

Appeal No: VA19/5/0398

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

Clarke Machinery Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2153819, Industrial Uses at LOCAL NO/MAP REF: 3D Rathcorick,
Moynehall, Cavan, County Cavan

B E F O R E

Eoin McDermott – FSCSI, FRICS, ACI Arb

Deputy Chairperson

Dairine Mac Fadden - Solicitor

Member

Frank O'Grady – MA, FSCSI, FRICS, FIABCI

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE (12th) DAY OF (November), 2021

1. THE APPEAL

1.1 By Notice of Appeal received on 14th October 2019 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 €9,600.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: “*1. The valuation is incorrect. The NAV of the subject property is excessive and inequitable. The subject property is let at €8,000 per annum on a month-to-month basis, IRI no insurance. Max FRI NER €7,200 - €24/m2.*”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,200.

2. REVALUATION HISTORY

2.1 On 15th March 2019 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 €9,600.

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 10th September 2019 stating a valuation of €9,600.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is 15th September 2017.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on 1st October 2021. At the hearing the Appellant was represented by Mr. Eamonn S. Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Company Limited and the Respondent was represented by Mr. Conor Murphy 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 is situated at Rathcorrick, Moynehall, a rural location a short distance from the N55, approx. 3.5 km south-east of Cavan town.

4.3 The subject is a modern purpose- built warehouse of steel portal frame construction with double skin insulated roof and walls with an internal eaves height of 5 metres. There are two roller shutter doors and a tarmacadamated yard to the front.

4.4 The floor areas are agreed between the parties as follows; -

Description	Area (square metres)
Warehouse	325
Yard	400

4.5 The property is held on an informal tenancy from 2011 and the rent was reviewed in 2016 to the rent and on the terms set out in Appendix 1.

5. ISSUES

The only issue in question is 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. Halpin for the Appellant amended his submission to allow for the increase in the floor areas and adopted it as his evidence in chief. He increased his opinion of NAV to €7,300, utilising the agreed floor areas and applying a reduced rate of €20/Sq. M., down from €24/Sq. M.

7.2 He described the property as a basic structure in a rural area 3.5 km from Cavan town. He stated that the Commissioner operated a mapping scheme dividing the county between Cavan town and rural areas.

7.3 He stated that there appeared to be a magic line between Cavan town and 5 km which saw values ranging from €32/Sq. M. close to the town to €16/Sq. M. in rural areas. He described the subject property as being in a transitional zone @ €20/Sq. M.

7.4 To support his case 5 NAV comparisons from the Local Authority area were introduced

No.	Location	Area Sq. M.	NAV (€ per Sq. M.)	Comments
1	Moynehall	Offices 33.13	16.00	7 km south-east of Cavan town and 3 km from the subject
		Warehouse 368.87	16.00	
2	Moynehall	Warehouse 504.00	16.00	7 km south of Cavan town and 4 km from the subject
3	Denn Glebe	Workshop 223.26	16.00	9 km south of Cavan town and 5 km from the subject
4	Bellananagh	Steel container 58.51 Warehouse 222.83	3.40 17.00	Located c. 10km south of Cavan town and 9km from subject.
5	Drumlion	Workshop 374.01	16.00	5 km west of Cavan town and 9 km from the subject

7.5 Under cross examination Mr. Halpin restated the various distances from both the subject and Cavan town at between 5 km and 9 km and confirmed that he had applied an additional 25% for locational issues. He further confirmed that the premises were held on an informal

arrangement but noted that this had been in place since 2011, with the rent being reviewed in 2016.

7.6 In summary Mr. Halpin stated that the subject was a basic building, 3.5 km from Cavan town. He proposed that the property be valued in line with other rural properties, at an NAV rate of €16/Sq. M. but allowed a 25% uplift as the subject was closer to Cavan town. He stated that no evidence of €16/Sq. M. was supplied by the Respondent and all other comparisons were of superior buildings than the subject.

8. RESPONDENT'S CASE

8.1 Mr. Murphy for the Respondent amended his submission to increase the published Final Certificate from NAV €9,600 to €11,600, due to an agreed increase in the floor areas and adopted his precis as his evidence in chief.

8.2 Mr. Murphy described the location, neighbouring properties and the subject and confirmed agreement with the floor areas and nett site area. He noted that the property was held on an informal agreement on the terms and rent specified in Appendix 1.

8.3 Mr. Murphy introduced 3 Key Rental Transactions (KRTs), (Appendix 2), of various properties in County Cavan;

No	Location	Area Sq. M.	NER per Sq. M.	NAV per Sq. M.	Comments
1	Cootehill	180	€40	€25.00	20 km from subject
2	Swanlinbar	241	€31	€20.00	40 km from subject
3	Bailieboro	402	€32	€22.00	20 km from subject

He contended that the above similar style properties had lower NAV's due to inferior locations within the county.

8.4 In addition Mr. Murphy put forward 4 NAV comparisons, these included the two properties adjoining the subject with NAVs of €35/Sq. M. together with two properties approx. 2km from subject also with NAVs of €32/Sq. M.

No.	Location	Area Sq. M.	NAV (€ per Sq. M.)	Comments
1	Rathcorick	Portacabin 45.00 Warehouse 312.00	14.00 35.00	Similar property adjacent to subject
2	Rathcorick	Warehouse 304.80 G.F. Office 48.00 F.F. Office 48.89 Store 183.85 Yard 432.00	35.00 35.00 35.00 35.00 3.50	Similar property adjacent to subject
3	Moynehall	Warehouse 156.00 Office 63.60 Store 63.60 Mezz Store 65.00	32.00 32.00 32.00 6.40	1.2km east of subject.
4	Moynehall	Office 115.20 Warehouse 534.80	32.00 32.00	2.2km south-east of subject.

