

Appeal No. VA17/2/022

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

Varogue Enterprises Ltd T/A Wallaby Woods

APPELLANT

and

Commissioner of Valuation

RESPONDENT

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

Property No. 5010720, Retail (Shops) At Lot No. 14D, Derrycrubs, Timahoe North, Naas 1, County Kildare.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF DECEMBER, 2017

BEFORE:

Barry Smyth – FRICS, FSCSI, MCI Arb

Deputy Chairperson

Mairead Hughes - Hotelier

Member

Donal Madigan – MRICS, MSCSI

Member

By Notice of Appeal received on the 28th day of June, 2017 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €28 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

“1) Estm. NAV is excessive and inequitable. The property has not been assessed in line with comparable premises, i.e. open farms, in Kildare.”

“2) The subject property is in a rural location off the L1010 at Derryvarogue. This is an agricultural location.”

“3) The subject property is an open farm, with a small tarmac car park and steel container structures acting as a café/seating area. The property, though modern, is very basic from a construction point of view. The Commissioner does not appear to have made and adjustment for the type and nature of the subject property in its actual location.”

“4) Open farms by their very nature are the lowest profit form of agricultural diversification and require extremely significant amounts of man hours for limited commercial reward. The nature of the business [sic] low turnover and is seasonal, normally from June-August, while children are off school. It is believed that rates are not being levied on the subject’s competitors.”

It is agreed that the only issue in dispute is the quantum of the valuation.

The Appellant was represented at the hearing on 4th day of October, 2017 by Mr David Halpin of Eamonn Halpin & Co. Ltd. Mr. Brendan Hall from the Appellant company was also in attendance but spoke only to confirm details of the description of the buildings, their construction and the opening times for the facility throughout the year. The Respondent was represented by Ms Ciara Marron of the Valuation Office.

The relevant property comprises the buildings and tarmacadam car park (yard) attached to an open pet farm located in a rural location on the L1010 at Derryvarogue, approximately 9.5 kms north of Prosperous in County Kildare.

The parties had agreed, prior to the hearing, the areas of the various components of the property to be valued as follows:

	Square Metres
Shop	48.43
Steel container	57.57
Yard	1,242.00

Mr. Halpin for the Appellant, who adopted his précis as evidence in chief, with page 14 thereof substituted to record his own signature, contended that the rateable value should be € 11.

This is calculated (with Appellant’s description of the various components) as follows:

	Square Metres	€ per sq.metre	€
Open Farm Cafe	48.43	@ 25.00	1,211
Open farm steel container (café ancillaries)	57.57	@ 6.83	393
Tarmac Yard	1,242.00	@ 0.50	621

2,225

Reducing by 0.005 = 11.12

RV say, € 11

In support of his valuation, Mr Halpin cited the following comparisons:

(a) Stonebrook Pet Farm, Ballymore Eustace, Co. Kildare Property Number 5010685 which comprises a timber open sided shop of 9.78 sq.metres which is valued at € 82.02 per sq.metre
RV € 4.

(b) Roche's Pub, Derryvarogue, Co. Kildare property Number 1739144

RV € 8.89

(c) Connolly's Pub, Newtownmoneenluggagh, Co. Kildare Property Number 1739028

RV € 15.24

(d) Red Mountain Open Farm (Henry Fee), Corballis, Co. Meath. Property Number 5005161

Office 68.44 sq.metres @ € 25.00 per sq.metre

Open Farm Sheds 634.86 sq.metres @ € 13.67 per sq.metre

Stores (former poultry houses) 3,850.2 sq.metres @ € 6.65 per sq.metre

RV € 180.

Ms Marron for the Respondent, adopted her précis as evidence in chief, and contended that the rateable valuation in the Valuation List of € 28 should be confirmed.

This is calculated as follows:

	Square Metres	€ per sq.metre	€
Shop	48.43	@ 68.35	3,310.19
Steel container	57.57	@ 17.08	983.29
Yard	1,242.00	@ 1.05	1,304.10
			5,597.58
Reducing by 0.005 =	27.99		
			RV say € 28

In support of her valuation, Ms Marron cited the following comparisons:

(a) Coolerash, Coill Dubh, Naas, Co. Kildare Property Number 1738900

Butcher's shop of 37.5 sq.metres valued at € 67.73 per sq.metre RV € 12.70

(b) Noel Behan, Coolerash, Coill Dubh, Naas, Co. Kildare Property Number 1738940

Shops of 62.84 sq.metres and 38.64 sq.metres valued at € 68.35 & 54.68 per sq.metre

respectively (with petrol filling station) RV € 36.83

(c) Woodlands, (Boulder Bros.), Rathangan, Co. Kildare Property Number 2179301

Yard of 1,150 square metres valued at € 1.05 per sq.metre (plus other buildings) RV € 195

Reference was also made by her in Appendix 3 of her précis to Stonebrook Pet Farm, Coghlanstown West, Ballymore Eustace, Co. Kildare Property Number 5010685 which comprises a timber open sided shop of 9.78 sq. metres which is valued at € 80.00 per sq. metre but deemed not comparable by her in her observations. RV € 4.

M/s Marron also put forward the full text of the following cases as legal precedent:

(a) VA00/2/032 Proundlane Ltd t/a Plaza Hotel & Commissioner of Valuation

(b) VA09/1/018 O'Sullivan's Marine Ltd. & Commissioner of Valuation

(c) VA07/3/054 William Savage Construction Ltd. & Commissioner of Valuation

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 4th day of October, 2017 adduced before us by Mr David Halpin of Eamonn Halpin & Co. Ltd on behalf of the Appellant, who contended for a rateable valuation of €11, and Ms Ciara Marron of the Valuation Office on behalf of the Respondent to the appeal, who sought confirmation of the existing assessment of rateable valuation €28.

DETERMINES

That the rateable valuation of the subject property be as set out below:

RV € 21 - Decrease

This is calculated as follows:

	Square Metres		€ per sq.metre	=	€
Shop	48.43	@	40.00	=	1,937.2
Steel container	57.57	@	17.08	=	983.29
Yard	1,242.00	@	1.05	=	1,304.1
			Total	=	4,224.59
	Reducing factor	0.005		=	21.12

Say (rounded to) RV € 21.

The reasons being:

1. The Tribunal considers that the retail facility is of a seasonal nature and not comparable with a full time shop that is operated all year round.
2. It is not comparable with a shop allied to a petrol filling station. Neither is it comparable with licensed premises.
3. Accordingly, reflecting the rural location, specification, seasonality and destination type "offer" the Tribunal believes that a rate for this retail area of € 40.00 per square metre better reflects this value than the level of € 68.35 submitted by the Respondent or the rate of € 25.00 submitted by the Appellant.
4. The Tribunal considers the rates of € 17.08 per square metre for the container and € 1.05 per square metre for the yard are fair in the circumstances reflecting, properly, the specification of those components as submitted by the Respondent.

And the Tribunal so determines.