

Appeal No: VA19/5/0794

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Farragh Proteins Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1990131, Industrial Uses at, LOCAL NO / MAP REF: 1B, Monnery Upper, Crossdoney, Cavan, County Cavan. ("the Property")

B E F O R E

Dairine Mac Fadden - Solicitor -

Deputy Chairperson

Annamaria Gallivan - FRICS FSCSI MPhil SEE -

Member

Fergus Keogh - MSCSI MRICS -

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF NOVEMBER, 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 €244,000.
- 1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because :

"excessive, inequitable and bad in law".

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €129,172.

2. REVALUATION HISTORY

2.1 On the 7th day of June, 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 €244,000.

2.2 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €244,000.

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 21st day of September 2021. At the Hearing the Appellant was represented by the Mr. Tadgh Donnelly of Donnelly & Associates and the Respondent was represented by Mr. Martin O’Donnell appearing on behalf of the Valuation Office, (‘the Parties’).

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. ISSUES

4.1 The appeal raised the sole issue as to whether the Net Annual Value (‘NAV’) of the Property as determined by the Respondent is excessive.

5. RELEVANT STATUTORY PROVISIONS:

5.1 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.”

5.2 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.”

6. APPELLANT’S CASE

- 6.1 Mr. Donnelly, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.
- 6.2 Referring to his précis, Mr. Donnelly described the physical attributes of the Property describing it as a state of the art site facility and contended for a valuation of the Property in the sum of €129,172.05 as follows;

Floor	Floor Use	Area M²	NAV per Sq. M.	NAV
0	Warehouse	4815.09	15.00	€72,226.35
0	Office(s)	247.84	10.00	€2,478.40
0	Store	87.52	15.00	€1,312.80
0	Weighbridge	1.00	1,000.00	€1,000.00
0	Workshop	250.00	15.00	€3,750.00
0	Store	38.40	10.00	€384.00
	Plant Room	584.00	15.00	€8,772.00
	Plant/Other Boilers	9071.00	3.500	€31,748.50
	Plant/Other Silos	15000.00	0.0500	€7,500.00
	Total			€129,172.05

On the morning of the hearing Mr. Donnelly submitted to the Tribunal an email containing the PN identification numbers of two properties which he advised in the email were comparisons for this case. These two PN numbers are set out as submitted in Appendix (N/A to public) attached. At the Hearing Mr. Donnelly advised that one of the PN numbers submitted was incorrect and corrected this mistake. The correct PN number is set out in Appendix (N/A to public). Mr. O'Donnell on behalf of the Respondent said

that he was somewhat familiar with the two properties concerned and had no objection to them being referred to by Mr. Donnelly in his evidence.

The Tribunal was not provided with any detailed information with regard to these two properties. Mr. Donnelly advised that both of the facilities were located close to Waterford city and noted that they were both outside of the Rating Authority Area of the subject Property. One property he said was a rendering facility valued at €20 per sq.m. which he said was in a better location than the subject Property and a relevant comparison in its valuation. The second property was a nearby meat processing plant which he advised the Tribunal that he did not intend to rely upon further in this appeal. Mr. Donnelly stated that as far as he was aware, there was no other meat rendering plant in the County of Cavan.

Under cross examination by Mr. O'Donnell (for the Respondent), Mr. Donnelly (for the Appellant) stated that he did not think that the Property was state of the art. He said that it works and it complies with regulations but that in describing it as state of the art, that maybe he was going over the top. Mr. Donnelly acknowledged that he had not provided any photographs of the comparison property being relied upon.

- 6.3 Mr. O'Donnell asked Mr. Donnelly whether he considered it appropriate to rely upon comparison properties which were not in the same Rating Authority Area as the subject Property. Mr Donnelly replied that there was case history from other appeals that allowed the use of evidence from outside the relevant area. He also advised that he had legal advice that he intended to use in forthcoming appeals before the Tribunal of other properties in relation to this point. This advice and case history that Mr. Donnelly referred to was not placed before the Tribunal.
- 6.4 In response to a question from the Tribunal regarding if there were similar or comparable facilities to the subject Property within the County Cavan Rating Authority Area Mr. Donnelly said that he was not aware of such facilities nor was he aware of how many similar facilities there were nationwide. He also confirmed that he was not now relying on one of his comparisons, PN 226660 which he said was a meat processing factory.
- 6.5 In response to a question from the Tribunal as to what category of building that he considered the facility to be in and whether he could have used industrial buildings in the Cavan Rating Authority Area as comparisons, Mr. Donnelly said that he considered that the Property was in a category of its own and that he would have used an industrial building comparisons in the area in the same use as the subject Property if they had been available.

