

**Appeal No: VA19/5/0449**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Amber oil**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1352486, Fuel/Depot at 85A Davitt Street (Upper Church St), Tipperary,  
County Tipperary.

**B E F O R E**

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

**Deputy Chairperson**

**Frank O'Grady - MA, FSCSI, FRICS**

**Member**

**Mema Byrne - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 27TH DAY OF MAY, 2022**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 14<sup>th</sup> day of October, 2019, the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €86,100

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. As a fundamental, we believe that the filling station formula is unsuitable to value properties such as the subject property, which have more than 50% of their sales occurring in the shop. The definition of a filling station is a property that sells primarily motor fuel. If more*

*than 50% of the sales in a 'filling station' occur in the shop, it is not in fact a filling station at all – it is a convenience store or indeed a supermarket with petrol pumps as an ancillary. The nature of this trade has already been explored by the Tribunal in VA15/5/069. Valuations of such properties need a complete rethink, as valuations multiples of superior supermarkets are placed on much smaller shop, solely due to the presence of pumps outside the door. The Commissioner does not investigate the turnover of a Tesco superstore adjoining a Tesco fuel outlet, nor should he. This approach should be widened to take in stations such as the subject property, which are nonstandard.*

*Properties should be valued on a rate/m<sup>2</sup> with an addition for pumps. A major filling station operator (Circle K, Applegreen etc.) would not be interested in the subject property as it is not capable of the fuel sales necessary to attract a bid.*

*2. Effectively, the subject property is being punished for its local convenience store trade, which is completely inequitable. Comparable convenience stores include PN 1351273 (Spar). The subject property is currently being considered as superior to Lidl, which is physically impossible.*

*3. This property can be treated on an overall basis (in line with PN 1351273) or zoned in line with the assessment of PN 1352455 in the same street.*

*4. Indeed, even if the property is considered as a filling station by the formula, there are Applegreen filling station in the same street – PN 1352451 (Applegreen) €64,700. The reality is that the subject property cannot be worth more than this.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €40,000.

## **2. REVALUATION HISTORY**

2.1 On the XX day of XX, 201X 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 €86,100.

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, the valuation manager did it not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September, 2019 stating a valuation of €86,100

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15<sup>th</sup> day of September, 2015.

### **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 9<sup>th</sup> day of May, 2022. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), B.A. (Mod) of Eamonn Halpin & Co. Ltd and Ms. Carol Spain of the Valuation Office made an appearance to advise the Tribunal that no representative from the VO would be present and no précis of evidence would be put forward or that any cross examination of the Appellant would be undertaken on behalf of the Respondent.

3.2 The Tribunal having considered the situation decided to proceed with the hearing on the basis that the onus was on the Appellant to provide proof of the incorrectness of the Final Valuation Certificate

3.3 Mr Halpin for the Appellant proceed to take 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 Appellant, the Tribunal finds the following facts.

4.2 The subject property is located on Limerick Road, Tipperary Town, Co. Tipperary. This is a main arterial route in the town and a national secondary route.

4.3 The property is a convenience store with petrol islands (4) to front.

4.4 We are advised that the property is held freehold.

4.5 Details of turnover for fuel, shop and agency were supplied for the years 2015, 2016 and 2017. (Appendix 1).

4.6 The accommodation floor areas were stated as;

Retail (Zone A) 95.77 sq.m.

Retail (Zone B) 87.48 sq.m.

Total Retail 183.25 sq.m.

Internal Store 68.40 sq.m.

WC 22.56 sq.m.

Offices 36.12 sq.m.

External Store 52.80 sq.m.

And several photographs were attached.

## **5. ISSUES**

5.1 The matter at issue is Quantum.

5.2 The Appellant claims the valuation is excessive and the rateable valuation (RV) should be reduced to €62,000.

## **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 claims that a scheme of valuation has been applied by the Commissioner across the counties of Cavan, Monaghan, Meath, Wicklow, Wexford and Tipperary and a chart of the scheme was provided. (Appendix 2).

7.2 Mr. Halpin accepted the scheme in regard to Fuel throughput, Carwash sales and Shop turnover, where same is less than 50%, but challenges the shop sales part of the scheme above 50% of entire turnover. It is his contention that where shop sales exceed 50% the property transitions to a convenience store and is more comparable with such stores.

7.3 He stated that the Commissioner’s scheme for the above 6 counties where properties which have low throughput volumes and high shop sales, particularly shops with less than 1,000,000 litres, the % applied to the shop sales has been reduced. He further stated that the Commissioner acknowledges that where shop sales exceed fuel sales that a different approach may be required to arrive at a more equitable valuation.

7.4 Mr. Halpin stated that there was a high level of competition for both fuel and convenience trade in Tipperary town. There are a total of 6 supermarkets, 7 filling stations and a substantial number of smaller shops all competing for trade. On the Limerick Road there are 4 petrol stations and a large supermarket.

