

**Appeal No: VA17/5/451**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**FERRYBRIDGE HIRE LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2189566, Industrial Uses at Local No/Map Ref: Block B Unit 1-3 & 5  
Waterford Rd Bus Pk, Raheen, Rosbercon, Ida, County Kilkenny.

**B E F O R E**

**Dolores Power – MSCSI, MRICS**

**Deputy Chairperson**

**Michael Brennan – BL, MSCSI**

**Member**

**Patricia O'Connor - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 20<sup>TH</sup> DAY OF JANUARY, 2020.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 11<sup>th</sup> 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 €42,000.

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 : “ *As per submission made, the total NAV of €42,000 is in excess of rents being paid.*”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €17,400.

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> day of May, 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 €42,000.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €42,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> 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 21<sup>st</sup> day of November, 2019. At the hearing the Appellant was represented by its Managing Director John Coyne and the Respondent was represented by Mr. Terry Devlin B.Sc., MSCSI, MRICS 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 property comprises an industrial unit and is situated in Waterford Road Business Park, New Ross, Co. Kilkenny

4.3 The property is occupied subject to informal lease terms at a monthly rent of €1,450 exclusive of Vat and is occupied in its entirety by the Appellant.

4.4 The floor areas have been agreed by the parties as follows:

<b>Floor Area</b>	<b>Size (Sq M)</b>
Ground Floor	1,890.80
First Floor	133.35

## **5. ISSUES**

5.1 The main issue between the parties is the assessment of 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 Coyne, for the Appellant, adopted his precis of evidence and contended for a valuation of €17,400 which he stated was based on the current passing monthly rent.

7.2 Mr Coyne stated that the recession severely impacted values and that the NAV of €42,000 proposed by the Respondent would not be affordable to the Appellant’s business if it was the annual rent.

7.3 Mr Coyne confirmed that the Appellant sold the property to the current owner and has been renting the property for approximately five years. After some hesitation, he also confirmed that in addition to renting the property, the Appellant has a business relationship with the landlord but was of the view that the rent was not set below market levels.

7.4 Mr Coyne submitted evidence of three properties currently on the market in the area. This evidence comprised of one rental property available to let and properties that are for sale which are summarised in Appendix 1 hereto. According to Mr Coyne, the property available to lease for €750 per month remains vacant. He was also of the view that given quoting rents are always advertised higher than the rent that is ultimately achieved that this is supportive of his valuation.

7.5 Under cross-examination Mr Coyne agreed that quoting rents are not evidence of market rent and accepted values on the valuation list.

## **8. RESPONDENT’S CASE**

8.1 Mr Devlin for the Respondent, adopted his precis of evidence and contended for a valuation of €42,000, calculated as follows:

Level	Use	Area	NAV per Sq M	NAV
Ground	Warehouse	1,890.80	€20	€37,816
First	Offices	133.35	€20	€2,667.00
Ground	Yard	792.00	€2	€1,584.00
				€42,067.00
				<b>€42,000</b>

8.2 Mr Devlin submitted four key rental transactions (“KRT”) in support of his valuation which are detailed in Appendix 2 hereto. He also submitted 23 NAV comparisons in support of his valuation.

8.3 In relation to KRT 1, Mr Devlin stated that this was located in the same development as the subject property and net effective rent that was confirmed by the occupier devalues to €38.90 per sq m for a 3 year lease from February 2016. KRT 2 is also located within the same business park and devalues to €30.47 per sq m for a one year lease from September 2015. It was noted that both KRT 1 and KRT 2 related to properties that are smaller than the subject property.

8.4 KRT 3 related to a much larger unit than the subject property and is located in Slieverue, Co. Kilkenny. It was Mr Devlin’s evidence that the net effective rent equated to €25.28 per sq m for a 10 year lease from March 2014. He also stated that KRT 3 is located closer to Waterford Port than the subject property. KRT 4 related to a letting in Callan, Co. Kilkenny and Mr Devlin stated that the net effective rent devalues to €24.41 per sq m for a 12 year letting from January 2014. According to Mr Devlin KRT 4 is indicative of rental values in less accessible parts of Co. Kilkenny.

8.5 In summary, Mr Devlin stated that the subject property was a good quality property in a good location with a large number of occupiers and requested the NAV of €42,000 be applied. He was of the view that the valuation proposed by the Appellant cannot be substantiated having regard to rental evidence across the whole of Co Kilkenny. He also stated that the subject property is the only property under appeal from a list of 24 properties in the immediate area.

## **9. SUBMISSIONS**

9.1 No legal submissions were put forward.

## **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 Kilkenny County Council.

10.2 The Tribunal has assessed the comparable evidence submitted by the Appellant as set out in Appendix 1 and finds that they are of limited value in ascertaining the NAV. This is due to the fact they relate to a letting that has not transacted and to two properties that are for sale.

10.3 The Tribunal has assessed all of the KRTs put forward by the Respondent which range from €22 - €27 per sq m as detailed in Appendix 2 hereto. It notes that a discount has been applied to the NAV rate associated with smaller units in the subject business park to make allowance for the size of subject property. The Tribunal also considers KRT 3 to be very relevant as it is demonstrative of market rental evidence for larger units such as the subject property. It also accepts the relevance of KRT 4 as evidence of rents in less accessible areas to the subject property.

10.4 The Tribunal finds that the KRTs submitted by the Respondent are highly significant in terms of their location and proximity. It also finds that the KRTs are further supported by the NAV comparisons put forward by the Respondent and notes the acceptable discount to the NAV rate that has been applied for the size of the subject property.

## **DETERMINATION:**

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

And the Tribunal so determines.