

Appeal No: VA19/5/0225

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA , 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Mexgrade Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5018817, Industrial Uses at Lot 7Fa.15b/1 Old Dublin Road, Enniscorthy,
County Wexford.

B E F O R E

John Stewart - FSCSI, FRICS, MCI Arb

Deputy Chairperson

Allen Morgan - FSCSI, FRICS

Member

Sarah Reid - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5th DAY OF SEPTEMBER, 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 4th 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 €24,500.

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: *“The valuation is excessive, it does not achieve correctness of value and equity and uniformity of value as between comparable properties”* *“the building area is incorrect. This is an old shed with an asbestos roof. It is valued excessively compared to modern buildings close by. It is rented at €13,000 pa.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10,152.

2. REVALUATION HISTORY

2.1 On the 10th day of September 2019, a draft 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 €24,500

2.2 The subject property PN 5018817 resulted from a subdivision of a larger property PN 2007958, the said (combined) property having been valued at €40,500. Following representations from the Appellant, the subject property was formally created as PN 5018817 at Representations stage with a resulting value of €24,500 being applied to same. No draft Certificate issued at the time as it was a subdivision of an existing property and a Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €24,500. Thereafter, reduced floor areas were agreed between the parties and the NAV was confirmed at €21,000, Notwithstanding the apparent agreement between the parties on the floor areas, the Final Valuation Certification before the Tribunal is that of 10th September 2019 citing €24,500.

2.3 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September 2017.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 28th day of March 2022. At the hearing the Appellant was represented by Mr. Frank O’Connor MRICS, MSCSI and the Respondent was represented by Mr. David Colhoun 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.

4.1 The property is located in Kilgannon, an industrial location in Enniscorthy, approximately 2 km north of the town centre.

4.2 The Kilgannon industrial estate is situated approximately 700m northeast of the Blackstoops Roundabout/N11 junction.

4.3 The Kilgannon industrial centre comprises a variety of business types and premises, both new and old, ranging from showrooms as well as some retail and office properties. The subject property is located to the rear of this estate and is not visible from the Old Dublin Road.

4.4 The subject property comprises single storey old style traditional workshops and stores from c. 1970's. They have concrete floors, concrete block walls, and with a single skin corrugated asbestos roof supported on a steel frame and with an eaves height of 5 metres. The buildings are used for the storage and repair of tractors and include an open shed also used for storage of tractors. They are in a reasonable state of repair, the yard is hardcore and is used for the storage of tractors.

4.5 The property has two access points, one at the front and the main access to the side, via a laneway. The property fronts onto the Old Dublin Road and shares its front access with two other adjoining business premises on the same site. The two other occupiers are located in conjoined buildings located on each side of the subject building. The rear of the subject property is served by a separate vehicular side access point from, a side road/lane off the Old Dublin Road.

4.6 The agreed floor areas of the buildings consist of a workshop 635sqms and an open store of 44.2 sqm. The agreed yard extends to 1,445sqm excluding circulation areas.

5. ISSUES

5.1 This issue in this case is one of quantum. The Appellants are contesting the Respondent's amended assessed annual value of €21,000 and contend for a NAV of €10,152 (amended to €13,000 on 19.1.2022, prior to the Appeal hearing)

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. O’Connor, took the oath and adopted his precis as his evidence in chief. He said that he did not intend to reprise his entire precis as the Tribunal would already have read it, other than to focus on points which he believed were of most importance to his case.

7.2 He confirmed the location of the subject property and stated that it comprised a single storey 1970’s industrial building which had uninsulated concrete block walls and an uninsulated corrugated asbestos roof on a steel frame. A second building comprised an open sided shed of similar construction. He stated that the buildings had poor visibility from Old Dublin Road and were used for the storage and repair of tractors. Tractor access was provided to the rear hardcore covered yard from the side lane. He added that the property was in a fair state of repair.

7.3 Mr. O’Connor stated that the property was owned by Mexgrade Ltd and let to Cooney Furlong Grain Company Ltd for 4 years 9 months from 15/08/2019 at €13,000pa. He added

the property should only be used for a workshop. He provided a copy of the lease and stated that the occupier was liable for all outgoings.

7.4 He stated that the Old Dublin Road was the industrial centre of Enniscorthy and that most of the properties were modern whereas the subject property was approximately 50 years old. He argued that relying on rental transactions from modern buildings and making minor discounts was not a valid method of valuation. He confirmed that both parties accepted the lease of the subject property was a valid arm's length agreement. He added that the economy grew strongly between the valuation date 15/09/2017 and the lease commencement date of 15/08/2019 and rental growth would have been expected which accounted for the amended figure of €13,000.

