

Appeal No: VA17/5/250

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

MULLEADY'S LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2161865, Warehouse at Local No/Map Ref: 15C, Cloonagh, Breanrisk, Longford, County Longford.

B E F O R E

Dolores Power – MRICS, MSCSI

Deputy Chairperson

Liam G. Daly – MSCSI, MRICS

Member

Caroline Murphy - BL

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF JANUARY, 2019.**

1. THE APPEAL

1.1 By Notice of Appeal received on the 9th day of October, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €94,500.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

The appellant states that only the concrete yard is of any additional rental value. He also references the Hard-core area as being purely “earthen” with no additional commercial value in this location.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €76,100.

2. REVALUATION HISTORY

2.1 On the 12th day of January, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €102,100.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €94,500.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €94,500.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 11th day of October, 2018. At the hearing the Appellant was represented by Mr Eamonn Halpin, BSc (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr Seamus Costello, BSc, SCSi, RICS of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The subject property is located in the townland of Cloonagh in the County of Longford approximately 2 kilometres from the village of Drumlish. The subject property operates as a waste management facility.

4.4 It is understood the property is freehold.

4.5 The areas of the subject property are agreed.

5. ISSUES

5.1 The only issue is quantum.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

7.1 Mr. Halpin said the subject property is a recycling centre constructed in 2 phases between 1998 and 2001, and partially reconstructed after a fire in 2007. He said the subject property is of basic industrial construction with concrete to 2.5 metres, single skin side panels and a single skin roof, which is fitted with a mezzanine sorting area over part of it. He said this was typical of waste management facilities in that they primarily require a building to keep the weather off and comply with environmental guidelines, as the sorting of waste can no longer be carried out in the open. He said the subject property also comprised of a large ancillary yard, additional

earthen area and a number of small portacabin structures at the entrance to the site alongside a weighbridge.

7.2 Mr. Halpin said the subject property is very large within the local market with the ground floor accommodation standing at 3,691/m². He said combined with its extremely basic type, the property would command significantly less rent per /m² than typical purpose built modern structures such as the Appellants Comparison No.1. Mr. Halpin said the Appellants accept that a modern double skin warehouse of the size of Comparison No. 1 could have value of €17//m². He said the question to be addressed in this case is what the appropriate allowance is for quantum and basic construction. He said in his opinion to some extent this question is answered in the subject's sister property (PN1988734) which is currently the subject of an appeal to the Tribunal. He said the Respondent has valued the basic structures on this site €14/m² and it is the Appellants contention that they have a value of €10/m², due to their ancillary and basic nature. Mr. Halpin said as the subject property is basic, but not ancillary the Appellants believe that at level of €12/m² is appropriate. He said that this reflects a theoretical discount of 30% over Comparison 1, however, if Comparison No.1's yard is taken into account the discount is just 15%.

7.3 Mr. Halpin said the Tribunal have not to the Appellants knowledge, issued a judgment on a large basic industrial property in County Longford as part of Reval 2017, however the Tribunal has done so in County Westmeath in the decision of *Dunnes Joinery* (VA17/5/047). This property comprised a variety of basic workshops and was valued by the Tribunal at €10m/2.

7.4 Mr. Halpin said that the subject property's designated yard area is substantial, standing at 12,000/m². The Appellant agrees with the Respondent's methodology of valuing such a yard at 1/10th of the prevailing level of the buildings, albeit that Appellant's Comparison No.1 has a full concrete yard of ca. 4,000/m² with no addition whatsoever. He said the Appellant takes issue with the Respondents assessment of the undeveloped land (earthen) area. He said earthen areas are not normally of any value regardless of the size or location, but given the fact that the subject property already has substantial concrete yards the hypothetical tenant certainly would not add to his rental bid for this area. He said moreover the Appellant does not know of any comparison in which the Respondent has added value for an earthen area. Mr. Halpin gave evidence that the earthen area was just earth with no gravel and it was used for staff parking

and old buses and lorries were stored there and it should not be valued. He said the open land had no value and that the stand back and look approach was necessary adding that if the yard wasn't there he said the Appellant would survive.

