

**Appeal No: VA17/5/1199**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**HIGHWAY SAFETY DEVELOPMENT**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 219067, Industrial Uses at Local No/Map Ref: 15H Knocktopher Manor,  
Knocktopher, Thomastown, County Kilkenny

**BEFORE**

Eoin McDermott – FSCSI, FRICS, ACI Arb

**Deputy Chairperson**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 13<sup>TH</sup> DAY OF JANUARY, 2021.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on 12<sup>th</sup> 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 €18,170.

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 Weighbridge has been de-commissioned.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,568.

## **2. REVALUATION HISTORY**

2.1 On 11<sup>th</sup> 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 €18,170.

2.2 A Final Valuation Certificate issued on 7<sup>th</sup> September 2017 stating a valuation €18,170.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30<sup>th</sup> October 2015.

## **3. DOCUMENT BASED APPEAL**

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal. The Appellants summary was prepared by Mr. David Fitzgerald BSc (Surv.) MSCSI of Fitzgerald Auctioneers (Kilkenny) Ltd. and the Respondents summary was prepared by Mr. Terry Devlin BSc. MSCSI, MRICS.

## **4. FACTS**

4.1 The parties are agreed as to the following facts.

4.2 The property is located on the Knocktopher to Ballyhale Road in Kilkenny, approximately 3km from Junction 10 of the M9 motorway. The surrounding area is predominantly rural.

4.3 The subject property comprises of five warehouses/stores buildings together with an office building, weighbridge and large concrete yard with good access. The buildings are old with a mix of concrete and galvanised construction and eaves heights from 3.5m to 6m.

4.4 The floor areas of the subject property are agreed as follows: -

Use	Area (M2)
Office	74
Warehouse	931
Yard (Hardcore)	2,300

There is also a weighbridge on site, although the parties disagree on whether it is capable of beneficial use.

4,5 It should be noted that Mr. Fitzgerald gave a detailed breakdown of building areas in his summary, but there were minor differentials from the figures shown above. Both parties valued the property using the figures as shown above and the Tribunal has adopted the figures as shown in its determination.

## **5. ISSUES**

The principal issue is one 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. Fitzgerald, on behalf of the Appellant, described the property and its location using photographs contained in his submission.

7.2 Mr. Fitzgerald developed his argument, noting that the warehouse buildings dated from the 1970s and provided low quality storage space only. He described the office as a dilapidated bungalow of poor quality, with a poor BER rating. He further noted that only 60% of the total site had a hardcore or concrete surface, and that a significant part of the site area was covered with vegetation and trees.

7.3 Mr. Fitzgerald also pointed out that the weighbridge on site had been decommissioned and could not be used. Although not contained in Mr. Fitzgerald’s summary, this point was raised in the original appeal and a report from Mobile Crane Services dated 2<sup>nd</sup> October 2017, confirming that the weighbridge was not in working order and that “all electrical controls and wiring have been decommissioned”, was contained in the Respondents precis and was subsequently forwarded by the Appellant.

7.4 Mr. Fitzgerald put forward three NAV comparisons as follows: -

Property No.	Appellants agents comment
218986	Warehousing of higher quality is valued at €10.00/M2
194412	Property in better condition and better locations are valued at only similar NAVs
194420	Property in better condition and better locations are valued at only similar NAVs

7.5 Mr. Fitzgerald sought a NAV of €9,568, made up as follows: -

Use	Area (M2)	NAV/M2	NAV
Office	74	€10.00	€740.00
Warehouse	931	€8.00	€7,448.00
60% of Yard (Hardcore)	1,380	€1.00	€1,380.00
<b>Total NAV</b>			<b>€9,568.00</b>

7.6 In response to a query from the Tribunal, the Appellant was unable to provide a cost for re-commissioning the weighbridge.

## 8. RESPONDENT'S CASE

8.1 Mr. Devlin, on behalf of the Respondent, described the property and its location using photographs contained in his submission.

8.2 Mr. Devlin noted that, inter alia, the age and condition of all the buildings on the site had been reflected in the valuation, that the office building was in good condition and fit for use and that the yard was capable of use and its condition had been reflected in its valuation. He also stated that, although the weighbridge remained in situ, its connections had been removed. He was of the opinion that a hypothetical tenant could, if they so chose, re-connect the weighbridge.

8.3 In relation to the comparisons put forward by the Appellant, Mr Devlin noted that Comparison 1 comprised a warehouse building valued at €20/M2 and that the area valued at €10/M2 consisted of a small lean-to open sided building of 15 M2. Comparison 2 comprised old warehouse/stores of 651.82 M2 valued at €15/M2, in a similar type location to the subject but approximately 7km from the M9. Comparison 3 comprised old warehouse/stores of 1,055.68 M2 valued at €14/M2, in a more rural location than the subject.

8.4 Mr. Devlin put forward four rental transactions as comparisons, although all four appeared to be significantly more modern than the subject. Three were valued at €22/M2 and one at €25/M2. He also put forward six NAV comparisons as follows: -

No.	Property No.	Use	Area M2	NAV/M2	Comments
1	194420	Warehouse,	996.13	€14.00	Same property as Appellants comparison 3.
		Store	59.55	€14.00	
		Portacabin	72.62	€5.50	
2	194113	Warehouse Weighbridge	2,658.72 1	€14.00 €1,800.00	Similar building type as subject.
3	218986	Warehouse	1,365.64	€20.00	Same property as Appellants comparison 1. Appellant is occupier.
		Warehouse (Mezz)	29.00	€4.00	
		Warehouse	15.00	€10.00	
		Yard	4,600.00	€1.00	
4	204982	Warehouse	2,529.07	€14.00	Old buildings in rural setting.
		Offices	52.11	€14.00	
5	2165514	Office	147.70	€14.00	Old buildings in rural setting.
		Warehouse	1,194.10	€14.00	
		Yard (Hardcore)	4,250.00	€1.00	
6	201006	Workshop	1,519.51	€14.00	Old buildings in rural setting.

