

Appeal No: VA19/5/0999

**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. 1989309, Retail (Warehouse) at 9.9B and 1 2 3 Bailieborough Road, Kingscourt, County Cavan.

B E F O R E

Rory Hanniffy - BL

Deputy Chairperson

Dairine Mac Fadden - Solicitor

Member

Elaine Torpey - B.Sc. (Hons), FSCSI, FRICS, ACI Arb

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 30TH DAY OF MARCH 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th 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 €37,000.

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 :

1. *"The subject property is an industrial showroom – not a purpose built car showroom.*
2. *The entire property has an old corrugated asbestos roof.*
3. *The subject property was constructed more than 60 years ago.*

4. *The industrial level given the actual state of the buildings would not exceed €22/m², the showroom can be added at a 20% premium as is standard for such structures – see other such industrial showrooms in the town such as Shields Hire (PN 2172490)*
5. *The yard should be taken at a maximum of 10% of the implied showroom level (i.e. €2.64/m²)."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €22,800.

2. REVALUATION HISTORY

2.1 On the 15th 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 €34,100 (Buildings) & €7,580 (Yard).

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 €37,000 (amalgamated).

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €37,000.

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

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 4th day of November, 2021. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Ms. Rita Harris 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/her précis as his/her evidence-in-chief in addition to giving oral evidence subject however to Mr. Halpin for the Appellant, indicating that he wished to make a correction to his précis in that he stated that

comparison 8 therein had been identified therein by an incorrect property number and he wished to amend by the insertion of the correct property number.

Ms. Harris, for the Respondent, contended that she did not have an opportunity to review the actual correct property. The Tribunal adjourned the hearing momentarily and determined that the evidence (comparison 8) was not admissible. It was determined that Mr. Halpin had sufficient time upon receipt of the Respondent's précis of evidence to address this issue. However, the Tribunal noted that the comparison property 8 was referenced in a previous decision of a Tribunal, which was included in the Appellant's précis, and that Mr. Halpin may wish to refer to it in his submissions in the context of the previous decision only. The ruling was accepted by both parties and the hearing proceeded accordingly.

4. FACTS

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

4.2 The subject property is located on the Bailieborough Road (R165), Kingscourt, County Cavan. This is an arterial route close to the town centre which is approx. 44 km from Cavan Town.

4.3 The subject property comprises a circa. 1960's single storey car showroom with an adjoining workshop and motor factors shop. It has a corrugated single skin asbestos roof throughout. It has a car display area to the front of the building and the main car display area is on the opposite side of the Bailieborough Road (R165).

4.4 The entire property is held freehold. It is owner occupied by Gilmore Kingscourt Limited and it operates as a Nissan car dealership.

4.5 The following description and floor areas have been agreed between the parties.

Showroom	238.61 sq.m
Offices	70.01 sq.m
Shop	34.45 sq.m
Store	309.58 sq.m
Mezzanine Store	117.00 sq.m
Workshop	160.16 sq.m
Display Yard	1,249.88 sq.m

The précis of evidence provided on behalf of the Appellant cited a smaller area of 39.65 sq.m in respect of the Mezzanine Store area over Block 4 and 5. The Respondent's précis of evidence confirmed that this area had increased in size to 117 sq.m. Both parties agreed to the amended mezzanine area of 177 sq.m and their NAV valuations were adjusted accordingly.

4.6 On the basis of the revised mezzanine floor area, the Respondent's précis of evidence cited an amended valuation from €37,000 to €37,350 which was notified/ agreed with the Appellant's agent, Mr. David Halpin on the 13th October 2021.

4.7 On the basis of the agreed revised mezzanine floor area, Mr. Eamonn Halpin on behalf of the Appellant confirmed at the hearing that the total NAV as set out in his précis of evidence has increased from €22,866 to €23,207 rounded to €23,000.

5. ISSUES

5.1 The matter at issue is quantum.

5.2 The Appellant fundamentally disagrees with the Commissioner's approach of valuing the subject property in the retail warehouse category as a motor showroom and contends that the appropriate category for the subject is as an industrial showroom. The Appellant's position is based on the age, type, potential for trade and the Commissioner's approach to other such properties inside and outside the County.

5.3 The Appellant claims that the valuation is excessive, and the Rateable Value (RV) should be reduced to €23,000 in line with its actual potential rental value and the emerging tone of the list.

5.4 The Respondent states that the Rateable Value (RV) €37,350 is fair and reasonable and requests the Tribunal to affirm same in accordance with the Valuation Acts.

