

Appeal No: VA19/5/0595

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Goodwin's Lucan Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5003772, Industrial Uses at, Navan Road, Dublin, County Dublin. ('the Property')

B E F O R E

Barry Smyth -FRICS, FSCSI, MCI Arb

Deputy Chairperson

Claire Hogan - BL

Member

Fergus Keogh -MSCSI MRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25th DAY OF AUGUST, 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 **€34,800**.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

“The NAV € per m2 amounts are too high.

a. STORE: We propose a rate of €25.00 per square meter but would be open to a rate of €30.00 based on comparable in Fingal area.

b. YARD: We propose a rate of €2.50 per square meter but would be open to a rate of €3.00 based on comparable in Fingal area.

As discussed elsewhere our warehouse is of an entirely different composition / building standard compared to those of our neighbours which are attracting €60.00 per square meter.

*Due to the low roof height we have greatly reduced storage capacity.
The building has limited natural light and zero insulation value.”*

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10,203.

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 €34,800.
- 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 it not consider it appropriate to provide for a lower valuation.
- 2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €34,800.
- 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 ('the Hearing') held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 21st day of April, 2022. At the Hearing the Appellant, Goodwin's Lucan Ltd. was represented by Mr. Robert Ryan of Doherty Ryan & Associates, Solicitors, with Mr. Jonathan Goodwin called to give evidence on behalf of the Appellant. The Respondent was represented by Mr. Kevin O'Doherty 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.

4. FACTS

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

- 4.1 The Property is located in Mulhuddart approximately 3 kms north east from Blanchardstown Town Centre on the north eastern side of the Navan Road (N3) approximately mid-way between Junction 3 (Clonsilla) and Junction 4 (Clonee) of the N3 national road. There is an unused entrance gate to the facility giving direct access to the N3 and an additional entrance to the rear that is used for daily access via an adjoining link road.
- 4.2 The Property (also referred to as Block 1) is a detached industrial building which was constructed in the 2000's and is of basic construction detail of single skin corrugated iron and single skin light steel sheeting with a pitched roof and an eaves height of 4.8 m. It is one of three buildings that occupies a site of approximately 1.4 acres and forms part of a larger enterprise which trades as a builders & DIY providers and is used for the storage of building materials, DIY products and associated items. The adjacent two buildings (PN300405) are subject to a separate and contemporary appeal under the Valuation Tribunal Reference VA19/5/0594.
- 4.3 The area of the Property has been agreed by the parties and extends to a warehouse of 446.40 sq.m. along with two adjacent yards which have a combined area of 672 sq.m.
- 4.4 Both the Property and the adjoining property PN300405 are held under a single occupational lease for a term of 35 years from the 1st August 1996. The lessor is a connected party to the lessee. Lease details and the rent paid under the lease are set out in Appendix 1.

5. ISSUES

- 5.1 The appeal raised the sole issue as to whether the Net Annual Value ('NAV') of the Property as determined by the Respondent is excessive.

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. Goodwin, having taken the oath, adopted his Précis as his evidence in chief in addition to giving oral evidence.
- 7.2 At the Hearing Mr. Goodwin contended for a NAV rate of €30 per sq.m. to be applied to the building area and €3 per sq.m. to be applied to the yard area to give a revised NAV of €15,408.
- 7.3 Mr. Goodwin advised the Tribunal that he was the managing director of the appellant company, a business established by his late father. The business trades as ‘*Goodwin’s Build & DIY Products*’ with an additional branch of the business located on the Newcastle Road in Lucan and within the South County Dublin Rating Area.
- 7.4 Mr. Goodwin said that he has had previous experience of the rating assessment and appeal process. He advised the Tribunal that he acted in the appeal of the valuation applied to the company’s branch at Newcastle Road in Lucan whereby he considered he was afforded satisfactory engagement with the Respondent’s then representative and agreed a reduced valuation without the need to undertake an appeal to the Tribunal.
- 7.5 Mr. Goodwin advised the Tribunal that his expectations of a similar level of engagement with the Respondent as previously experienced did not happen in relation the appeal of the Property. Prior to the Proposed Valuation Certificate being issued the Property was not inspected by the Respondent. The Appellant submitted written representations to the Respondent which included advising the Respondent of its use of inaccurate areas in the valuation of the Property. Separately by way of a telephone call, the Appellant requested that the Property be inspected prior to the Final Valuation Certificate being issued.

