

Appeal No. VA04/4/001

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

Charles Kelly Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Retail Warehouse & Yard at Lot No. 22A, Main Street, Sallaghagrane, Letterkenny Urban, County Donegal

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Patrick Riney - FSCS FRICS FIAVI

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF MAY, 2005

By Notice of Appeal dated the 16th day of November, 2004, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €1,080.00 on the above described relevant property.

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

"Not valued in accordance with the Valuation Acts. The valuation is excessive when compared to comparable properties in the same rating area. Comparison used as comparable property is not comparable."

1. This appeal came before the Tribunal by way of an oral hearing held in the Radisson Hotel, Letterkenny on the 28th January, 2005. At the hearing the appellant was represented by Mr. Patrick McCarroll, MRICS, FIAVI, ASCS, M.C.I. Arb and the respondent by Mr. Christopher Hicks, a valuer in the Valuation Office.

2. In accordance with the Rules of the Tribunal each valuer forwarded a written submission and valuation to the Tribunal and to the other party prior to the commencement of the oral hearing. At the oral hearing both parties, having taken the oath, adopted their respective précis as being their evidence-in-chief.

The Property Concerned

3. The subject property comprises a builders providers premises occupying a site area of approximately 3.6 hectares (i.e. circa 9 acres) on the southwest periphery of Letterkenny with extensive frontage to the Glenties Road. On the property there is a new purpose built warehouse, which contains an area given over to retail activities to which the general public and trade operators resort, together with miscellaneous storage buildings, car park, open storage and circulation space. The areas of the various buildings were agreed at the oral hearing to be as follows: -

Warehouse/Retail area 1200 sq. metres

Warehouse Remainder 2557 sq. metres

Offices (Internal) 522 sq. metres

Canopy 708 sq. metres

Store (Block 4) 309 sq. metres

Timber Store (Block 5) 840 sq. metres

Yard (including old timber buildings) 5000 sq. metres

Rating History

4. In March, 2004 a Valuation Certificate pursuant to Section 28(6) of the Valuation Act 2001 was issued to the effect that the rateable valuation of the subject property had been

determined at €1,080.00. No change was made on a foot of an appeal to the Commissioner of Valuation and it is against this decision that the appeal to this Tribunal now lies.

The Appellant's Evidence

5. At the oral hearing evidence regarding the history and development of the business was given by Mr. Charles Kelly, the Managing Director and shareholder of the appellant company. In his evidence Mr. Kelly said that "Kelly's" was a family business, which had occupied the subject property for several generations past. Originally the family was engaged in flour milling activities but in latter years now operated a builders providers business. Initially this business operated out of the old mill buildings but some 2-3 years ago it was decided to move to a new purpose built premises on the east side of Letterkenny. Negotiations to purchase a new site broke down and in 2002 the company took a decision to redevelop the existing property. This decision, he said, was influenced by the fact that the site would have extensive frontage onto the proposed inner relief road.

6. Mr Kelly said that business activity in the southwest edge of Letterkenny was in decline and that the property concerned suffered from a locational disadvantage by comparison with its principal competitors i.e. Heiton Buckley and James Johnston. Mr Kelly said that the company's business catered mainly for builders and that the business derived from the general public as such was not significant in the overall context. The design and specification of the warehouse buildings, he said, was "cheap and cheerful". Mr Kelly said that only half of the total site area i.e. some four to five acres was used in conjunction with the business whilst the balance was being held for future development purposes. The area used in conjunction with the business provided surface storage only and customer car parking facilities.

7. In evidence Mr. Kelly said that he had carried out a comparative analysis of the subject property and the Johnston premises. From his analysis it was clear that the Johnston premises were larger by about 18% and the retail area by an even greater amount. In the

circumstances therefore he found it difficult to understand how the subject property could be assessed at a rateable valuation of €1,080.00 as against €15.00 for Johnston's.

8. Under cross-examination Mr. Kelly said that his business was principally that of a builders providers and that they did not cater for the DIY trade. He also reiterated his opinion that the Johnston and Heiton Buckley premises were better appointed and occupied better commercial locations than the property concerned. He agreed that the retail area in the subject property was well appointed and attractive in appearance.

