

Appeal No. VA97/5/005

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

Galtee Meats (Charleville) Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Meat Factory and Land at Map Reference: 9Ba.6.7B, Townland: Ardnageehy, ED:
Springfort, RD: Charleville, Co. Cork
Quantum - Allowance for size and location

B E F O R E

Liam McKechnie - Senior Counsel

Chairman

Anita Geraghty - Solicitor

Member

George McDonnell - F.C.A.

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF FEBRUARY, 1998

By Notice of Appeal dated the 8th August 1997 the Appellant Company appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £1,600 on the above described hereditament. The grounds of appeal as set out in the said Notice are:

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

1. This appeal proceeded by way of an oral hearing which took place in City Hall, Cork

on 15th January 1998. The Appellant, Galtee Meats (Charleville) Limited was represented by Mr. Des Killen, FRICS, FSCS, IRRV, with the Respondent Commissioner being represented by Mr. Terence Dineen, District Valuer, B.Agr. Sc. In accordance with the Rules of this Tribunal and following established practice the parties had, prior to the hearing, exchanged précis of evidence and submitted the same to us. At the oral hearing above referred to, both Valuers, having taken the oath, adopted the written précis respectively as their evidence in chief and supplemented the same by way of further evidence and by way of both opening and concluding submissions. From the foregoing the following facts, either agreed or so found, emerged as being material to this appeal;-

2. (a) The property in question is located about two miles from the town of Charleville which in turn is about thirty five miles North of Cork city. It is situated on a local service road in an area predominantly rural with agricultural activity and some ribbon housing development occupying the adjoining lands.
- (b) The property, in general terms, comprises a meat processing factory with abattoir, boning, packing, freezing and distribution facilities together with administration offices, workshops and stores. The overall area of the site is about 15 acres. More particularly, and for greater clarity the entire factory premises can be sub-divided as follows;-

Firstly, the original factory and stores - comprising of a lairage, slaughter hall and chills and by-product handling including the free-standing canteen.

These areas are concrete with asphalt and corrugated asbestos roofs with eaves between four and six metres; walls are plastered or terrazzo finished while floors are terrazzo, screed, concrete or tiled. Sections were upgraded in recent years.

Secondly, the freezers and cold rooms including the marshalling area built in about 1983. This area has rising concrete walls meeting insulated corrugated steel panels to a height of ten metres. The marshalling area is eight metres high with a canopy attachment covering tailgate loading doors.

Thirdly, the 1994 demolition/reconstruction including the vacuum packing, the boning and processing areas, with some first floor offices. This again, has rising concrete walls to insulated corrugated steel panels on a steel frame and pitched insulated roof. Pedestrian exit doors and bollard surrounds where vehicular traffic has access to doorways. Packaging is stored in a first floor

area over dry good stores.

Fourthly, the within and surrounding yards have a concrete base whilst the 7.5 m wide kerbed asphalt road, links the East and West sides of the plant via its southern perimeter. Access to and from the public road even for heavy and large vehicles is adequate whilst services are provided by way of a private effluent plant, mains and well water, telephone and three phase electricity.

3. Following upon acquisition, the Appellant Company carried out demolition/reconstruction works to the cost of £2.9 m. approx. In addition almost £250,000 was spent on the rest of the property in order to comply with fire regulations.
4. The title to this property is freehold. It was purchased by the present occupier in 1992 from the Receiver of UHP for a consideration which is now agreed at £2.2m.
5. Business which the present occupier carries on, in and from this property, corresponds with the description of the factory and premise above given. It is to be noted that between 1994 and 1997 the annual yearly kill figures are in the range of 58,000 to 77,000.
6. The areas of the subject hereditament and their respective descriptions have been agreed between the parties. These are set forth in detail in paragraph 9 hereunder.
7. On behalf of the Company, Mr. Killen made a number of general observations from which he invited this Tribunal to conclude that firstly there was little or no demand for large buildings like the subject property in rural areas; secondly, that no meat processing plant to his knowledge had been let or is available for letting; thirdly, that when vacant and sold the price which the market pays for such a building represents only a fraction of its development costs and fourthly, that there are a number of other plants, either cattle or pig processing, which are superior both in building terms and in better locations than the subject property. He then went on to outline his preferred method of valuation, namely, that based on comparative evidence and in support of his suggested NAV, he referred us to the two comparisons, details of which are set forth in Schedule A to this judgement.