Subsequently, the Final Valuation Certificate was issued in the same amount as in the Proposed Valuation Certificate. The Property was not subsequently inspected until the 24th February 2022 in advance of the current phase of the appeal at which stage the error in areas was corrected by the Respondent and revised areas agreed by the parties.

- 7.6 In his précis and in support of his opinion of value of the Property Mr. Goodwin submitted to the Tribunal details of four properties as comparisons the valuations of which he said should be considered in the establishing the value of the Property. Details of these properties are set out in Appendix 1 and may be summarised as follows;
- i. **Comparison A.** This property is a recently constructed modern high-bay industrial building with a dock levelling facility and is located approximately 150 m from the Property and used for the storage, display and sale of ceramic tiles. The building extends to 2,742.81 sq.m. in total with a yard area of 3,540.15 sq.m. The warehouse element extends to 2,514.81 sq.m. and is valued at €60 psm.
 - ii. **Comparison B.** This property is a modern high-bay industrial building formerly occupied by a logistics company and is located approximately 150 m from the Property. The building extends to 5,271.06 sq.m. in total. The warehouse element extends to 4,634.62 sq.m. and is valued at €60 psm.
 - iii. **Comparison C.** This comparison comprises two buildings which are located approximately 6.2 kms from the Property and are occupied by a competing trader. The buildings were built in the 1960's and are constructed of part block walls with a combination of corrugated metal and asbestos sheeting with a low eaves height. Building number one is a warehouse of 2,032.00 sq.m. with a yard of 6,300 sq.m. which are valued at €35 psm and €3.50 psm respectively. Building number two extends to 3,761.67 sq.m. in total with a yard of 8,500 sq.m. The workshop element extends to 3,501.67 sq.m. and is valued at €30 psm and the yard is valued at €3.00 psm.
 - iv. **Comparison D.** This is a property that is also occupied by the Appellant and Mr. Goodwin advised that he had acted in the appeal of its valuation. It was pointed out to Mr. Goodwin that this property is not situated with the rating area of the Property and it was accordingly withdrawn as a comparison and not considered further.

Mr. Goodwin said that he considered Comparison C to be a very comparable building to the subject Property being similar, basic but functional and occupied by a similar type of trader.

7.7 Under cross examination by Mr. O’Doherty Mr. Goodwin was asked why he had changed his opinion of value of the Property from that which was contended for in the initial appeal process. Mr. Goodwin said that the appeal process was a learning experience for him. He had initially relied upon the analysis of Comparison D which is now excluded and considered that the analysis of Comparison C to be appropriate.

Mr. O’Doherty asked Mr. Goodwin to compare the buildings of Comparison C with the Property in terms of location, vintage and structure. Mr. Goodwin said that he considered the buildings to be comparable, being constructed from basic materials, with single skin poor quality low eaves height, construction detail dating from the 1960’s and located 6 kms from the Property.

Mr. O’Doherty asked Mr. Goodwin if he considered that Comparison C, which is located within an industrial estate, was comparable with the subject Property which has a high profile to a busy road. Mr. Goodwin acknowledged that the Property was visible from the motorway.

8. RESPONDENT’S CASE

8.1 Mr. O’Doherty having taken the oath, adopted his Précis as his evidence in chief in addition to giving oral evidence.

8.2 At the Hearing Mr. Doherty contended for a NAV rate of €50 per sq.m. to be applied to the building area and €5 per sq.m. to be applied to the yard area to give an NAV of €25,680 as follows;

Use	Area Sq. M.	NAV € psm	NAV €
Store	446.40	€50	€22,320
Yard rear	192.00	€5	€960
Yard Front	480.00	€5	€2,400
Total			€25,680

The reduction in the Respondent’s opinion of NAV to that as appears in the Final Valuation Certificate Mr. Doherty advised was as a result of amendments to the yard area and a reduction in the rental levels applied to the constituent parts.