7.5 Mr. O'Connor argued that as the property can only be used as a workshop and when the valuations on the Old Dublin Road for better, non-workshop type, properties were taken into account, the Respondent's valuation of €13,000 for a 50-year-old shed with an asbestos roof was appropriate. He claimed the subject property was one of the poorer industrial/workshops in Enniscorthy.

7.6 The Appellant provided six NAV comparisons in support of his valuation:

7.7 **Comparison 1 PN 2007960:** Mr O'Connor stated that this property was occupied by a Courtney Transport and located approximately 500m north of the subject property. It comprised a showroom and store with good road frontage and both parts were valued at rates less than the subject property.

| Floor | Use | Sqm | NAV/Sqm | NAV € |
|-------|----------------------|--------|---------|-----------|
| 0 | Showroom | 167.32 | €26.40 | €4,417.25 |
| 0 | Store | 355.20 | €22.00 | €7,814.40 |
| 0 | Yard concrete/tarmac | 588.00 | €2.20 | €1,293.60 |
| 0 | Yard hardcore | 672.00 | €2.20 | €1,478.40 |
| | | | Say | €15,000 |

7.8 **Comparison 2 PN 2174265** He stated that this comprised an EMC Seat. premises where the workshop was valued at. €32.00/sqm. The photographs, internal and external, showed a modern car servicing workshop with insulated metal deck walls. and twin roller shutter access doors.

| Floor | Use | Sqm | NAV/Sqm | NAV € |
|--------------|----------------------|------------|----------------|--------------|
| 0 | Showroom | 572.42 | €60.00 | €34,345.20 |
| 0 | Offices | 142.50 | €32.00 | €4,560.00 |
| Mezz | Store | 117.86 | €6.40 | €753.30 |
| 0 | Workshop | 597.46 | €32.00 | €19,118.72 |
| 0 | Offices | 33.28 | €32.00 | €1,064.96 |
| 0 | Yard concrete/tarmac | 2,088.00 | €3.20 | €6,681.60 |
| 0 | Yard hardcore | 1,162.00 | €9.00 | €10,458.00 |
| | | | Say | €77,000.00 |

7.9 **Comparison 3 PN 2174265** He stated that this Properly referred to the Don who Skoda workshop, which he claimed was located in a prime position on the main Dublin Rd. And the workshop was valued at. € 32.00.sqm. The photographs, internal and external, showed in modern car servicing workshop with insulated metal deck walls.

| Floor | Use | Sqm | NAV/Sqm | NAV € |
|--------------|------------|------------|----------------|--------------|
| 0 | Workshop | 1,308.59 | €32.00 | €41,874.88 |
| | | | Say | €41,800.00 |

7.10 **Comparison 4 PN 2007982** He stated this property referred to a modern brick fronted tyre and battery workshop. Occupied by ATB Tyres & Batteries Ltd. This property was close to the subject property and had road frontage.

| Floor | Use | Sqm | NAV/Sqm | NAV € |
|--------------|----------------------|------------|----------------|--------------|
| 0 | Workshop | 416.08 | €32.00 | €13,314.56 |
| 0 | Offices | 28.00 | €32.00 | €896.00 |
| 0 | Yard concrete/tarmac | 1,036.00 | €6.40 | €3,315.20 |
| | | | Say | €17,520.00 |

7.11 **Comparison 5 PN 2007958:** Mr O'Connor stated that this property adjoins the subject property on its western boundary and comprises a showroom and sales outlet. He argues that this building which has frontage to the Old Dublin Road restricts the road frontage of the subject premises. He added that showroom has been modernised and was in good condition and had parking to the front.

| Floor | Use | Sqm | NAV/Sqm | NAV € |
|-------|---------------|--------|---------|------------|
| 0 | Showroom | 327.36 | €38.40 | €12,570.62 |
| 1 | Yard hardcore | 1,500 | €3.20 | €4,800.00 |
| | | | Say | €17,370.00 |

7.12 **Comparison 6 PN 2007969:** This final comparison is also attached to the subject property and is described as a showroom and warehouse. It has extensive frontage to Old Dublin Road and Mr 'Connor states that the showroom is of recent construction with insulated metal deck walls and argues that the rate of €28.80/sqm for the showroom refers to a much more valuable property but the rate attaching to the subject property at €27.00/sqm is inequitable.