8. On behalf of the Commissioner, Mr. Dineen took issue with many of the points raised on behalf of the Appellant Company. He was of the view that a location like the instant one was in fact more favourable to this type of operation than a location abutting a built up or populous area. He felt that the building was in good condition and that, at the relevant valuation date, the cattle industry in this country was quite buoyant. He was also of the view that the comparative method of valuation was the most correct method to apply to the subject property. In support of his suggested breakdown he referred us to a number of comparisons, details of which are set forth in Schedule B to this judgement. In addition, when dealing with these comparisons, he analysed in some depth the judgements of this Tribunal given in three of the most prominent comparisons.
9. The agreed areas of the subject property together with appropriate descriptions thereof are set forth herein in tabular form. On one side we set out the rate per square foot suggested on behalf of the Appellant Company and on the other the corresponding rates suggested on behalf of the Commissioner. As will be evident therefrom the result is a suggested rateable valuation of £1,260 by the Ratepayer whereas the Appeal Valuer is supporting the existing valuation of £1,600.

Description	Sq.Ft.	Mr. Killen	Mr. Dineen
Stores, Old 2 Storey House	1,601	£1.00 psf	£1.50 psf
Workshop, Boiler, Water Softener	3,734	£1.00 psf	£1.50 psf
Lairage & Office	12,265	£0.50 psf	£1.00 psf
Factory Property Old	40,192	£1.75 psf	£2.25 psf
Cold Stores & Blast Freezers	14,459	£1.85 psf	£2.80 psf
Marshalling for Cold Stores	5,874	£1.00 psf	£2.25 psf
Plant Rooms	2,324	£1.00 psf	£2.25 psf
De-boning, Vac. Packing	41,105	£2.25 psf	£2.50 psf
Pump House	247	£1.00 psf	£1.50 psf
<u>First Floor</u>			

Office (2 Areas)	5,284	£2.50 psf	£2.50 psf
Paper Store Over Dry Goods	6,724	£1.00 psf	£1.50 psf
NAV Buildings		£229,418	£290,057
RV @ 0.5%		£1,145	£1,485
Miscellaneous Valuation (Agreed)		£117	£117
Total RV		£1,263	£1,602 Say £1,600

10. As can be seen from the foregoing there is agreement, in principle that the comparative basis is the correct method of approach in this case. Since there is available sufficient comparisons upon which this method can be safely relied upon, there is therefore, in our view, no need to further consider evidence of Rental and Capital Value of the premises occupied by Avonmore Electric at Kanturk, a hereditament referred to by Mr. Killen. Likewise, we are satisfied that a number of comparisons mentioned by the Appeal Valuer have very little, if any bearing on the subject premises. For example, the Dawn Meats Premises at Middleton can be distinguished, essentially on the grounds referred to by Mr. Dineen himself: as can the A.G.R.A. (Kepak) premises at Watergrasshill where the existing RV predates the introduction of the NAV system; as can the A.I.B.P. premises at Bandon, this essentially because of size and structure. That leaves Dawn Foods at Naas, Newbridge Foods at Newbridge, Galtee Tendermade Foods at Mitchelstown and the Halal Factory at Ballaghadereen.

11. **The Dawn Foods Premises at Naas**

On the 24th day of May 1994 the Valuation Tribunal delivered its judgement in this case in which Mr. Killen appeared on behalf of the Company and Mr. Malachy Oakes appeared on behalf of the Commissioner. The premises in question was a modern bacon processing factory situated at an Industrial Building just north of Naas at the entrance to the by-pass motorway. In his written submission, being only these parts thereof as recited in that judgement, Mr. Killen put £2.50 psf on 41,131 sq.ft. of factory space, which included cold stores at 3,788 sq.ft. On 4,722 sq.ft. of office space, he also placed £2.50 psf. He referred to Galtee Foods at Mitchelstown as his No. 1 Comparison. Mr. Oakes subdivided the factory from the rest of the premises including the cold store. He placed £5 psf on the former, £3.75 psf on the latter with the rest of the premises varying between £3 (for the main office) and £0.50 (for the canopy). He did not have the Galtee Meats premises as one of his comparisons.

12. Commencing on page 5 of the Judgement it would appear that during the hearing the

following events took place and/or the following evidence was given:-

- (a) Mr. Killen said "in light of the analysis of the RV on the Galtee premises put forward by the Respondent"; that he, Mr. Killen would amend his valuation on the subject premises to £2.75 psf on the factory and £3 psf on the cold stores.
- (b) After both Valuers had apparently completed their evidence the Tribunal adjourned so as to allow Mr. Oakes an opportunity of considering the Galtee premises at Mitchelstown; this because in its view, that was one of the best comparisons available.
- (c) At the resumed hearing, Mr. Oakes sought to distinguish the Galtee factory on a number of grounds including that of location, it being his view that Naas was the better location. Mr. Killen disagreed and at the top of page 7 the following words are attributable to him "*.... described the Galtee factory as being equally good in every way but in relation to location, the Galtee factory is right in the heart of the agricultural area from which it gets its produce, and is situate on the main artery for the country, namely the Dublin/Cork road*", and,
- (d) Mr. Killen said that his concession, referred to at (a) above was based on Quantum with the subject factory being only 35,316 sq.ft. as compared with the much bigger Galtee factory.

