

Appeal No: VA17/5/260

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Garlow Fuels Services Ltd

APPELLANT

and

Commissioner Of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1994020, Fuel/Depot at Local No/Map Ref: 4Ac, Aghagad, Lissadill North,
Sligo, County Sligo.

B E F O R E

John Stewart – FSCSI, FRICS, MCI Arb

Deputy Chairperson

Kenneth Enright - Solicitor

Member

Eamonn Maguire - FRICS, FSCSI, VRS, ARB

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 17TH DAY OF MAY, 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 9th day of October, 2017 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 €85,000.

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 Valuation of the subject property is excessive and inequitable. The property’s value is not in line with actual rental values of filling stations in the immediate area.*

2. *The Commissioner's formula based approach to Filling Stations is flawed. The subject is a clear case in point as the Commissioner is valuing the subject on a different basis to the filling station which is closest to them – PN 5011935 and PN 5011936.*
3. *The occupier's retail acumen is being unfairly taxed. The subject's shop should be valued on a zoned or overall rate per m2 in line with the above.*
4. *The subject's valuation at €85,000 NAV is comparable to the SuperValu in the village, which is more than 4x the size of the subject and has turnover ca. 4x the subject's shop."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €38,000.

2. REVALUATION HISTORY

2.1 On the 12th day of January, 2017 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 €85,000.

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 the 7th day of September, 2017 stating a valuation of €85,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 27th day of January, 2022. 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. Joanne Duggan B.Sc. (Real Estate), MSCSI, MRICS 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 subject property comprises a Circle K/Londis Service Station with 4 pump islands three of which are located below the canopy and the site had approximately 68m frontage to the N15 Sligo to Bundoran Road. The site accommodates 6 pumps under the canopy with a 7th pump located to the side of the shop to service commercial vehicle fuel sales. The shop which trades under the Londis brand includes a convenience store, delicatessen, coffee station, indoor ATM and a seated cafe area. Additional accommodation includes a store, toilets and an office and a separate building on the forecourt which is used in conjunction with the service station is used as a fuel store and customer toilets. The property also includes a brush wash adjacent to the canopy and car parking is provided to the rear of the site. The site extends to an area of approximately 5,400m²

4.3 The property is located in the village of Grange, County Sligo which has a population of 586. Grange which is located on the North Atlantic way is situated approximately 16 km north of Sligo and 70km northwest of Carrick on Shannon.

4.4 The shop has the benefit of an off license with opening hours from 6:30 AM to 10:30 PM Monday to Friday and 7:30 AM to 10:30 PM Saturdays, Sundays and bank holidays.

4.5 The agreed floor areas are shop 259.46 m² and fuel stores and toilets 54.43 m².

4.6 The subject property is freehold.

4.7 Limited financial information was provided by the Appellants on the 3rd of November 2020 comprising certified extracts from the 2016 accounts to include the profit and loss section only for the years 2015 and 2016. Details are included in the appendix (n/a to public) to include uncertified Sales breakdown for 2016.

5. ISSUES

5.1 The Appellants have contended for an NAV of €46,100 whereas the Respondents on behalf of the Commissioner has requested that the Commissioners valuation of €85,000 be confirmed.

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 valuer for the Appellants adopted his precis and confirmed that the property was located in Grange, Co. Sligo which had a population of 586 and located on the N 15 Sligo - Donegal Road. He confirmed that the subject property comprised a convenience store with a total floor area of 259.46 m² with three petrol pumps to the front.

7.2 He stated that the property was freehold and that the agreed floor area was 259.46 m² with a Retail Zone A of 107.11 m², a Retail Zone B of 107.11 m² a Retail Zone C of 45.24 m² and ancillary/external stores and WC of 54.43 m². He provided a streetside photograph which showed the canopy, forecourt and pumps, shop and fuel stores.

7.3 In relation to the State Of The Market he stated that *“Following an exceptional year in 2014 for the commercial property market, 2015 produced continuous level of strong growth nationally, reflecting the improved economic stability and investment confidence. SCSi members reported a marked increase in commercial and market activity in their respective regions, with Dublin remaining the most active location, with strongest investment returns.”* (SCSi Residential and commercial Property Review and Outlook 2016) He added that the valuation date of the 30th October 2015 was worthy of significant note and stated that following years of high uncertainty and a severe shortage of bank finance for commercial property 2015 marked a turning point in activity levels across the country in terms of investment and sales. he states that the rental market in the country remain deeply divided with Dublin Cork and Galway being the only population centres large enough to attract increases in commercial rents across the board. He concluded therefore that in the rest of the country rental values remained static or declined slightly through 2015 and 2016.