9. Mr. McCarroll adopted his written précis and valuation, which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence Mr. McCarroll said that it was now unlikely that the relief road for which the local authority had given planning permission in 1995 would ever be built, due to the fact that part of the land reserved for it was now being used as a site for a sports and leisure park. Mr. McCarroll said the location of the proposed relief road was a major factor in the decision of the appellant company to redevelop the property concerned and in particular the location of the new warehouse building within the site. As a consequence of the change of plan the new warehouse was barely visible from the Glenties Road and effectively had no road frontage. This lack of profile placed Kelly's in a disadvantaged position from a trading point of view compared to its major competitors who occupied highly visible premises in better commercial locations.

10. Mr. McCarroll said that most development activity in Letterkenny over the past several years had taken place on the east side of the town, adjacent to the ring road. The Glenties Road end of the town, he said, was in decline and a number of business outlets adjacent to the subject had closed down in recent years and several had moved elsewhere in the town. The uncertainty regarding the relief road, he said, had not helped the situation.

11. In relation to the subject property, Mr. McCarroll said, only part of the site was utilised for the business and that most of the area in use had a hard core finish only.

12. In his evidence Mr. McCarroll contended for a rateable valuation of €59.00 calculated as set out below:

Warehouse/Retail 1190 sq. metres @ €30.00	= €35,700
Warehouse/General 2530 sq. metres @ €19.00	= €48,070
Offices 522 sq. metres @ €30.00	= €15,660
Canopy 708 sq. metres @ €7.00	= €4,956
Store (Block 4) 309 sq. metres @ €5.00	= €1,545
Timber Store (Block 5) 840 sq. metres @ €7.00	= €5,880
Total Net Annual Value	Say €11,800
Rateable Valuation @ 0.5%	= €59.00

13. (The above areas were slightly amended at the oral hearing by agreement with Mr. Hicks.)

14. In support of his opinion of net annual value, Mr. McCarroll introduced three comparisons, details of which are set out in Appendix 1 to this judgment.

15. Mr. McCarroll said that in arriving at his opinion of net annual value he had not ascribed any particular value to the surface storage area or the car park facilities but had reflected the presence of these in the valuation attributed to the various elements of the property as valued.

16. In relation to his comparisons, Mr. McCarroll said, they all occupied better locations than the subject and were built to a higher standard of specification.

17. Under cross-examination Mr. McCarroll agreed that the Johnston building (comparison no. 2) was located below the road level and was further from the town than the subject property. He also agreed that the Johnston premises had a mezzanine floor and that this inevitably meant that the ceiling height at ground floor level was lower than in the subject.

The Respondent's Evidence

18. Mr. Hicks having taken the oath adopted his written précis and valuation, which had previously been received by the Tribunal as being his evidence-in-chief. In his evidence Mr. Hicks contended for a rateable valuation of €1,080.00 calculated as set out below:

Retail Warehouse (Internal) 3720 sq. metres @ €45.00	= €167,400
Offices (First Floor internal) 522 sq. metres @ €41.00	= €21,402
Canopy 708 sq. metres @ €10.00	= €7,080
Block 4 (Timber Shelter) 309 sq. metres @ €5.00	= €1,545
Block 5 (Timber Shelter) 840 sq. metres @ €7.00	= €5,880
Yard (including old buildings) 5000 sq. metres @ €3.00	= €15,000
Net Annual Value	= €218,307
Rateable Valuation @ 0.5%	= €1,091.00

19. Mr. Hicks pointed out that the above figure was marginally higher than the figure appearing in the valuation list i.e. €1,080.00 and accordingly he agreed that this figure was fair and reasonable.

20. In support of his opinion of net annual value Mr. Hicks introduced 7 comparisons, details of which are set out in Appendix 2 to this judgment. Mr. Hicks pointed out that comparison No. 2 (the Johnston premises) was a common comparison.

