

Appeal No: VA17/5/040

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

John Spollen (Glasson) Ltd.

APPELLANT

and

Commissioner Of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 2190224, Minerals at 1B, Dungolman, Ballymore, County Westmeath**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JUNE 2022**

BEFORE

Eoin McDermott - FSCSI, FRICS, ACI Arb

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal issued on 25th September 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 €19,830.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: “*excessive and inequitable, not in line with the properties rental value*”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,110.

2. RE-VALUATION HISTORY

2.1 On 12th 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 €20,400.

2.2 A Final Valuation Certificate issued on 7th September 2017 stating a valuation of €19,830.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal. The Appellant's summary was prepared by Mr. Eamonn Halpin BSc (Surv.) MRICS, MSCSI, of Eamonn Halpin & Company and the Respondent's summary was prepared by Ms. Susan Dunlea.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 The property is located in a rural area close to Ballymore in Co. Westmeath.

4.3 The property comprises a sandpit with on-site plant. The material produced is used by the occupier's business and is not sold on the open market.

4.4 The Portacabin should be valued at €8 per Sq. M.

5. ISSUES

The principal issue is one of quantum.

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, on behalf of the Appellant, briefly described the property and its location using photographs contained in his submission.

7.2 He states that the Appellant has not been provided with any breakdown of the valuation although they know that it comprises a plant valuation and a mineral valuation.

7.3 Mr. Halpin states that there are only two sandpits in Westmeath, the subject and PN 2190225, which lies immediately to the north of the subject property. He says that the properties have the same quality of sand, the same potential output and the same type of extraction plant, although the comparison has more buildings than the subject. Given these facts, the Appellant does not understand why the valuation of the subject is €19,830 while the value of the comparison is €7,110.

7.4 Mr. Halpin surmises that the difference between the valuations may be attributable to the subject properties output. However, he points out that the output is used by the owner of the property while the output of the comparison is sold to the public. He argues that therefore the comparison is more reflective of the market and a greater guide as to what rent a hypothetical tenant might pay.

7.5 Mr. Halpin puts forward one comparison as follows: -

PN	Location	Use	Area (Sq. M.)	NAV/Sq. M.	NAV
2190225	Drumraney	Workshop	160.16	€20	€3,203.20
		Portacabin	54	€8.00	€432.00
		Additional items (Plant & Output)		€3,483	€3,483.00
	Total				€7,118.20
	Say				€7,110.00

7.6 Mr. Halpin seeks a NAV of €7,110, made up as follows: -

Use	Area (Sq. M.)	NAV/Sq. M.	NAV
Portacabin	47.75	€8.00	€382.00
Additional items (Plant & Output)		€6,728	€6,728.00
Total			€7,110.00

8. RESPONDENT'S CASE

8.1 Ms. Dunlea, on behalf of the Respondent, described the property and its location using photographs contained in her submission. She notes that planning permission for quarrying on the site was granted by An Bord Pleanála for a period from March 2008 to March 2018. She notes that the area covered by the permission is some 31 hectares and that there are two operators on the site, the subject and PN 2190225.

8.2 Ms. Dunlea addresses the issues raised by the Appellant. She states that the property has been valued on the same basis as PN 2190225, that the subject is a larger operation with more extensive plant than PN 2190225, she notes that the lifespan of the two properties are different due to the different levels of extraction and that the valuation of the subject will be zero when extraction is complete.

8.3 Ms. Dunlea states the difference in the valuations between the subject and PN 2190225 is due to the fact that they have different yearly outputs, and that there are different buildings and different plant and machinery on the respective sites. She says that both properties have been valued under S. 48 (1) of the Act.

8.4 Ms. Dunlea seeks to affirm the valuation of €19,830.

8.5 In response to the Respondents submission, Mr. Halpin notes that the Respondents have put forward no comparisons, either rental or tone of the list, to support their valuation. Nor has the Respondent shown how the valuation was arrived at. He notes the Respondents assertion that there is higher output and better plant in the subject property but points out that no evidence from either site has been adduced to support this claim. He concludes by noting that in 25 years of practice he has never known a valuer to produce no comparative evidence or a breakdown of the valuation of a subject property.

9. SUBMISSIONS

9.1 There were no legal submissions.

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 Westmeath County Council.

10.2 The Tribunal finds that in this appeal, and in all appeals before the Tribunal, the onus of proof rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination.

10.3 Neither side put forward quantitative evidence that would have assisted the Tribunal in assessing the relative size of the respective sites, the actual and potential output of the respective sites or the plant at the respective sites

10.4 In this appeal the Appellant has argued that no breakdown of the valuation has been provided, although it is accepted that it is made up of a combination of NAV's for the portacabin (not contested), plant, and output (both of which are contested). The Appellant argues that its valuation should be the same as that of the adjoining property PN2190225 on

the grounds that they are both the same size and produce the same quality of product. The Appellants valuation applies a global figure for plant and output, the sole rationale for which seems to be to bring the final figure into line with the valuation for the adjoining property. The Tribunal does not accept this approach.

10.5 The Respondent has explained the difference in valuations between the subject and the adjoining property as being due to the fact that the subject property is a larger operation with more extensive plant and a higher output than the adjoining property. The Respondent points out that the difference in output means that the subject property should have a shorter lifespan than the adjoining property at which point its value will be zero. The Tribunal accepts this approach, although it would have been preferable had the Respondent provided a more detailed and quantitative explanation of the figures underlying its valuation.

DETERMINATION:

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