8.5 Mr. Devlin sought a NAV of €18,170, made up as follows: -

Use	Area (M2)	NAV/M2	NAV
Office	74	€14.00	€1,036.00
Warehouse	931	€14.00	€13,034.00
Yard (Hardcore)	2,300	€1.00	€2,300.00
Weighbridge	1	€1,800.00	€1,800.00
<b>Total NAV</b>			<b>€18,170.00</b>

8.6 In response to a query from the Tribunal, Mr. Devlin confirmed that Respondents comparison 1 (Appellants comparison 3) comprised a modern industrial property together with an older industrial property in the area given of 996.13M2. No breakdown of the respective areas was provided. Mr. Devlin also confirmed that the yard in this comparison had not been valued. He also advised that he understood that the cost of reconnecting the cabling to the weighbridge was in the region of €1,500 to €2,000 and gave his opinion that this cost was not un-economic.

## **9. SUBMISSIONS**

9.1 There were 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 Kilkenny County Council

10.2 The Tribunal finds that in this appeal, and in all appeals before the Tribunal, the onus of proof rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination. In the present appeal the Appellant has put forward three comparisons. Comparison 1 is an open sided building of 15 Sq. M. forming part of a larger warehouse premises. The open sided building is valued at €10/M2 while the larger warehouse premises is valued at €20/M2. The Tribunal finds that little weight can be attached to Comparison 1. Comparison 2 comprised old warehouse/stores of 651.82 M2 valued at €15/M2, in a similar type location to the subject but approximately 7km from the M9. The properties appear to be of a similar standard to the subject and the Tribunal attaches weight to this comparison.

10.3 Appellants Comparison 3, located across the road from Appellants Comparison 2, was common to both submissions. The Appellant simply stated that this property was in better condition and in a better location than the subject. The Respondent stated that the property comprised old warehouse/stores of 1,055.68 M2 valued at €14/M2, in a more rural location than the subject. The Respondent also included a photograph showing an old industrial building. The Tribunal viewed the property on Google Earth and noted that it appeared to

comprise an old warehouse unit, a modern warehouse unit and a substantial yard between the two. This was put to the Respondent who confirmed the position and acknowledged that the newer building should have been valued at a higher level as it was a modern property, and that the yard had not been valued in this instance. The Appellant's agent was able to produce a sales brochure for the property from 2006, showing that the property originally comprised two older warehouses of a similar size to those put forward by the Respondent, but noted that one of the warehouses had been substantially refitted and refurbished since 2006. The Tribunal has some difficulty in accepting the Respondents evidence in this matter, given that a photograph of the older warehouse unit from 2017 was submitted in evidence by the Respondent as representing the property. However, while it appears to the Tribunal that the Respondent had erred in its valuation on this comparison, it is clear that a revised valuation would be at a higher level and therefore of little use to the Appellant. The Tribunal therefore finds that the valuation of €14/M2 for what the Respondent considered to be a similar property to the subject is of significant weight in arriving at its decision and considers that a rate of €14/M2 is the correct and equitable valuation for the buildings on site.

10.4 On the question of the weighbridge, the parties appear to agree that the weighbridge is present, but the Appellant says that it has been decommissioned (as stated in the report by Mobile Crane Services) and the Respondent says that it has been disconnected. The parties were asked by the Tribunal to give the cost of commissioning the weighbridge and to provide back up for their answers. The Appellant was unable to provide the necessary information while the Respondent suggested that the cost of reconnecting the cabling to the weighbridge was in the region of €1,500 to €2,000. The Tribunal accepts the Respondents evidence in this matter but does not accept that the hypothetical tenant would pay a full market rent (which would appear to be €1,800 per annum) for something that is not working. The property has to be valued as it stands. Some allowance has to be made for the cost to the hypothetical tenant, both in terms of time and financial commitment, of recommissioning the weighbridge. Otherwise, the tenant would expect the Landlord to provide him with a fully functioning weighbridge if he was to be charged a full market rent for it. The Tribunal therefore reduces the NAV of the weighbridge to €1,300 to reflect the cost of commissioning to the hypothetical tenant.

105 On the question of the yard, the Tribunal has reviewed the Respondents comparisons and can see no clear reason why some yards are rated and others are not. The parties are agreed that the yard should be rated at €1.00/M2 but disagree on the extent of the yard to which it should



apply. The Tribunal accepts the Appellants evidence that only 60% of the total site has a hardcore or concrete surface, and that a significant part of the site area is covered with vegetation and trees and therefore reduces the area of the yard to be rated to 1,380.00 M2, representing 60% of the total site.

**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 €16,750.00.

Use	Area (M2)	NAV/M2	NAV
Office	74	€14.00	€1,036.00
Warehouse	931	€14.00	€13,034.00
Yard (Hardcore)	1,380	€1.00	€1,380.00
Weighbridge (decommissioned)	1	€1,300.00	€1,300.00
<b>Total NAV</b>			<b>€16,750.00</b>

And so the Tribunal determines.