The Final Valuation Certificate is stated as follows;

Use	Area Sq. M.	NAV € psm	NAV €
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Store	446.40	€70	€31,248
Yard	510.00	€7	€3,570
			€34,818
		Say	€34,800

8.3 Mr. O’Doherty in his Précis advised the Tribunal that 109 no. items of market information were considered to inform a scheme of valuation which was used to estimate the NAV of the Property and from the pool of available evidence certain transactions were identified as being more aligned with the requirements of the hypothetical letting described in section 48 of the Valuation Act 2001, as amended. These transactions he advised are known as Key Rental Transactions (‘KRT’s’). The analysis of KRT’s provides a Net Effective Rent (‘NER’) in each case. Mr. Doherty advised that this collection of Net Effective Rents provides the basis for developing an appropriate scheme of valuation to be applied to the group of properties sharing similar characteristics including the Property.

8.4 The relevant Key Rental Transactions relied upon by Mr. O’Doherty are summarised as follows;

- i. KRT No. 1 was described as being a modern similar sized property located 850 m north east of the Property. The building contains a warehouse of 884.52 sq.m. and offices of 304 sq. m. The NER was said to be €110,000 with an NAV of €60 psm applied to the warehouse and office areas.
- ii. KRT No. 2 was described as being a larger modern building in a business park located 7 kms east of the Property. The building contains a warehouse of 1,238.67 sq.m. with offices of 211.38 sq. m. and a store of 58.23 sq.m. The NER was said to be €90,000 with an NAV’s of €60 psm applied to the warehouse and office areas and €12 psm to the store area.
- iii. KRT No. 3 was described as being a larger modern building in an industrial estate located 5.5 kms east of the Property. The building contains a warehouse of 1,751.18 sq.m. with offices of 836.52 sq.m., a store of 195 sq.m. and a steel container of 45.75 sq.m. The NER was said to be €177,276.61 with an NAV’s of €60 psm applied to the warehouse and office areas and €12 psm to the store and steel container areas.
- iv. KRT No. 4 was described as being a smaller modern building in a business park located 6.5 kms east of the Property. The building contains a warehouse of 175 sq.m.

The NER was said to be €12,250 with an NAV of €70 psm applied to the warehouse area.

Details of these KRT properties are set out Appendix 2.

- 8.5 In addition Mr. O’Doherty in his Précis supplied information and analysis of valuations applied to six properties termed Net Annual Value Comparisons (‘NAV Comparisons’) which he said was comparative evidence to demonstrate that both correctness and equity & uniformity of value have been achieved in this case. These NAV Comparisons are set out in Appendix 2 and are summarised as follows;
- i. NAV Comparison No. 1 was described as being a larger modern building in a business park located 32.5 kms north east of the Property and close to the M1 motorway. The building contains a warehouse of 1,753 sq.m. with offices of 40 sq.m., a showroom of 300 sq. m., a store of 340 sq.m. and a portacabin of 12 sq.m. The NAV was said to be €144,600 with an NAV of €65 psm applied to the warehouse and office areas, €78 psm to the showroom area, €13 psm to the store area and €26 psm to the portacabin area.
 - ii. NAV Comparison No. 2 was described as being a retail warehouse and smaller than the Property and located 10 kms south of the Property and close to the N4 road. The building contains a store of 725.90 sq.m., showroom of 987 sq. m., mezzanine store of 467 sq.m. and a yard of 4,200 sq.m. The NAV was said to be €145,400 with an NAV of €60 psm applied to the store area, €72 psm to the showroom area, €12 psm to the mezzanine store area and €6 psm to the yard area. The Tribunal noted that this comparison was subject to an appeal to the Tribunal. Mr. O’Doherty was unable to advise of the current status of the appeal. The Tribunal assistant advised and confirmed that the appeal had been withdrawn.
 - iii. NAV Comparison No. 3 was described as being a smaller modern building in a business park located 55 kms north east of the Property off the Navan Road. The building contains a warehouse of 150 sq.m. with offices of 50 sq.m., and a store of 54.40 sq.m. The NAV was said to be €12,660 with an NAV of €70 psm applied to the warehouse area, €28 psm to the office area and €14 psm to the store area. It was noted that the eaves height was 6.2 m.
 - iv. NAV Comparison No. 4 was described as being a much larger modern building in a business park located 600 m northwest of the Property and off the Navan Road. The building contains a warehouse of 4,634.62 sq.m. with offices of 328.81 sq.m., a loading bay of 139.60 sq. m. and a canopy of 168.03 sq.m. The NAV was said to be €300,000 with an NAV of €60 psm applied to the warehouse and office areas and €9 psm to the loading bay and canopy areas. It was noted that the eaves height was between 7m and 9m.