5.5 The parties have agreed the areas of the various elements of the accommodation within the Property. They have also agreed the value to be applied to the workshop and store areas at a rate of €22.00 psm.

5.6 The Appellant contends that the yard area should be valued at a rate of 10% of the value applied to the showroom rate. The Respondent has adopted a higher rate of 15% of the value applied to the showroom rate. Neither the rate per square metre to be applied to the showroom and shop has been agreed.

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. Eamonn Halpin outlined that the Property was constructed in the early 1960's and it has a single skin asbestos roof throughout. It was not a purpose-built property, and the front section of the Property was converted into a moderate car showroom. Mr. Halpin stated that to compare the subject property to modern purpose-built properties was comparing apples with oranges. He contended that the very type, nature and location of the subject property must be distinguished from modern equivalents. He contended that the business acumen of the Appellant was key to its success and that the Respondent appeared to want to tax the goodwill and business acumen of the Appellant.

7.2 Mr. Halpin conveyed that the Property is situated close to the town centre on a tight site and as such it has a yard to the side of the property and a compact site across the road.

7.3 It was identified that the Commissioner has valued a total of 13 car showrooms in County Cavan, ten of which are in Cavan Town. Two of the thirteen are in Kingscourt (both are operated by the Appellant, and both are currently under appeal to the Tribunal). One of the thirteen is in Belturbet, being the only showroom outside of Cavan Town and it is not under appeal.

7.4 Mr Halpin submitted that there are only cars for sale in Kingscourt due to the enterprise of the Appellant and there is no market for such a use above and beyond that of an industrial showroom. He emphasised that if the Appellant vacated the subject property, given the low specification there would not be a Nissan franchise in the property.

7.5 In his précis, Mr Halpin identified that the Commissioner has valued a total of 39 industrial showrooms across the County and a maximum of eight of these could be considered to be in the environs of Cavan Town. Mr. Halpin stated that the Commissioner assesses industrial showrooms based on a 20% addition over the base industrial level on the retail section. Three other properties in Kingscourt are assessed on the basis of applying an industrial rate of €22.00 psm and a showroom rate of €26.40 psm. Mr. Halpin accepts this valuation rationale when analysing the NAV of the subject property.

7.6 Mr. Halpin contended that the issue of a car showroom being in the retail category versus the industrial showroom category has arisen recently at the Tribunal VA17/5/685. This case concerned a purpose-built car showroom, with an industrial showroom being provided as a comparison. This industrial showroom was constructed in the 1960's and had an asbestos roof. It was valued by the Commissioner by reference to industrial levels and completely differently to the purpose-built showroom in the vicinity. It was disregarded by the Tribunal as a comparison at the Commissioner's behest. Mr Halpin submitted that the Commissioner cannot in one case state that properties such as the subject should not be compared with modern car showrooms and then state in another that they are directly comparable, which he considers the Commissioner is doing in the case of the subject property.

7.7 The Appellant seeks to have its NAV in line with the comparisons in the list in terms of its actual rental potential. In support of this assertion Mr. Halpin introduced six tone of the list comparisons within County Cavan together with a single context comparison outside of the rating area.

Tone of the List Comparisons

Comparison ('C1') *Dublin Road, Kingscourt, County Cavan* this property is described as a modern industrial showroom, constructed in 2001. Mr. Halpin submitted that it is 40 years newer than the subject property and has a significant amount of yard frontage on to the Dublin Road. Mr. Halpin contended that it is difficult to see how the subject could be more valuable on a rate per metre than this property which has an NAV rate of €22.00 psm to the workshop and €26.40 psm

to the showroom (applies the 20% above the industrial level). The yard is assessed at a rate of 10% of the workshop level.

Comparison ('C2') *Station Road, Kingscourt, County Cavan* is identified by Mr. Halpin as being of a similar vintage of construction (1960s) to the subject and extended piecemeal in 1993. It is assessed on the similar basis to comparison 1, applying an NAV rate of €22.00 psm to the store and €26.40 psm to the showroom (applies the 20% above the industrial level). The yard is assessed at a rate of 20% of the workshop level.

Comparison ('C3') *Hall Street, Kingscourt, County Cavan* is identified by Mr. Halpin as being the oldest showroom in Kingscourt, dating from the 1950's with a barrel- vaulted, corrugated iron roof in use as a showroom for bedding and bedroom furniture. The showroom is assessed at €26.40 psm.

