

Appeal No: VA18/1/0034

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

GLEN KEEN FARM LTD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 5011923, Leisure at 11/GKF, Glenkeen, Kilgeever, Westport, Mayo County Council (Old), County Mayo

B E F O R E

Dolores Power- MSCSI, MRICS

Deputy Chairperson

Kenneth Enright - Solicitor

Member

Allen Morgan – FSCSI, FRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 26TH DAY OF MAY, 2021

1. THE APPEAL

1.1 By Notice of Appeal received on the 23rd day of March, 2018 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 €49.

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 28(4) of the Act because: *“Glen Keen Farm Ltd. is a new seasonal business which has not yet reached break even[sic] point, the season runs from April to September with limited opening hours due to high operating costs. The viability of this business is under consideration due to the seasonality and lack of volume of business in this location. Glen Keen Farm is currently running at an operation loss and the business being subsidised by the Owners which*

is not sustainable. The future viability of Glen Ken[sic] Farm is under review for the Season of 2018 as the Owners, Catherine and Jim Powers are not in a position to continue financing the operating costs if the business does not reach break even[sic] point this season. We are making an appeal on the Rates valuation for Glen Keen Farm Ltd. as we cannot afford to contribute to any additional operating expenses until our business reaches a Break Even point and approaches profitability stage. We are happy to provide the financial accounts to the Valuation Tribunal for review.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €25.

2. VALUATION HISTORY

2.1 On the 29th day of January, 2018 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 €49.

2.2 A Final Valuation Certificate issued on the 20th day of March, 2018 stating a valuation of €49.

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 16th day of December, 2019. At the hearing the Appellant was represented by Catherine O’Grady Powers, a director of Glen Keen Farm Limited, and the Respondent was represented by Mr. Liam Hazel MSCSI, MRICS, MIPAV (CV), ACI Arb, MSc., BSc., Dip.Acc & Fin. 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 floor area of the property is agreed at 358.72 sq. m.

4.3 The property is a modern construction in a rural location on the R335 between Louisburgh and Delphi, County Mayo. It hosts an agri-tourist business with coach parking, ancillary food and beverage services and toilet facilities.

5. ISSUES

Quantum.

6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

7. APPELLANT’S CASE

7.1 Before Ms Powers adopted her precis it was noted that the grounds put forward in her precis were different from those set out in the Notice of Appeal. Mr Hazel stated that he had no objection to this.

7.2 Ms Powers described the property as a small, family-run tourism business, opening on a seasonal basis from April to September. It has been operating for five years but is still, Ms Powers said, only borderline viable. She argued that the rateable valuation of the property adversely affected the business operating out of the property.

7.3 Ms Powers stated that the property was in a significantly disadvantaged location, 20 minutes from Louisburgh, the nearest location offering public facilities, accommodation and public transport.

7.4 The business comprises the provision of farm-based activities, principally sheep-dog herding demonstrations on the neighbouring farm and commonage. There is little or no local market; almost all visitors are part of tour groups booked from abroad. This, Ms Powers said, contrasts with the general profile of tourism in Mayo, which still caters for a majority Irish clientele.

7.5 Ms Powers said that such amenities that are available were constructed by the Appellants on the site and comprise the basic services required by tour operators, including toilet facilities, indoor shelter and a food and beverage service.

7.6 The principal ground of Ms Powers' appeal was that the Respondent did not take due account of the isolated location of the property and the disadvantages associated with that. Ms Powers did not put forward any rental or tone of the list comparisons herself but contrasted the subject property's location with those of the properties put forward by the Respondent by way of comparison and identified what she saw as the subject property's relative deficiencies.

7.7 Ms Powers distinguished the subject property from the Respondent's three comparisons on the basis that the three comparable properties were all served by public transport, had their own public water supply and commercially accessible internet, and were in close proximity to other businesses that offered ancillary services such as accommodation, toilets, food and beverage services and so on.

7.8 The Appellant and the Respondent numbered the three properties differently. This judgment will refer to the Respondent's numbering.

7.9 The Respondent's Comparison 1, the Croagh Patrick Information Centre – now closed – was, Ms Powers noted, not only located immediately adjacent to a site of major interest but was also a mere 10 minutes drive from Westport, a town well-known as a prime tourist location with significant accommodation and other facilities.

7.10 The Respondent's Comparison 2, the Clew Bay Heritage Centre, was closer still to Westport and had advantages not shared by the subject property, including a large tourist footfall associated with Clew Bay, and an abundance of associated services.

7.11 The Respondent's Comparison 3, the Achill Folklife Centre, is located on Achill Island, an area which attracts a large domestic tourist market and which, consequently, hosts a good supply of self-catering, hotel and guesthouse accommodation.

7.12 The subject property, the Appellant argued, was located in a very rural area and had none of the advantages associated with the comparison properties' proximity to Westport and Achill Island.

7.13 The subject property's locational difficulties contribute, the Appellant argued, to a higher cost of business communication. The Appellant was unable to avail of internet access until November 2018 following a laborious and expensive installation process involving the construction and maintenance of a mountain road in order to set up a microwave antenna. Communications are further hampered by an unreliable telephone connection.

7.14 Moreover, the isolated nature of the property contributes to a higher cost of labour, in that staff need, Ms Powers stated, a minimum three-hour block to justify travelling to work at the property.

7.15 Ms Powers stated that because there was no public water supply available, the Appellant is required to pay service and testing fees on their private supply which amount, Ms Powers stated, to €1,000 per annum with an additional payment to Mayo County Council in 2019 of €700 for additional testing. The comparable properties, Ms Power stated in her precis, enjoy the benefit of a public supply.