13. The Tribunal in its determination, found that the best comparison was the Galtee Foods property which was of broadly similar function to the subject property and which was an extremely high quality building in terms of construction, hygienic standards and standards of finish. In placing an RV of £865 thereon, as against alternative figures of £675 and £1,175 the Tribunal also had regard to the size and location of the Naas property.

14. **The Newbridge Food Factory**

This property, a medium sized purpose built complex, on the southern part of town, was, at all material times, used as a food production unit by Dunnes Stores or one of its subsidiaries. The Tribunal accepted Mr. Killen's evidence that the best comparison was the Galtee property and decided the case by applying the same rates as were then applied to the Galtee Foods comparison. The figures resulting from this exercise, it is stated, were agreed, as figures, by the Appeal Valuer. The end result, was an acceptance of Agents RV but with an additional £16 to reflect the superimposed

breakdown as well as £10 on a veterinary office. The total RV was therefore £1,056.

15. Galtee/Mitchelstown Judgement

This judgement given on the 28th day of July 1997, quite clearly deals with a premises

which is quite different from the premises which, at 1989 1st appeal stage, had an RV of £1,275 placed thereon: It was this latter RV and the devaluation thereof that was used as a comparison in both the Naas and Newbridge premises. In any event the following emerges from this judgement:

- (a) that both the Naas and Newbridge premises were relied upon not only as comparisons but also, for the purpose of a quantum discount, it being recalled that the factory (incl. cold stores) in Naas was 41,140 sq.ft., in Newbridge was 60,447 sq.ft., whereas Galtee was now substantially bigger, namely 120,000 sq.ft. which reflected an increased area of about 43,000 sq.ft.
- (b) that the standard of construction and agreed specification was good, if not exceptionally good and that its location was also good.
- (c) that the Tribunal, in its findings, agreed that a quantum allowance should be made but did so in the manner set out on page 8 of the judgement, wherein the gross rates were set forth and from the total resulting NAV a straight 5% deduction was allowed and
- (d) that also, in its findings, it had particular regard to the Naas and Newbridge premises as well as the Avonmore Creamery Premises at Edenmore.

16. Our consideration of the evidence and submissions in this case and our analysis of the third party premises above referred to, lead us to the following conclusions:-

- (a) The premises, the subject of this appeal now stands as a building of high quality construction and finished to exacting specifications. It contains all the facilities necessary to carry on its preferred choice of business and is, and indeed must be, such as to comply with both domestic and international standards. Its function and use, at least broadly, is in line with Naas, Newbridge and Mitchelstown,
- (b) The beef industry at the relevant date could only be described as being, as its peak, if this relates solely to the available supply of cattle on the market. However, the situation is much more constrained and much less affluent when one considers the overall picture. In the January edition of the "Beef Industry News", the authors paint quite a different picture, pointing out the ongoing

difficulties with BSE, with the significant fall off in exports and with a declining return for farmers,

- (c) There is no doubt, whatsoever, in our minds but that in the Dawn Foods case a central issue arose viz. a vis the relative merits of Naas as against Mitchelstown in terms of location and that Mr. Killen expressed a view, strongly, that the latter was a good deal better than the former. In particular, he emphasised the agricultural hinterland from which that company obtained its produce. In view of this evidence which we accept, we believe that whilst the subject premises is not in quite as good a location as Galtee Mitchelstown, nevertheless it is but 10 miles therefrom, it is certainly within an agricultural area, it is not overtly exposed to allegations of nuisance, whether by odour, noise, pollution or otherwise, and of course travelling in the Limerick direction it has an advantage over Mitchelstown. Accordingly, in our opinion its location is indeed well established,
- (d) In none of the three main comparisons above mentioned, namely, Naas, Newbridge or Galtee Mitchelstown, is there, to our knowledge, any reference to the Halal factory in Ballaghadereen. Certainly none by the agent appearing on behalf of the Ratepayers. The reason is fairly evident. It is that, by far the closest and best comparisons, could not in any objective sustainable way, be extended to include Ballaghadereen. It therefore is a matter of some surprise to us to find reference to the Halal factory in this case. Of much more surprise however, is the absence on the appellant's side of any mention of Naas or Newbridge. Given the evidence and findings in both of these cases it is quite clear that the best comparisons, outside and behind Mitchelstown, must be those other two properties just mentioned,
- (e) Mr. Dineen, on behalf of the Commissioner expressed the view to the effect, that in his opinion grave doubts existed as to whether or not, in principle, a Quantum Allowance should ever be made. This submission is one which we cannot agree with. In Leach, on Rating Valuation and Appeals, 3rd Edition, the author at p. 57 said "**Quantity Allowance.** *In very large hereditaments an allowance for bulk may be made on the assumption that a tenant taking a tenancy of a large area would not expect to pay a rent proportionate to that charged for much smaller premises. The landlord may also be prepared to accept a lower rate of rent since his management costs for, say, a large store, might be no higher than for a small shop, but the landlord's point of view is*