Comparison ('C4') *Henry Street, Bailieborough, County Cavan* is described as being the largest industrial showroom in Bailieborough. Mr. Halpin highlighted that the property comprises a full retail shop however, it is valued by the Commissioner as a showroom along with extensive store and yard. Mr. Halpin stated that the idea that a hypothetical tenant could rent a shop and 1,000 sq.m of workshops with yard for less rent than the subject was simply unsustainable.

Comparison ('C5') *Cootehill Road, Bailieborough, County Cavan* is identified as an industrial showroom with a New Holland tractor dealership. Mr. Halpin highlights that it has a showroom, store, workshop and an extensive yard fronting on to the road. It is assessed on the same basis as the other comparisons, applying an NAV rate of €22.00 psm to the store/ workshop and €26.40 psm to the showroom (applies the 20% above the industrial level). This property is assessed at a rate of 10% of the workshop level. Mr. Halpin contended that the buildings/ yards all have the same functionality and are capable of being adopted to the sale of different products.

Comparison ('C6') *Belturbet, County Cavan* is a modern purpose built car showroom constructed in 2005 with an adjoining filling station. Mr. Halpin contended that this is a superior property with none of the disadvantages of age that come with the subject and yet its showroom is assessed at €40.00 psm. The yard is assessed at a rate of 10% of the workshop level.

Context Comparison

Comparison ('C7') *Balmoral Industrial Estate, Kells Road, Navan*. It is identified as a superior property which is located outside of the rating area. Mr. Halpin clarified that its inclusion is to demonstrate how car showroom properties might be assessed if situated outside of County Cavan. Mr Halpin contended that the assessment of this property confirms the Commissioner is applying a 20% loading to the showroom section when assessing the industrial showroom category. In this case the Commissioner is applying a rate of €48.00 psm to the showroom thereby suggesting in this case that a car showroom in Kingscourt is more valuable than a car showroom in Navan per sq.m.

7.8 Mr. Halpin emphasised the importance and relevance of his tone of the list comparisons in County Cavan.

7.9 Under cross examination by Ms. Harris, Mr. Halpin acknowledged that he had not provided any rental evidence for industrial/ industrial showrooms as there was a dearth of rental information. In the absence of this rental information, he considered it appropriate to be guided by the established tone of the list.

7.10 In relation to the various comparisons submitted and under cross examination by Ms. Harris, Mr. Halpin acknowledged that:

- (i) Comparison ('C1') was built in 2001, it has a modern specification however, it did not have glass frontage like the subject property. Mr. Halpin emphasised that the property was capable of carrying out the same business and it was situated on the Dublin Road. He contended that in the real world, properties for sale/ to let switch use in the country and transgress from one to another.
- (ii) Comparison ('C2'), Mr. Halpin contended that he did consider this property to be of a similar type and the Commissioner's breakdown has classified part of the accommodation as a showroom.
- (iii) Comparison ('C3'), Mr. Halpin highlighted that the same level of €26.40 psm had been applied and it had not been discounted for any physical attributes conveyed by Ms. Harris.
- (iv) Comparison ('C4'), Mr. Halpin confirmed that the photograph provided was the front profile and the photograph provided by the Valuation Office was in respect of the side profile of the property.

- (v) Comparison ('C5'), Mr. Halpin conceded that he had not inspected the property internally and acknowledged Ms. Harris's statement that the property access was by means of a pedestrian door.
- (vi) Comparison ('C6'), Mr. Halpin acknowledged Ms. Harris's comment that in fact the yard behind the showroom was at a rate of 10% and the front yard was at a rate of 15% of the workshop rate applied.
- (vii) Comparison ('C7'), Ms. Harris highlighted that the rate applied was €70.00 psm to the showroom/ €35.00 psm to the workshop. Mr. Halpin clarified that the purpose of the inclusion of this comparison which is outside the rating area (case whereby he also represented the appellant) was that he was not relying on the decision however, as part of this process the Commissioner differentiated between the modern and not so modern property.
- (viii) It was acknowledged that comparable eight in Mr. Halpin's précis (outside of the rating area) had been ruled out at the commencement of the hearing as an incorrect property number was provided. Ms. Harris had queried same in her précis.