7.5 The Appellant is contending for a valuation of €63,500 NAV in order to take account of the above. Mr. Halpin said the Appellants proposed valuation included the weighbridge valued at €1,900.

7.6 The Appellant relied on a local comparison (**Appendix 1**):

1. PN2191315

Protrans Ltd., Leitrim, Breanrisk, County Longford. €35,200 NAV

This comparison is located 2.5 kilometres from the subject property which fronts the R198. Mr Halpin said if this yard was to be added at 1/10th of the value of the buildings as the Respondent contends in the subject case, the effective level on the buildings would be €14.21/m² (+€1.42 m² on the yard).

7.7 The Appellant relied on Rental Comparisons (**Appendix 1**):

2. JD Lawnmowers, Connaught Road, Longford

4 year 9 month lease from 28th April 2017 at a rent of €825/month (€9,900 per annum).

The rent devalues as follows: Showroom/ Warehouse 752.90/m² @ €13m² = €9,788.

Mezzanine 93.32m² @ €2.60/m² = €243

Mr. Halpin said that this comparison is a retail type industrial building which has a superior location to that of the subject property, but its build would be inferior to a double skin modern industrial building. He said the NAV for this property was under appeal and awaiting a decision and contrasts sharply with the actual rent.

3. PN 5010176

Unit 1 (A+B) Westlink Business Park, Athlone Road, Longford.

Lease Detail: 3 Year lease at €20,000 per annum from 1st January 2017.

The Rent devalues as follows: Retail Warehouse 987.92 @ €20/m²

NAV €39,500

Mr. Halpin said this comparison was another retail type industrial building which was vastly superior to the subject and in a superior known retail industrial location. He said the NAV for this property was under appeal and contrasts sharply with the actual rent.

4. PN 2167630

Longford MegaBowl, Athlone Road, Longford.

Lease Detail: 4 year 9 month lease at €30,000 per annum inclusive of rates from 14th October 2014.

The rates when the occupiers took on the premises were €15,000 per annum. This left an FRI NER of €15,000 which devalues as follows:

Ground Floor 986.41m² @ €11.50/m²

1st floor 950.53m² @ €3.85/m²

FRI NER of €24,000 which devalues as follows:

Ground Floor 986.41 @ €18.50/m²

1st Floor 950.53m² @ €6.15/m²

NAV €53,900.

Mr. Halpin said this was a superior purpose built industrial unit in a superior location on the N63 Athlone Road. He said the rental value falls between €11.50/m² minimum and €18.50/m² maximum on the ground floor, with the 1st floor at 1/3rd of this level. He said the NAV for this property was under appeal and contrasts sharply with the actual rent.

5. Flynn Concrete Products, Belturbet, County Cavan.

Asking Rent: €55,000 (Mid-2013) -Jones Lang LaSalle

Devalues: Workshop 5,000m² @ €11/m² (inclusive of yards, Standing on 10 acres).

This comparison is located in the adjoining county and is significantly superior to the subject property and could not be let at €10/m² in 2013.

7.8 In cross examination Mr. Halpin accepted that the subject property was purpose built. When it was put to him that the single skin suits the purpose, he said it was a cost issue and the cheapest way to comply with the regulations. He said it was not suitable for high specification and it was built in the simplest fashion. Mr. Halpin was asked if the yard is in use and he said

that it had partial use but not additional value. He said cars, bin lorries and out of use vehicles parked there. Mr. Costello said on the day he visited, the yard was being used and that the trucks used in the business were parked in the yard which he said is important and an enhancement to the building. Mr. Costello said that the earthen area referred to in the Appellants Comparison No. 1 is more clay. Mr. Costello said he was impressed by the mezzanine on the day of his visit and that it was the heart of the business noting it accommodated 24-hour shifts and was a very important part of the business.

7.9 In conclusion Mr. Halpin said the subject property is of extremely basic construction with single skin (uninsulated) side panels and roof and also requires a quantum discount due to its size. He said that the earthen area does not add any value to the hypothetical tenant's bid as a tenant wouldn't pay more for the area when paying for the yard.