7.4 He referred to the filling station market and acknowledged that there was no specific market analysis for filling stations and consequently evidence in relation to this market must be general in nature by definition. He referred to the largest chain operators of filling stations in Ireland namely Applegreen and Alimentation Couche-Tarde and extracting from their published accounts noted that the percentage of revenue for Alimentation Couche-Tarde European division varied from 10.3% in 2013 up to 15.7% in 2017 whereas Applegreen in the UK had a percentage of 8.1% in 2013 rising to 12.8% in 2016. He noted that the Applegreen Ireland equivalent varied from 20.7% in 2013 to 25.7% in 2016. He concluded that the Applegreen stations in Ireland could expect 20 to 25% of their turnover to come from shop sources which he argued was a good benchmark in determining the parameters in which the commissioner's current formula works. He accepted that stations with more than 80% fuel are fairly assessed by the Commissioner's system however he argued that the formula begins to come under strain between 70% and 80% and failed at less than 60% fuel in almost every case. He argued that unusually many independent Irish filling stations obtained more than 40% of their turnover from the shop which he argued was out of line with the actual rental value if assessed by the Commissioner's formula. He added that Grange with its small population had only seven retail properties including SuperValu, Rosyhil Antiques, Barber Room, The Jam Pot Café, Ceann Oir Hair Salon and Grange Pharmacy. He stated that there are only two filling stations between Sligo Town and the County border with Leitrim 25 km and argued that trading conditions on this route could sustain a substantial number of stations. He added that this is particularly so in

Grange as the subject property competes directly with SuperValu directly across the road from the subject property.

7.5 Mr. Halpin referred to the Commissioners' Valuation schematic which had been applied across 9 counties in revaluation 2017 to include Carlow, Kilkenny, Offaly, Longford, Kildare, Roscommon, Sligo, Leitrim and Westmeath. He included a policy statement from the Commissioner outlining the schematic in Westmeath, Roscommon Sligo, Offaly, Leitrim, Longford and Kildare. He stated that the Appellants accepted the schematic in regard to fuel throughput, carwash sales and shop turnover where shop turnover was less than 50% of the entire turnover. He added he was challenging the schematic where the shop sales part of the schematic exceeded 50%. The schematic includes three elements one for fuel, one for shop sales and one for car wash sales.

Fuel throughput in litres			NAV €/1000ltr	NAV €1000/litre
Up to	<	200,000	€0	0.0000
200,000	to	499,999	€3.00	€0.0030
500,000	to	749,999	€4.00	€0.0040
750,000	to	999,999	€5.00	€0.0050
1,000,000	to	1,499,999	€5.50	€0.0055
1,500,000	to	1,999,999	€6.00	€0.0060
2,000,000	to	2,999,999	€6.50	€0.0065
3,000,000	to	3,999,999	€7.00	€0.0070
4,000,000		4,999,999	€7.50	€0.0075
5,000,000	to	5,999,999	€8.00	€0.0080
6,000,000	to	6,999,999	€8.50	€0.0085
7,000,000	to	7,999,999	€9.00	€0.0090
8,000,000	to	9,999,999	€9.50	€0.0095
10,000,000	to	11,999,999	€10.00	€0.0100
12,000,000	to	14,999,999	€11.00	€0.0110

Shop sales			% to NAV
Up to	to	€99,999	1%
€100,000	to	€199,999	1.5%
€200,000	to	€299,999	2%
€300,000	to	€399,999	2.5%
€400,000	to	€499,999	2.75%
€500,000	to	€749,999	3%
€750,000	to	€999,999	3.25%
€1,000,000	to	€1,499,999	3.5%
€1,500,000	to	€1,999,999	3.75%
€2,000,000	to	higher	4%

Car wash sales			% to NAV
€0	to	€4,999	0%
€5,000	to	€9,999	5%
€10,000	to	€19,999	7.5%
€20,000	to	€29,999	10.0%
€30,000	to	€39,999	11.0%
€40,000	to	€49,999	12.5%
€50,000	to	higher	15%

7.6 The Appellants argued that where shop sales exceeded 50% of total turnover the property transitioned to a convenience store/ supermarket and should be compared with other such properties. They referred to a definition of a filling station as “ a property which sells primarily motor fuel” and concluded that any property engaged primarily in the sale of grocery or other shop products where shop sales exceeded fuel sales was not a filling station. Mr. Halpin referred to the Commissioners schematic for seven counties and noted “*A number of properties which have low throughput volumes and high shop sales have now been reflected in the scheme and where throughput has been provided and is less than 1,000,000 litres the percentage applied to the shop sales has been reduced. A number of these types of properties may merit special attention.*” He added that the Commissioner therefore acknowledged that where shop sales exceeded fuel sales that a different approach may be required.

7.7 Mr. Halpin noted that the Valuation Lists do not contain any FMT information and confirmed that following a request for discovery on 5th November 2020 the Commissioner provided the information sought on 31/08/2021.

