

Appeal No: VA19/5/1323

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

SWORDS LABORATORIES LIMITED T/A BRISTOL MYERS SQUIBB

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2171054, Industrial Uses at Cruiserath, Blanchardstown, County Dublin.

B E F O R E

Carol O'Farrell - BL

John Stewart - FSCSI, FRICS, MCI Arb

Eamonn Maguire - FRICS, FSCSI, VRS, ARB

Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF NOVEMBER 2022**

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 14th 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 €13,054,000.
- 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:
*"(1) Levels taken on building breach tone in area
(2) Levels taken on plant are excessive."*
- 1.3 The amount the Appellant considered ought to have been determined as being the NAV of the Property was revised downwards from €4,840,000 as stated in the Notice of Appeal to €4,442,000 at the appeal hearing.

2. REVALUATION HISTORY

- 2.1 On the 19th of May 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 NAV of €16,240,000.
- 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 NAV of the Property was reduced to €13,054,000
- 2.3 A final valuation certificate issued on the 10th of September 2019 stating a valuation of €13,054,000.
- 2.4 The date by reference to which the value of the Property was determined is the 15th day of September 2017.

3. THE HEARING

- 3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 13th of May 2022. At the hearing, the Appellant was represented by Mr. Brian Bagnall FRICS, FSCSI of Bagnall Doyle McMahon Commercial Property Consultants and the Respondent was represented by Mr. Alan Sweeney B. SC. (Property Val & Mgmt) MSCSI, MRICS 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 either the oath or affirmation, 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.
- 4.2 The Property is located on a 126-acre site situated in Cruiserath, Blanchardstown, Dublin 15 and is equidistant (approximately 2km) from two main arterial roads leading into Dublin City and to the N2 and N3 national primary routes. The M50 motorway and Dublin Airport are respectively 3 km and 10km east of the Property.
- 4.3 The Property is owned and occupied by the Appellant and is in use as a multi-product cell culture (MPCC) biologics drug-substance manufacturing facility. It was largely constructed in 2018 on the site of the former Bristol-Myers Squibbs bulk Active Pharmaceutical Ingredients (API) manufacturing facility. The MPCC facility has retained the services and some of the buildings of the former API facility. While the Appellant owns most of the site, part of the site is owned by the Industrial Development Authority (‘IDA’) and is occupied by the Appellant under a 99 year land lease.

4.4 The main buildings on the site are as follows:

- a) The Multiproduct Cell Culture building (MPCC) which accommodates manufacturing, bioreactors, a purification area, offices and laboratory space.
- b) The Laboratory, Office & Cafeteria (LOC) building is home to three laboratories with office space for supporting departments.
- c) The Warehouse, Cryogenics & Logistics (WCL) building is a multifunctional building providing storage, raw material sampling and logistical support.
- d) The Central Utilities Building (CUB) is an engineering building housing site Utilities.
- e) The Global Biologics Laboratory (GBL) is/was responsible for the release testing of Biologics Drug Products.

The total gross external floor area measurement of the buildings is agreed at 56,948 square metres. The buildings occupy approximately 75 acres of the site.

5. ISSUES

5.1 The appeal raises the sole issue of whether the Respondent's determination is excessive. The Appellant contended for an NAV of €4,442,000 whereas the Respondent requested the Tribunal to affirm the Respondent's proposal that the certificate value be reduced from €13,054,000 to €11,817,000 as the nature, extent and value of the rateable plant at the Property had been agreed between the parties shortly before the hearing of the appeal. The Appellant put forward an alternative valuation of €8,144,000 in the event the Tribunal did not accept the Appellant's primary contention that the Property should be valued on a comparable basis with the Pfizer facility in Greencastle Business Park in Clondalkin.

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."

6.3 Section 19(5) of the Act inserted by section 7 of the Valuation (Amendment) Act 2015 requires the valuation list to be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates and to achieve both (insofar as is reasonably practicable) correctness of value, and equity and uniformity of value between properties on the list and so that the value of each property on the list is relative to the value of other properties comparable to that property on the list or, if no such comparable properties exist, is relative to the value of other properties on the list in that rating authority area

7. APPELLANT'S CASE

7.1 At the outset Mr. Bagnall amended his Précis to reflect that the valuation of the plant had been agreed at €938,192 and, consequent upon that agreement, to amend his alternative opinion on value to €8,144,000. Subject to that clarification, Mr Bagnall adopted his Précis as his evidence-in-chief.

7.2 Mr. Bagnall stated that the Appellant's facility was originally built in the early 2000's. In 2017 and 2018, a portion of the original plant, (including the original manufacturing building), was demolished and the new manufacturing facility and adjoining offices and laboratories were constructed. Other improvements were also carried out which included the extension of the warehouse facility, the relocation of the main entrance and the construction of a number of new buildings. The new facility is a biopharmaceutical manufacturing facility. As a result of the redevelopment, three of the original buildings were rendered obsolete, though some use has been made of them for Covid-19 reasons, but there is no short-term plan for their re-occupation.

7.3 Mr Bagnall contended that the valuation levels applied to the buildings are excessive. His argument for the Appellant fell into three parts.