- v. NAV Comparison No. 5 was described as being a larger modern building in a business park located 500 m northwest of the Property and off the Navan Road. The building contains a warehouse of 1,960.18 sq. m. with offices of 51.62 sq. m., two loading bays totalling 169.00 sq. m. The NAV was said to be €131,100 with an NAV of €60 psm applied to the warehouse and office areas and €18 psm applied to the loading bay area. It was noted that the eaves height was 9.5 m.
 - vi. NAV Comparison No. 6 was described as being a similar sized modern building in a business park located 6 kms east of the Property and close to the M 50 motorway. The building contains a warehouse of 1,069.33 sq.m. with offices of 366.44 sq. m. The NAV was said to be €86,100 with an NAV of €60 psm applied to the warehouse and office areas. It was noted that the eaves height was 9.5m.
- 8.6 Under cross examination by Mr. Ryan, Mr. O’Doherty was asked as to how he went about assessing / reassessing the Property being an older building whilst his comparisons were all of modern buildings and asked where in Mr. O’Doherty’s précis were comparables of older properties. Mr. O’Doherty said that he valued having regard to the Tone of the List. He said that there was a dearth of comparisons in the area. He agreed that not all of his comparisons were of a similar eaves height to the Property and that he had made an allowance in accordance with the Tone of the List to arrive at a value of €50 psm.

Mr. Ryan asked Mr. O’Doherty what comparable older properties were taken into account in the valuation of the Property. Mr. O’Doherty replied that the Property had not been inspected by the Respondent in 2019 and was not inspected at Representations Stage but was inspected prior to this appeal stage.

Mr. O’Doherty said that in his opinion the Mr. Goodwin’s Comparison C, the premises in an industrial estate in Finglas occupied by a trade competitor, is inferior, older and not in as good a location whereas the subject Property has frontage to a busy thoroughfare in Dublin.

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 Fingal County Council.
- 10.2 The relevant question on this appeal concerns the amount a hypothetical tenant would pay in rent for a tenancy of the Property on the terms set out in section 48 of the 2001 Act as amended. The rent for which the Property might, in its actual state, be reasonably be expected to let is measured by the rental value on a hypothetical tenancy of the Property on a year on year basis and not by reference to the actual occupier's business or financial means or the rent the occupier actually pays.
- 10.3 The Tribunal notes that the parties are in agreement as to the physical characteristics of the Property including size and construction detail.

The Tribunal notes that that Mr. O'Doherty has reduced the NAV of the Property on account of the agreed areas differing to those described in the Final Valuation Certificate. The Tribunal considers that it is regrettable that the Respondent did not engage with the Appellant at Representations as requested particularly as the Respondent was made aware of discrepancies in the areas of the Property and when such issues of fact could have been resolved.

The Tribunal notes that when Mr. O'Doherty was allocated the responsibility of the appeal that he did inspect the Property in February 2022 when he agreed the revised areas with the Appellant.

- 10.4 The Tribunal accepts Mr. Goodwin's description that the Property is of a basic lightweight construction detail being of a steel frame with the walls and roof being of single skin non-insulated metal sheeting and with an eaves height of 4.8 m.
- 10.5 Mr. Goodwin relied upon three comparison properties in arriving at his opinion of value of the Property.

Comparison A is a modern high-bay facility with a warehouse area of 2,514.81 sq.m. with a dock leveller facility and a yard of 3,540.15 sq.m. The warehouse area is valued at €60 psm with €6 psm applied to a yard area. In considering this comparison Mr. Goodwin contended that it was 'unfair and unequal to charge the same amount to our lightweight low-roof single skin "shed" type store'.

Comparison B is also a modern high-bay large facility which includes a warehouse area of 4,634.62 sq.m. also valued at €60 psm with €9 psm applied to a loading bay area. The property was formerly occupied by a logistics company. Commenting on the rate applied in this comparison Mr. Goodwin considered that the Respondent's proposed NAV for the Property to be 'unfair as no difference is made between modern attractive high-bay insulated warehouses and our light-weight low-roof single skin "shed" type store'.

