

Appeal No: VA17/5/1117

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

CARLOW WAREHOUSING

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2178918, Industrial Uses at Local No/Map Ref: 15A/ Unit 1 Lough Felim Business Park, Tullowbeg, Tullow, Carlow, County Carlow.

B E F O R E

Carol O'Farrell - BL

Chairperson

Donal Madigan – MRICS, MSCSI

Member

Annamaria Gallivan – MRICS, MSCSI, B.Sc. Hons, TRC

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 24th DAY OF MARCH, 2020.

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 12th 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 €195,300.
- 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 : “.....*the valuation as set on the Final Valuation Certificate in relation to the subject property is excessive and not in accordance with the definition of Net Annual Value as per section 48 of the Valuation Act, 2001 as amended by the Valuation (Amendment) Act, and by reference to the values*

of comparable properties published on the Valuation list in accordance with Section 19(5) of same Acts and by reference to the actual passing rent of the subject property and other market evidence.”

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €90,000.

2. REVALUATION HISTORY

- 2.1 On the 11th 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 respect of the Property was sent to the Appellant indicating a valuation of €199,400.
- 2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager. Following consideration of those representations, the valuation of the Property was reduced to €195,300. A Final Valuation Certificate issued on the 7th day of September 2017 stating a valuation of €195,300.
- 2.3 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 25th day of November 2019. At the hearing the Appellant was represented by Mr. John Algar B.Sc. (Surv), MRICS, MSCSI of GVA Donal O Buachalla and the Respondent was represented by Mr. Terry Devlin B.Sc., MSCSI, MRICS.
- 3.2 In accordance with the Rules of the Tribunal, the parties 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 On the basis of the evidence heard and the Précis adopted under oath, the Tribunal finds the following relevant facts admitted or proved.
- 4.2 The Property is located in Lough Feilim Industrial Estate, Carlow Road, Tullowbeg, County Carlow, approximately 1 km west of Tullow village and 10km east of M9 Junction 5.
- 4.3 The Appellant occupies the Property under a licence agreement dated the 8th August 2013 made between G. P. Investments Limited and Carlow Warehousing Limited which is terminable on 1 months' notice to the licensee. The licence fee is inclusive of commercial rates.
- 4.4 The Property is a large manufacturing facility constructed in 2001 with concrete floors, double skin insulated cladded walls and a roof supported on a steel frame. The Property is currently in use as a warehouse and has two main halls, the larger hall having an eaves height of 10.1 metres, the small hall an eaves height of 7.1 metres. There are offices over two levels and the Property has the benefit of 8 loading areas and a large yard which is located to the front of the Property.
- 4.5 There are no fixed heating facilities in the hall areas. Half of the office accommodation is unfinished with no lighting or heating. The yard of the Property has a hardcore surface.
- 4.6 The measurement of the various areas of the Property are agreed as follows:

Level	Use	Area M ²
	Warehouse	7,440.90
0	Offices	432.00
	Store	486.00

	Portacabin	53.00
1	Offices	432.00
	Yard	4,200.00

5. ISSUE

- 5.1 The dispute is one of valuation only. The Appellant claims that the valuation of the Property is excessive and inequitable and ought to have been valued at €90,000. The Respondent contended for a reduced valuation of €180,400.

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 considered 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 expected to let from year to year, on the assumption that the probable average 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. Algar explained that the Property was originally occupied by Milltown Engineering Limited until circa. 2008 and thereafter, the Property laid vacant for about 5 years prior to being purchased in June 2013 by G.P. Investments Limited for €605,000. The

purchase price devalued at €72.89/m² excluding the yard space. It was his understanding that the licence fee payable by the Appellant is inclusive of commercial rates currently levied in the sum of €50,211.63. He stated that the only work carried out to the Property since its purchase in 2013 was the installation of the racking in the main hall. Mr. Algar contended that the purchase price provided a clear picture of the market for a building of this type and size in 2013, two years prior to the valuation date of 30th October 2015.

7.2 Mr. Algar was unable to identify any true comparables due to the Property's inferior location as it is accessed via secondary road off the R725 at the rear of a residential estate and the fact that it is not purpose built for use as a logistics warehouse. He explained that half of the office space is in shell condition and unused. He considered there to be simply too much office space and that the negative aspect of the Property for the hypothetical tenant is the lack of dock levelers rendering the logistics of loading slower and more cumbersome. As to the yard space, Mr. Algar clarified that it has a hardcore surface which 'tears up' when driven over by heavy vehicles.