| Floor | Use | Sqm | NAV/Sqm | NAV € |
|-------|----------------------|----------|---------|-------------|
| 0 | Showroom | 395.67 | €28.80 | €11,395.30 |
| 0 | Offices | 54.63 | €24.00 | €1,311.12 |
| 0 | Workshop | 18.49 | €24.00 | €443.76 |
| 0 | Warehouse | 4,728.80 | €24.00 | €113,491.20 |
| 0 | Store | 473.24 | €24.00 | €11,357.76 |
| 0 | Canopy | 68.00 | €3.60 | €244.80 |
| 0 | Yard/concrete/tarmac | 2,975.00 | €2.40 | €7,140.00 |
| | Additional items | | | €2,660.00 |
| | | | Say | €148,000.00 |

7.13 Mr. O'Connor accepted that the workshops in comparison 3 & 4 (Skoda and Seat dealerships - high-quality modern premises) are valued at €32.00/sqm, and thus contends that a value for €16.00/ sqm would be appropriate for the subject property. He stated that applying this rate to the buildings in the subject property would produce a figure which would equate to the annual rental of €13,000 that the occupier is in fact paying.

7.14 Mr. O'Connor referred to his Comparisons 5 and 6, which adjoin the subject property. He noted that the Respondent's witness did not accept that these two properties were directly comparable to the subject property. Nonetheless they are physically attached to it and parts of no. 6 particularly referred to similar circumstanced premises with uses such as warehouse/store/workshop were valued at €24.00 per sqm.

7.15 Summarising his comparisons, the Appellant stated that the best workshops and main dealer car showrooms are valued at €32.00/sqm in Enniscorthy town. He stated that properties with a semi-retail use were valued at €32 per sqm. He concluded his case for this Appeal, stating that a 50-year-old shed with an asbestos roof should be valued at €13,000 which equates to €16.00/sqm. He analysed the total figure of €13,000 as follows:

| | |
|--|----------------------------|
| Workshop 635 sqms @ €16 per sqm = | €10,160 |
| Stores 44 sqms @ €8 per sqm = | €352 |
| <u>Yard 1,445 sqms @ €1.60 per sqm =</u> | <u>€2,312</u> |
| Total | €12,824 say €13,000 |

7.16 Mr. Colhoun for the Respondent was invited to cross-examine the Appellant but declined to noting he would make his case before the Tribunal in due course.

8. RESPONDENT'S CASE

8.1 Mr. Colhoun appeared on behalf of the Respondents and agreed with Mr. O'Connor that the subject property is an old property and that it is in fair condition for its age and that it is currently in use for the selling and maintenance of agricultural plant. He stated that the areas had been agreed that he had initially inspected it only on an external basis but that during negotiations with Mr. O'Connor they had conducted a joint survey on foot of which they had agreed the areas. The location and description were agreed between the parties though the importance of Old Dublin Road visibility was a matter of dispute. He acknowledged that it adjoined an industrial showroom from which it was subdivided (PN2007958). He confirmed that the subject property had a shutter door facing old Dublin Road and agreed the property had 'no road frontage to speak of'. He confirmed that primary access was via a lane and gate on the right-hand side of the property.

8.2 Under accommodation Mr Colhoun confirmed that the agreed floor areas were as follows:

| Floor | Use | Sqm |
|--------------|---------------------------|------------|
| 0 | Workshop | 635.00 |
| 0 | Store (open to the front) | 44.2* |
| 0 | Yard/concrete/tarmac | 1,445 |

*Note: There is a minor difference of 0.2sqm in the above schedule and the agreed areas as published in the Certificate.

8.3 Mr Colhoun provided a block plan which showed the subject property located between PN 2007958 and PN 2007959. He also included a photograph of the property's frontage which showed a narrow area with a roller shutter as comprising the frontage to the subject property as part of a larger façade. An aerial photograph showed the subject property and the immediately adjoining properties and an internal photograph showed the rear entrance to the workshop.

8.4 In terms of tenure, Mr. Colhoun acknowledged that the letting between Mexgrade Ltd and Cooney Furlong Ltd was an arms-length letting.

8.5 The witness referred the Tribunal to the Appellant's comparative properties. In terms of rental evidence, he stated that Mr. O'Connor had only presented rental evidence from one property, (i.e. the lease of the subject property itself). He stated the details of this were not in dispute and that he accepted the rent on the property was €13,000 per annum based on a 4-year 9 month letting from 15th August 2019 two years after the valuation date. He noted that the Commissioner had analysed a number of transactions closer to the valuation date as part the revaluation process and that these have been used to inform valuations detailed in his precis.

