

Appeal No: VA17/5/372

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

TP WATERS LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1738437, Retail (Warehouse) at Floors 0,1, 8B Monasterevan Road, Kildare, County Kildare.

B E F O R E

John Stewart - FSCSI, FRICS, MCI Arb

Deputy Chairperson

Orla Coyne - Solicitor

Member

Fergus Keogh - MSCSI, MRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF DECEMBER, 2019.

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 €157,800.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

1. *“The Valuation of the subject property is excessive and inequitable. The property’s value as applied by the Commissioner is not in line with its potential rental value.*

2. *The subject property is a motor showroom, 3 kilometres outside of Kildare town on the R445 Monasterevin Road. It is the only commercial property at its location being significantly removed from all other commercial activity.*
3. *The valuation of the subject's yard is particularly inequitable given its actual location. The Commissioner is contending that the ca. 1 acre of tarmac could be worth over €40,000 per annum (at €10/m²) which is not remotely in line with its actual value at this location. Given the extreme quantum, the subject's yard should be taken at 10% of the workshop level as opposed to the showroom level.*
4. *The subject property should be valued at the same level or less than applied to PN 5006460 & PN 5006461 – Chapman's Mitsubishi – on the opposite side of Kildare town.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €79,200.

2. REVALUATION HISTORY

2.1 On the 10th day of March, 2017 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 €185,100.

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 €157,800.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €157,800.

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 17th day of September, 2019. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real

Estate), Ba. (Mod) of Eamonn Halpin & Co. Ltd. and the Respondent was represented by Ms. Fidelma Malone B.Sc. (Hons), MSCSI, 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 their précis as their 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 Property is situated on the R445 approximately 2 to 3 km west of Kildare town centre, approx. 2.7km from Junction 13 on the M7 and 8 km east of Monasterevin on the northern side of the R445 (former N7) Kildare to Monasterevin road. This is a predominantly rural location with properties and land in the immediate vicinity generally in agricultural uses.

4.3 The Property comprises a modern purpose built motor car showroom and workshop with an extensive display forecourt and yard areas. The Appellant originally established the business in this location in c. 1971. The rear showroom and workshop areas date from c. 1978 with the more modern showroom element to the front having been developed in c. 2004 - 2005. The Property is primarily of steel frame construction with a Kingspan roof and a large glazed display frontage. In addition there is a small single storey workshop building to the rear. There is a suite of offices located at first floor level within the showroom area.

4.4 The Property has extensive frontage to the R445. The location was by-passed in c. 2003 by the construction of the M7 Motorway.

4.5 The individual areas of the Property are agreed between the parties as follows;

Use	Area Sq. M
Showroom	680.55

Workshop	690.03
Offices 1 st Floor	207.48
Stores	93.80
Yard	4,156.58 **

** Area is net of a 25% allowance for circulation purposes.

5. ISSUES

5.1 The issue that arises in this Appeal is the quantum of value.

5.2 The Parties have agreed the areas of the various elements of the accommodation within the Property. They have also agreed the value per square metre to be applied to the workshop and store areas at €35 per sq. m. They have also agreed the principal that the yard area is to be valued at the rate of 10% of the value applied to either the showroom rate or the workshop rate. The Appellant contends that the correct rate to be used is that as applied to the workshop area and the Respondent that the appropriate rate is that as applied to the showroom area. Neither the rate per square metre to be applied to the showroom or the first floor office area has been agreed.

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 Referencing his précis of evidence Mr. Halpin described the location, size, description and nature of the subject property and submitted general commentary in relation to the prevailing property market conditions in 2015 and the current trend for new car showrooms to be grouped in motor malls. Mr. Halpin also submitted details of national car registration numbers for both new and used imported cars for the years 2007 - 2018 and the market share for various marques for the year 2017 commenting on the current and previous marques sold from the subject property and the Appellant’s inability to sustain a top marque presence in the location of the subject Property.

7.2 Mr. Halpin advised of the history and background to the Appellant’s occupation of the Property which commenced in 1971 with early development having taken place in 1978 and the current showroom having been constructed in 2004 / 2005. Acknowledging that the Property was substantially redeveloped post of the construction and the opening of the Kildare By-Pass in 2003, Mr. Halpin advised that the Appellant opted to expand and to attempt to stave off the effects of the Property being by-passed and was initially successful in this action up to 2008 after which the Property has failed to re-cover from the then general economic downturn.

7.3 Mr. Halpin submitted that the Property is effectively a modern purpose built showroom in a rural location and that the levels of value that have been applied by the Respondent are the equivalent of those in the urban centres of Kildare and Newbridge.

7.4 Referencing the values applied to the various elements of the Property by the Respondent Mr. Halpin advised that the Appellant did not agree with the levels being applied to the showroom and yard / forecourt areas. Mr. Halpin advised that the Appellant agrees with the value being applied to the workshop element and contends that due to its rural location that the display yard / forecourt should be valued at the rate of 10% of that applied to the workshop rather than the industry norm of 10% of the value being applied to the showroom.

Mr. Halpin acknowledged that the agreed area of the yard included an allowance for circulation space and amended his submitted valuation accordingly to €79,200.

7.5 Mr. Halpin submitted fifteen comparisons which are summarised in the attached Appendix 1 which Mr. Halpin referred to as being four rental comparisons, seven tone of the list comparisons from Kildare County along with four National Rental comparisons.

7.6 Mr. Halpin emphasised, in his opinion, the importance and relevance of his tone of the list comparison number five, being in Kildare and near to the subject property.

7.7 Under cross examination by Ms. Malone, Mr. Halpin acknowledged that the subject property is a modern purpose build motor showroom with an ancillary workshop area and display yard and forecourt.

