

Appeal No. VA96/4/003

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

Galtee Tendermade Food Products

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory, Land and Right of Way (including 1a Brigown) at Map Ref: 3g, Townland:
Mitchelstown, ED: Mitchelstown, RD: Mitchelstown, Co. Cork
Quantum - Meat processing factory

B E F O R E

Fred Devlin FRICS.ACI Arb.

Deputy Chairman

Brid Mimmagh Solicitor

Member

Michael Coghlan Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF JULY, 1997

By Notice of Appeal dated the 6th August, 1996 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £2,850 on the above described hereditament.

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

- "(1) The valuation is excessive and inequitable.**
- (2) The valuation is bad in law".**

This appeal proceeded by way of an oral hearing held in the District Courthouse, Anglesea Street, Cork on the 12th day of March, 1997. The Appellant was represented by Mr. Desmond M. Killen, FRICS, FSCS, IRRV, a Director of Donal O'Buachalla & Company Limited and the Respondent was represented by Mr. Terence Dineen, B.Agr.Sc, a District Valuer in the Valuation Office. At the oral hearing the valuers adopted their written précis and valuations which had previously been submitted to the Tribunal and exchanged between them as being their evidence in chief given under oath.

The Property:

The property comprises an extensive modern meat processing factory located in Mitchelstown, Co. Cork. Evidence was given that the plant first opened in or about 1967 and over the intervening years has been subject to continual renewal and expansion to its present state and circumstance. The buildings are mainly single storey with the exception of the two storey structure at the front and side containing offices and some meat processing area at ground floor level with additional offices, canteen and kitchens, etc. at first floor level.

The accommodation includes meat preparation areas, boning hall, freezers, dispatch area, laboratories, administration offices, staff canteen, staff locker rooms and toilets. The meat process and boning areas comply with all the necessary hygiene standards and is designed to handle 10,000 to 12,000 pigs per week.

All the usual public services are connected to the property and in the production area there is a mechanical air extraction system.

The area of the property has been agreed as follows:-

Offices/Amenity Area/First Floor Offices and Canteen	26,888 sq.ft.
Production Area (including 1989 factory)/Freezers/Lairage and 1994 Addition	124,000 sq.ft.
Old Production Area	20,841 sq.ft.
Miscellaneous Stores	20,146 sq.ft.

Total Area:

191,875 sq.ft.

In relation to the above there are miscellaneous items of plant to include ovens, tanks, boilers, pipelines, weigh pits and car park.

Valuation History:

The property was first valued in 1969 and was subject to a number of revisions until the 1989/3 revision when the RV was assessed at £2,200 which was subsequently reduced to £2,075 at First Appeal stage where a figure of £1,275 was attributed to the then new production area. Following further additions and renewals the property was listed for the 1995/4 revision when the RV was increased to £2,850. On foot of an appeal to the Commissioner of Valuation the RV remained unaltered and it is against this decision that the appeal to the Tribunal now lies.

Oral Hearing:

Mr. Killen contended that the proper valuation method to apply in order to arrive at the NAV of this hereditament is the comparative method and he adduced details of three comparisons, one sale and two lettings in the Cork area. He also introduced his analysis of the valuation of three other meat processing plants all of which are included in Appendix 1 of this decision.

Mr. Killen referred to the extension of the factory which was dealt with at the 1989 First Appeal and which was agreed at an RV of £1,275. In his opinion this agreement was calculated upon the following basis:-

Factory	79,053 sq.ft.	@	£2.70
Factory (Lairage)	4,024 sq.ft.	@	£2.15
Security	88 sq.ft.	@	£2.00

This valuation was inclusive of HP.

In two appeals to this Tribunal VA93/4/006 - Newbridge Foods Limited and VA93/4/020 - Dawn Farm Foods, this agreement was referred to in evidence by the Respondent but devalued on a slightly different basis as follows:-

Factory	71,268 sq.ft.	@	£2.50
Freezers	9,346 sq.ft.	@	£3.00

Mr. Killen submitted that the Respondent's devaluation at these appeals was inclusive of HP. With regard to the other meat plants Mr. Killen stated that these were much smaller than the subject and this was a factor that should be borne in mind when calculating the NAV and in his opinion an allowance for quantum was warranted in respect of the subject premises.

Mr. Killen said that the total for HP was now 3,000 as against 2,700 before the most recent extension which give rise to the 1995 revision. Mr. Killen contended that there was a low level of demand for large manufacturing premises in rural areas and that a factory of 192,000 sq.ft. is rarely if ever available to let on the open market. If offered for sale the price obtained for a factory of this size would reflect only a fraction of its development cost.

Under cross-examination by Mr. Dineen, Mr. Killen agreed that the additional area to be included in the 1995 valuation was in the order of 43,000 sq.ft and further agreed that this new space was mainly replacing former areas which were obsolescent. Mr. Dineen put it to Mr. Killen that since the new space was merely replacement was it not inconsistent of him to be looking for a quantum allowance at this time when he had not sought such an allowance at previous revisions. Mr. Killen said that in arriving at his opinion of NAV on this occasion that he had looked at the hereditament as a whole and in view of the fact that the total usable space was now in the order of 192,000 sq.ft. he considered a quantum allowance was fully justified.

Mr. Killen in response to further questioning agreed that the premises were located in a good location and whilst the standard of construction and general specification was very good he

did not agree with the proposition put to him that the premises was the most modern in Europe.

In relation to his comparisons Mr. Killen said that he was relying upon the assessments contained in his three comparisons and that the information regarding sales and letting was of a general nature only and provided to the Tribunal for information purposes only.