8. RESPONDENT'S CASE

8.1 Mr. Costello said that the subject property location was ideal for waste management and that the mezzanine deserves the premium as it is purpose built. He referred to the hard-core area described by Mr. Halpin as the earthen area as having value to the Appellants business. He said the management process includes the sorting of the waste into various grades for recycling, this is carried out in the main building with the use of conveyors and manual handling. He said the yard completely surrounds the building and is used for storage of baled waste and parking of vehicles. The yard is divided into an area which is concrete and an area of hard-core.

8.2 The Respondent relies on three Key Rental Transactions (**Appendix 2**):

1. PN2205768

Creevaghbeg Ind. Est. Ballymahon
Total Floor Area: 629.12 m²
Lease Commencement: 01/10/2014
Lease Term: 5 years
Rent per annum: €39,250
NER @ 30th October 2015: €39,250
€/m²: €61,000/m²
Valued at €/m²: €25.00/m²

2. PN2201103

Address: Edgeworthstown Ind. Est. Granard

Total Floor Area: 822.8/m²

Lease Commencement: 1/1/2013

Lease Term: 5 years

Rent annum: €27,560

NER @ 30th October 2015: €27,083

NER per sq.m: €33.00/m²

Valued at €/m²: €25.00/m²

3. PN5007793

Address: Johnston Business Park, Longford

Total Floor Area: 166.05/m²

Lease Commencement: 1/1/2016

Lease Term: 1 year

Rent per annum: €14,244.00

NER @ 30th October 2015: €11,866.68

NER per sq.m: €71.50/m²

Valued at €/m²: 30.00/m²

Mr. Costello said of the three key rental transactions none were subject to further consideration at Representations Stage and or an appeal to the Tribunal.

8.3 The Respondent relies on three comparisons in the List (**Appendix 2**):

1. PN1988856

Address: Aughedgnan, Longford

Total Floor Area: 2,770.08/m²

Lease Commencement: In Fee

Lease Term: N/A

Rent annum: N/A

NER @ 30th October 2015: €29,600

NER per sq.m: 25.00/m²

Yard (concrete): 1,800/m² @ €2.5/m²

2. PN1988793

Address: Kiltyreher

Total Floor Area: 15,436/m²

Lease Commencement: In Fee

Lease Term: N/A

Rent annum: N/A

NER @ 30th October 2015: €164,500

NER per sq.m: €17.00

Yard: 6,450/m² @ €1.70/m²

3. PN5007878

Address: Faghey, Caldragh, County Longford

Total Floor Area: 107.36/m²

Lease Commencement: In Fee

Lease Term: N/A

Rent annum: N/A

NER @ 30th October 2015: €12,450

NER per sq.m: €10.00

Yard (Rough Stone) 10906.11/m² @ €1.00/m²

Mr. Costello said the Respondents three NAV comparisons in the vicinity of the subject property are valued at €25.00 & €30.00/m². Mr. Costello said the three properties were not subject to further consideration at Representations Stage or an appeal to the Tribunal. Mr. Costello said the Respondents NAV Comparison No. 3 breaks cars and the yard comprising of rough stones has been valued at €1 which is twice as much as the subject property. He said from the map and photographs of the subject property you can see that the earthen area has a lot of parking and so it has value. The comparisons show yards adjoining buildings with value. He said allowances had been given to the yard in the subject property and that the value of the yards is better in the comparisons. He said the subject property is an inferior piecemeal building and is not comparable to the decision of *Dunnes Joinery* (VA17/5/047).

8.4 In cross examination Mr. Halpin said that the majority of the earthen section is staff parking with no tarmac or marked out spaces. Mr. Halpin put it to Mr. Costello that there is no additional value for the yard in Appellants Comparison No.1 and it is inequitable to add a

parking area to the subject property's valuation. Mr. Costello said that it was part of the operation of the subject property. Mr. Halpin said the Respondents Key Rental Transactions did not show a breakdown and cannot assist in relation to the mezzanine. Mr. Costello said the premium is based on the premium value of the mezzanine. Mr. Halpin asked the value of the yard in the subject property noting that the yard in the Respondents NAV Comparison No.3 is for breaking cars. Mr. Costello said the earthen area is important to the recycling and it added value to the business. Mr. Halpin said the subject property is a single skin structure and a discount should be allowed. Mr Costello said it was purpose-built and there is added value in that. Mr. Costello said the hypothetical tenant would be someone in waste management.

