension. The RV proposed following this revision was €31. This was appealed by Eamonn Halpin & Co. Ltd. on behalf of the occupiers. On July the 8<sup>th</sup> 2011 at appeal the RV was reduced to €13 without agreement. The respondent stated that the Valuation of the new extension was reduced to €20.50 per sq. metre for block 6 at appeal stage. Ms. Lambe then referred to her comparison No. 1 property, which is the subject, prior to the addition of block 6. She stated that this property was initially revised in 2005. It was again listed for revision in 2008 to take account of an extension. The levels from 2005 were applied to the 2008 revision partially using a bolt-on approach to the valuation of the premise. She added that a case with similarities had been heard by the Tribunal, **VA09/3/005 - Centocar Biologics Ltd.**

The Valuation Tribunal, in its findings in that case, stated as follows:

- (a) *“Mr Mc Millan said that in arriving at his opinion of net annual value he had adopted the same valuation methodology as used on earlier revisions;; i.e. to assess the valuation of the new accommodation by comparison with established levels of net annual value within the plant and to add on or bolt on the valuation so determined to existing valuation. This practise, he said, was used on many occasions”.*
- (b) *“It would appear that the practice adopted with each revision has been to value the most recent extension independently by reference to prevailing levels of value and to add the valuation so determined onto the existing valuation of the entire plant”.*
- (c) *“The property concerned in this appeal is the entire complex and not just the most recent extension. However, in arriving at their respective opinions of net annual value both of the valuers followed the established practice of valuing the additional*

*accommodation in isolation and then bolting on the valuation so determined to the existing assessment, the only point of divergence being the appropriate rate per square metre to be adopted to the new space”.*

*(d) “ Mr Dineen's approach in looking at prevailing levels established in the area and not just within the plant itself is consistent with Section 49. This said, however, it does not mean that existing levels applicable to the buildings CBI and CB2 can or must be disregarded. All evidence of value is relevant but most weight must be given to that comparison or comparisons, which mostly resemble the property to be valued in terms of location, nature of construction, design, configuration and use. Having regard to the findings of the Tribunal in the Pifizer appeal the starting point for the 2008 revision is the valuation of the property concerned determined by the Commissioner of Valuation at the 2007 revision and which was not appealed by the appellant i.e. €6,230. A similar approach of valuation has been adopted for the Valuation of the subject property.”*

Her second comparison property Carlow Pre Cast Tanks Ltd is located a short distance from the subject and was valued in 2001 with a factory valuation rate per sq. metre assessed at a level similar to the subject of €24.60 per sq. metre. That valuation level was agreed with the agent. Her third comparison property, Redmond Civil Engineering Ltd is also located a short distance from the subject and was valued in 2001. This value level was addressed with the agent and a valuation of €25.40 per sq. metre was agreed for the factory.

In reply to queries from the Tribunal, Ms. Lambe stated that her second comparison property had a very similar profile to the subject and advised that that comparison is the nearest in terms of location and most appropriate in the circumstance. She also offered her opinion that when the subject was valued in 2005 and 2008 the valuation levels established then were fair and reasonable and did not warrant a quantum allowance. Ms. Lambe repeated that her first comparison property, i.e. the subject, on prior revision, is the prime comparator and believed that the Tribunal should accept same.

She stated that she had made allowances in her calculations of NAV to provide for the construction specification of the most recent extension and in particular its single skin cladding and the fact that the latter is open sided and not fitted with an entrance door.

## Findings

The Tribunal, having carefully considered all the evidence and arguments adduced by the parties, makes the following findings:

1. The Tribunal is satisfied that the 2008 Revision produced a correct calculation of Net Annual Value on the subject property, as it was then.
2. The appellant has not provided it with sufficient evidence to warrant a review of the opinion expressed by the Tribunal in **VA09/3/005 – Centocor Biologics Ltd** and accepts the ‘Bolt on’ approach to the valuation in this case.
3. Block 6, being the most recent extension to the subject complex, is, by the agreement of the parties, constructed to a very basic standard devoid of insulation, lighting, heating and is open sided.
4. Though accepted by the parties as fit for purpose, Block 6 in a number of regards is not built to specifications compatible with the Respondent’s comparison properties and in particular, Nos. 2 and 3.
5. Mindful of the foregoing and all of the evidence submitted and adduced at hearing, the Tribunal finds that the rate per sq. metre applied to Block 6 should be discounted to €17.08 to bring it in line with the “tone-of-the-list” of similar relevant properties in the same Rating Authority area.
6. Having regard to the above, the Tribunal considers that a further reduction in NAV by applying a quantum allowance is not warranted in this case.

## Determination

Factory (block1)	997.50 sq. metres	@ €24.60 per. sq. metre	= €24,538.50
Factory (block2)	734.72 sq. metres	@ €24.60 per. sq. metre	= €18,074.11
Factory (block3)	231.53 sq. metres	@ €24.60 per. sq. metre	= € 5,695.63
Factory (block4)	75 sq. metres	@ €23.92 per. sq. metre	= € 1,794.00
Factory (block5)	1,658.50 sq. metres	@ €24.60 per sq. metre	= €40,799.10



Factory (block 6)	497.70 sq. metres	@ €17.08 per sq. metre	= <del>€</del> 8,500.72
Factory (block 7)	32.10 sq. metres	@ €23.92 per sq. metre	= <u>€ 767.32</u>
Total NAV			€100,169.38

RV @ 0.5% ~~€~~500.85

RV say, ~~€~~500

And the Tribunal so determines.