7.8 Mr. Halpin stated that the subject property was a convenience store with pumps and that the shop trade in the subject property was down to goodwill which he argued was proven by the fact that it was able to compete with the larger SuperValu across the road. He argued that there was only one retail unit of scale in the town which had been valued at €60/ m² overall-SuperValu and noted that the other two large retail units in the town had been valued at €42/ m² and €42.33/ m² overall. He noted the Zone A rate for Grange was €100.00/ m² and argued that the proposed valuation for the subject property equated to a rate of €270/ m² on an overall basis which was approximately 6.43 times the pharmacy rate and 4.5 times the SuperValu rate.

7.9 He also argued that the subject value could be considered in the context of similar stations on national primary routes in similar towns/villages in Sligo including Drumcliffe N15 which had pumps at €2,130 and the shop at €7,020; Ballynacarrow N17 at €25,000; two in Tubbercurry N17 at €42,000 and €22,700 and one in Charlestown N17 at €11,600. Details of the turnover and floor areas are included in the appendix (n/a to public). Mr. Halpin stated that the subject property had been assessed at 3.85 times the average station value on national primary routes in Sligo excluding Sligo town and that it had been assessed at 9.3 times the only other station on the N15 in Sligo and concluded that the subject property was exceptional and that exceptional trade can only be driven by the occupier and not the property. He argued that the most effective approach would be to value the subject property by turnover formula and discount the actual trade back to the appropriate level. He said that given the trade indicated by the comparisons the Appellants believed the subject property assessment should not exceed 2,000,000 litres of fuel €1,000,000 shop turnover and €11,000 euro for the car wash. Alternatively he argued a hypothetical tenant could value the shop on a rate per square metre basis taking account of the rates established in Grange.

7.10 Mr. Halpin referred to seven NAV comparisons in Grange and a number of NAV comparisons from various other locations in Co. Sligo. His first NAV comparison referred to SuperValu Grange which comprised a retail area of 927.2 m² it had been valued at €90,400. He confirmed that the turnover was not known and that the premises had been valued at €60.00/ m² overall.

	Use	Area m ²	NAV/ m ²	NAV €
0	Supermarket	927.20	€60.00	€55,632.00
0	offices	163.00	€60.00	€9,780.00
0	Cold room	32.85	€60.00	€1,971.00
0	Store	129.60	€60.00	€7,776.00
	Additional items			€15,261.13

Mr. Halpin confirmed that this property was located directly across the road from the subject property and that the subject property was significantly smaller yet the proposed valuation for the subject property at €85,000 was just €5,000 less than a materially larger SuperValu store.

7.11 Mr. Halpin's second NAV comparison referred to Grange Pharmacy and he confirmed that the turnover was unknown and that the property had been valued on an overall rate of €42/ m².

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Shop	157.50	€42.00	€6,615.00 Say €6,610.00

He noted that this property provides a clear indication of retail values in the town on an overall basis.

7.12 Mr. Halpin's third NAV comparison referred to Rosyhil Furniture & Antiques in Grange which he stated was the largest shop in the town valued on his zoning basis. He confirmed the turnover was unknown and that the shop size was 140.97 m² and the overall size was 209.27 m².

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Retail zone A	46.50	€100.00	€4,650.00
0	Retail zone B	30.50	€50.00	€1,525.00
0	Retail zone C	37.94	€25.00	€948.50
0	Retail zone remainder	25.03	€12.50	€312.88
0	Shop	1	€743.00	€743.00
0	Store	68.3	€10.00	€683.00

7.13 Mr. Halpin's fourth NAV comparison referred to The Jam Pot Café which was valued on a Zoning basis.

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Retail zone A	21.96	€100.00	€2,196.00
0	Retail zone B	13.32	€50.00	€666.00

7.14 Mr. Halpin's fifth NAV comparison also referred to The Jam Pot Café which was valued on a Zoning basis.

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Retail zone A	21.96	€100.00	€2,196.00
0	Retail zone B	13.32	€50.00	€666.00

He stated that these two premises had been let from 2017 as a single unit. Details in the appendix (n/a to public). He noted the NAV was in line with the rent.

7.15 Mr. Halpin's sixth NAV comparison referred to Ceann Oir Hair Salon which was valued on a Zoning basis.

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Retail zone A	21.96	€100.00	€2,196.00
0	Retail zone B	10.99	€50.00	€549.50

7.16 Mr. Halpin's seventh NAV comparison referred to The Barber Shop which was valued on a Zoning basis.

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Retail zone A	16.70	€100.00	€1,670.00

7.17 Mr. Halpin's eighth NAV comparison referred to a filling station and shop in Drumcliff located on the N15 which had been valued in two separate parts. The first part comprising the filling station had an NAV of €2,130 for the pumps and the shop had an NAV of €7,020 based on a zoning methodology.