7.5 To assist his case 5 NAV comparable properties were introduced:

PN	Location	Size (Retail / Total)	No. of Pumps	€NAV
1352451	Limerick Road	223.11sq.m./ 281.39sq.m.	4	64,700
1352496	Limerick Road	unknown	3	40,200
5009386	Bohercrow Roundabout	570.88sq.m./750sq.m.	6	161,300
2203445	Bansha Road	70sq.m. /100sq.m.	4	50,500
1351278	Fr. Mathew St.	70sq.m. /100sq.m.	2	64,000
SUBJECT	Limerick Road	183.25sq.m./363.13sq.m.	4	86,200

7.6 Mr. Halpin drew particular reference to the adjoining filling station (Applegreen) which was bigger than the subject, has greater fuel throughput (3.1 ml. litres), but lesser shop sales which he attributed to exceptional service in the subject shop.

7.7 Comparison 4, (Amber Oil) has a greater fuel throughput (3.1 ml. litres) and less shop sales.

7.8 Comparison 3, the newest and largest station/plaza in size and area is the greatest competitor and has higher fuel and shop turnover, some 3 times that of the subject.

7.9 Mr. Halpin introduced several retail/convenience store comparisons (Appendix.3) to indicate the difference between local retail Zone A values (€45 - €70/ sq.m.) and filling station shop values which were (€140/ sq.m.).

7.10 He also introduced 2 context comparisons from previous Tribunal decisions from County Carlow (Appendix 4). In PN 2148429 the Tribunal had discounted the FMT by 40% in order to arrive at an NAV which was sustainable in view of comparable properties in Carlow town (VA17/5/085).

7.11 Mr. Halpin contended for a valuation of €62,000 NAV.

Estm. NAV on 15<sup>th</sup> September 2019 Basis

The adjusted formula method

Fuel 2,000,000 L @ €0.0065/L = €13,000. (Agreed)

Shop €1,400,000 @ 3.5% = €49,000.

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Total NAV	€62,000.
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The below methods were also provided for context:

Fuel 2,000,000 L @ €0.0065/L = €13,000 (Agreed)

Retail (Zone A) 95.77sq.m. @ €140/sq.m. = €13,408.

Retail (Zone B) 87.48sq.m. @ €70/sq.m. = € 6,124.

Internal store 68.4sq.m. @ €20/sq.m. = € 1,386.

W.C. 22.56sq.m. @ €20/sq.m. = € 451.

Offices 36.12sq.m. @ €20/sq.m. = € 722.

External store 52.8sq.m. @ €20/sq.m. = €1,056.

Plus Off- Licence (15%) = €3,469.

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Total NAV	€39,569. Say €39,600.
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Fuel 2,000,000 L @ €0.0065/L	= €13,000.	(Agreed)
Supermarket 363.15sq.m. @ €45/sq.m.	= €16,340.	
Plus Off-licence (15%)	= € 2,451.	
	€31,971	Say €31,900.

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7.12 When questioned by the Tribunal, Mr Halpin clarified some statements made during his presentation, he stated that the adjoining Applegreen station sold more fuel and had less shop sales but the actual t/o figures were not available to him. He confirmed that in subject the trend in fuel sales was going down and that the shop sales were increasing, which he put down to increased competition in the area.

7.13 When questioned further on the nature of the shop sales he proffered comparison with local convenience stores / supermarkets as the correct approach but had no evidence to support this method of valuation.

7.14 Mr. Halpin also confirmed agreement with the Commissioner's approach to the treatment of agency sales like lotto, tobacco, phone cards etc. at a reduced rate of 2% of t/o.

7.15 He further confirmed that the fuel sales figure was accepted between the parties at NAV €13,000.

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

8.1 No submission was presented by the Respondent.

## **9. SUBMISSIONS**

9.1 No legal submissions were introduced.



## **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 Tipperary County Council.

10.2 The Tribunal notes that this is an unusual case as the Respondent has chosen not to be represented. It is however very much aware that under the Valuation Acts the Appellant must prove his case to allow any change to the Valuation Certificate. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination.

10.3 The Tribunal has examined the particulars of the property and duly considered the written and oral evidence adduced by Mr. Halpin for the Appellant, who sought a reduction in the proposed valuation of €82,100 to a revised NAV of €62,000.

10.4 Mr. Halpin commented on the competition in the area, the business acumen of the operator and the changing nature of the actual business, all points well made and supported by the evidence provided.

10.5 The Tribunal was impressed by the comparable information provided by Mr. Halpin and while he attempted to change the valuation method by introducing context comparisons to contrast the difference in values between convenience stores/supermarkets and petrol stations, he selected the method adopted by the Commissioner as detailed on the chart (Appendix 1), to reach his final opinion of NAV.

10.6 It is noted that the fuel sales valuation is accepted at NAV €13,000.

10.7 Mr. Halpin did challenge the shop sales element of the Commissioners approach and quoted previous Tribunal decisions (VA 17/5/151 and VA 17/5/005) which had made allowances for business acumen, competition and the fact that rent is calculated on a yearly basis to achieve a fair marketable value.

10.8 In analysing the evidence from the adjoining property, Applegreen and the sister station Amber Oil on Bansha Road in particular, they provide good comparative information to allow for a reduction and follow the approach adopted in previous Tribunal decisions.

**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 €62,000.

Fuel 2,000,000 L @ €0.0065/ L	=	€13,000
Shop sales FMT €1,400,000 @ 3.5%	=	€49,000
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NAV		€62,000

And so the Tribunal determines.

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