7 RESPONDENT'S CASE

- 7.1 Mr. O'Donnell having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.
- 7.2 Mr. O'Donnell corrected two typographical errors in his précis whereby he confirmed that the relevant Valuation Date was the 15th September 2017 and he also confirmed that representations had been received from the Appellant by the Respondent at the Representation stage of the appeal.
- 7.3 Referring to his précis Mr. O' Donnell described the physical attributes of the Property and described the Property as a Category 3 animal by-products rendering facility on a site of approximately 6 acres with a number of industrial styled buildings and a significant element of industrial plant. He said that the Property was initially developed in the 1950's and subsequently added to and extended. The facility operates under an existing Environmental Protection Agency (EPA) Integrated Pollution Prevention and Control (IPPC) license and the plant has Department of Agriculture and Food (DAFF) approval. The Property is one of nine such facilities nationwide.
- 7.4 Mr. O'Donnell included in his précis a block plan identifying the various elements of the Property and a selection of photographs of these elements including the buildings and plant areas.

Mr. O'Donnell asked the Tribunal to affirm the valuation of the Property in the sum of €244,000 and as it appears on the Valuation List. In support of his opinion of value Mr. O'Donnell submitted a chart containing the rental analysis of three properties within the County Cavan Rating Authority Area which he called Key Rental Transactions ('KRT's'). He said that these properties were '*similarly circumstanced*' to the subject Property and he considered comparable meaning that they shared characteristics such as use, size, location and / or construction. Details of these three properties are set out in Appendix (N/A to public) which are summarised as follows;

KRT No. 1 - This property comprises a modern showroom and workshop of 724.93 sq.m. with a large display forecourt let under a lease for a term of 4 years and 9 months from the 1st February 2014 with an advised net effective rent of €32.24 psm.

KRT No. 2 - This property comprises a modern warehouse of 180 sq. m. with a low eaves height let under a lease for a term of 2 years from the 1st November 2017 with an advised net effective rent of €40.00 psm.

KRT 2 - This property comprises a modern warehouse of 241.50 sq.m. with a high eaves height let under a lease for a term of 5 years from the 1st January 2016 with an advised net effective rent of €31.33 psm.

7.5 In addition, Mr. O'Donnell included in his précis details of two comparisons which he termed Tone of the List Comparisons, details of which are set out in Appendix (N/A to public) and which are summarised as follows;

Tone of the List Comparison No. 1 - is a large production facility with factory space of 12,435.83 sq.m. valued at €40 psm.

Tone of the List Comparison No. 2 - is a large production facility with factory space of 5,975.00 sq.m. valued at €40 psm.

7.6 Mr. O'Donnell analysed his valuation of the Property as follows;

Floor	Use	Area Sq. M.	€ Rate psm	€ NAV
0	Offices	247.84	€30	7,435.20
0	Store	87.52	€30	2,625.60
0	Warehouse	4,815.09	€30	144,452.70
0	Weighbridge	1.00	€2,000	2,000
0	Workshop	250.00	€30	7,500
1	Store	38.40	€30	1,152.00
	Additional Items			
	Plant Boilers	9,071.00	€3.50	31,748.50
	Plant Silos @ 150,000 Litres x 4 No.	600,000	0.05	30,000
	Plant Room	584.80	€30	17,544.00
	Totals	6,023.65		244,458.00
			Say,	€244,000

7.7 Mr. Donnelly declined the opportunity to cross examine Mr. O'Donnell on any element of his précis of evidence or on his oral evidence given to the Tribunal.

7.8 Mr. Donnelly said that he considered that Mr. O'Donnell's NAV comparison No. 2 should not be considered by the Tribunal as it was subject to an appeal that he had lodged on behalf of the occupier. Mr. O'Donnell said that he was not aware of that appeal.

7.9 In response to a question from the Tribunal as to what class of property Mr. O'Donnell considered that the subject Property belonged to, he said that he considered the Property was a production facility.

8. SUBMISSIONS

8.1 There were no legal submissions made by the Parties.

9. FINDINGS AND CONCLUSIONS

9.1 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 as determined by the Tribunal is relative to the value of other properties on the valuation list in the rating authority area of County Cavan.

