

Appeal No: VA19/5/1028

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Gilmores Kingscourt Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1989229, Category Retail (Warehouse), Use: Motor Showroom, at 2C Annagh, Kingscourt, County Cavan.

**B E F O R E**

**Barry Smyth – FRICS, FSCSI, MCI Arb**

**Deputy Chairperson**

**Sarah Reid BL**

**Member**

**Eamonn Maguire – FRICS, FSCSI, VRS, Arb**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 8<sup>th</sup> DAY OF FEBRUARY 2022**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 11<sup>th</sup> day of 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 €84,600.

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: *“There is simply no way that a car showroom complex in Kingscourt could be worth €85,000 per annum. The population is only 2,500 persons (census 2016). Business in such a location is very restricted-the subject property is the only purpose-built car garage.*

*There are no other commercial premises in the immediate vicinity of the subject property.*

*The subject property's main workshop is old, with a more modern showroom addition. The workshop value would not exceed €18/m<sup>2</sup> and the showroom could not be worth more than double that i.e., €36/m<sup>2</sup>. The modern workshop falls between the two at €27/m<sup>2</sup>.*

*The yard should be taken at a maximum of 10% the implied showroom level (i.e., €3.60/m<sup>2</sup>)."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €64,200.

## **2. REVALUATION HISTORY**

2.1 On the 15<sup>th</sup> day of 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 €84,900.

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 of the Property was reduced to €84,600.

2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €84,600.

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

### **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 9<sup>th</sup> day of December 2021. At the hearing, the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Company and the Respondent was represented by Ms. Rita Harris B.Sc. (Hons) Property Studies 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 affirmed, adopted their précis as their evidence-in-chief in addition to giving oral evidence.

### **4. FACTS**

From the evidence adduced by the parties, the Tribunal finds the following facts.

4.1 The subject property situated in Kingscourt, Co. Cavan, 385 metres from Main Street with dual road frontage, the principal being onto the Shercock Road.

4.2 The property comprises a motor showrooms, display forecourt, motor workshop and Commercial Vehicle Roadworthiness Test Centre (CVRT) and ancillary yard.

4.3 The motor showrooms and test centre were constructed in 2006. The main workshop dates back to the 1980's.

4.4 The floor areas of the property agreed between the parties are as follows:

<b>Description</b>	<b>Sq. m.</b>
Showroom	530.48
Store	69.72
Workshop	1,414.03
Workshop/Test Centre	327.50
Total	2,341.73
*Display Yard	2,624.00

\*Accepted by Appellant at oral hearing.

## **5. ISSUES**

5.1 The sole issue raised in the appeal was whether the NAV of the Property, as determined by the Respondent, is appropriate in the circumstances.

## **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.”

6.3 As per Amendment of Section 19 of Principal Act by Section 7 (b) (5) of the Valuation Act (Amendment) Act 2015 provides:

“The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)—

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list, and so that (as regards the matters referred to in paragraph (b)) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area”.

## **7. APPELLANT'S CASE**

7.1 Mr Halpin, for the Appellant, having made his affirmation, adopted his précis as his evidence-in-chief before giving oral evidence.

7.2 Mr. Halpin, described the subject property as the only modern motor showroom in Kingscourt and given the timeline of its phased development, stated that the property is best described as a hybrid of modern and dated elements.

7.3 Mr. Halpin stated in evidence that he does not take issue with the older industrial elements being valued at €20 psm but what is at issue between the parties is the level applied to the showroom, the level applied to the testing workshop and the level applied to the yard.

7.4 Mr. Halpin stated that the Commissioner has valued a total of thirteen car showrooms in County Cavan, ten in Cavan Town, two in Kingscourt and one in Belturbet and in Mr. Halpin's opinion, the market for motor showrooms remains in Cavan Town.

7.5 Mr. Halpin stated that the Valuation Scheme adopted by the Commissioner is an arbitrary scheme not based on rental evidence. In support of his contention that the Property's valuation is excessive Mr Halpin provided details and photographs of some of the list comparables, two of which concerned motor showrooms, two industrial showrooms and one retail warehouse within the area of Cavan County Council. Mr Halpin also submitted in evidence NAV comparables located outside of County Cavan.