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Retail zone A	47.63	€100.00	€4,763.00
0	Retail zone B	35.38	€50.00	€1,769.00

0	Retail zone C	16.24	€25.00	€406.00
0	Store	8.70	€10.00	€87.00

He states that this was the only other filling station on the N 15 and he noted that the filling station and the shop had been valued separately. He confirms that the shop turnover was unknown and that they fuel throughput was significantly below 1,000,000 litres.

7.18 Mr. Halpin's ninth NAV comparison referred to Ballynacarrow on N17 a vacant filling station comprising a retail area of 329.10 m² with unknown shop and fuel figures valued at €25,000. Mr. Halpin stated that this premises which comprised a larger retail unit was also on a national primary route, yet it had been valued at €25,000 when the subject property had been valued at €85,000.

7.19 Mr. Halpin's tenth NAV comparison was located on the N17 at Tubbercurry which had a population of 1986 and comprised McSorley's Centra and filling station. He argued that this was the best filling station on the N17 and was located in the highest population centre on that route. He noted the NAV was €42,000 and argued that the appraisal for the subject property was more than double this estimate with a retail area of 193m². He provided shop turnover and fuel throughput details of which are included in the appendices. The basis for determining the NAV was not provided.

7.20 Mr. Halpin's eleventh NAV comparison referred to Daybreak in Tobercurry which had an NAV of €22,700 and he noted that the NAV calculation basis was not provided by the Commissioner. He noted the shop area was approximately 250m². The total size is approximately 350m² and he argued that while this property was inferior to McSorley's nonetheless the population of the town was 1986. He provided shop turnover and fuel throughput details of which are included in the appendices.

7.21 Mr. Halpin's twelfth NAV comparison comprised Cassidy's XL and Topaz and was located in Charlestown on the N17 close to the N5 Dublin to Westport Road. The NAV was €11,600 and the retail size was 91 m² and Mr. Halpin argued that the relationship between a filling station and a supermarket in the context of a Sligo town refers to this property and a subsequent property comprising Rafferty's Centra at €53,000 also in Charlestown. He argued

that this relationship in comparative NAVs should also apply in the case of the subject property in Grange. He provided shop turnover and fuel throughput details of which are included in the appendices.

7.22 Mr. Halpin's final NAV comparison referred to Rafferty's Centra in Charlestown with a valuation of €53,000 and he provided analysis of the NAV as follows:

Level	Use	Area m ²	NAV/ m ²	NAV €
0	Supermarket	578.70	€60.00	€34,722.00
0	Clean rooms	4.68	€60.00	€280.00
0	Cold room	26.84	€60.00	€1,610.00
0	Offices	18.54	€60.00	€1,112.00
0	Store	136.40	€60.00	€8,184.00
	Additional items			€6,945.00

He argued that this supermarket would have a substantially higher shop trade than the subject property and is approximately three times the size of the subject property, yet it is assessed in terms of retail NAV. He argued that the relativity in valuations for the two properties in Charlestown should also apply to the subject property and SuperValu Grange.

7.23 Mr. Halpin referred to VA 17 / 5 /573 a fuel and shop based valuation of €79,000 which had a retail shop and filling station and he noted that the Tribunal fully accepted the Commissioners turnover formula schematic on the basis that discounts of 20% were applied to other filling stations in the County. He noted the difference between the 2016 and 2015 annualised figures and he referred to the fact that the Tribunal had not been provided with the methodology adopted to determine FMT and was not aware how the Commissioner had established the levels of FMT. He also referred to the fact that the Tribunal noted the concerns of the Appellants regarding the different approach adopted when valuing a convenience store on a filling station site and a non-filling station site but he did acknowledge that the Appellant had not established to the satisfaction of the Tribunal a case for overturning this approach which had been widely accepted in the County. He also noted that while the Commissioner's schematic had generally been accepted throughout the County by filling station operators and their advisers the Tribunal was concerned that there was no clear link between the established NAVs and the reported rents extracted from the key rental transactions. He added he shares the

Tribunal's concerns in this regard and noted that schematic was broadly acceptable in the majority of filling stations which possess 60% plus of their turnover from fuel and therefore are not disadvantaged by the schematic. He argued that where the turnover in the shop exceeds 40% the formula is not equipped to handle it and FMT based calculations created distorted the market as a result.

7.24 Mr. Halpin also referred to a second Tribunal decision VA 15/5/069 which he referred to as a convenience store with petrol pumps located in Askeaton. He referred to the fact that this Tribunal had found that the FMT was excessive taking account of the size of the retail area noting that the location of the property was in a small town. He refers to VA 15/5/055 and argues that the approach adopted in this instance was more appropriate for the subject property due to size, turnover and population however he did acknowledge that the approach adopted in VA 15/5/069 was equally valid if the appropriate considerations were made.