7.8 In relation to the various comparisons submitted and under cross examination by Ms. Malone, Mr. Halpin acknowledged that:

- (i) comparison number one was let on the basis of a rolling three month licence,
- (ii) comparison number two was let on a one year lease.
- (iii) comparison number three was made between related parties.
- (iv) comparison number four was an industrial building occupied by a builders' providers and
- (v) that the tone of the list comparisons were all of modern car showroom properties.

Mr. Halpin pointed out that his comparisons at (i), (ii), and (iii) above show how difficult it would be for the Appellant to rent to the hypothetical tenant as no long term leases have been entered into in these comparisons.

7.9 Mr. Halpin disputed Ms. Malone's assertion that his tone of the list comparison number five was not a modern purpose built motor showroom but rather a building that had been adapted for its current use over time.

8. RESPONDENT'S CASE

8.1 Referencing her précis of evidence Ms. Malone outlined the background and context of the

Appeal and how it has arisen as a result of the recent revaluation of the Kildare County Council rating authority area along with the valuation principles as contained in the Valuation Act 2001.

8.2 Ms. Malone described the location, size, layout and nature of the subject property

Supporting her comments with photographs of the various elements of the property. Ms. Malone advised of the appeal history of the property and the outcome and reduction in valuation that was applied at Representation stage when the valuation was reduced from €185,100 to €157,800.

8.3 Ms. Malone submitted seven comparisons which are summarised in the attached

Appendix 2 which Ms. Malone referred to as being three Key Rental Transactions comparisons (KRT's) and four Nett Annual Value Comparisons (NAV) of modern motor showrooms in Kildare County.

8.4 Under cross examination by Mr. Halpin, Ms. Malone acknowledged that the three KRT

Comparisons were not motor showrooms but each was a retail warehouse unit on a modern retail park with none having a dedicated forecourt area. Ms. Malone also acknowledged that none of the KRT's were used for motor sales or repairs and that a change of use under planning legislation would be required for a use similar to the subject of the Appeal.

8.5 In relation to the Nett Annual Value comparisons number one and two, Ms. Malone

acknowledged that properties are adjacent in a town centre location in Kildare town on a busy main road separated by a Lidl outlet and further acknowledged that comparison number 1 is smaller than the subject of this Appeal. When questioned on whether location dictates rental value for motor showrooms Ms. Malone commented that in her opinion location does not make a difference to rental value.

8.6 Ms. Malone acknowledged that comparison numbers three and four were not located in

Kildare town. The actual location of the display yard within comparison number four was queried by Mr. Halpin.

9. SUBMISSIONS

9.1 There were no legal submissions made by either of the Parties.

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 Kildare County Council..

10.2 The issue that arises in this Appeal is the Quantum of Value.

10.3 The Tribunal accepts that the Appellant's basic argument that the motor showroom market has seen significant changes over recent years and that there is now a preference for occupiers to co-locate in modern buildings and in modern motor malls. This fact reduces the attractiveness of one-off showrooms in less attractive and out of town locations. The Tribunal has noted the nature and location of the subject of the Appeal as being in an out of town semi-rural location. The Tribunal cannot accept the Respondents opinion that the location of a motor showroom does not affect its rental value.

10.4 The Tribunal has noted the wide variety of the evidence as submitted by the Appellant which on Mr. Halpin's analysis has given a spread of values between €121 per M² for showrooms in prime locations to €42 per m² in less attractive locations. However, having regard to rents reserved in properties that have been let under licences, on month to month leases, short leases and buildings that are not in motor trade use, The Tribunal considers that the quality and relevance of some of these comparisons as being limited and considers that little weight can be attached to them. The Tribunal also noted, which Mr. Halpin acknowledged, that the inclusion of four comparisons which were termed National Rental Comparisons of properties that are outside the rating area.

10.5 The Parties have adopted the principle that the yard / forecourt element of the subject property should be valued, in the Appellant's opinion at the rate of 10% of the rate applied to the workshop and in the Respondent's opinion at the rate of 10% of the rent applied to the showroom. Whilst there is evidence of industry acceptance of the Respondent's method the Appellant did not supply comparative evidence in support of its opinion.

10.6 The Tribunal considers that the three Key Rental Comparisons as submitted by the

Respondent as having no relevance in assisting in the determination of this Appeal as they refer to properties that not in the same use as the subject of the Appeal and a change of use would be required to utilise them as car showrooms. The Tribunal also notes that the four Nett Annual Value Comparisons as submitted by the Respondent are each in prime town or near town centre locations and that no out of town comparisons were submitted by the Respondent that may be considered comparable to the Subject.

10.7 The Appellant has placed considerable weight on its valuation analysis of comparison number 5 which Mr. Halpin has analysed at the rate of €42 per m² for the showroom accommodation of 271.05 sq. m. There was considerable discussion and debate as to whether it should be considered to be a modern purpose built showroom or whether it is a property that has been developed piecemeal over time. The Tribunal has noted and taken account of the nature, location and the areas of the various elements of this property.

10.8 The Tribunal considers that the Respondent's approach to valuing the Subject at the similar rate for showroom accommodation as it has applied to showrooms in town centre locations as inappropriate and considers that out of town locations merit a lesser rate and it finds accordingly.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to;

€118,870

(One Hundred and Eighteen Thousand Eight Hundred and Seventy Euro).

Use	Area	€ NAV / M ²	€NAV	Total
Showroom	680.55	70	47,638.50	
Offices 1 st Floor	207.48	70	14,523.60	
Workshop	690.03	35	24,151.05	
Store	93.80	35	3,283.00	
Yard	4,156	7	29,092.00	

Total				118,868.15 Say, €118,870
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And the Tribunal so determines.