7.3 Mr. Algar supported his valuation evidence by reference to two market transactions. The first was the purchase of the appeal Property in June 2013 which as previously mentioned devalues at €72.89/m² (building only). The second concerned the former Braun factory on O'Brien Road in Carlow town which comprises a large manufacturing hall, high bay warehouse, 6 dock levellers at the loading bay, two storey offices, canteen and large carpark. This property was purchased 4 months prior to the valuation date in June 2015 for €1,300,000. The property is vacant and is on the market to let. The purchase price devalues at €61.55/m².

7.4 Mr. Algar put forward the following three NAV comparisons:

Comparison 1: Property No: 1139247

Address: Industrial Premises, O'Brien Road, Carlow
Valuation: €177,200

This property as being of similar size and use but older than the appeal Property and with a lower eaves height. It is in a superior location and has a better profile. The warehouse measuring 1100 m² and offices measuring 1002 m² are valued at €14/m².

Comparison 2: Property No.: 1555141

Address: Tullow Industrial Estate, Tullow

Valuation: €182,600

This property is of similar size and use and has a similar location and profile as the appeal Property but is served by a superior road network. The eaves height ranges between 6 and 9 metres. The warehouse measuring 9682.14m² and offices measuring 488.70 m² are valued at €17/m².

Comparison 3: Property No.: 2178919

Address: Lough Feilim Industrial Estate, Tullow

Valuation: €69,500

This property is smaller in size and has three dock levellers. Otherwise, it is in a same location and has similar eaves height and profile as the appeal Property. The warehouse measuring 2360.75m² and offices measuring 487.08m² are valued at €20/m².

7.5 The following features were identified by Mr. Algar as affecting the value of the Property:

- yard of inferior quality.
- Lack of heating.
- low eaves height in smaller hall.
- not purpose built for its present use.
- Excess office space
- no dock levelers.

In his opinion these negative features impact upon the hypothetical tenant's rental bid. He considered that there was no rental evidence to support the Respondent's valuation.

7.6 Mr. Algar's valuation of €124,000 devalues as follows:

Use	Floor	Area SQM	€ SQM	NAV €
Offices	0	216.00	€ 14.00	€3,024.00
Offices Unfinished	0	216.00	€ 10.00	€2,160.00
Warehouse 10.1 m Eaves	0	7440.90	€ 14.00	€104, 172.60
Warehouse 7.1 m Eaves	0	486.00	€ 12.00	€5,832.00
Offices	1	216.00	€ 14.00	€3,024.00
Offices Unfinished	1	216.00	€ 10.00	€2,160.00
Yard Hardcore Surface	0	4200.00	€ 0.80	€3,360.00
Portacabin	0	53.00	€ 5.60	€296.80
Total				€124,029.40
Rounded to				€124,000

7.7 In cross examination, Mr. Algar accepted that the Property is a large modern building on its own site with a large yard and that the eaves are a good height for storage facilities, although he did point out that a modern logistics warehouse height of 16 metres would be preferable. He confirmed that the Licence Agreement is made between connected parties, through common directorship between the Appellant and GP Investments Ltd. He agreed that the Comparison 1 (the industrial Premises on O'Brien Road in Carlow) was built in the 1970's and had a lower eaves height.; that Comparison 2 is a mix of old and more modern units and that Comparison 3 is a modern unit. He stated that he considered Comparison 1 to be the most relevant of his comparable properties given its similar size, even though of older construction.

8. RESPONDENT'S CASE

- 8.1 Mr. Devlin opened his evidence by describing the location and layout of the Property by reference to the photographs and maps in his Précis. He agreed that the yard surface is not tarmacadam but hardcore and he considered that the yard should be valued at €1.00/m².
- 8.2 He had understood the Property to be held under a lease but did not have a copy of it or any further details other than that the rent is inclusive of rates and insurance.
- 8.3 Mr. Devlin confirmed the shortage of rental evidence. He put forward four key rental transactions to support his evidence and confirmed that they had not been appealed. (see Appendix for further details)

KRT1 A concrete and steel frame building in Tullow measuring 333.06m² and having an eaves height of 6 metres. It was leased for two years on the 1st June 2016.

Net

effective rent at valuation date €6,625.10, which devalues at €19.89/m²

KRT2 A building of steel frame construction with concrete blocks to 3 metres in Tullow

measuring 757.02m² and having an eaves height of 6 metres. It was leased for four year and 9 months on the 1st February 2016 and is in use as furniture store.

Net effective rent at valuation date €25,000, which devalues at €33.03/m².

KRT3 Buildings of mixed concrete/steel construction with single skin corrugated roof in Bagenalstown measuring 269.53m² leased for four year and 9 months on the 1st August 2016 and in use as furniture store. Net effective rent at valuation date €6,571.39, which devalues at €24.38/m².