7.25 Mr. Halpin concluded his evidence and stated that the subject property was a convenience store with petrol pumps and that there were two ways to consider the it firstly as a property in the context of the commercial market within the village of Grange and secondly as a filling station in the context of national primary stations in towns and villages across County Sligo. If considering the local market context he argued that the only property of scale in the village was SuperValu which was four times larger than the subject property and would have a significantly larger turnover than the subject property and he argued that the other properties in the town were of limited value. Alternatively, if considering the property in the context of the County for similar filling stations he argued that the subject property is currently being estimated at more than double any other comparable station and almost four times larger than the average. He argued but the only other filling station on the N 15 had been assessed with separate valuations on the pumps and the retail accommodation.

7.26 He added that the subject property competes directly with SuperValu and that for every euro of fuel sold, the subject property sells over one euro in grocery. He added this is in distinct contrast to the standard model in which the average filling station operator sells three to four euros of fuel for every one euro in grocery. He argued that this calls into question the effectiveness of the formula as it was not designed to cope with properties such as this. He added that in his opinion the hypothetical tenant for the subject property would not be a major fuel retailer such as Applegreen or Circle K as the subject property did not have sufficient fuel

potential to be viable due to its limited passing trade and he further argued that the hypothetical tenant would not be a major supermarket chain as the subject property is not sufficiently large to carry out supermarket trade. He stated that the hypothetical tenant would therefore be an independent retailer who would compare the subject property to equivalent convenience stores/supermarkets and or filling stations in order to inform their rental bid. He argued that the Commissioner is suggesting that a hypothetical tenant would pay four times the rent for the subject filling station versus a conventional convenience store or supermarket. He further argued that this is simply not the case and ignores the unusual situation in the Irish market where many fuel retailers are actually convenience store operators who happen to sell fuel. He further argued that the Commissioner's formula is flawed where properties are trading at more than 50% shop turn over and he notes that the Commissioner's own schematic appears to indicate that a number of these types may merit special attention. The Appellants seek a reduction in the NAV to €46,100 based on the first method.

7.27 In conclusion he provided three methodologies for assessing the NAV.

A. The adjusted method formula.

Fuel	2,000,000litres	@ €0065/litre	€13,000
Shop	€995,000	@ 3.25%	€32,338
Carwash	€11,000	@ 7.5%	€825
Total			€46,163 Say €46,100

B The rate per Square Metre method/overall.

Fuel	2,000,000litres	@ €0065/litre	€13,000
Carwash	€11,000	@ 7.5%	€825
Supermarket	259.46m ²	@ €84.00/ m ²	€21,795
Off-licence	15%		€3,892
Ancillary stores	54.43m ²	@ €20.00/ m ²	€1,089
Total			€46,601 Say €46,100

C. The rate per square metre method -zoned

Fuel	2,000,000litres	@ €0065/litre	€13,000
Carwash	€11,000	@ 7.5%	€825
Retail zone A	107.11m ²	@ €100.00/ m ²	€10,711
Retail zone B	107.11 m ²	@ €50.00/ m ²	€5,356
Retail zone C	45.24m ²	@ €25.00/ m ²	€1,131
+loading for fuel on retail 50%			€8,599 Say €46,100
Off-licence	15%		€3,870
Ancillary stores	54.43m ²	@ €20.00/ m ²	€1,089
Total			€44,581 Say €44,500

7.28 During cross examination in reply to queries from the Respondents Mr Halpin confirmed that there were three islands with six pumps and a separate seventh pump for commercial fuel sales. He also confirmed that his precis did not include a copy of the Applegreen annual accounts but stated that the information in his precis had been extracted from these accounts and the that annual accounts for Applegreen were public documents.

7.29 He also confirmed that the current occupier was an exceptional occupier as he could compete with a larger SuperValu supermarket directly across the road from the subject property.

7.30 He referred to Cassidy's XL and Topaz in Charlestown where the two elements comprising a filling station and convenience store were separately rated at much lower levels that that which applied to the subject property.

7.31 Mr Halpin confirmed that the schedule of service stations in Sligo included in his precis included those on national primary routes excluding those close to Sligo Town. He agreed with Ms. Duggan that Mullaney's SuperValu in Grange was not a service station but that it comprised a large supermarket with a car park located opposite the subject property. Mr Halpin confirmed that the Grange Pharmacy was valued as a shop according to the valuation list at

€42.00/m². He acknowledged that it may have been an industrial unit but the list clearly showed it as a shop.

7.32 Mr Halpin confirmed that the remaining comparisons in his precis for Grange Village comprised shops without filling station and were valued on a zoning basis.