8.6 The respondents noted that the Appellants had relied on 6 NAV comparisons.

| Appellants Comparator Properties | Respondents Observations |
|---|--|
| Comparison No. 1 PN2007960 | The Respondent stated that this property was separated from the main industrial cluster on Old Dublin Road approximately 1km |

| | |
|--|---|
| Courtney Transport Old Dublin Road | north of the subject property. He added that it was close to residential premises and argued that it was in an inferior location with poorer access. |
| Comparison No. 2 PN2174265 Enniscorthy Motor Co. Old Dublin Road | The respondent stated that this property comprised a modern purpose-built showroom, workshop and display areas c. 2000 and it was significantly different to the subject premises in quality, size and category. He noted it was located just north of the subject property with dual road frontage and it included a glass fronted showroom valued at €60.00/sqm He added that the workshop element may be close in size to the subject property but stated that this is a modern facility, and the workshop was valued at €32.00/sqm. |
| Comparison No. 3 PN5019433 J. A. Boland & Sons (Wexford) Ltd Old Dublin Road | Mr Colhoun stated that this was a different type of property which comprised a large modern workshop with offices overhead. He noted that there were several car sales outlets in the area, and it was much larger than the subject property. |
| Comparison No. 4 PN2007982 ATB Tyres & Batteries Old Dublin Road | The Respondents stated that this property was built c. 1979 and was of similar vintage to the subject property but accepts that it provided a more attractive façade which he argues accounts for its higher valuation as well as the fact that it is smaller. |
| Comparison No. 5 PN2007958 Clayblock Ltd Old Dublin Road | The respondents referred to the fact that this property was previously valued with the subject property and while noting its hardcore yard argued that it was not comparable to the subject property as it comprised showroom and a yard. He added that it was smaller and was not a suitable comparison. |
| Comparison No. 6 PN2007969 Cooney Furlong Ltd Old Dublin Road | Mr Colhoun notes that this property is very similar to the subject premises. However, he states it is 9 times larger and mainly dates from 1970s and 1980s and the large size justifies the lower rate per square metre. |

8.7 Summarising his opinion on the Appellants evidence, Mr. Colhoun stated that the majority of the evidence provided by Mr O'Connor was very different in nature and size to the subject property and that only two relevant comparisons were provided– No 1 and no. 4. He said that Comparison 1 is valued at a lesser value per sqm by virtue of its inferior location and because it is situated beside a residential property and agricultural lands. Comparison 4 is similar to the subject in age but enjoys road frontage and is only approx. half the size of the subject property.

8.8 Mr Calhoun stated that the valuation of €21,000 was fair and equitable based on the analysis of market information and that it illustrated a wide acceptance of the scheme amongst ratepayers of similar properties in the same local authority area. He noted that the process of revaluation required the collation and analysis of available market evidence to develop schemes of valuation and that this evidence had been obtained from a variety of sources. In relation to the subject property, he noted that several items of market information were available to inform the valuation scheme which was used to estimate the net annual value of the subject property. From the pool of available evidence certain transactions were identified as being more aligned with the requirements of the hypothetical letting described in the Valuation Act. These transactions are known as "Key Rental Transactions" each one has been investigated and analysed in accordance with Valuation Office policy. This analysis provides the net effect of rent in each case. He added this collection of net effective rents provided the basis for developing an appropriate scheme of valuation to be applied to the group of properties sharing similar characteristics, including the subject property. He noted that the application of the scheme was only the starting point and following this application if there were any relevant individual considerations in relation to the subject property relative to that group further adjustments may be made to the subject property's estimation and NAV. He added that properties which are '*similarly circumstanced*' are considered comparable. This means they share characteristics such as use, size, location and/or construction.' His precis also sets out comparative evidence to demonstrate that both correctness, equity and uniformity of value have been achieved in this case.

8.9 In terms of rental evidence Mr. Colhoun said that Mr. O'Connor had highlighted that the Commissioner had only one piece of rental evidence in Enniscorthy. The Respondent's witness did not dispute this but stated that he had looked at evidence in the rating area. In this context he instanced the following KRT properties. Full details of the lease and property identification information are contained in the appendix.

