

Appeal No. VA15/5/043

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

**Olympic Express Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In Relation to the Issue of Quantum of Valuation in Respect of:**

Property No. 1258401, Fuel/Depot, Floor 0, 16EAB Churchtown, Newcastle West, County Limerick

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 1<sup>ST</sup> DAY OF FEBRUARY, 2017**

BEFORE:

**John Stewart- FSCSI, FRICS, MCI Arb**

**Deputy Chairperson**

**Brian Larkin – BL**

**Member**

**Liam Daly- MSCSI, MRICS**

**Member**

By Notice of Appeal received on the 10th day of September, 2015 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a Net Annual Value of €70,300 on the above described relevant property on the grounds as set out in the Notice of Appeal as attached in Appendix 1.

In accordance with established practice, prior to the commencement of the hearing, the parties had exchanged their respective précis of evidence and submitted them to the tribunal. The Appellant's expert witness Mr. Halpin and Mr. Gilson the Respondent's expert having taken the oath, adopted their précis of evidence as their evidence in chief. The written submissions were supported by additional oral evidence provided directly or on cross examination.

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 21<sup>st</sup> day of June, 2016 adduced before us by Mr. Eamonn Halpin on behalf of the Appellant, who contended for a Net Annual Value €31,500, and Mr. Peter Gilsenan on behalf of the Respondent to the appeal;

**DETERMINES**

That the net annual value of the subject property be as set out below:

€56,600 (Fifty-six thousand six hundred euro - a decrease from €70,300).

Fuel	2,000,000 litres	@	€0.005	€10,000
Shop	€1,300,000	@	0.035	€45,500
Car Wash	€15,000	@	0.075	€1,125
				€56,625
			Say	<b>€56,600</b>

**Location:**

The subject property is located on Churchtown Road/R521 opposite its intersection with Station Road and bounded to the side with Old Mill Road north-west of the town centre.

**Subject property:**

The subject property comprises a service station with a canopy covered fuel forecourt, convenience store, stores, and car wash. The property operates under the Texaco brand and the pumps which are double sided are in a central island under a typical canopy. The shop is branded as Londis and ancillary services include a jet wash and customer facilities. The agreed floor areas were Shop 122.55m<sup>2</sup> and ancillary/stores 150.74m<sup>2</sup>.

**Issue:**

The issue in dispute was the quantum of the Net Annual Value.

**Appellant’s Case:**

The appellant’s case was based on the argument that the subject property catered mainly for a local trade and that a large part of the business was personal to the operator. In his opinion the Commissioner’s estimate of Net Annual Value was excessive as the R521 was a regional road whereas four of the five filling stations in Newcastle west were located on the N21 Limerick-Tralee Road which had a much higher volume of passing traffic-12,000 cars per day. He maintained that the subject property was the worst in the town in contrast to the Commissioner’s view that it is the second best and the high level of competition would lead to a compression of margins supported by his contention that fuel was 3c cheaper in the town when compared to the remainder of Limerick. While he had reservations about the accuracy of the methodology adopted by the Commissioner he accepted that the formula method retained a level of accuracy for filling stations with high throughputs on main roads where the shops were small and ancillary. He observed that the filling station operators in Newcastle West relied to a greater extent on the convenience stores trade when compared with other towns and in his opinion this is where the Commissioner’s formula was not applicable. He accepted the Commissioner’s assessment of the fuel sales and car wash but objected to the assessment of

the shop sales. He further contended that the proportions of fuel to shop sales was distorted from his assessment of the industry standard of 85:15 fuel to shop. To support this argument, he refers to the Commissioner's valuation on Applegreen his third comparison which showed turnover did not exceed 22% from 2012 to 2014 and nationally the group averaged 20%. He confirmed that the Commissioner's approach in the subject property whereby the valuation of the shop turnover was 430% more than the fuel sales and comprised 80% of the total assessment and at a ratio of 66:34 was more than double the industry standard. He stated that this was based on the operator's skill and his personal goodwill and not reliant on the property itself and suggested that a more equitable analysis was to reduce the Fair Maintainable Trade to €458,823 which would reduce the NAV to €28,300. Alternatively, he opined that the shop if analysed on a zoning basis would provide an NAV of €13,850. Finally, he accepted that there would be an uplift in rent for convenience store with pumps as distinct from a convenience store without pumps and that it was solely a question of relativity. He did not accept that the presence of pumps, in this location could double the fair maintainable trade in the shop for any hypothetical tenant.