7.33 In relation to Great Gas at Drumcliff Mr Halpin agreed that the two elements, namely the shop and the filling station had been valued separately and had different occupiers. He was unable to confirm if the service station had new pumps and he could not confirm the date of his photograph. He accepted that the service station had a new concrete forecourt but he argued that it served both the shop and the filling station but agreed that fuel was paid for at the pumps and not in the shop. He argued that separating the two parts with different occupiers should not in equity result in a material difference in value.

7.34 In relation to Emo at Ballymacarrow Mr Halpin accepted that the service station had been vacant at the valuation date but stated that if it had been derelict that it would not have been valued. He did not accept that his photograph was provided to mislead the Tribunal.

7.35 By way of correction Mr Halpin confirmed that the Valuation Commissioner had provided the requested NAV bases for McSorley's, Daybreak at Tubbercurry and Cassidy's XL and Topaz in Charlestown.

7.36 In relation to his three valuations options Mr Halpin confirmed that they were not based on any rental transactions.

7.37 Following a query from Ms. Duggan, Mr Halpin confirmed that the split in sales based on the figures provide by him showed that the spilt was 49% versus 51% fuel to shop sales in the subject property.

7.38 Mr Halpin closed with a short summary and argued that the shop turnover is particular to the occupier's business acumen and that the proposed shop FMT was too high when compared to the other comparisons. The hypothesis is based on vacant possession and assuming the premises is 'To Let' and excluding Sligo City premises the range for the other service stations

varied from €20,000 to €40,000. He noted the FMT applied to the fuel by the Commissioner and reduced his proposed valuation to € 44,800.

8. RESPONDENT'S CASE

8.1 Ms. Duggan a valuer on behalf of the Respondents adopted her precis and confirmed that the subject property was located in Grange on the Wild Atlantic Way and on the N15 Sligo to Lifford Road and was approximately 16km north of Sligo and 70km from Carrick on Shannon.

8.2 She described the subject property as a Circle K /Londis Service Station which included a large shop and four pump islands which are double sided. Three of the islands are located under a traditional canopy in front of the shop and there are six pumps each of which has 3 nozzles. There is a separate 7th pump with four nozzles to the side of the shop for truck, kerosene and MGO sales. The shop is described as a convenience store trading under the Londis brand and it includes a delicatessen, coffee station, indoor ATM, and a seated café area. The shop has an off-licence and opening hours extend from 6.30am to 10.30pm Monday to Friday and 7.30am to 10.30pm on Saturday, Sunday and Bank holidays. This accommodation also comprises a store, toilet accommodation and an office and there is a separate forecourt building which houses the fuel store and customer toilet accommodation. The forecourt extends to approx. 5,400m² with a frontage of 68m and the site includes a brush wash and three electric car chargers. A site plan was provided showing the location of the shop, canopy, brush wash, fuel store and rear car parking.

The gross internal areas provided were

Shop	259.46m ²
Fuel store & WCs	<u>54.43 m²</u>
	313.89 m ²

Canopy 270 m².

8.3 Ms Duggan said the property which is freehold had previously been part of the old mart site and had been developed approximately 20 years earlier and the shop was extended circa 2007.

8.4 Ms. Duggan confirmed that no financial information had been provided in relation to the subject property prior to the final Valuation Certificate being issued. She said that the NAV applied to this site of €85,000 was estimated. She said that limited financial information was

provided on the 3rd of November 2020, two weeks prior to the precis evidence exchange date. She noted the information provided comprised an extract from the 2016 accounts to include the profit and loss section only for the year 2015 to 2016 and that the agent also provided one year's breakdown of turnover from the shop till system. Details are included in the appendix (n/a to public).

8.5 Ms. Duggan addressed the grounds of appeal before the Tribunal which she summarized as the valuation of the subject property was excessive and inequitable. The property's value was not in line with the actual rental value of filling stations. The Commissioner's formula based approach to filling stations was flawed. The occupier's retail acumen was unfairly taxed. The subject shop should have been zoned or valued on an overall rate per square meter. The subject valuation of €85,000 NAV is comparable to the SuperValu in the village which is more than four times the size of the subject property and has a turnover approximately four times the subject shop.

8.6 She noted that the Valuation manager had restated the valuation of €85,000 and that the financial information requested from the agent at representation stage had not been supplied. She noted that the team leader and valuation manager confirmed the valuation.

8.7 In relation to market and financial information Ms. Duggan confirmed that no Section 45 form was returned by the occupier or their agent for the subject property and that limited financial information only was provided prior to the precis exchange on the 3rd of November 2020.

8.8 She noted that there were 24 filling stations in Sligo of which three were appealed to the Valuation Tribunal one was withdrawn and one was listed for a written exchange but had not been completed.