8.10 KRT 1

| | |
|-------------------------|--------------------------|
| Address | Castlebridge Co. Wexford |
| Total floor area | 374.4sqm |
| Lease commencement date | 01/09/2016 |
| Lease term | 5 years |

| | |
|----------------------|---------|
| Rent pa | €18,200 |
| NER @ Valuation Date | €18,200 |
| NAV | €15,430 |

Comparative analysis of rent and NAV

| Level | Description | Size/sqm | NER/sqm € | NAV/sqm € |
|-------|-----------------------|----------|-----------|-----------|
| 0 | Workshop | 374.4 | €37.73 | €32.00 |
| | Portacabin | 11.75 | €15.09 | €12.80 |
| 0 | Steel container | 6.86 | €7.54 | €6.4 |
| | Yard (concrete/tarmac | 1,020 | €3.77 | €3.2 |

Mr. Colhoun stated that this property is located approximately 18 kilometres southeast of Enniscorthy in an inferior location and he added that it is an industrial unit with a yard setback from the road with minimal frontage and visibility. He noted the workshop was of modern construction. There were no representations and no appeal to the Valuation Tribunal.

8.11 KRT 2

| | |
|-------------------------|---------------------------------------|
| Address | Enniscorthy Business Park Co. Wexford |
| Total floor area | 237.92sqm |
| Lease commencement date | 01/02/2016 |
| Lease term | 4 years 9 months |
| Rent pa | €10,800 |
| NER @ Valuation Date | €9,905 |
| NAV | €9,940 |

Comparative analysis of rent and NAV

| Level | Description | Size/sqm | NER/sqm € | NAV/sqm € |
|-------|-------------|----------|-----------|-----------|
| 0 | Warehouse | 185.13 | €40.71 | €40.00 |
| | Offices | 52.79 | €40.71 | €40.00 |
| | Store | 54.02 | €4.07 | €8.00 |

Mr. Colhoun stated that this property is approximately 1.9k north of the subject property on the Old Dublin Road but unlike the subject property it is in a business park and is of modern

construction. He stated that this is an inferior location and he added that it is a superior but smaller property, comprising an industrial unit with a yard setback from the road with minimal frontage and visibility. There were no representations and no appeal to the Valuation Tribunal.

8.12 KRT 3

| | |
|-------------------------|----------------------------------|
| Address | Hewitsland, New Ross Co. Wexford |
| Total floor area | 390.60sqm |
| Lease commencement date | 01/06/2017 |
| Lease term | 6 years |
| Rent pa | €16,200 |
| NER @ Valuation Date | €15,128.10 |
| NAV | €12,970 |

Comparative analysis of rent and NAV

| Level | Description | Size/sqm | NER/sqm € | NAV/sqm € |
|-------|-------------|----------|-----------|-----------|
| 0 | Warehouse | 390.60 | €37.00 | €32.00 |
| Mezz | Store | 74.63 | €7.4 | €6.4 |

Mr. Colhoun stated that this property differed from the subject property in age, quality and size and added that New Ross was considerably inferior location to Enniscorthy as this was further removed from the motorway and Rosslare Port. He added that the rent was considerably in excess of the rent achieved in the subject property. There were no representations and no appeal to the Valuation Tribunal.

8.13 KRT 4

| | |
|-------------------------|------------------------------------|
| Address | Ryland Road, Bunclody, Co. Wexford |
| Total floor area | 498.42 |
| Lease commencement date | 09/10/2017 |
| Lease term | 3 years |
| Rent pa | €10,800 |
| NER @ Valuation Date | €10,476 |
| NAV | €11,530 |

Comparative analysis of rent and NAV

| Level | Description | Size/sqm | NER/sqm € | NAV/sqm € |
|-------|------------------------|----------|-----------|-----------|
| 0 | Workshop | 490.60 | €20.00 | €22.00 |
| Mezz | Store | 79.32 | €4.0 | €4.4 |
| 0 | Offices | 27.82 | €20.00 | €22.00 |
| 0 | Yard (concrete/tarmac) | 100 | €2.0 | €2.20 |

Mr. Colhoun stated that this property was similar in age and quality to the subject property but was in Bunclody, an inferior location in terms of motorway access. They added that the town is smaller than Enniscorthy. They described the buildings as comprising a former grain store from 1970's that had been re-purposed as a car repair workshop and was in a similar state of repair and construction type. There were no representations and no appeal to the Valuation Tribunal.