To support his arguments, he relied on 12 comparisons.

The first was located on the Ennis Road and was subject to a lease at €40,000pa and an implied rent of €47,000. No floor areas or turnover figures were provided.

The second referred to a supermarket in Askeaton where the buildings had been valued on a rate per square metre + petrol sales and in the appellant's opinion this demonstrated a different approach and was inconsistent with the formula method. The appellant further showed that the retail valuation of €97,950 was less than double the subject property shop valuation but was ten times larger.

His third comparison Applegreen on the N21 at Newcastle west showed a shop sales FMT figure of €900,000 at 3.25% based on a shop of 320.64m<sup>2</sup> and a fuel valuation based on 3,500,000 litres FMT at €0.007/litre.

The fourth comparison referred to Dee's on the N21 at Newcastle West and a shop sales FMT figure of €1,300,000 at 3.5% based on a shop of 245m<sup>2</sup> and a fuel valuation based on 2,000,000 litres FMT at €0.0065/litre.

The fifth comparison was in Newcastle West on the N21 and had a shop sales FMT figure of €1,400,000 at 3.5% based on a shop of 256.01m<sup>2</sup> and ancillary space of 53.37m<sup>2</sup> and a fuel valuation based on 800,000 litres FMT at €0.005/litre.

The sixth comparison from White's in Rathkeale had a shop sales FMT figure of €700,000 at 3.0% but no floor area and a fuel valuation based on 800,000litres FMT at €0.005/litre.

The seventh comparison related to Campus Oil in Adare on N21 and had a shop sales FMT figure of €800,000 at 3.25% based on a shop of 143.89m<sup>2</sup> and a fuel valuation based on 1,500,000 litres FMT at €0.006/litre.

The eighth comparison referred to Tara Oil in Limerick City. It had no shop and only fuel sales and a valuation of €50,000.

The ninth comparison comprised a filling station on the Dublin Road in Limerick City R445 and has a shop sales FMT figure of €450,000 at 2.75% based on a shop of 88.52m<sup>2</sup> and a fuel valuation based on 2,200,000 litres FMT at €0.0065/litre.

The appellant's tenth comparison was based in Drumkeen on the N24 Limerick - Tipperary Road and had a shop sales FMT figure of €600,000 at 3.0% based on a shop of 223.6m<sup>2</sup> and a fuel valuation based on 900,000 litres FMT at €0.005/litre.

The eleventh comparison -Roy McMahon provided zoned rates from Newcastle West of €100/m<sup>2</sup> Zone A and €50.0 m<sup>2</sup>/ Zone B.

The appellant's final detailed comparison also provided retail zoned rents from Bishop Street of €190 m<sup>2</sup>/ Zone A, €95/m<sup>2</sup> Zone B, €47.5/m<sup>2</sup> Zone C remainder €23.75/ m<sup>2</sup> and offices at €25/ m<sup>2</sup>.

A 13<sup>th</sup> comparison referred to a property under appeal with an NAV of €200,000.

The Appellant provided four possible methods for calculating the NAV.

The first based on a retail zoning approach of €100/m<sup>2</sup> zone A with 100% loading for the effect of pumps, ancillaries at €25/m<sup>2</sup>, fuel sales at €0.0065/litre and a car wash at €1,125 provided a total of €38,000.

The second was based on an overall rate per square metre for the shop inclusive of loading and ancillary accommodation of €150/m<sup>2</sup> and €25m<sup>2</sup> respectively plus fuel of 2,000,000 at €0.0065/litre and car wash of €1,125 which provided a total of €36,200.

The third approach was based on the Commissioner's formula -adjusted- and comprised fuel sales at €0.005/litre, estimated FMT shop turnover at €458,823 @ 3.75% and car wash at €1,125 which provided a total of €28,300.

The final option was based on the direct comparisons in Newcastle West and provided a value of €30,000.

The Appellant averaged the results from the four options and contended for a valuation of €31,500.