KRT4 A block wall construction building in Bagenalstown measuring 285.48m² with single skin roof and having an eaves height of approximately 3-4 metres. It was leased for one year on the 1st July 2015 and is in use as a carpet store. Net effective rent at valuation date €6,462.61, which devalues at €22.64/m².

- 8.4 Mr. Devlin advised that the rental evidence collated by the Respondent indicated values of between €19 and €33/m². Mr. Devlin stated there were 38 similar type properties valued at the level of €20/m² in Carlow, outside the urban areas. At least 9 of these properties are located in the vicinity of the appeal Property. Representations were made in respect of 11 of the 38 properties following the issue of the proposed valuation certificates and the subject Property is one of 6 that were appealed to the Valuation Tribunal. He pointed out that 4 of the appeals have been determined and the level of €20/m² upheld.
- 8.5 In addition Mr. Devlin submitted the following eight NAV comparisons to support his argument:

1. PN-1207987, Muinebeag, Co Carlow

Use	Area sqm	€/m ²	NAV
Canopy	65.00	3.00	€195.00
Offices	169.00	20.00	€3,380.00
Store	514.00	20.00	€10,280.00
Warehouse	5,977.00	20.00	€119,540.00
		Total	€133,395.00 NAV €133,300.00

2. PN-2178919, Lough Felim Business Park, Tullow, Co Carlow

Level	Use	Area sqm	€/ m ²	NAV
0	Offices	243.54	20.00	€ 4,870.00
0	Warehouse	2,360.75	20.00	€ 47,215.00
1	Offices	243.54	20.00	€4,870.80
MEZZ	Store	633.60	4.00	€2,534.40
0	Yard (Tarmac)	5,040.00	2.00	€10,080.00
		Total	€69,571.00	NAV €69,500

3. **PN-2211276, Loughmartin, Industrial Estate, Tullow, Co Carlow**

Level	Use	Area sqm	€/m ²	NAV	
0	Warehouse	2,317.50	20.00	€46,350.00	NAV €46,300

4. **PN-1207651, Muinebeag, Co Carlow**

Level	Use	Area sqm	€/m ²	NAV	
0	Warehouse	3,774.03	20.00	€75,480.60	
0	Workshop	1,938.85	20.00	€38,777.00	
0	Workshop	27.92	20.00	€558.40	
	Total			€114,816	NAV €114,800

5. **PN-2173185, Newacre, Co Carlow**

Level	Use	Area sqm	€/m ²	NAV	
0	Offices	566.27	20.00	€11,325.40	
0	Store	8.70	20.00	€174.00	
0	Warehouse	4,868.97	20.00	€97,379.40	
0	Offices	373.55	20.00	€7,471.00	
	Total			€116,349.80	NAV €116,300

6. **PN-2163813, Tullow Industrial Estate, Tullow, Co Carlow**

Level	Use	Area sqm)	€/m ²	NAV	
0	Warehouse	3,263.00	20.00	65,260.00	
0	Horsepower	100.00	2.96	€296.00	
	Total			€65,556.00	NAV €65,500

7. **PN- 2175631, Bagenalstown, Co Carlow**

Level	Use	Area sqm	€/m ²	NAV	
0	Showroom	3,486.76	24.00	€83,682.24	
0	Offices	207.13	20.00	€4,142.60	

0	Store	360.00	20.00	€7,200.00
				Total €95,024.84 NAV €95,000

8. **PN - 1207800, Tullow, Co Carlow**

Level	Use	Area sqm	€/m ²	NAV
0	Showroom	1,269.91	24.00	€32,877.84
0	Offices	80.34	20.00	€1,606.80
				Total €34,484.64 NAV €34,400

8.6 Mr. Devlin stated that the transaction prices paid on purchases was not something that he had considered as evidence as the hypothetical rent was more relevant. There were many receivership sales and such transactions could not constitute evidence of market rental value. The Respondent had reconsidered the Property's valuation and believed €180,400 represented a fair value and reflected the condition and location of the Property.

8.7 Mr. Devlin did not consider it appropriate to compare the Property to the Appellant's Comparison 1 because it is an older 1970's building with a lower eaves height and pillars that are difficult to manoeuvre around. It comprises 4 or 5 units and does not lend itself to modern use.