8.14 The Respondent provided five NAV comparisons.

NAV Comparison 1: The respondents stated that this refers to a former factory on an enclosed site on a side road off old Dublin Road 260 metres from the subject property. It has superior access to the R 772 and the roof comprises a mix of asbestos and single skin cladding. There were no representations and no appeal to the Valuation Tribunal.

| | |
|------------------|---|
| Property Number | 2007978 |
| Occupier | Wexford CC |
| Address | Old Dublin Road, Enniscorthy, Co. Wexford |
| Total floor area | 872.02sqm |
| NAV | €36,200 |

Comparative analysis of NAV

| Level | Description | Size/sqm | NAV/sqm € |
|-------|------------------|--------------|----------------|
| 0 | Factory | 676.81 | €32.00 |
| Mezz | Store open front | 39.29 | €16.00 |
| 0 | Workshop | 145.48 | €32.00 |
| 0 | Yard | 2,800.00 | €3.20 |
| | | Total | €36,200 |

8.15 NAV Comparison 2: The respondents stated that this property shares many similarities with the subject property including an asbestos roof, age and location which does not directly front Old Dublin Road. They state that it comprises a larger premises approximately 440 m from subject property and has been valued at €27.00/sqm. There were no representations and no appeal to the Valuation Tribunal.

| | |
|------------------|--|
| Property Number | 2007961 |
| Occupier | Tomsollagh Developments Ltd |
| Address | Off Old Dublin Road, Enniscorthy Co. Wexford |
| Total floor area | 1,372.45sqm |
| NAV | €40,100 |

Comparative analysis of NAV

| Level | Description | Size/sqm | NAV/sqm € |
|-------|-----------------|--------------|----------------|
| 0 | Workshop | 1,159.51 | €27.00 |
| 0 | Store | 212.94 | €27.00 |
| 0 | Yard (hardcore) | 1,473.00 | €2.70 |
| | | Total | €40,100 |

8.16 NAV Comparison 3: The respondents stated that this property is located 240 metres from the subject property at comprises a former ESB store and offices built in the early 1980s. It has direct access to the Old Dublin Road and the warehouse/store has single skin steel cladding to the roof and upper walls. They state that most of the yard is concrete covered unlike the subject property and is secure and enclosed. They state that it has a similar size and age to the subject property, but it has been valued at €32.00/sqm to reflect its direct access to Old Dublin Road. There were no representations and no appeal to the Valuation Tribunal.

| | |
|------------------|--|
| Property Number | 2007992 |
| Occupier | Nolan Health & Fitness |
| Address | Old Dublin Road, Enniscorthy Co. Wexford |
| Total floor area | 772.20sqm |
| NAV | €35,500 |

Comparative analysis of NAV

| Level | Description | Size/sqm | NAV/sqm € |
|--------------|--------------------|-----------------|------------------|
| 0 | Offices | 193.44 | €32.00 |
| 0 | Store | 385.32 | €32.00 |
| 1 | Offices | 193.44 | €32.00 |
| 0 | Yard (hardcore) | 1,500 | €3.20 |
| 0 | Yard (hardcore) | 1,900 | €3.20 |
| | | Total | €35,500 |

8.17 NAV Comparison 4: Mr. Colhoun stated that this property was first valued in 1979 and it comprises a workshop/small factory with concrete block wall to eaves height and an asbestos roofing. It is located approximately 210 metres from the subject property and is of a similar age but is superior in terms of road access and includes office accommodation. Following representations, the draft valuation certificate was reduced from €28,700 to €24,800 reflecting a reduction from €37.00/sqm to €32.00/sqm.

| | |
|------------------|--|
| Property Number | 2007972 |
| Occupier | Francis Cullen |
| Address | Old Dublin Road, Enniscorthy Co. Wexford |
| Total floor area | 596.48sqm |
| NAV | €24,800 |

Comparative analysis of NAV

| Level | Description | Size/sqm | NAV/sqm € |
|--------------|--------------------|-----------------|-------------------|
| 0 | Warehouse | 596.48 | €32.00 |
| 0 | Yard (hardcore) | 385.32 | €3.20 |
| | | Total | €24,800.00 |

8.18 NAV Comparison 5: Mr. Colhoun stated that this property is approximately 330 metres from the subject property and comprises a section of a former furniture factory with the remaining areas occupied by a Gym. It comprises a vacant warehouse/store with the yard fronting directly onto Old Dublin Rd and it was first valued in 1979. The building was in good condition for its age with a steel frame and single skin steel cladding to roof and some internal plasterboard walls. There were no representations and no appeal to the Valuation Tribunal.