Under cross examination the Appellant did not opt for any one method but sought to reaffirm his view that the 85:15 proportionality was the norm and undue weight on the convenience store turnover was unjustified. He agreed that there was no Irish standard but asserted that the Applegreen model with 20% was a better reflection on Irish trade which was where the FMT of €458,823 had been determined. He accepted the fuel FMT but did not accept the rating at €0.0065/litre and he agreed the car wash valuation at €1,125.

He agreed that there was no floor area for Applegreen Ennis Road but argued that the formula should have been consistently applied to all similar stations but had not been applied in this case.

In relation to Twohig's in Askeaton he agreed that supermarkets were different from filling stations with convenience stores and were generally treated differently, but argued that the relative values of the retail elements in this comparison and the subject property showed an

inconsistent approach had been adopted by the Commissioner and the valuations for the retail parts of both were inconsistent.

In relation to Applegreen on the N21 in Newcastle West he agreed that traffic was passing at up to 100kph but maintained filling stations relied on the large volume of passing traffic.

In relation to Dee's on the N21 he agreed that the turnover for the convenience store was generally in line with the subject property but that the rate of 3.5% was lower than that applied to the subject property.

Regarding Sheehan's, he accepted that this had a tight forecourt.

He agreed that White's in Rathkeale had been by-passed and that it was a local filling station but that it had an NAV of €25,000 versus €70,300 for the subject property.

He confirmed that Campus Oil in Adare was closer to a conventional model and that Tara Oil was an automated station and agreed that it should be disregarded as there was no shop on site.

When cross examined in relation to Noel Kearney Dublin Road he accepted that there was a competitor directly across the road and he confirmed that the Drumkeen Stores premises on the N24 had a better profile and was a very busy thoroughfare with 16,000 cars per day.

In conclusion, he confirmed that the shops in Station Road and Bishop Street had been analysed on a zoning basis and not on a business basis and that Garvey's in Newcastle West on the N21 was the subject of an appeal to the Tribunal.

### **Respondent's Case:**

Mr. Gilsenan for the Respondent confirmed that the valuation was and should be based on a trade related basis and the Commissioner had adopted the filling station methodology which had been developed in the UK and used in earlier valuations and the Limerick Service Stations formula was included in Appendix 7. He confirmed that the Commissioner had taken account of the location, access, and the buildings on site. He referred to the turnover figures provided by the Appellants and that he had discounted them to FMT rates/values of 2,000,000 litres for fuel, €1,500,000 turnover in the shop and €15,000 for the car wash. He utilised directly the rates contained in appendix 7 applying €6.50/1,000 litre to the fuel, 3.75% to the shop turnover and 7.5% to the car wash which provided a total of €70,300. He relied on six comparisons to support the valuation.

His first comparison (Appellant's 7<sup>th</sup>) referred to Campus Oil in Adare which had been let for 4 years and 9 months from October 2009 at €50,000pa and had a shop sales FMT figure of €800,000 at 3.35% based on a floor area of 143.89m<sup>2</sup> and a fuel valuation based on 1,500,000litres FMT at €0.006/litre. The NAV had been reduced from €38,500 to €35,000 following representations.

The second comparison located on the N21 Limerick to Newcastle West Road referred to TOP Oil Rathkeale and a shop sales FMT figure of €1,250,000 at 3.5% based on a floor area of 133.58m<sup>2</sup> and a fuel valuation based on 2,000,000 litres FMT at €0.0065/litre and a car wash FMT of €10,000 at 7.5%. The Mace branded shop was licensed at €45,000 for 4 years 9 months.

The third comparison was in Bruff on the R512 and had a shop sales FMT figure of €1,400,000 FMT at 3.5% based on a floor area of 262.48m<sup>2</sup> in a Centra branded shop and a fuel valuation based on 1,500,000 litres FMT at €0.006/litre.

The fourth comparison (Appellant's third) referred to Applegreen on the N21 at Newcastle West and had a shop sales FMT figure of €900,000 on a floor area of 320.64m<sup>2</sup> at 3.25% and a fuel valuation based on 3,500,000 litres FMT at €0.007/litre.