21. In his evidence Mr. Hicks said the subject property had a frontage onto the Glenties Road and whilst it was located on the edge of the town it was only 700 metres from the town centre. The new warehouse building was dual purpose in design and layout and provided good retail and trade facilities. The warehouse building Mr Hicks said had good headroom, whilst the Johnston premises had a mezzanine level for practically its entire area.

22. Under cross-examination Mr. Hicks agreed that construction of the proposed relief road had not yet been started but did not necessarily agree that it would not proceed as planned at some stage in the future. In relation to the new warehouse building he agreed that the office accommodation was on first floor level and that as a consequence the retail area under had a lesser headroom than the remainder of the warehouse.

23. Mr. Hicks further agreed that the retail area in the Johnston premises had a height of about 3 metres with offices and mezzanine space over. Mr. Hicks said that this had been fully taken into account when the Johnston premises were first valued. In his opinion the Kelly premises were superior and afforded better storage space.

24. Mr. Hicks agreed that the Atlantic Store premises were located in a retail park and whilst it had a garden centre area it did not have the benefit of a dedicated car parking area.

Findings

The Tribunal has carefully considered all the evidence (both written and oral) and the arguments adduced by the parties and makes the following findings.

1. The relevant valuation date for this appeal is March, 2004 and hence the valuation of the property concerned is to be determined in accordance with the provisions of the Valuation Act, 2001.
2. In accordance with rating law and practice the property concerned is to be valued in its present state and circumstance at the relevant valuation date.
3. The Tribunal accepts Mr. Kelly's evidence that the decision to carry out the redevelopment of the former mill premises was influenced by the plan to build the relief road and that this would have afforded a secondary frontage and high profile for the new warehouse building. However, at the valuation date the proposed road was not in existence and hence any added rental value, which may

have been attributed to this secondary frontage cannot now be taken into account in arriving at its net annual value.

4. Of all the comparisons introduced, the Tribunal attaches most weight to the Johnston comparison, which is similar in use and construction to the property concerned. It is also a common comparison. The Tribunal accepts Mr. Kelly's and Mr. McCarroll's evidence that the Johnston premises occupy a better location than the subject, as indeed do the other comparisons put forward by the parties.
5. The Tribunal accepts that the subject property is designed to provide a sales area open to the general public and builders alike and that the space dedicated to this use is built to a higher specification than the remaining warehouse area. In this regard the Tribunal notes that the retail space and the warehouse area were valued at differential rates per square metre by Mr. McCarroll, but at an overall rate by Mr. Hicks. The Tribunal prefers Mr. McCarroll's approach and finds that the retail/sales area of the property concerned should be valued at a higher rate per square metre than the warehouse area proper.
6. The subject property occupies a large site area and the Tribunal accepts that not all of the undeveloped site is used for stock storage purposes. Mr. Kelly estimates that approximately 4 acres is used in conjunction with the business. In the circumstances of this appeal the Tribunal prefers Mr. Hicks' valuation approach to ascribe a separate value to this storage area and the older buildings thereon rather than Mr. McCarroll's approach whereby he reflected this facility in the square metres rates applied to various elements of the property. The Tribunal notes that no separate value was attributed to the yard in the Johnston premises and indeed to any other of the comparisons introduced by the parties. Nonetheless in view of the area involved the Tribunal has come to the conclusion that some figures should be ascribed to the open storage area and the range of old buildings thereon.

Determination

Having regard to the forgoing the Tribunal determines that the rateable valuation of the property concerned, in accordance with the provisions of the Valuation Act, 2001, is €20.00 calculated as set out below:

Warehouse/Retail 1,200 sq metres @ €40.00	= €48,000
Warehouse Balance 2,557 sq metres @ €30.00	= €76,710
Offices 522 sq metres @ €30.00	= €15,660
Canopy 708 sq metres @ €10.00	= €7,080
Block 4 309 sq metres @ €5.00	= €1,545
Block 5 840 sq metres @ €7.00	= €5,880
Yard (to include all buildings)	Say €10,000
Total Net Annual Value = €164,875	Say €164,000
Rateable Valuation 0.5%	= €20.00

And the Tribunal so determines.