| | |
|------------------|--|
| Property Number | 5018648 |
| Occupier | A. Wilson |
| Address | Old Dublin Road, Enniscorthy Co. Wexford |
| Total floor area | 362.94sqm |
| NAV | €14,810 |

Comparative analysis of NAV

| Level | Description | Size/sqm | NAV/sqm € |
|-------|-----------------|--------------|-------------------|
| 0 | Warehouse | 362.94 | €32.00 |
| 0 | Yard (hardcore) | 1,000 | €3.20 |
| | | Total | €14,810.00 |

8.19 Mr. Colhoun also confirmed that the valuation on the Respondents draft Valuation was for a different (i.e. larger) area. He confirmed that the amended value for the subject property based on a reduced area, (as agreed with Mr. O'Connor) and still applying the NAV figure of €27.00/ sqm, would reduce the total NAV from €24,500 to €21,000.

8.20 Summing up his case, Mr. Colhoun stated that the evidence put forward by the Appellant did not prove the levels per square metre applied to the subject property were incorrect.

8.21 He stated that the Appellant has provided lease information in relation to the subject property, which confirms that it is at an amount below even the revised NAV and that this is not in dispute. However, he said the Commissioner must be mindful of the Tone and of existing rental evidence for properties in the same category. He argued that the Appellant has only provided one piece of rental evidence to support his argument, the balance of information available would indicate rental levels for similar properties higher than that enjoyed by the subject property. On that basis the Respondent contended that a NAV of €21,000 is fair and equitable, which he analysed as follows:

| | |
|--|-------------------|
| Workshop 635 sqms @ €27 per sqm = | €17,145.00 |
| Stores 44.2 sqms @ €13.50 per sqm = | €596.70 |
| <u>Yard 1,445 sqms @ €2.70 per sqm =</u> | <u>€3,901.50</u> |
| Total | €21,000.00 |

8.22 Mr. Colhoun stated that the Appellant's comparables include several properties which are not similar to the subject in terms of location, construction characteristics, age and quality. He stated that he had provided 5 examples of NAV comparison properties in the immediate vicinity of the subject property, none of which are under appeal and all supporting the level per sqm applied to the subject property.

8.23 Mr. Colhoun stated that there are currently 1,525 properties on the List categorised as Industrial, of which there are 32 including the subject under appeal. He stated that this would indicate widespread acceptance of the valuation scheme and validity of rental transaction analysis.

8.24 Mr. Colhoun concluded by requesting that the Tribunal find that a valuation of €21,000 be entered in the Valuation List.

8.25 In cross-examination Mr. Colhoun stated that he had considered each property, whether in terms of location, situation, site characteristics or quality of the buildings, was relevant, notwithstanding their superior nature to the subject property in some instances.

8.26 Mr. O'Connor for the Appellant put it to Mr. Colhoun that the Commissioner had only been able to adduce a single rented property in Enniscorthy, and that the Respondents were attempting to develop a valuation scheme for Enniscorthy based on a single rental comparison in Enniscorthy Business Park and three other comparisons scattered throughout County Wexford. Mr. Colhoun said there were more comparisons than that but agreed there were no more in Enniscorthy. Mr. Colhoun said that the scheme had been based on rental evidence gathered from around the county but that it would have been better to have had more evidence in Enniscorthy.

8.27 Turning to the Respondent's summary/conclusion of his precis, the Appellant's witness maintained that the Commissioner must be mindful of the Tone, and put it to the Mr. Colhoun that as he phrased it "the Tone is all over the place". Mr Colhoun did not accept this suggestion.

8.28 In summing up his position, Mr. O'Connor argued that the Respondents had only one piece of evidence of a Key Rental Transaction on which they based their scheme and that the

Commissioner had ignored the Appellant's rental evidence for the subject property as it did not suit their narrative.

8.29 Mr. O'Connor claimed that the rental evidence he had adduced clearly showed what a 50-year-old building, with asbestos walls and roof, and surrounded by other buildings was actually worth. He claimed that the NAV rates of €27.00- €32.00/sqm which the Commissioner had relied upon had been derived from a flawed Key Rental Transaction analysis. He asserted that the NAV range of €27- €32 per sqm had been applied liberally to everything ranging from the best workshops to semi-retail premises as well as much poorer workshops. He stated that if €32.00/sqm is correct for the Skoda building, then the rate of €27.00/sqm, as applied to the subject building, a 50-year-old shed, cannot be correct. He concluded by stating that it was his contention that the subject property, a 50-year-old shed with an asbestos roof and a rent of €13,000 p.a. should be assessed at that level.