The fifth comparison (Appellant's 4<sup>th</sup>) referred to Dee's on the N21 at Newcastle West and had a shop sales FMT figure of €1,300,000 at 3.25% based on a floor area of 245m<sup>2</sup> and a fuel valuation based on 2,000,000 litres FMT at €0.0065/litre. Following representations, the valuation of €65,000 had been reduced to €58,500.

The sixth comparison (Appellant's 5<sup>th</sup>) was in Newcastle West on the N21 and had a shop sales FMT figure of €1,400,000 at 3.5% based on a floor area of 309.38m<sup>2</sup> and a fuel valuation based on 800,000litres FMT at €0.005/litre. This property had been subject to first appeal which had been disallowed and remained at €53,000.

The Respondent concluded his direct evidence stating that the FMT was derived from analysing rental and trading date for service stations and the most relevant trading data was from 2011-2013. He further maintained the actual trade in the subject property was higher than the FMT applied and that the formula had been generally accepted for Limerick. A useful comparative schedule of the FMT's was included.

Under cross examination the Respondent confirmed that the formula adopted by the Commissioner had originated in the UK and that it had first been applied to Dublin filling stations. He accepted that it had not been revised and it had been originally designed for high volume stations. He also accepted that there were no caps on the turnover.

He acknowledged that he did not know why the formula had not been applied to Twohigs, but suggested that the supermarket was predominant and the turnover was not a basis for accessing value. He accepted that he did not have the petrol sales for this premises but agreed that it had probably more pumps. He did not agree that the valuation for Twohigs at €128,000 was incompatible with €70,300 for the subject property.

He could not confirm if the Lotto receipts had been excluded from the FMT for the subject property. He agreed that the subject property had only one line of pumps but stated that it was a very good location.

When questioned about the shop turnover/FMT variations from €800,000 to €1,500,000 for the comparisons provided he did not agree that the subject property had been penalised unduly and in his opinion it was not based on the exceptional skills of the operator. He did not agree that the fuel turnover of 2,000,000 litres was incompatible with a shop turnover of €1,500,000 and he did not accept that the multiplier of 3.75% was incorrect and did not agree that 3.5% or 3.25% would have been more appropriate to the subject property.

He agreed that the formula was designed for main road stations but did not agree that it was inappropriate for the subject property.

Both the Appellant and the Respondent provided short summaries. The Appellant sought to have the valuation reduced to €31,500 and the Respondent sought to have the valuation of €70,300 confirmed.

### **The reasoning being**

The Tribunal has accepted the methodology/formula adopted by the Commissioner and for ease of reference we have relied on the schedule provided on page 19 of the Commissioner's submission.

We had particular regard to comparison no. 2 Top Oil, and no. 5 Dee's which had a similar throughput at 2,000,000 litres but were located on the N21 and Sheehan's with a lower throughput of 800,000 litres and while also located on the N21 was within the town. We also took account of the shop floor areas for these comparisons as provided in evidence which were 133.58m<sup>2</sup>, 245 m<sup>2</sup> and 256 m<sup>2</sup> respectively but shop fair maintainable trade's -FMT's- of €1,250,000, €1,300,000, and €1,400,000 respectively.

No evidence was provided by either party as to the capacities of fuel storage or details of fuel pumps and what if any modernisation works had been completed. No frontages or overall site areas have been provided.

The Tribunal finds that there is some inconsistency with the approach adopted in relation to the fuel FMT throughput for the subject property as it is not located on a national primary route. We also noted that while fuel throughput had increased from 2011 to 2012 it had decreased from 2012 to 2013 by approx. 250,000 litres.

The Tribunal has adopted the throughput of 2,000,000 litres however it has rated it at €0.05/litre, which is less than the model is relied upon by the Commissioner as it regards the very high level of throughput for an in-town location as partially attributable to the operator.

The Tribunal has also determined that the FMT for the subject shop at €1,500,000, which was particularly high taking account of the shop size of 122.55m<sup>2</sup> was partially attributable to the expertise of the operator. We noted the shop sales between 2011 and 2012 fell marginally but this fall accelerated between 2012 and 2013 to over 5%. The Tribunal has determined the FMT in this case at €1,300,000.

The Tribunal has determined the valuation at €56,600 (Fifty-six thousand six hundred euro).