8.8 In conclusion, Mr. Devlin requested that a valuation of €180,400 be entered on the list in accordance with Section 48 of the Valuation Act 2001 and the requirements of section 19(5). His valuation devalues as follows:

Level	Use	Area m ²	NAV €/m ²	NAV
0	WAREHOUSE	7,440.90	20.00	148,818.00
0	OFFICES	432.00	20.00	8,640.00
0	STORE	486.00	20.00	9,720.00
1	OFFICES	432.00	20.00	8,640.00
0	YARD (hardcore)	4,200.00	1.00	4,200.00
0	Portacabin	53.00	8.00	424
				180,442.00

SAY €180,400.00

9. FINDINGS AND CONCLUSIONS

- 9.1 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 is relative to the value of other comparable properties on the valuation list in the rating authority area of Carlow County Council.
- 9.2 The Tribunal has examined the particulars of the Property and considered the written and oral evidence adduced by Mr. Algar who contended for a revised valuation of €90,000 as well as that adduced by Mr. Devlin who sought confirmation of the Respondent's revised valuation of €180,400 (to reflection that the surface of the yard is in fact hardcore and not tarmacadam) as being fair and equitable.
- 9.3 There is no rental evidence for the appeal Property. It is occupied pursuant to a Licence Agreement made between related parties. The licence fee payable is not a market rent which accords with the rating hypothesis and so no weight can be placed on it in assessing the NAV. Accordingly, the Tribunal has to consider the rents and valuations of comparable properties.
- 9.4 No rental evidence was submitted by Mr. Algar as he was unable to source any for a property of similar age, size, construction and location. In the absence of rental evidence, he considered that the purchase prices of the Property and of the former Braun facility to be good indicators of rental value. Sales transactions cannot be given any weight as no background evidence was given in respect of the sales transactions and in any event sale prices are not the best benchmark for estimating the rental value of a property. The starting point for estimating NAV is always the rent at which the property is let adjusted to the valuation date and, if it is not let or the rent does not accord with section 48 of the Cat , the rents of properties similar and comparable in all material respects to the property being valued adjusted to the valuation date or adjusted to take account of any disabilities.
- 9.5 Mr. Devlin's rental evidence is of little assistance. The appeal Property is twenty-six times the size of the KRT1, eleven times the size of KRT 2, more than 32 times the size

of KRT3 and 30 times the size of KRT4. Moreover, the appeal Property is different in many respects from the KRT properties. It is a basis principle of valuation that when relying upon indirect rental evidence (i.e. rent paid on similar and comparable properties), a valuer must compare like with like. KRT2 is in close proximity to the appeal and the Tribunal notes that the NAV/m² for this Property is €22. In the absence of useful rental evidence, it is necessary to consider the value of comparable properties on the valuation list.

- 9.6 The main factors affecting the value of warehouses include accessibility and proximity to a good road network and building and yard layout to optimise loading. Optimum eaves height, level floors, the absence of pillars or columns for storage and the use of forklift trucks and the availability of dock levellers to compensate for the difference in height between various vehicle floors and ramps to optimise loading and ensure the safe and secure movement of loads in or out of vehicles in a single horizontal movement are other key factors. A warehouse that does not have these specifications will have less value.
- 9.7 The Tribunal does not find Mr. Algar's Comparable 1 to be of any assistance. It is an older and larger building with an area of 12,592m² located approximately 15 kilometres from the appeal Property. Furthermore, it is situated in close proximity to a roundabout giving immediate access onto the M9. While Comparison 2 is only 2 kilometres from the appeal Property, it comprises a mix of old and more modern units and occupies a superior position in terms of its proximity to the N81. Comparison 3 is in close proximity to the appeal Property but there are two key differences between it and the appeal Property. It is much smaller in size and has 3 dock levellers.
- 9.8 Mr. Devlin's comparable properties 2, 3, 6 and 7, though smaller, are situated close to the appeal Property and the warehouse and offices areas are valued at the €20/m². His comparable properties 1, 4, and 7 are not helpful as they are approximately 21 kilometres from the appeal Property while comparable 5 is some 26 kilometres away. Mr. Devlin uncontested evidence was that 38 similar type properties were valued at the level of €20/ m². Only six of those properties were appealed. Four appeals have determined and the level of €20/m² has remained unchanged. The Comparables relied upon by the Respondent ranged in size from 2,317.50 m² to 6,725m². Clearly the tone

of the list has been established for similar type properties which are at least half of the size of the appeal Property.

- 9.9 The point was made that a large portion of office space is undeveloped (shell and core) and not in use to seek a lower rate of €14.00/m². It must be assumed that the Property is vacant and to let. The unused office space could be used as office space by the hypothetical tenant. It was noted that the unit lacked dock levellers, but Mr. Devlin gave evidence that this had been taken into consideration.

10. DETERMINATION:

In valuation appeals, the onus is on the Appellant to prove that the determination of the Respondent is incorrect. That onus has not been discharged and accordingly, the Tribunal disallows the appeal and confirms the revised valuation of the Respondent.

And the Tribunal so determines.