- 1) PN 1990619 – Belturbet, County Cavan – comprising a modern car showroom of 108 sq.m, workshop of 516.10 sq.m, display yard of 100 sq. m., rear yard of 440 sq. m., office of 108 sq. m. and mezzanine store of 59.40 sq.m. The Commissioner has valued that property as: showroom valued at €40 per sq.m, the display yard valued at €6 per sq. m. The rear yard at €2.20 per sq. m., being 10% of the workshop level and the workshop is valued at €22 per sq. m.
- 2) PN 2172843 - Retail Park, Co Cavan – comprises a retail warehouse measuring 700 sq. m. which the Commissioner has valued at €40 per square metre.

- 3) PN 1990092 - Dublin Road, County Cavan – comprises a modern car showroom in prime location on the Dublin Road, Cavan town with a showroom measuring 450.29 sq. m. that has been valued by the Commissioner at €60 per sq. m., a workshop measuring 568 sq. m. valued at €35 per sq. m. and a yard measuring 1,800 sq. m. valued at €9 per sq. m.
- 4) PN 21272490 – Kingscourt, Co. Cavan - comprises a modern industrial showroom measuring 279.66 sq.m that has been valued by the Commissioner at €26.4 per sq. m., a workshop measuring 303.75 sq.m. valued at €22 per sq. m. and a yard measuring 650 sq.m. valued at €2.20 per sq. m.
- 5) PN 1989080 - Bailieborough, Co. Cavan - comprises an industrial showroom measuring 579.69 sq.m. that has been valued by the Commissioner at €20.40 per sq.m. and a yard measuring 550 sq. m. valued at €17 per sq. m.
- 6) PN 2205935 – Oldcastle, Co. Meath – comprises a modern car showroom measuring 482 sq.m. that has been valued by the Commissioner at €45 per sq. m. and a CRVT/VTN testing workshop measuring 1,401.30 sq. m., valued at €23 per sq. m.
- 7) PN 1553860 – Liscarton Industrial Estate, Kells Road, Navan, Co. Meath comprises a car Showroom measuring 1,138 sq.m. that has been valued by the Commissioner at €45 per sq. m., with a display yard measuring 392.6 sq.m. valued at €6.75 per sq. m. and a workshop measuring 1,061.23 sq.m. valued at €20 per sq. m.
- 8) PN 1553691 – Balmoral Industrial Estate, Kells Road, Navan, Co Meath. – comprises a car showroom measuring 607.97 sq.m. that has been valued by the Commissioner at €48 per sq. m. for the showroom, the workshop measuring 801.65 sq.m. was valued at €40 per sq. m. and a yard measuring 3,540 sq.m. was valued at €4 per sq. m.

7.6 Mr. Halpin queried the Commissioners approach to valuing the subject yard as being used for 100% motor display purposes and argued that he should differentiate the values to be applied on the front and rear yards. Furthermore Mr. Halpin in evidence stated that it was appropriate to apply 15% of the value of the showroom element to the front yard, and 10% of the value of the showroom element to the rear yard. The yard has been valued uniformly for ease, but both methods are valid. Having consulted the site diagram for the Property, the parties agreed that the motor display yard noted by the Respondent as 2,624 Sq.m, only concerned the front yards and an allowance of 20% has been made.

7.7 In contending for a reduced NAV, Mr. Halpin set out his opinion of the NAV on 15th September 2017, as follows:

Floor	Use	Area – Sq. m.	NAV €/Sq. m.	Total NAV/Sq.m.
0	Display Yard	2624	€4	€10,496
0	Store	69.72	€20	€1,394.4 (Agreed)
0	Showroom	530.48	€40	€21,219.00
0	Workshop	1,414.03	€20	€28,280.60 (Agreed)
0	Workshop (Test Centre)	327.50	€23	€7,533
Total:				€68,923
<b>Rounded down to:</b>			<b>€68,900</b>	

7.8 It was put to Mr. Halpin by Ms. Harris that of the thirteen car showrooms valued in Co. Cavan, only two are listed for the Tribunal, both are in Kingscourt, with the same appellant, and both represented by Mr. Halpin. Mr. Halpin disagreed and stated that a third was also under appeal, that of Cavan Motors, also represented by Mr. Halpin. Ms. Harris stated that it was her understanding that the NAV of showrooms at Cavan Motors were agreed between the parties at €60 per sq. m., Mr. Halpin could not confirm this was the case, as he did not have the breakdown before him. Following further exchanges, the parties agreed that the case of Cavan Motors had been tentatively agreed, subject to the Determination of the Tribunal.