Respondent's Evidence:-

Mr. Dineen dealt with his written submission in some detail and drew attention to the fact that the new buildings cost somewhere in the region of £4 to £6m and were constructed to a high specification. He pointed out that these new buildings replaced older redundant structures and that overall the total area of the hereditament had not significantly increased.

He contended that Mr. Killen's claim for a quantum allowance was unsustainable. Mr. Dineen said that in arriving at his opinion of NAV he had relied upon three comparisons and these are attached to this decision as Appendix 2.

Under cross-examination Mr. Dineen conceded that he had not inspected any of his comparisons but had relied upon information contained in the Valuation Office records and the decisions of the Valuation Tribunal. He agreed with Mr. Killen that the lairage area in the subject was of basic construction but maintained his opinion that the rest of the hereditament was of a standard superior to most other meat facilities in the country.

In his closing remarks Mr. Killen said that he had arrived at his opinion of NAV on a comparison basis and had relied solely upon assessments of other meat plants of which he was familiar. By virtue of it's size a quantum allowance in respect of this hereditament was fully justified. He contended that at previous revisions the HP element in the factory was reflected in the overall sq.ft. rate applied to the various areas by both parties and it was only proper that this practice continue at this revision. It was unreasonable of the Valuation Office to apply a different valuation approach at this review.

Determination:

1. The question to be determined by this Tribunal is the same as that which usually confronts it, that is, what is the NAV of the hereditament in its actual state and circumstance at the relevant date having regard to the provisions of *Section 11 of the Valuation (Ireland) Act 1852* as amended by *Section 5 of the Valuation Act, 1986*.

2. Having considered the evidence and argument adduced at the hearing the Tribunal is faced with three issues:-
 - (1) What is the proper NAV of the hereditament in accordance with the Valuation Acts;
 - (2) Should the valuation be cast on an inclusive basis or should the HP element be shown separately; and
 - (3) Is a quantum allowance justified having regard to the size of the property.

3. It is proposed to address these issues in the following order, No. 2, No. 3 and No. 1.

Issue No. 2:

Having considered the evidence in relation to the 1989 revision this Tribunal accepts Mr. Killen's contention that the HP element was reflected in the sq.ft. rate applied to the various sections of the property. Nonetheless in two of Mr. Killen's comparisons, i.e. Newbridge Foods Limited and Dawn Farm Foods the HP element is shown separately. It is a principle of valuation practice that as you devalue so shall you value and in this instance Mr. Killen chose not to and thus give rise to one of the difficulties that has arisen in this appeal.

In justification of his valuation approach, Mr. Killen argued that since the valuation at the 1989 revision was cast on an inclusive basis it was only proper that it should be calculated likewise on this occasion also. This Tribunal does not altogether agree with this argument for the following reasons. When an existing property is

listed for revision on foot of alterations the hereditament to be valued is the property in its new existing state. In essence the valuation is to be determined '*de novo*' and whilst in some instances it may be appropriate to make an adjustment either upwards or downwards to reflect the changes that have taken place this is not always the case and in those situations where a substantial change has taken place it most certainly is not.

Having regard to the evidence in this appeal the nature of the change that took place was substantial and hence it was proper to look at the entire hereditament anew and value it accordingly.

The HP element in this hereditament was known by Mr. Killen to be in the order of £150 RV which in percentage terms is not dissimilar to that appearing in his comparisons Newbridge Foods Limited and Dawn Farm Foods which were valued on an exclusive basis. Under these circumstances it would have been beneficial to the Tribunal if he had valued the subject premises on a similar basis so that like could truly be compared with like. At the end of the day his opinion of NAV would undoubtedly have been somewhat similar but the valuation methodology would have been consistent with that used in devaluing the comparisons he introduced. The Tribunal therefore determines that the HP element should be shown separately. The Tribunal is aware that at First Appeal stage and before the Tribunal hearing the valuers enter into discussions and negotiations. It would be beneficial to all concerned including the Tribunal if the valuers availed of these opportunities to agree fully matters of fact leaving only those issues which are in contention for the attention of the Tribunal.

Issue No. 3:

By any criteria this is a large factory and considerably larger than any of the comparisons put forward by either party. In rating practice it is accepted that when comparing the valuations of a large premises with those which are much smaller a quantum allowance is appropriate to reflect the demand or lack of demand for the larger property and the effect this might have on rental value.

Accordingly, therefore the Tribunal finds in favour of Mr. Killen and determines that an allowance for quantum is justified in this instance.

Issue No. 1:

The Tribunal now turns to the determination of NAV and having considered all of the evidence and argument adduced and to the findings in relation to issues 2 and 3 the Tribunal considers the RV of this hereditament to be £2,670 calculated as set out below. In arriving at its determination the Tribunal has had particular regard to Mr. Killen's three comparisons and his devaluation thereof and to the Avonmore Creamery premises at Edenmore introduced by Mr. Dineen.

(1)	Offices/Amenity Areas/First Floor Offices/ Canteen Area	26,888 sq.ft.	@ £3.00	=	£ 80,664
(2)	Production Area (incl. 1989 factory) Freezers/Lairage and 1994 Reconstructed Factory	124,000 sq.ft.	@ £2.70	=	£334,800
(3)	Old Production Area (Unchanged since 1969)	20,841 sq.ft.	@ £2.00	=£	41,682
(4)	Miscellaneous Stores	20, 146 sq.ft.	@ £1.00	=£	<u>20,146</u>
					£477,292

Allow 5% for Quantum	=	£453,427
NAV Say	=	£450,000
RV @ 0.5%	=	£ 2,250
Add for Mis. Items & HP	=£	<u>420</u>
	£	2,670

