

Appeal No. VA96/2/069

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Ashford Gravel Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Quarry and land at Map Ref: 4E, Townland: Newtownboswell, ED: Killiskey, RD: Rathdrum, Co. Wicklow

Quantum - Quarry, pence per ton of output methodology for valuing a quarry contested

B E F O R E

Con Guiney Barrister at Law

Deputy Chairman

Marie Connellan Solicitor

Member

Joe Carey PC.DDSc.DBAdm.MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF MARCH, 1997

1. By letter dated the 24th day of April 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £84.20 on the above described hereditament.

The grounds of appeal as set out in the letter are that:-

"the rateable valuation is excessive having regard to the poor quality of gravel and consequent low output."

2. The appeal proceeded by way of an oral hearing which took place on 23rd day of October 1996. The appellant was represented by Mr. John Buckley, Solicitor, of J. Buckley & Co., Solicitors, Bray and the respondent was represented by Mr. Ronan Browne, ARICS ASCS of the Valuation Office. Also present was Mr. Patrick Maguire, Director of Maguire Enterprises Limited, a witness for the appellant. Both valuers adopted as their evidence in chief given under oath their written submissions which had previously been exchanged between them and delivered to the Tribunal.
3. The property comprises a sandpit located 1½ miles north of Ashford, Co. Wicklow, on the Roundwood Road, 6 miles from Wicklow town.
4. **Mr. Buckley** referred to his written submission dated the 9th day of October 1996 and pointed out that while the current owner purchased a c.12½ acre parcel of land, which contained the subject sand pit, in April 1995 for £58,500, planning permission had only been granted for a 7 acre sand pit. In fact, he confirmed that the sand pit had only a remainder of between 2-3 acres of viable gravel which would indicate a remaining life span for commercial extraction of gravel of c. 5 years at the current extraction rate.

The purchase price thus reflected the value of c. 4 acres of farm land plus 8½ acres of residual land after extraction is completed in addition to the buildings and actual remaining gravel seam. The main thrust of the appellant's case, Mr. Buckley indicated, was that when the sand pit lost its main customer i.e. Roadstone Limited, owing to the fact that the gravel and sand extracted failed Roadstone's quality test, the business lost much of its viability. He said, that the business now depended mainly on sales of gravel for land drainage etc. and annual output in the first 12 months had fallen to 20,000 tons.

5. **Mr. Patrick Maguire** in his evidence for the appellant, stated that the sand and gravel in the sand pit was of very poor quality with a high percentage of clay intermixed which required double washing to improve, and was not suitable for concrete production. Also, while the seam thickness or height of gravel was 30 ft at

the centre, it tapered rapidly to nothing in some areas, with an excessively deep clay overhang

throughout. He also claimed that the best gravel deposits were located near the public roadway but owing to the danger of undermining the road, this gravel could not be extracted. Because of the foregoing, Mr. Buckley, submitted that the Kildavin, Co. Carlow sand pit was most comparable to the subject where the Valuation Tribunal fixed the rateable valuation at £47 plus building £10 on *VA92/3/020 - James Conway v. Commissioner of Valuation* which devalues at 0.235p per ton. He also claimed that the buildings in the subject sand pit which extended to 1,744 sq.ft. at a net annual value of £1 psf as suggested by the respondent, would amount to a rateable valuation of £8.72.

6. Mr. Browne for the respondent in his evidence, suggested that all the mitigating factors as outlined by the appellant had been taken into account in his estimate of the rateable valuation of £77, which represented a reduction of more than £50 from the November 1993 rateable valuation figure of £127.20. He referred to his written submission and he stated that the figure of 0.0028p per ton of output in assessing an equitable rateable valuation for sand pits had widespread acceptance and was rarely challenged by rating consultants. He said that his valuation level was supported by two of the comparative hereditaments, referred to in his submission. He also pointed out that the subject property, which had three phase electrical power connected, abutted the public roadway and was well sited 1½ miles north of Ashford village on the Roundwood Road. As no up to date accounts were available, Mr. Browne, stated that he had to accept that the output from the sand pit was 24,000 tons per annum.

Findings:

7. While the Tribunal accepts that the application of 0.0028p per ton of output from sand pits of up to 50,000 tons per annum has received widespread acceptance in assessing rateable valuation of sand pits and was rarely contested for almost 30 years, nevertheless, there will be exceptional instances where other criteria and conditions will also have to be taken into account when assessing a fair and equitable rateable valuation. The fundamental basis for assessing rateable valuation according to the *Valuation (Ireland) Act, 1852* has to be derived from the net annual value or the rent a hypothetical tenant would offer on the basis of one year with another. Clearly, the subject hereditament in its operations for sand and gravel

extraction suffers from many limitations. A hypothetical tenant would be very concerned about the following when submitting an offer of annual rent:-

- (a) the quality of gravel being produced from the subject hereditament.
- (b) the remaining quantity of gravel that can be profitably extracted from the quarry (stated in evidence to be not more than 100,000 tons).
- (c) the cost of removing the thick layer of clay overhang and washing the excess clay out of the gravel.

8. Taking all the circumstances into account the Tribunal is of the opinion that a fair and equitable rateable valuation on the subject hereditament would be £72.20 (i.e. quarry £56, buildings £9 and land £7.20) and so determines.