only relevant in rating so far as it affects what the tenant might reasonably be expected to offer".

In addition, from our experience of market conditions and from the experience gained in this Tribunal we are quite satisfied that such a concept exists in both valuation practice and law.

- (f) That is not to say however, that, in rating or valuation cases, an allowance will automatically be given or made, simply on account of size. It will all depend on the type of building involved, the proposed use which the business tenant has in mind, the optimum size of premises most suitable to such intended use, the availability or not, of economies of scale as the case may be, the efficiency of the process leading to the end product, the availability of other comparable premises etc. For example if a tenant requires 50,000 sq.ft. of space so that his business can perform to its maximum output, capacity and profitability, why should a quantum discount be allowed? If the available premises was smaller the profit earning capacity would be reduced whether pro rata or otherwise is not, in principle, of importance. So, in some circumstances it is difficult to see why automatically or at all an allowance should be given simply because of size,
- (g) In the subject property no question of quantum allowance arises and accordingly, in applying the Galtee comparisons we have taken the gross figures as determined by the Tribunal in that case and as set out heretofore in this judgement,
- (h) Certain difficulties have emerged when one analyses the figures given in the Newbridge case. It will be remembered that the total RV, as determined by the Tribunal, was in that case £1,056. Excluding the yard, plant and machinery, which had an agreed rateable valuation of £100, that leaves this figure of £956 RV as representing £191,200 NAV. For the agreed 78,178 sq.ft. involved that equates with a rate of £2.44 psf and not the £2.70 psf as otherwise appears. Whether or not the explanation for this is that as proffered by Mr. Dineen, we are of the view that strictly speaking a resolution of this apparent inconsistency is not necessary for the purposes of this case. Indeed, even if it were it may not be possible to so resolve. However, because of these difficulties, we have, in applying the Newbridge comparison, exercised a good deal of restraint and a good deal of caution.

17. The task to which this Tribunal must apply itself is to determine what the hypothetical tenant would pay as rent for this property, taking into account the other material factors as are set forth in *Section 11 of the Valuation (Ireland) Act 1852* as amended by *Section 5 of the Valuation Act 1986*. In so doing we have evaluated the evidence given before us, we have extracted from and applied, where relevant and appropriate, the comparisons above mentioned and we have of course also been mindful of the concluding submissions made. In adopting the breakdown of the subject property in the way as set forth in paragraph 9 above, we have applied a rate per square foot to the individual components of this premises, but we have also looked at the overall rateable valuation resulting from this approach. In our view, both the individual rates as applied by this Tribunal and the resulting composite RV are just, equitable and uniform and are within and responsive to the statutory provisions under which we act.
18. In conclusion, we hereunder set out in tabular form the appropriate rates as per square foot applied to the subject property and the resulting RV.

Description	Sq.Ft.	Rate PSF	£
Stores, Old 2 Storey House	1,601	£1.50 psf	£ 2,401.50
Workshop, Boiler, Water Softener	3,734	£1.50 psf	£ 5,601.00
Lairage & Office	12,265	£1.00 psf	£ 12,265.00
Factory Property Old	40,192	£2.10 psf	£ 84,403.20
Cold Stores & Blast Freezers	14,459	£2.50 psf	£ 36,147.50
Marshalling for Cold Stores	5,874	£2.25 psf	£ 13,216.50
Plant Rooms	2,324	£2.25 psf	£ 5,229.00
De-boning, Vac. Packing	41,105	£2.40 psf	£ 98,652.00
Pump House	247	£1.50 psf	£ 370.50
<u>First Floor</u>			
Office (2 Areas)	5,284	£2.50 psf	£ 13,210.00
Paper Store Over Dry Goods	6,724	£1.50 psf	£ 10,086.00
NAV Buildings			£281,582.20
RV @ 0.5% =		£1,407.90.	Say £1,408.
Miscellaneous Valuation (Agreed)		£117 +	£1,408
Total RV			£1,525

We therefore determine that the correct rateable valuation of this property is £1,525.