7.11 Under further cross-examination in respect of the inclusion of Appendix IV Tribunal decision (Appeal No. VA17/5/685 in relation to property no.1738666 Motor Showroom 4B (pt. of) 4D./1 Newhall Naas, County Kildare), Ms. Harris reiterated that the rate applied in this case was €70.00 psm to the showroom and €35.00 psm to the workshop. Mr. Halpin stressed that the case was not ignoring the modern building; it was highlighting the differences and that discounts need to be made to recognise the differences.

8. RESPONDENT'S CASE

8.1 Referencing her précis of evidence Ms. Harris described the location, size, layout and nature of the subject property, supporting her comments with photographs of the various elements of the property. Ms. Harris acknowledged that the property had an asbestos roof however, emphasised that the showroom had been refurbished and the entire showroom is glass fronted.

8.2 Ms. Harris emphasised that this is a family run business which started in 1952. It runs a Nissan dealership for over 40 years and was winner of – Nissan Sales Dealer of the Year 2019 – Nissan Overall Dealer of the Year 2019 – Cars Ireland Best Online Marketing 2019.

8.3 Ms. Harris clarified that on the basis of the agreed amendment of the mezzanine floor area over block 4 & 5, the Respondents NAV valuation increases from €37,000 to €37,350.

8.4 Ms. Harris conveyed that the display car park across the road was subject to a separate assessment which has been amalgamated with the Property changing the valuation from €34,100 to €37,000.

8.5 Ms. Harris referred to witness commentary relied upon in the Appellant's evidence as set out in her précis. Ms. Harris submitted that the Appellant has listed eight comparisons and she considers that only one of these is relevant being comparison six ('C6'). She contended that no rental evidence had been provided by the Appellant.

8.6 In her précis, Ms. Harris clarified that comparison 4 ('C4') provided by the Appellant has been vacant since 2016 and is available to lease. It is identified as an industrial building with a retail element. Ms. Harris does not consider that this property is comparable to the subject and referred to the Google Street View October 2021 photograph (side profile of the building).

8.7 Furthermore, Ms. Harris affirmed that C6 in Belturbet, Co. Cavan is the only property she would consider comparable to the subject. It was reconstructed and comprises ground floor offices, display area, parts store workshop and first floor offices. Ms. Harris outlined that it has been valued in line with the Valuation Scheme for Motor Showrooms within the villages and standalone rural not located on motorway category (value at €40 psm).

8.8 In accordance with her precis of evidence Ms. Harris outlined that in this case three items of market information were identified to inform the valuation scheme which were applied to estimate the Net Annual Value of the subject property. Following application of the scheme values, if there are any relevant individual considerations in relation to the subject property, relative to that group, further adjustments may be made to the subject property's estimate of NAV.

8.9 Ms. Harris submitted a total of six comparisons comprising three Key Rental Transactions and three Net Annual Value comparisons as summarised in the tables provided in her précis (as attached in Appendix 1). Ms. Harris outlined the following:

Key Rental Transactions

Comparison (1) *Unit at Cavan Retail Park, Dublin Road, Cavan, Co. Cavan* this property is described as retail warehouse property situated c.1 km from Main Street, Cavan. The lease was dated 1 year prior to the valuation date. The retail warehouse NER is €34.52 psm and the NAV is €50.00.

Comparison (2) *Unit at Crystal Retail Park, Cavan, Co. Cavan* this property is described as retail warehouse property situated c.1.5 km from Cavan Town. The lease was dated 14 months prior to the valuation date. The retail warehouse NER is €85.96 psm and the NAV is €50.00 psm.

Comparison (3) *Unit at Moynehall Retail Park, Ballinagh Rd, Cavan, Co. Cavan* this property is described as retail warehouse property which is situated on the Ballinagh Road c.1.7 km from Cavan Town. The lease was dated 9 months prior to the valuation date. The retail warehouse NER is €50.50 psm and the NAV is €50.00 psm. The store NER is €7.57 psm and the NAV is €10.00 psm.

8.10 In support of her valuation, Ms. Harris also relied upon three of the list comparisons. NAV comparison 1 situated at Shercock Road, Kingscourt, Co. Cavan, this purpose built car-showroom property is owned and occupied by the operators of the subject property. It was identified that representations were made, and the store value was amended from €50.00 to €20.00. The property is subject to appeal at the Valuation Tribunal.

Level	Description	Size	NAV per sq.m
0	Workshop	1414.03	€20.00
0	Display Yard	2,624	€7.50
0	Workshop	327.5	€45.00
0	Showroom	530.48	€50.00
0	Store	69.72	€20.00
	Total	4,965.73	€84,600

8.11 NAV comparison 2 situated on the Ballinagh Road, Cavan, Co. Cavan. It is identified as purpose built retail warehouse initially used as a Motor showroom which is situated on the outskirts of Cavan Town. It has a glazed showroom to the front with offices and a workshop to the rear and offices on the first floor.