9.2 From the evidence adduced by the Parties, the Tribunal finds the following facts;

9.3 The Property is located in a rural location in the townland of Monnery Upper approximately 8.6 kms west of Cavan town centre and 3 kms northwest of the village of Crossdoney.

9.4 The Property is a commercial offal rendering facility producing beef and poultry meal comprising a number of buildings and structures including water storage tanks and silos that occupies a site of approximately 6 acres (2.455 Ha.). Initial construction of the facility commenced in the 1950's and it has been extended over the years. The Property is a Category 3 animal by-products rendering plant since 2005 and operates under an existing Environmental Protection Agency (EPA) Integrated Pollution Prevention and Control (IPPC) license and the facility has Department of Agriculture and Food (DAFF) approval.

9.5 The Parties are in agreement as to the physical attributes of the Property which generally comprises as follows;

Use	Size - Sq. M.
Office	247.84
Store / Laundry Rooms	87.52
Warehouse	4,815.09

Workshop	250.00
Store	38.40
Plant Rooms	584.80
Totals	6,023.65
Weighbridge	1.00
Silos x 4 @ 150,000 L.	600,000 Litres
Plant Room	584.00
Plant / Boilers	9,071.00

9.6 The Tribunal has noted, and the Parties have accepted Mr. O'Donnell's evidence that the subject Property is one of nine such facilities throughout the country and the only such facility in county Cavan.

9.7 Mr. O'Donnell (for the Respondent) in his evidence submitted details of three Key Rental Comparisons (KRT's 1, 2 & 3) of properties within the Rating Authority Area which he said were similarly circumstanced to the subject Property. The Net Effective Rents of these properties were analysed at €32.24, €40.00 and €31.33 psm respectively.

Mr. O'Donnell also submitted analysis of two Tone of the List Comparison properties that contained production facility elements and which were both valued at €40 psm. These properties are used for poultry and meat processing purposes. The relevance or correctness of these comparisons was not challenged by Mr. Donnelly, although he did contend that the second of these was under appeal and should be disregarded by the Tribunal.

9.8 Mr. Donnelly's précis (for the Appellant) was substantially incomplete referencing the inclusion of comparison properties and appendices which were not included in his précis. In his oral evidence Mr. Donnelly relied upon one comparison property. The Tribunal was advised by Mr. Donnelly of the PN Number of this property at the commencement of the Hearing and no supporting information on the property was submitted to the Tribunal in the required format including details of its NAV analysis, location maps and photographs. The Tribunal considers that there was insufficient information and detail provided by Mr. Donnelly in his oral evidence for the Tribunal to consider whether this property was a comparable property to the subject Property and was therefore of no assistance in determining this appeal.

9.9 The Tribunal considers that Mr. O'Donnell's KRT No. 1 not to be a comparable property to the subject Property as it is a showroom for the sale of farm machinery and is a letting that predates the valuation date of the subject Property by approximately three years.

Mr. O'Donnell's KRT's Nos. 2 & 3 are both warehouse facilities though smaller than the subject Property and both let at rents in excess of the value applied to the subject Property by the Respondent. The Tribunal notes that KRT 2 has a lease date just 2 months after the valuation date and is analysed at an NER per sq. m of €40.

The Tribunal considers that Mr. O'Donnell's Tone of the List comparison No. 1 to be a relevant comparison as it is a large production facility in allied uses to that of the subject Property. It is in a better location and valued at the higher rate of €40 psm in contrast to the level of €30 applied by the Respondent to the subject Property.

9.10 The Tribunal noted the assertion by Mr. Donnelly that he had submitted an appeal to the Valuation Tribunal in relation Mr. O'Donnell's Tone of the List comparison No. 2 and therefore should be excluded by the Tribunal from its considerations. The Tribunal is satisfied that Mr. Donnelly had lodged an appeal in relation to this property which Mr. O'Donnell could not have been aware of at the time of preparing his précis. In these circumstances the Tribunal has not had regard to this comparison.

9.11 The Tribunal considers that the valuation figure contended for by the Appellant has not been justified and considers that Mr. Donnelly's précis and oral evidence did not contain the necessary particulars to make good the claim adduced therefrom and falls considerably short of establishing that the Respondent's NAV of the subject Property is incorrect.

DETERMINATION:

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