

Appeal No: VA19/5/1264

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Veha Site (Retiarus)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5019303, Warehouse/Warerooms at Unit 7 & 8 (Old Veha Factory) 1D Corporation, Murragh, Wicklow, County Wicklow.

B E F O R E

Eoin McDermott – FSCSI, FRICS, ACI Arb

Deputy Chairperson

Raymond J. Finlay – FIPAV, MMII, ACI Arb, TRV, PC

Member

Rowena Mulcahy - Solicitor, C Arb, FCI Arb

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16th DAY OF FEBRUARY, 2022.

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th 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 €111,900.

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 of its value that accords with that required to be achieved by section 19 (5) of the Act because: *“The valuation is excessive and inequitable. The valuation is excessive as this property has been fire damaged, has a poor roof, and has been deemed neglected by An Bord Pleanála when they confirmed that this property should be included on the Vacant Sites Register. A nominal valuation is argued for this property.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €20,000.

2. REVALUATION HISTORY

2.1 A copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to property PN662504, of which the subject property (the “Property”) formed part, was sent to the Appellant indicating a valuation of €670,000 in March 2019.

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, property PN662504 was sub-divided, and the valuation of the subject Property was issued at €111,900.

2.3 A Final Valuation Certificate in respect of the subject Property issued on the 10th day of September, 2019 stating a valuation of €111,900.

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, 2019.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 17th day of January, 2022. At the hearing the Appellant was represented by Mr. Martin O’Donnell FRICS, FSCSI of CBRE and the Respondent was represented by Mr. Karl Gibbons of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective 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. ISSUES

The only issue in this case is the quantum of valuation.

5. RELEVANT STATUTORY PROVISIONS:

5.1 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.”

5.2 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 and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant.”

6. APPELLANT’S CASE

6.1 Mr. O’Donnell described the Property as a dilapidated warehouse of steel frame construction with concrete walls and part single skin asbestos, part metal deck roof. He confirmed that the floor area of the Property had been agreed at 6,787 Sq. M. He noted that the Property was originally part of the Veba radiator production facility which had been closed for many years and was now divided into different warehouse and workshop units. He advised that the Property had suffered from fire damage in the past, that the dock levellers were in poor condition, that his clients had tried to let the property since 2014 but had been unsuccessful, and that it needed significant investment but had to be valued in its existing state.

6.2 Mr. O’Donnell noted that the Property has been on the Wicklow County Council vacant sites register since 2018 resulting in his clients paying an annual levy of €70,000 for the Property. He accepted that the Property had to be valued in accordance with S. 48 of the Act but noted that this required consideration of the amount that a tenant would have to pay in respect of repairs, insurance, rates and other charges payable by a hypothetical tenant.

6.3 Mr. O'Donnell stated that he did not believe that the Property could ever be let in its existing state but realised that a valuation was required. He acknowledged the difficulties presented in trying to value the Property in its existing state but could not understand how the Respondent could suggest the value proposed for the Property given its size, location and condition. Having considered all the matters referred to, Mr. O'Donnell said that in his opinion a nominal valuation of €20,000 was all that could be applied to the Property.

6.4 In response to cross-examination by the Respondent, Mr. O'Donnell said that he was not aware of similar circumstanced properties on the Valuation List but noted that while the Respondent would be giving evidence of same, the Property must be valued on its own merits. He accepted that the Property was deemed by An Bord Pleanála to be neglected rather than ruinous. He accepted that some fire damage may have been repaired but had noted evidence of fire damage during his inspection. He did not accept the Respondent's opinion that there was little difference between the quality of the subject Property and the properties to the rear which had not been appealed, citing water ingress and inoperable dock levellers as differences.

6.5 In response to queries from the Tribunal, Mr. O'Donnell said that he was unable to put a capital value on the Property as in his opinion it would be sold for re-development. He said that he had not submitted any comparable evidence as he had been unable to source suitable comparisons. He noted that his client had not objected to the other valuations on the site but that there had to be an equity issue when the subject Property was being valued on the same basis despite being on the vacant sites register. He said that he had given consideration to valuing the Property for an alternate use such as a yard but felt that while a tenant might use an open yard in this location, no tenant would rent the Property as is because of the health and safety and insurance risks involved.

7. RESPONDENT'S CASE

7.1 Mr. Gibbons gave evidence of the location and description of the Property, noting that it was in poor condition. His comparable evidence included three Key Rental Transactions and six NAV comparisons. The NAV comparisons can be summarised as follows: -

No.	Location	Area (Sq. M.)	NAV/Sq. M. (Warehouse/Store)	Allowance	Final NAV Rounded
1	Unit 1 & 2, Old Vaha Factory, The Murrough, Wicklow	3,638	€33	50%	€60,000
2	12-13 North Quay, Wicklow Town, Co. Wicklow	3,084	€33	50%	€50,900
3	2 North Quay, Wicklow Town, Co. Wicklow	2,826	€37	50%	€52,300
4	10 North Quay, Corporation Murragh, Wicklow	1,814	€37	50%	€33,500
5	Glanbia, Rathdrum, Co. Wicklow	4,314	€29	N/A	€135,600
6	4 properties located close to subject Property, subject to vacant site levy.				