Comparison C is a facility with two buildings constructed in the 1960's and described as being basic but functional. They are occupied by a builder's provider's business and are larger than the Property with warehouse and workshop areas of 2,032 sq. m. and 3,501.67 sq.m. valued at €35 psm and €30 psm respectively with €3 & €3.50 psm being applied to yard areas.

Mr. Goodwin considered that Comparison C was the most similar and comparable property to the Property and at the Hearing adopted the rates of €30 psm for the warehouse area and €3 psm on the yard area in his valuation.

- 10.6 Mr. O'Doherty relied upon four Key Rental Transactions as being the basis of a valuation schematic that established a rate of €60 psm to be applied in the valuation of similar properties. The four KRT properties are all high-bay modern buildings in the vicinity of the Property. Mr. O'Doherty reduced the schematic rate to €50 psm which he applied in his valuation of the Property.

Mr. O'Doherty also relied upon six NAV Comparisons.

NAV Comparison 1 is a builder's provider's facility in modern buildings totalling 2,093 sq. m. containing a warehouse of 1,753 sq.m. and is located 32.5 km the north east of the Property off the M1 motorway. The warehouse element is valued at €65 psm.

NAV Comparison 2 is a builder's provider's facility in modern buildings totalling 1,712.9 sq. m. containing a store of 725.9 sq.m. and is located 10 km south west of the Property close to the N4. The store element is valued at €60 psm.

NAV Comparison 3 is a modern building extending to 254.40 sq.m. containing a warehouse of 150 sq. m. and is located 55 km the north of the Property off the Navan Road. The warehouse element is valued at €70 psm.

NAV Comparison 4 is a very large modern facility with buildings totalling 5,103.03 sq.m. containing a warehouse of 4,634.62 sq. m. and is located nearby to the Property. The warehouse element is valued at €60 psm.

NAV Comparison 5 is a modern facility with buildings totalling 2,239.12 sq.m. containing a warehouse of 1,960.18 sq. m. and is located nearby to the Property. The warehouse element is valued at €60 psm.

NAV Comparison 6 is a modern building totalling 1,435.77 sq.m. containing a warehouse of 1,069.33 sq. m. and is located 6 kms to the east of the Property. The warehouse element is valued at €60 psm.

10.7 It is necessary to consider all the evidence in the round and it is the duty of the Tribunal to consider the evidence adduced and the arguments advanced and to arrive at a determination in accordance with section 48 of the 2001 Act as amended.

The Tribunal accepts Mr Goodwin's argument that his comparisons numbers 1 & 2 are reflective of values attributable to modern industrial high-bay facilities in the vicinity of the Property and are similar to those adopted by the Respondent. The Tribunal agrees with Mr. Goodwin that these properties are not directly comparable to the Property and further agrees that Mr. Goodwin's comparison number 3 is the most relevant of his comparisons being most comparable in terms of age, size, location and construction characteristics. Furthermore and the trade of the occupier is similar to that undertaken in the Property.

The Tribunal considered the NAV values per square metre for warehouse accommodation adduced by Mr. O'Doherty from his analysis of his KRT and NAV Comparisons which range from €60 psm to €70 psm and accepts that these values are reflective of values attributable to modern industrial high-bay facilities.

The Tribunal does not consider that the properties relied upon by Mr. O'Doherty's in his Précis and his valuation are directly comparable to the Property with some being located a considerable distance removed from the greater vicinity and they do not indicate evidence of equity and uniformity relative to the Property as suggested.

Mr. O'Doherty applied a value of €50 psm in his valuation, however did not submit any comparisons to the Tribunal of buildings of similar characteristics to the Property in terms of age, size, location or construction detail with similar values which would support this adopted opinion of value.

Subject to the foregoing the Tribunal considers that the appropriate NAV's per square metre to be applied to the Property having regard to location, size, age and construction characteristics is €35 psm and €3.50 psm to the warehouse and yard areas respectively.

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 €18,000 as follows;

Use	Area Sq. M.	NAV € psm	NAV €
Store	446.40	€35.00	€15,624
Yard rear	192.00	€3.50	€672
Yard Front	480.00	€3.50	€1,680
			€17,976
		Say,	€18,000