8.9 Ms. Duggan said that approximately 46 items of market information were relied upon for Revaluation 2017 for Sligo, Westmeath, Leitrim, Longford, Roscommon, Offaly and Kildare and that each transaction was investigated and analysed and market rents were adjusted where appropriate to take account of the date of the transaction relative to the statutory valuation date, any inducements which were included in the transactions and any other individual features of the transaction. She confirmed that of 24 service stations in Sligo there was one item of market

information available and that financial information had been provided in 10 cases or approximately 42% of the cases for Sligo. She stated that the result of this analysis was a Valuation Scheme which had been widely accepted by agents and occupiers in all the Revaluation 2017 areas to date. She noted that the comparison Valuation approach had been confirmed as the best approach in a number of recent Valuation Tribunal judgments particularly VA 17. 5. 573 Naas Oil limited and VA 17. 5. 032 James Farrell and she also noted other revaluation Tribunal judgments in relation to past revaluations VA 14. 5. 175 Pelco Limited VA 14. 5. 176, Pelco Limited VA 14. 5. 177; VA 15.5. 063 Olympic Express Limited and VA 15.5.069 Cloonreask Supermarkets Limited.

8.10 Ms. Duggan provided one Key Rental Transaction in Tubbercurry. Lease details are provided in the appendix (n/a to public). Financial information was provided for 2014-2015, no representations or Valuation Tribunal appeal was made.

8.11 Ms. Duggan provided details of five NAV comparisons and FMT details are included in the appendix (n/a to public). The first comprised Sligo Gate Service Station, Rathrippon, Collooney, Co Sligo and comprised a shop, restaurant and stores of 510 m². This property is located on the R 290 just off the N 4 in Collooney Town approximately 13 KM from Sligo and financial details for four years 2013 to 2016 inclusive were provided. The NAV was €133,200 and the property was not subject to representations and no Valuation Tribunal Appeal was made. FMT details are provided in the appendix (n/a to public).

8.12 The second referred to Mullen's Service Station Bundoran Road, Sligo with an NAV of €95,000 which comprised 322m² and is located on the outskirts of Sligo Town on the N15 approximately 14km from the subject property. No financial information was provided and the property was not subject to representations and no Valuation Tribunal Appeal was made. FMT details are provided in the appendix (n/a to public).

8.13 The third referred to Circle K Service Station Carton Hill, Sligo Town with an NAV of €45,600 which comprised 210.64m² and is located on Carton Hill in Sligo Town approximately 15km from the subject property. Financial information was provided for 3 years from 2014-2016 and the property was subject to representations by Elliot & Fitzgerald and no Valuation Tribunal Appeal was made. FMT details are provided in the appendix (n/a to public).

8.14 The fourth referred Innisfree Service Station Pearse Road, Sligo Town with an NAV of €80,000 which comprised 206m² and is located on Pearse Road in Sligo Town approximately 18km from the subject property. No financial information was provided and the property was not subject to representations and no Valuation Tribunal Appeal was made. FMT details are provided in the appendix (n/a to public).

8.15 The fifth referred to Henry's Service Station Ballymote, Co Sligo a small town 39km south of the subject property and comprised 176m² with an NAV of €57,700. Financial information was provided for 3 years from 2012-2014 and the property was not subject to representations by the occupier and no Valuation Tribunal Appeal was made. FMT details are provided in the appendix (n/a to public).

8.16 Ms Duggan concluded her submission and sought an NAV of €85,000 though she calculated an NAV based on the financial information provided at €87,325 based on a fuel throughput of €6.00/1,000litres; shop sales based on 3.75% and car wash at 10%. She stated that the FMT calculated was the annual level of trade, excluding vat which a reasonably efficient operator of the business could achieve and she referred to VA 17. 5. 573 Naas Oil and VA 17.5 032 James Farrell to support her contention that the comparative valuation approach had been confirmed by the Tribunal as the best approach.

8.17 During cross examination Ms Duggan accepted that the occupiers personal goodwill is not to be assessed and the basis of assessment assumed a reasonable competent operator. Mr Halpin put it to Ms Duggan that her sole Key Rental Transaction 'KRT' was approximately four times less than the figure assessed by the Commissioner for the subject property. She stated that this property was completely different and was poorer quality whereas the subject property comprised a purpose built service station with all modern attributes. She added that it was a different area with more local competition. She accepted that the lease was a lease renewal. She confirmed that financial information was provided.

8.18 She did not accept that electric vehicle charging points in the subject property indicated an exceptional operator, but she agreed that the occupier was a good operator but not an exceptional one.

8.19 In relation to her first NAV comparison at Collooney she did not accept that it was very different to the subject property as it was off the National Primary Route whereas the subject property was on the N route. She confirmed that financial information was provided. She argued that the subject property benefitted from a large passing traffic volume and the population of Grange was not a driving factor.