7.2 Mr. Gibbons explained that his NAV Comparison 1 was located in the same scheme as the subject Property, was of similar condition and that the exact same valuation approach had been adopted to both this property and the subject Property, namely a discount of 50% to reflect the condition of the Property. The same principle applied to comparisons 2, 3 and 4 and he noted that each of those comparisons had been agreed with independent rating consultants for the occupiers and all were in as poor as, or worse condition than, the subject Property. He also explained that the valuation scheme allowed for a higher NAV per Sq. M. where properties were under 3,000 Sq. M. While Comparison 5 is not located in Wicklow Town, it was included because of its size. It has a lower NAV per Sq. M. than the subject Property because of its location. Comparison 6 was included to show that other properties that were subject to the vacant site levy were included on the Valuation List and that no allowance to reflect their presence on the vacant sites register had been made in respect of those properties.

7.3 Mr. Gibbons concluded his submission by noting that the Appellant’s proposed nominal valuation of €20,000, based on a NAV of €2.95 per Sq. M, was at a level which did not achieve equity and uniformity between properties on the Valuation List. Mr Gibbons submitted that the valuation of the subject Property appearing on the Valuation List represents its Net Annual Value in accordance with Section 48 of the Valuation Act 2001 and the requirements of section 19(5) and he requested the Tribunal to affirm the Respondent’s valuation of €111,900, made up as follows: -

Location	Area (Sq. M.)	NAV/Sq. M.	Allowance	Final NAV
7 & 8 Old Veba Factory, Wicklow	6,787	€33	50%	€111,900

7.4 In response to cross examination by the Appellant, Mr. Gibbons agreed that each of his three Key Rental Transactions were smaller, modern units in good condition and that none were comparable to the subject Property bar the fact that they were industrial properties, but he explained that they had been used in devising the overall valuation scheme. He agreed that County Wicklow was not known as a major industrial location but noted that there were some 1,500 industrial units in the local authority area and that regard must be had to the valuations of those properties. He accepted that the subject Property was approximately double the size of the first two NAV comparisons put forward. He explained that the valuation scheme had been amended at Representations stage so as to apply a lower value per Sq. M. to properties over 3,000 Sq. M. He accepted that the subject Property was significantly larger than 3,000 Sq. M. but confirmed that there was no quantum allowance for properties of significantly greater size than 3,000 Sq. M. He confirmed his opinion that the valuation scheme was appropriate, and he set out the details of the scheme for properties classified as old industrial units in Wicklow town as follows: -

Area in Sq. M.	€ per Sq. M.
0 – 200	47
201 – 1,000	42
1,001 – 3,000	37
3,000 plus	33

7.5 In response to a query from the Tribunal, Mr. Gibbons confirmed that there were a number of industrial properties of similar size to the subject on the Valuation List but added that the subject was the only industrial property in Wicklow town of that size. He also confirmed that none of the other properties of similar size on the Valuation List were in similar condition to the subject. He confirmed that the 50% allowance had been arrived at through negotiations with rating consultants at Representations stage and that it could have been higher had he deemed it necessary. He also confirmed that where industrial properties of a similar size to the subject Property on the Valuation List were valued, they were valued on the same level as similar properties of just over 3,000 Sq. M. in the same location but noted that individual allowances may arise. He considered that the 50% allowance granted in respect of the subject Property was appropriate.

8. SUBMISSIONS

8.1 there were no legal submissions.

9. FACTS

9.1 From the evidence adduced by the parties, the Tribunal finds the following facts:

9.2 The Property is situated at The Murrough, a coastal location approx. 1 km north of Wicklow town.

9.3 The Property is a single storey industrial unit, originally part of a larger structure, of steel frame construction with concrete walls and part single skin asbestos, part metal deck roof. It is in a neglected condition and has previously suffered from fire damage.

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

Description	Area (Sq. M.)
Warehouse	6,787

9.5 The Property is on the Vacant Sites register for Wicklow County Council

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 Wicklow County Council.

10.2 The Appellant's case is based on the size and condition of the Property, both of which combine, in the Appellant's opinion, to make the Property unlettable. It is argued that the Property is incorrectly valued as it was valued on the same basis as properties 50% of the size of the subject Property and that the condition of the Property is such that no tenant would take a lease on the Property due to concerns over health and safety and insurance. As an addendum to the last point, the Appellant argues that the condition of the Property means that it is on the Vacant Site register and that equity requires that this be taken into account when assessing the rental value of the Property.

10.3 The Respondent demonstrated that the condition of the Property had been taken into account by the application of a 50% discount to its rate per Sq. M. level and that this level of discount was consistent with those applied elsewhere. Similarly, it demonstrated that other properties on the same Valuation List that also appeared on the Vacant Site register were valued under the same scheme and that no discount had been applied to those properties by virtue of the fact that they appeared on the Vacant Site register. The Tribunal accepts the Respondent's approach to these two issues.

10.4 The Appellant directed most of its questioning to the Respondent on the issue of the size of the Property and on whether an allowance for quantum should be made. It emerged during cross examination that it was only during the Representations stage that the Respondent had conceded the need for a reduced rate per Sq. M. for units in excess of 3,000 Sq. M. No evidence was adduced by the Appellant as to what allowance could or should be made for substantially larger properties, or to what size floor area such an allowance would apply. The Tribunal therefore accepts the Respondent's approach to the issue of size in this case.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.