7.9 In the case of PN 2172843, Ms. Harris confirmed that the retail warehouse had been valued at €40 per sq. m. due to its size, and had it been the same size as the subject, it would have been valued at €50 per sq.m.

## **8. RESPONDENT'S CASE**

8.1 Ms Harris, having made her affirmation, adopted her précis as her evidence-in-chief in addition to giving oral evidence.

8.2 The subject property was valued as a Retail Warehouse/Car Showroom, with a value margin applied to the fact that the subject was a car showroom, and not a retail warehouse. A total of 13 car showrooms were valued in Co Cavan. Ten are in/or close to Cavan town, two are in Kingscourt operated by the Appellants, and one is in Belturbet. These car showrooms have been valued according to the following scale:

**Motor Showroom** – Cavan Town and prominent N3 locations. **Value at €60 psm.**

**Motor Showroom** – Kingscourt. **Value at €50 psm.**

**Motor Showroom** – Villages & Standalone rural not located on Motorway. **Value at €40 psm.**

8.3 In terms of developing a Scheme of Valuation, Ms Harris stated that she believed that most motor showrooms are owner occupied and therefore little rental evidence is available. There are more industrial showrooms than motor showrooms valued in Co. Cavan and in Ms. Harris's opinion this would be the case in most counties.

8.4 The Respondent provided rental evidence for three Retail Warehouses. These rents along with other available market information were analysed and adjusted to take into account a range of factors to develop a scheme of valuation, which was used to estimate the Net Annual Value of the subject property. Ms Harris stated that this collection of Net Effective Rents provides the basis for developing an appropriate scheme of valuation to be applied to the group of properties sharing similar characteristics, including the subject property.

8.5 The valuation schemes for most classes of property are expressed in terms of €/sq.m (and €/Zone A for most retail properties) and she emphasised that the application of the scheme is only the starting point for the Respondents assessment of a property. Following application of the scheme values, if there are any relevant individual considerations in relation to the subject property, relative to that group, she stated that further adjustments may be made to the subject property's estimate of NAV. Further, properties which are 'similarly circumstanced' (i.e., sharing characteristics such as use, size, location and/or construction) are considered comparable by the Respondent for the purposes of assessing the value of a property. In addition to the relevant market evidence which underpins the valuation scheme, Ms. Harris also set out comparative evidence to demonstrate that both correctness and equity & uniformity of value have been achieved in this case.

8.6 The three rental comparisons relied on by the Respondent and considered instructive for the purposes of the scheme, were described in the Respondent's precis of evidence as follows:

**Key Rental Transaction: 1**

Retail Park, Cavan, Co. Cavan

Floor Area: 503.15 sq. m.

Lease Terms: 3 years from 01/09/2016 with annual rent of €17,500

NER @ Valuation Date: €17,371.86

NAV: €25,100

**Comparative Analysis of Rental Transaction and NAV**

Description	Sq. m.	NER	NAV
Ground Floor Retail	503.15	€34.52 psm	€50 psm
Warehouse			
<b>Total</b>	<b>503.15</b>	<b>€17,368.7</b>	<b>€25,100</b>

**Commentary**

Situated 1 km from Cavan Town Centre, the lease predates the valuation date by 1 year and the NAV of the comparable property was not the subject of representations nor an appeal.

**Key Rental Transaction: 2**

Retail Park, Cavan, Co. Cavan

Floor Area: 428.17 sq. m.

Lease Terms: 4 years from 01/07/2016 with annual rent of €39,000

NER @ Valuation Date: €36,808.20

NAV: €21,400

Comparative Analysis of Rental Transaction and NAV

Description	Sq. m.	NER	NAV
Ground Floor Retail	428.17	€ 85.96 psm	€50 psm
Warehouse			
Total	428.17	€36,808.20	€21,400

**Commentary**

Situated 1.5 km from Cavan Town Centre, the lease predates the valuation date by 14 months and the NAV of the comparable property was not the subject of representations or an appeal.

**Key Rental Transaction: 3**

Retail Park, Cavan, Co. Cavan

Floor Area: 910 sq. m.