8.20 Ms Duggan did not accept that there was a direct relationship between fuel sales and shop sales and argued that any such approach was too simplistic. She did not accept that service stations in Sligo City had an advantage over the subject property and regarded passing traffic as the most important factor when valuing service stations. She stated that higher fuel sales did not always translate to higher shop sales as some of the excess could be attributed to truck fuel sales.

8.21 Ms Duggan concluded by stating that two of her comparisons reflected higher values than the subject property and the valuation was based on a well established schematic that had been generally accepted by agents. She stated that the subject property was well located on an N road and comprised a high quality purpose built service station and shop. She did not accept that the operator was exceptional and that no evidence to support the claim had been provided and called for the level of €85,000 as proposed to be confirmed.

9. SUBMISSIONS

9.1 No legal submissions were received.

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 Sligo County Council.

10.2 The Appellants sought to have the NAV €85,000 as contended for by the Respondents reduced to €46,100. The subject property comprises a well-constructed purpose built service station and convenience store on the N15 in a small village north of Sligo that relies on passing traffic. In cross examination the Appellant agreed that the subject property included six under canopy pumps on three islands and one separate pump away from the canopy.

10.3 The Tribunal noted that the Appellants generally accepted that the schematic adopted by the Respondents had been widely recognised by the operators and the agents involved in the area however they have argued that the formula was not suitable where the shop receipts exceeded 30% of the gross receipts and that in such circumstances consideration should be given for that property to be regarded as a convenience store with pumps rather than a service station with an ancillary convenience store operation. The Appellants accepted the schematic where shop sales were below 50% of the entire turnover and argued that where the shop sales exceeded 50% of the total turnover that the property transitions from a service station to a convenience store and the retail element should be valued on a rate per square metre basis. The Respondents in cross examination put it to the Appellants that approximately 51% of sales related to the shop with approximately 49% relating to the fuel/service station operation.

10.4 There was one comparison common to both parties and this referred to the Respondents Key Rental Transaction and the Appellants comparison No. 8. Tubbercurry. The shop size in this case was not provided by the Respondents but was included and unchallenged in the Appellant's evidence. The size of both premises is similar and both are located on N roads outside Sligo one north of the town and the other south west of the town. While Tubbercurry has a higher population it is clear to the Tribunal that the Tubbercurry premises is inferior to the subject property but not by a factor close to four times. Grange has a very small population of 586 and trade must consequently rely on passing traffic to a significant extent.

10.5 The Tribunal does not accept the Appellants suggestion that the subject property should be valued on a retail zoning basis. No direct comparable evidence was provided to support this contention. Consequently, the retail comparisons adduced for Grange were generally not of assistance however, the proximity of SuperValu in Grange Village and the ability of the occupier in the subject property to compete with a much larger immediately adjacent branded supermarket outlet does indicate to the Tribunal that the operator is trading at an exceptional level. Having reviewed the seven transactions relied upon by the Respondents, many of which were located in superior locations close to Sligo Town this ability was supported by the fact that in each case the shop sales when measured with fuel throughput were a factor of less than one -varying from 0.3 to 0.875 whereas the contended for factor in the subject property was 1:1. Four out of seven of these properties provided financial information. The subject property is not the best located service station of those provided and has immediate and strong competition from SuperValu in Grange. Consequently, the Tribunal finds that the FMT for the

shop sales should be reduced to €1,560,000 to keep it in line with the stronger NAV comparisons.

10.6 The evidence put forward from Drumcliff referred to two separate valuations. The basis of the assessment was thus unclear and it was of little assistance to the Tribunal. The service station at Ballycarrow referred to a premises that has been out of commission for many years and the Appellants were unable to provide any contemporary description of the premises and appeared to rely on an old stock photograph. McSorley’s in Tubbercurry supported the Appellants contention that the turnover in Euro should be less than the turnover as expressed in litres. The relationship between the Cassidy’s Topaz service station and the Rafferty’s Centra was not of particular assistance as the service station retail floor area was very limited. No evidence disputing the car wash NAV was provided.

10.7 The Respondent accepted that personal goodwill should be excluded when determining the value and agreed that a reasonably efficient operator was the standard to be sought after. Their Key Rental Transaction was of limited assistance and it would assist the Tribunal if floor areas were provided when available. The Sligo Gate Collooney premises was much larger than the subject property and included a restaurant which appears to comprise a drive-thru facility. With the single exception of the KRT each of the six NAV comparisons provided showed higher fuel FMT throughput than that proposed for the subject property but in this instance the Tribunal does not see any reason to reduce the fuel FMT.

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 €72,700.

Fair maintainable trade		@	NAV
Fuel throughput/litres	1,950,000	€0.006	€11,700
Shop sales	€1,560,000	3.75%	€58,500
Car wash	€25,000	10%	€2,500
			€72,700