Level	Description	Size	NAV per sq.m
0	Display Yard	250	€9.00
0	Workshop	341.96	€30.00

0	Office(s)	194.6	€60.00
0	Showroom	118.81	€60.00
1	Office(s)	272.95	€60.00
	Total	1178.32	€47,600

8.12 NAV comparison 3 situated on the Ballinagh Road, Cavan, Co. Cavan. It is identified as a retail warehouse used as a Motor showroom which is situated on the outskirts of Cavan Town.

Level	Description	Size	NAV per sq.m
0	Workshop	184.40	€60.00
0	Display Yard	4796.12	€9.00
1	Workshop	259.86	€25.00
0	Workshop	1195.53	€25.00
	Total	1639.8	€90,600

8.13 Under cross examination, Mr. Halpin questioned Ms. Harris's assertion that the subject property was purpose built on the basis that the property is a car dealership business since the 1950's. Mr. Halpin clarified that the showroom section had been refitted in circa. 1996 and refurbished in circa. 2006 replacing the ceiling tiles. Mr. Halpin proffered the view that a hypothetical tenant would modify their bid based on the fact that the subject is a 60-year-old property, with a single skin asbestos roof and it has a limited eaves height. He also outlined that a hypothetical tenant would be wary of the repairing covenants (FRI basis). Ms. Harris accepted that the asbestos roof is a disadvantage.

8.14 In response to Mr. Halpin, Ms. Harris acknowledged that the three KRT comparisons were not motor showrooms they are all retail warehouse units in modern retail parks with no dedicated yard area. Ms. Harris also accepted that each of these comparisons were in Cavan Town which has a larger population. Ms. Harris emphasised that the Commissioner scheme applies three different motor showroom rates to reflect the location differential and the highest value is in Cavan Town at €60.00 psm, Kingscourt at €50.00 psm and village and standalone rural locations at €40.00 psm. When later questioned by the Tribunal, Ms. Harris clarified that in the case of the subject, the adjustment rate applied was in respect of the location only (i.e., Kingscourt at €50.00 psm) and no further adjustments were made to the subject property's estimate of NAV.

8.15 Mr. Halpin argued that the KRT properties are all superior purpose-built properties in retail parks in Cavan and as such, does Ms. Harris not consider that a hypothetical tenant would pay more for these properties than the subject property. Ms. Harris confirmed that she did not consider this to be the case.

8.16 Mr. Halpin scrutinised the KRT evidence querying if the transactions were based upon full repair & insuring leases, arm's length transactions and the devaluation approach applied to this rental evidence. Ms. Harris advised that she did not know. In relation to KRT 2, Mr. Halpin confirmed that he is very familiar with this unit and highlighted that he understood that this transaction was a lease renewal and not a new letting. Ms. Harris advised that she did not know.

8.17 Mr. Halpin referring to Ms. Harris's précis in relation to 'Developing A Scheme of Valuation' and 'Evidence of Equity and Uniformity' sections which identified that it stated that the properties which are 'similarly circumstanced' are considered comparable, "meaning that they share characteristics such as use, size, location and/or construction". Ms. Harris concluded that she was of the view that retail warehouse units were suitable however, acknowledged that the subject property has an asbestos roof.

9. SUBMISSIONS

9.1 There were no legal submissions made by either of the Parties.

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. The issue that arises in this Appeal is the Quantum of Value.

10.2 The Property has to be valued vacant and to let at the valuation date. The rental value to be estimated on a full repairing and insurance basis must, having regard to section 48 of the Act, be a figure at which the hypothetical landlord and tenant would be likely to agree upon following negotiations.

10.3 The Tribunal acknowledges that the motor showroom market has seen significant changes over recent years and that there is now a preference for occupiers to co-locate in modern

purpose-built buildings and in modern motor malls. This fact reduces the attractiveness of one-off dated showrooms in less attractive and out of town locations.

10.4 The Tribunal acknowledges that both parties identified that there is an absence of market rental evidence available as the majority of car showrooms are freehold properties.

10.5 The Tribunal accepts the Appellant's basic argument that the Property which was constructed circa. 60 years ago, is not a purpose-built car showroom and the entire property has a corrugated asbestos roof. The Tribunal has noted the age, nature and location of the subject of the Appeal as being in a small town with no other car dealership (with the exception of the Appellant's two car dealership properties both of which are currently under appeal at the Tribunal).