Lease Terms: 10 years from 01/01/2016 with annual rent of €18,000

NER @ Valuation Date: €16,119

NAV: €31,800

Comparative Analysis of Rental Transaction and NAV

Description	Sq. m.	NER	NAV
Ground Floor Retail	455.32	€29.5 psm	€50 psm
Warehouse			
Store	455.32	€5.9 psm	€20 psm
Total	910	€16,119	€31,800

## Commentary

Situated on the outskirts of Cavan Town Centre, the lease predates the valuation date by 19 months and the NAV of the comparable property was not the subject of representations or an appeal.

8.7 In support of her contention that the Property's valuation is correct, Ms Harris provided details and photographs of three NAV comparables from the Valuation List:

- 1) PN 5008262 – Kilmore business Park, Dublin Road, Co Cavan. Motor showroom on the outskirts of Cavan town with the showroom element measuring 456 sq. m. valued at €60 per sq. m., the workshop measuring 985 sq. m. valued at €30 per sq. m. and the display yard measuring 550 sq. m. valued at €9 per sq. m. No representations were received and no appeal.
- 2) PN 2172820 – Cavan, Co Cavan. Motor showroom on the outskirts of Cavan town with the showroom element measuring 118.81 sq. m. valued at €60 per sq. m., the workshop measuring 341.96 sq. m. valued at €30 per sq. m. and the display yard measuring 250 sq. m. valued at €9 per sq. m. No representations were received and no appeal.
- 3) PN 1990092 – Cavan, County Cavan. Motor showroom on the outskirts of Cavan town with the showroom element measuring 450.29 sq. m. valued at €60 per sq. m., the workshop measuring 568 sq. m. valued at €35 per sq. m. and the display yard measuring 1,800 sq. m. at €9 per sq. m. No representations were received and no appeal.

8.8 Ms. Harris did not agree with Mr Halpin's statement "that to sell cars in Cavan, one needs to be in Cavan Town" and maintained that despite the smaller population in Kingscourt, the combined populations of the surrounding towns (i.e., Virginia, Bailieborough, Ballyconnell, Shercock, Cootehill and Ballyjamesduff as listed by Mr. Halpin) is significant. Further, Gilmore's is a long-established business in operation for more than 40 years.

8.9 In her Precis of Evidence, and at the oral hearing Ms. Harris set out her opinion of the NAV of the Workshop (Test Centre) at €45 per sq. m. citing its more modern construction than the larger workshop and that it is equipped as a test centre.

8.10 Ms. Harris in her submission also supported an NAV per sq. m. on the display yard of 15% of that applied to the Showroom NAV per sq. m.

8.11 In her Precis of Evidence, Ms. Harris sets out her opinion of the NAV on 15th September 2017 as follows:

Floor	Use	Area – Sq. m.	NAV €/Sq. m.	Total NAV/Sq. M.
0	Display Yard	2624	€7.50	€13,680
0	Store	69.72	€20	€1,394.4
0	Showroom	530.48	€50	€26,524.00
0	Workshop	1,414.03	€20	€28,280.60
0	Workshop (Test Centre)	327.50	€45	€14,737.50
0	Total (incl. display yard)	4,965.73		€84,616.5
Rounded to:				€84,600

8.12 In establishing an average rental value from the evidence submitted by the Respondent, Mr. Halpin put it to Ms. Harris whether she would agree that KRT no. 2 at a rental price of €85.96 per sq. m. was an outlier and what might account for the different level compared to KRT 1 & 3. Ms. Harris did not agree it was an outlier.

8.13 In response to Mr. Halpin, Ms. Harris conceded that the equipment was not to be assessed for NAV purposes, however the specification including its height of 7 metres, differentiated the Test Centre from the older workshop construction.

## 9. LEGAL SUBMISSIONS

9.1 There were no legal submissions in this case.

## **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 details of the Subject Property and considered the written and oral evidence adduced by Mr Halpin who contended for a revised NAV of €68,900 and that adduced by Ms. Harris defending the NAV of €84,600 as fair and equitable in the circumstances.

10.3 It is well established that the rent as prescribed by Section 48 of the Principal Act, is a hypothetical rent. It is a rent that a hypothetical tenant might be reasonably expected to pay hypothetical landlord for a tenancy of the property.