8.30 The Respondent summarised his case stating that he did not dispute that there is a rent passing on the subject property that is significantly below that valuation but that however the Commissioner has to be mindful of all the properties of a similar nature, size and location and that based on that basis that the balance of evidence shows that the value placed by the Commissioner on the subject property is correct and that the Tone of the List has been widely accepted.

8.31 Mr. Colhoun restated his view that many of the appellant's comparator properties were not comparable, instancing one which was ten times larger than the subject property, and that two others were not comparable to the subject property being much superior in terms of being modern purpose-built properties with good road frontage and access to two roads.

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 Wexford County Council.

10.2 The purpose of cross examination in this, and in every Appeal before the Tribunal, is to enable the parties challenge each other's evidence. It is an important exercise in the course of a hearing and ensures fair procedures are had in respect of contested matters in a case. Furthermore, cross examination provides the Tribunal with robust evidence that has been tested before it and any differences in expert opinion are borne out with a right of reply available to the disagreeing party. In the present case the Respondent declined to cross examine the Appellant's agent preferring instead to make their case in their direct evidence. The Tribunal finds that this was not in keeping with the practice of fully testing the evidence during a hearing, though it did not compromise the overall findings of the Tribunal in the present Appeal.

10.3 The Tribunal notes that the subject property shares the site with two other separately rated occupiers, but no evidence was provided by either of the parties as to how the front yard of the total property is shared/utilised between the three separately rated properties.

10.4 The Appellant argued that the actual rental evidence attaching to the subject property of €13,000 p.a. is the most relevant figure that demonstrates rental value, when judged in the context of three NAV values associated with other workshops in the immediate locality of different quality and locations which have values variously at €32.00/sqm and €22.00/sqm. The Respondent maintained that a NAV of €21,000 was appropriate based on the evidence adduced and was in line with the tone of the list established for the area.

10.5 The Tribunal finds that the rental evidence provided for Enniscorthy was limited and inconsistent due to the wide variety of construction types and the ages of the various properties as well as main road access or lack thereof for those properties. While the KRT's provide a general tone this must be viewed in the context of widely differing property types. The Respondent stated that groups of properties that share similar characteristics must be valued on a similar basis and the Tribunal accepts that similarly circumstanced properties are considered comparable for the purposes of establishing a valuation that is correct, equitable and fair in the particular circumstances of a given property.

10.6 The Tribunal finds the Appellant's Comparison PN 2007960 to be very useful as it is a similar property in the same location albeit further north of the subject property. The Tribunal

notes that the store in that case was valued at €22.00/sqm. The Appellant’s second and third comparisons which show modern purpose-built workshops valued at €32.00/sqm as part of larger modern complexes, indicate to the Tribunal that if the rate of €32.00/sqm for high quality workshops is correct, (given those rates have not been appealed and appear on the List as correct), then against that backdrop the Tribunal finds that the Respondent’s proposed rate of €27.00/sqm for the subject property must be too high.

10.7 The Tribunal finds that only two of the Appellant’s six NAV comparisons are capable of being compared to the subject property, comparisons Nos. 1 and 6. The Appellant’s sixth comparison also adjoins the subject property and has an office, workshop, warehouse and stores all valued at €24.00/sqm. These are buildings that formerly comprised part of a larger holding including the subject property which has been divided and the Tribunal finds these properties are persuasive in the context of their comparability to the subject.

10.8 The Tribunal finds that the configuration, age, construction and very limited Old Dublin Road access of the subject property are limiting factors when considering its value. The immediately adjoining unit (PN 2007969) offers the best and most comparable evidence of values for similarly circumstanced properties and the Tribunal finds that the rate of €24.00/sqm confirmed in that case should be applied to the agreed areas of the subject property. The Tribunal notes that both parties have applied a 50% discount for the store.

10.9 Based on the above, the Tribunal deems the following as appropriate:

| Description | Size/sqm | €/sqm | €/NAV |
|-------------|----------|--------|------------|
| Workshop | 635.00 | €24.00 | €15,240.00 |
| Store | 44.20 | €12.00 | €530.40 |
| Yard | 1,445 | €2.40 | €3,468.00 |
| | | | €19,238.40 |
| | | Say | €19,200 |

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 **€19,200**