10.6 There was considerable discussion and debate as to the dated nature of the Property and the fact that the subject car dealership occupiers through their personal goodwill and business acumen have successfully traded from this location as a Nissan car dealership for over forty years. The Tribunal considered the hypothetical tenant scenario and is of the view that the subject property would not meet the modern car showroom requirements. The Tribunal also accepts the Appellant's claim that a hypothetical tenant would have due consideration to acquiring a lease on the basis of a full repairing covenant and in particular having regard to the asbestos roof which Ms. Harris accepted was a disadvantage.

10.7 In relation to market evidence provided by the Respondent, and as acknowledged by Ms. Harris, these are not motor showrooms, they are all retail warehouse units in modern retail parks and with no dedicated yard area. They are also located in Cavan Town which has a larger population than the subject is location. Furthermore, Ms. Harris, under cross-examination by Mr. Halpin querying if these properties were held under full repairing and insuring leases, replied that she did not know and did not know if KRT 2 was a lease renewal or a new letting. In all of these circumstances, the Tribunal considers that the quality and relevance of these comparisons is limited and considers that little weight can be attached to them.

10.8 The Tribunal is not persuaded by the Respondent's opinion that the specification of a building does not affect its rental value. The very approach of adopting no allowances to reflect the difference between the subject property and properties of a superior modern purpose-built specification, is in the Tribunal's view inconsistent, as it does not demonstrate correctness, equity and uniformity.

10.9 The Tribunal also noted Mr. Halpin's acknowledgment that he has relied upon the tone of the list and adopted the same level. Mr. Halpin on behalf of the Appellant identifies that industrial showrooms in Kingscourt have an NAV €26.40 psm and yards are assessed at a rate of 10% of the showroom level (i.e., €2.64 psm).

10.10 The Tribunal accepts Mr. Halpin's approach of adopting an industrial level given the actual age/specification of the subject building and adopting a 20% premium to the showroom section. The Tribunal considers that the Net Annual Value evidence provided by the Appellant underpins this approach and further considers comparable 1, being the modern industrial showroom in the town, to be a useful comparison.

10.11 The Parties have adopted the principle that the display yard element of the subject property should be valued at different percentage rates, in the Appellant's case a rate of 10% of the rate applied to the showroom was applied and in the Respondent's case a rate of 15% was applied.

10.12 It is a basic principle of valuation that a valuer has to compare like with like. The passing rents of comparable properties can provide useful and reliable evidence of rent, where there is no rental evidence in respect of the property being valued, or where the passing rent is not dependable as a measure of rateable value.

10.13 The Tribunal accepts the Appellant's contention that the comparative evidence provided by the Respondent in support of the opinion of value was deficient. The Tribunal finds that the three KRT properties situated in purpose built retail parks are superior properties and for that reason command higher rents. It is evident from the photographs adduced in the evidence, that the Property is situated in an inferior building. It is not reasonable to compare the subject with these superior properties and expect equity and uniformity.

10.14 Furthermore, the Tribunal observed that the Respondents NAV Comparison 1 and Comparison 3 were subject to appeal to the Tribunal thereby no weight could be attached to these comparisons at this time.

10.15 The Tribunal also found that due consideration was not given by the Respondent to the inferior nature of the display yard of the subject property which is divided by the road.

10.16 The Tribunal considers the Respondent's approach of valuing the subject property at a similar rate to modern purpose-built properties is inconsistent. The Tribunal is satisfied that dated specification properties in small town locations merit a lesser rate and it finds accordingly.

10.17 The Tribunal finds the Appellant's method which was supported by the NAV evidence provided to be the appropriate level in this particular case.

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 €23,200.

FLOOR	USE	AREA (m2)	NAV € (m2)	Total NAV € (m2)
0	SHOWROOM	238.61	€26.40	€6,299.30
0	OFFICE(S)	70.01	€26.40	€1,848.26
0	SHOP	34.45	€26.40	€909.48
0	STORE	309.58	€22.00	€6,810.76
MEZZ	STORE	117.00	€4.40	€514.80
0	WORKSHOP	160.16	€22.00	€3,523.52
0	DISPLAY YARD	1249.88	€2.64	<u>€3,299.68</u>
				€23,205.81
Total Say:				€23,200

And the Tribunal so determines.