10.4 In consideration of the Valuation Scheme for Motor Showrooms as devised by the Commissioner, the only rental evidence submitted to The Tribunal in support of that scheme was that of retail warehousing (the Respondent submitting that there was a dearth of rental evidence for Motor Showrooms). Neither party could account for the contrasting rental levels secured in the rental evidence submitted. No market rental evidence for Motor Showrooms in the Local Authority area was submitted by either party to assist the Tribunal.

10.5 The Tribunal notes the emerging tone of the list in Cavan Town to be €60 per sq. m. for Motor Showrooms.

10.6 In terms of the Appellants NAV property comparables submitted, The Tribunal finds PN 1990619 to be of assistance, described in evidence as a 'modern purpose-built car showroom', with an NAV value of €40 per sq. m. for the showroom and a display yard valued at €6 per sq. m. Upon consideration of that evidence including a review of the photographs submitted, the Tribunal finds that the said Motor Showroom of PN 1990619 is compromised by the petrol sales outlet located to the front and other commercial occupiers to the rear and as such a lower NAV for that property is appropriate and can be distinguished from the higher

NAV applied to the subject property, given the latter's road frontage with its larger, more adequate display yard to support a business predominantly focused on motor sales.

10.7 In reviewing the evidence, the Tribunal finds that the subject property in Kingscourt received a fair reduction being listed at an NAV of €50 per sq. m., and consequently see no reason why this level should be disturbed.

10.8 Upon consideration of the display yard measurements and associated diagram submitted by the Respondent and the Appellant's acceptance of same, the Tribunal finds that the display yards net of the ancillary rear yard and allowing for circulation areas of 20%, for NAV purposes the display yards measure 2,624 sq. m., i.e., 1,024 sq. m. net for display yard (1) and 1,600 sq. m. net for display yard (2).

10.9 In arriving at an NAV for the net areas of the Display Yards, the Tribunal finds that the value should be derived as a percentage of 15% of that applied to the NAV per sq. m. of the Motor Showroom and this was a figure / approach contended for by Mr. Halpin both in his precis and oral argument.

10.10 When applying the derived valuation figure of €7.5 per sq.m. to the aforementioned yard area of 2,624 sq. m., The Tribunal notes that there was a mathematical error in the Respondents calculations insofar as the NAV figure so derived for the yard at €13,680, is incorrect. The correct NAV figure for the yard based on the adopted floor area and NAV per sq. m. is €19,680 and to ensure 'correctness of value' the Tribunal determines the NAV for the yard to be adjusted accordingly.

10.11 In considering the NAV assessment by the Respondent of the Workshop (Test Centre), the Tribunal finds that the evidence adduced at the hearing does not support the level of €45 per sq. m. adopted by the Commissioner, when the matter of the fixed specialist equipment is excluded from consideration. Having considered the evidence and with particular reference to the comparable NAV evidence submitted in respect of modern workshops, the Tribunal finds that the appropriate NAV figure is €30 per sq. m.

10.12 The Tribunal notes that the NAV's derived for the older workshop and store are agreed between the parties.

10.13 Under Section 20 of the Valuation (Amendment) Act 2015 the Tribunal is required to achieve a determination of the value of the property, the subject of the appeal, that accords with that required to be achieved by section 19(5) namely (i) correctness of value, and (ii) equity and uniformity of value between properties on that valuation list and section 37(2)(ii) provides that in accordance with the matters set out in section 19(5), the Tribunal may increase or decrease a valuation as stated in the Valuation Certificate.

**DETERMINATION:**

For the forgoing reasons, the Tribunal considers that the NAV of the Property should be calculated as follows:

Floor	Use	Area – Sq. m.	NAV €/Sq. m.	Total NAV/Sq. M.
0	Display Yard	2,624	€7.50	€19,680.00
0	Store	69.72	€20	€1,394.40
0	Showroom	530.48	€50	€26,524.00
0	Workshop	1,414.03	€20	€28,280.60
0	Workshop (Test Centre)	327.50	€30	€9,825.00
0	Total (incl. display yard)	4,965.73		€85,703.60
Total NAV Rounded down to:				<b>€85,700</b>

Accordingly, the Appeal is allowed, the valuation of the property as stated in the Valuation Certificate is to be increased to **€85,700**, and the Tribunal so determines.