7.16 The comparison properties – with the exception of the now closed Croagh Patrick Centre – are open all year round, while the Appellant operates on a seasonal basis.

7.17 Ms Power argued that, in the light of the points she made, the valuation was unacceptably high.

7.18 In response to a question from Mr Hazel, Ms Powers confirmed she understood that it was the valuation of the property that needed to be determined, not the value of the business operating there.

8. RESPONDENT'S CASE

8.1 Mr Hazel, referring to his precis, outlined that the property was located on the R335, a regional route between Westport and Connemara, along the Wild Atlantic Way, close to Croagh Patrick, 10 kilometres south of Louisburgh and 32 kilometres southwest of Westport. On page 4 of his precis, Mr Hazel provided a map identifying the location of the property along the R335 roughly halfway between Louisburgh and Delphi. On page 12 of his precis, he included a map showing the property and his three tone of the list comparisons.

8.2 He described the subject property as a detached single storey building in use as a visitor centre incorporating a craft/gift shop and a café/restaurant. The building was, he said, a modern and well-finished property completed in 2015 with a rendered external finish and a stone-faced entrance porch, with a design appropriate to its rural location. Internally, it comprised an open plan layout with painted walls and a tiled flooring. He noted a large parking area to the front suitable for tour buses and cars. Internal and external photos bore out his description.

8.3 Mr Hazel confirmed the floor area was agreed at 358.72 sq m.

8.4 Mr Hazel stated that the freehold of the property was vested in Jim and Catherine Powers, directors of Glen Keen Farm Limited. Thus, even if a rent was payable by the Appellant company it would not be an arms-length agreement and not good evidence of a market rent.

8.5 Mr Hazel had responded at paragraph 4.2 of his precis to the grounds set out in the Appellant's Notice of Appeal but noted, without objection, that the grounds put forward in the Appellant's precis and which Ms Powers had now put before the Tribunal were different from these.

8.6 Mr Hazel referred to the Commissioner's obligation to value the property by comparison to similar properties on the County Mayo valuation list and put forward the three tone of the list comparators already referred to.

8.7 Comparison 1: Croagh Patrick Information Centre, Murrisk, County Mayo PN 1411999

Mr Hazel stated this property was similar to the subject property in that it comprised a craft shop, café and information centre. It was located at the pedestrian access to Croagh Patrick. It

was, he said, in geographical terms, the nearest of the three comparators to the subject property but better located. He also acknowledged it was vastly superior to the subject property and was consequently valued on a square metre basis at twice the rate of the subject property: €54.68 against €27.34 for the subject property.

8.8 Comparison 2: Clew Bay Heritage Centre, Clew Bay, Westport, County Mayo PN1359475

This property was valued at the same level per square metre as the subject property, determined following a first appeal in 1992. Mr. Hazel acknowledged this property's superior location but stated to the Tribunal that the building, which included a steel cladding roof, was inferior.

8.9 Comparison 3: Achill Folklife Centre, Doonagh, Achill Island, County Mayo PN 2178411

Mr Hazel argued that this property is in a rural location similar to that of the subject property. Part of this property was valued at the same level as the subject property but another part was valued at a slightly lower rate per square metre, €20.51, for reasons which were unclear. The rateable value of this property was determined following a first appeal in 2006.

8.10 In response to a number of questions from the Chairperson, Mr Hazel outlined that the location of the property was factored into the Commissioner's deliberations but that the availability of public services was not specifically taken into account. Mr Hazel noted that Comparison 1 was valued at double the rate of the subject property.

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 Mayo.

10.2 It is clear to the Tribunal that the property is more removed from established tourist centres and holiday amenities than any of the Respondent’s comparison properties. There is a much lower level of tourist footfall in the vicinity of the subject property.

10.3 The most obvious consequence of this is that the owners of Glen Keen Farm have to work harder than their counterparts in Achill Island and those located nearer to Westport to attract visitors to their facility. This undoubtedly has an adverse impact on the valuation of the property.

10.4 The Tribunal accepts that the location also carries with it significant difficulties in regard to the availability of public services, difficulties not shared by the comparison properties. While the building and fit-out of the subject property might be superior to that of the Respondent’s Comparison 2, this advantage is outweighed by the more isolated location, lack of local tourist accommodation and public amenities, including public transport and water services. The Tribunal notes moreover, the expensive and difficult to obtain internet services, vital to a tourist amenity dependent on international visitors.

10.5 It would appear that the tone of the list for properties of this kind – based, at least, on the Respondent’s Comparisons 2 and 3 – is €27.34 per sq. m. The Tribunal also notes that part of Comparison 2 is valued at €20.51 per metre. Taking these valuations into account and comparing the circumstances of these properties with that of the subject property as outlined in these conclusions, the Tribunal takes the view that a 20% reduction from the €27.34 valuation is appropriate. In presenting its determination below, the Tribunal follows the Commissioner’s presentation of the rateable value on the Valuation List by applying the relevant Reducing Factor of 0.005 to the NAV to arrive at the Rateable Valuation as shown below.

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 €39.00

Level	Use	Area (sq. m.)	€/sq. m.	NAV €

0	Shop/Restaurant/Café/Kitchen	358.72	21.87	7,845.21
			Reducing Factor	0.005
			Rateable Value	€39.23
			Rounded RV	39.00

And the Tribunal so determines.