8.5 Mr. Murphy requested the Tribunal to affirm the increased valuation of €11,680 as fair and equitable.

8.6 Under cross from Mr. Halpin he informed the Tribunal that KRT No. 1 was in an Enterprise Centre, some 20 km from the subject and even though the NER was €40/Sq. M. a level of €25/Sq. M. was adopted by the Commissioner.

8.7 He also confirmed that KRT No. 2 was 40 km from the subject and had a NER of €31.32/Sq. M. but an NAV of €20/Sq. M. and that a similar situation existed for KRT No. 3.

8.8 Mr. Halpin asked about the basis for the reduced NAV and was informed that they were based on a basket of rents in the county, but no further information was introduced.

8.9 Under cross Mr. Murphy confirmed that the yard was not included in NAV No.1 and in NAV No. 4 the eaves height was 8 metres and included the offices and a large yard which were not rated. He also confirmed that he had not internally inspected either of the two properties adjoining the subject which he had used as comparisons NAV 1 and NAV 2.

8.10 In summary Mr. Murphy stated that the property was close to Cavan town and held on an informal agreement and that the comparisons put forward by Mr Halpin were more rural.

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 Cavan County Council.

10.2 The Tribunal has examined the particulars of the property and considered the written and oral evidence adduced by Mr. Halpin on behalf of the Appellant who contended for a revised valuation of €7,300 NAV and Mr. Murphy for the Respondent who sought an increase in the final valuation figure to €11,680.

10.3 It is noted that the actual rent of the subject property is agreed at the amount set out in Appendix 1 and the terms are not disputed. The Tribunal has attached weight to this given that the tenant has been in occupation since 2011 and that the rent was reviewed in 2016.

10.4 There was much discussion on the nature of the location of the property and whether it could be classed as rural, semi-rural or urban. Mr. Halpin put forward five NAV comparisons to show that similar type properties in rural locations were valued at €16 per sq. m. but allowed that a 25% increase in this figure was justifiable given the proximity of the subject property to Cavan town. Mr. Murphy was able to provide evidence of significantly higher rental transactions within the local authority area, together with 4 NAV comparisons located close to the subject property to confirm his opinion that €32 per sq. m. was the appropriate rate.

10.5 The Tribunal accepts Mr. Halpin's basic argument that rental levels for industrial properties are likely to decline as the distance from the urban core increases, and that similar properties located within 5km of the subject property (but further from the urban core) were rated at €16 per sq. m. The Tribunal considers that the rate of rental easing will depend very much on local factors in each instance and cannot accept an argument of a "magic line" determining the rental value of the property. The Tribunal notes Mr. Murphy's comments that

a rural location can provide benefits for occupiers such as better transport links, but no evidence was put forward to sustain this point.

10.6 The Tribunal notes Mr. Murphy's evidence that 8 items of market information were available to inform the valuation scheme which was used to estimate the Net Annual Value of the subject property. It was not clarified whether the subject property was one of the 8 items considered. Three of the eight items were put forward as evidence of Key Market Transactions. While all three were located within the local authority area, none were located close to the subject. The Tribunal also notes that in two of the cases the NAV was significantly lower than the passing rent on the property. It is unclear to the Tribunal why only three of the eight items of market information available were put forward as evidence and it notes Mr. Halpin's comment that none of the Key Market Transactions supported the lower NAVs applied to the rural properties that put forward by him. Accordingly, the Tribunal was unable to attach weight to Mr. Murphy's Key Market Transactions.

10.7 Mr. Murphy put forward 4 NAV comparisons to support his valuation, two of which were adjacent to the subject property. However, it was clear from the cross examination that Mr. Murphy had not carried out internal inspections of either of the two adjacent properties, that there was a different treatment of the yard in each case and that both of the comparisons contained offices, while there was no evidence that there were offices in the subject property. It was noted by Mr. Halpin that the comparison 3 appeared to have both a yard and containers on site, neither of which appeared to be valued. Finally, in respect of comparison 4, Mr. Halpin was able to demonstrate that the property was not at all comparable to the subject

10.8 As noted in 10.1, 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, relative to the value of other comparable properties on the valuation list in the rating authority area of Cavan County Council. In the facts of this case, the Tribunal is aware that the property has been occupied by the same tenant since 2011 and that the rent was reviewed in 2016. This is accepted by both sides, although Mr. Murphy did point out that there was no written lease in place. There is no suggestion that the rent did not represent the market rent of the property at the time it was set or was between connected parties. The NAV sought by the Commissioner is significantly in excess of the passing rent on the property and in this case the Tribunal does not consider a finding at a level sought by the Commissioner would give a correct valuation.

10.9 As stated at 10.5 the Tribunal has accepted Mr. Halpin's evidence of similar properties in more rural locations being valued at €16 per sq. m. The Tribunal notes the proximity of the subject property to other similar units and the relative proximity to Cavan town. Mr. Halpin's original submission sought a value based on €24/per sq. m. The Tribunal considers that this level of value reflects both the advantages and disadvantages of the location for this type of property and has adopted it in its final decision.

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 €8,760, made up as follows: -

Description	Area (square metres)	Rate per square metre	NAV
Warehouse	325	€24.00	€7,800.00
Yard	400	€2.40	€960.00
			€8,760.00