8.5 In conclusion Mr. Costello said the subject property is of good quality and height which was purpose built and that the mezzanine is a very important area. He said the hardcore area is an additional bonus to the business which includes overflow and parking cars. He said the valuation should be upheld as correct.

9. SUBMISSIONS

9.1 There are no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Longford County Council.

10.2 The Tribunal finds that the Appellants Comparison No.1 is located in close proximity to the subject property. The Tribunal finds that no addition has been given for the yard in this property but in evidence Mr. Costello confirmed this yard area was more clay. The Tribunal finds that the subject property's modern structures are comparable to this property's modern structures which are also valued at 17/m² noting that this property was purpose built and completed in or around 2006 and the subject property was also purpose built in 1998, 2001 and partially rebuilt in 2007.

10.3 The Tribunal notes that the Appellant relies on Comparisons No. 2, No. 3 and No. 4 as evidence of rental information and that all three properties are under appeal to the Tribunal.

The Appellant gave evidence of rental details outlined above but the source of same is unclear and was uncontested. The Tribunal finds that Comparisons No.3 and No.4 are more superior in construction type and all three are located in more superior locations than that of the subject property. The Tribunal discounted the Appellants Comparison No. 5 as it is located in County Cavan which has not yet been rated. The subject's sister property as termed by the Appellants is also under appeal to the Tribunal which comprises of structures of varying age. The Tribunal finds even though two of the properties may be more superior the subject property was built for purpose to comply with the necessary regulations to be in a position to operate a waste management facility which it does.

10.3 The Tribunal find that there is no analysis or breakdown of value in the Respondents Key Rental Transactions. The Tribunal find that the Respondents Key Rental Transaction No.1, No.2 and No.3 are not comparable to the subject property as they are located in Industrial Estates in Ballymahon and Granard and in a Business Park in Longford respectively. The Tribunal finds that the lease information relied upon in the Respondents Key Rental Transaction No.1 began one year prior to the Valuation Date and nearly two years prior to the Valuation date in respect of Key Rental Transaction No. 2 for lease terms of 5 years. In Key Rental Transaction No.3 this term is only for a period of one year beginning on 1st January 2016.

10.4 The Tribunal finds that the Respondents NAV Comparisons are helpful in coming to their decision in that the properties are located in similar locations to the subject property and include a valuation of yards. The Tribunal found the Respondents NAV Comparison No. 3 the most comparable to the subject property as the yard of this property is used to break cars and comprises of rough stones. This yard has been valued at €1 which is twice as much as the subject property. The yard in this comparison property is also the most comparable to the yard in the subject property due to its size at €106,000/m². The Tribunal find that the yard of the Respondents Comparison No. 3 is superior to the subject property. The Tribunal find that the Respondents NAV comparisons No.2 and No.3 are also located in the vicinity and comprising of smaller yards being valued at 1/10th of the buildings which are also comparable to the subject property. The Tribunal find on the evidence that the hard-core earthen area is capable of use, in particular of carrying trucks, parking bin lorries, vehicles and storage of plant and is valued at 70.50% less than the concrete portion at €0.50. The Tribunal find that the hardcore/earthen land has use and therefore value to the subject property and the operation of waste management

and it should be valued thereon. The Tribunal upholds the Respondents valuation in respect of the yard and of the hard-core/earthen area.

10.4 The Tribunal finds that whilst the subject property is a basic single skin construction it was purpose built to operate as a waste management facility which it does. The Tribunal finds that the mezzanine area is an essential and integral part of the operation carried out at the subject property which is the position put forward by the Respondent. The Tribunal finds that the evidence submitted in relation to the subject property including the mezzanine does not support a reduction and therefore no reduction should be given for its basic structure.

10.5 The Tribunal addressed the Appellants assertion that a reduction for quantum should be applied due to the large size of the subject property and that it would be likely to achieve such a reduction if offered to let on the open market. The Tribunal is satisfied that no supporting evidence was adduced in this instance and consequently finds that it cannot accept the case for any reduction for quantum.

DETERMINATION:

The Tribunal disallows the appeal and confirms the decision of the Respondent.