7.4 Firstly, he said the Appellant's Property is comparable to the Pfizer facility (PN2170886) situated in Greencastle Business Park in Clondalkin in the rating authority area of South Dublin County Council and ought to be valued on the same basis. This facility is a biologics bulk drug substance manufacturing facility, with production areas operating up to a Class A standard and was described by Mr Bagnall as an identical manufacturing facility although significantly larger being approximately 110,000m² as against the Property's 56,984 m². Based on his estimate of floor area, Mr. Bagnall stated that including plant, the Pfizer facility devalues at approximately €78 per m² compared to the Property at €229/m² (almost three times (2.9) the level per square metre).

7.5 Secondly, and in the alternative, Mr Bagnall stated that valuations of two adjacent properties in Blanchardstown Business and Technology Park evidenced a fall in industrial rental values of between 25% and 33% since the previous revaluation of the Fingal rating authority area in 2009. However, in the case of the Property, the rateable value of which had been determined at €11,750,000 on a revision application in 2018 by reference to 2009 values, the Respondent increased the NAV by 11% in 2019 representing an almost 40% swing against the general industrial trend, a fact which Mr. Bagnall found surprising given that the same premises was being re-valued. In his view, there was no valid basis

for such an increase. By applying a value reduction of 30% to the rateable value of the Property as determined in 2018, congruent with the extent of the rental decline that general industrial properties had experienced, Mr Bagnall contended that a NAV of €8,225,000 would be more reasonable.

7.6 Thirdly, and in the context of his alternative valuation, by reference to valuations determined in respect of several pharmaceutical facilities in the course of the 2019 Revaluation Programme the Property was over-assessed. Mr Bagnall referred to two Longford facilities (PN 2193734 and 2183353) where a standard industrial value of €20 per m² was adopted, a Longford facility (PN 2178595) where clean rooms were valued at €80 per m², warehouse valued at the same level as other warehouses (i.e., €20 per m²) and a 50% uplift was applied to the office value (€30 per m²). In Sligo, standard industrial buildings were assessed at €35 per m², clean rooms at €90 per m², and warehouses at €35 per m². Mr. Bagnall stated that the valuation approach to pharmaceutical facilities throughout the country is disjointed. He submitted details of two comparable pharmaceutical plants in Damanstown Industrial Park in the Fingal rating authority area identified as PN570301 (Clarochem Ireland) an API manufacturing facility valued at €416,000 and PN295978 (Astellas Pharma Ireland) valued at €1,762,000. Both facilities were subject to appeal to the Tribunal, but the appeals were compromised by the parties at €150 per m² on the manufacturing buildings and €100 per m² on the ancillary buildings. Both facilities are substantially smaller than the Property and the valuation levels agreed reflect the fact that they are older facilities, but in respect of PN295978, Mr Bagnall pointed out that some of the ancillary buildings valued at €100 per m² were built within the last five years and yet the valuation level applied to the ancillary buildings at the Property is 60% higher (i.e., at €160 per m²) than the adjoining general industrial property valuation levels.

7.7 Mr. Bagnall confirmed that the Property is an impressive, high quality well laid out facility, but said the amount expended on its development does not mean that a higher rent can be achieved, and in that regard, he cited the following paragraph from the Tribunal's judgement in VA02/2/003 *Irish Independent Newspapers v Commissioner of Valuation*

"The Tribunal accepts the evidence of Mr Bagnall, that if two adjoining occupiers decide to expend totally varying sums on constructing premises, it does not follow that the more expensive building will necessarily, achieve a higher rental or NAV."

Mr Bagnall stated that the Respondent valued standard industrial units in the area at €60 per m², yet the industrial buildings of the Property were valued at €160 per m². In his opinion, leaving aside the MPPC building, there is no logical reason, why the rest of the buildings in the complex should be valued at a level above that applied by the Respondent to standard industrial buildings in the Ballycoolin area. Mr Bagnall opined that while it would be reasonable to allow a small increase from the valuation level applied on standard industrial buildings of €60 per m² such as to increase it to €80 per m² to reflect better finishes for accommodation comprising laboratories, those buildings would attract no greater rental in the open market. The Property has no profile and Mr. Bagnall also pointed out that the office accommodation has a finish equivalent to that of a standard industrial property and does not have raised access floors.

7.8 In setting out his opinion of value, Mr. Bagnall put forward two alternative approaches.

Approach 1

The Property should be valued in line with his first comparable PN2170886, on the basis of mode of use, scale and location. He contended that NAV should be assessed at the same rate per square metre, including plant, as follows.

$$56,948 \text{ m}^2 @ \text{€}78 \text{ per m}^2 = \text{€}4,441,944, \text{ or say } \text{€}4,442,000$$

Approach 2

If the Tribunal was minded not to accept the above approach, having regard to the quantum of the Property which is significantly larger than either of the other pharmaceutical plants put forward (PN570301 and PN295978) as comparables, the second valuation approach put forward by Mr Bagnall was based on a 50% reduction of the €160 rate per m² on the ancillary buildings as they are basically industrial buildings and a reduction of the €240 per m² rate applied to the MPCC building to €200 per m² to reflect the age difference between the MPCC building and the manufacturing buildings in the aforementioned comparables. Without prejudice to his first approach, Mr. Bagnall proposed an alternate valuation as follows:

Property	Area m ²	NAV per m ²	Total NAV
Plant			€938,192
MPPC building	22,098	€200	€4,418,000
Ancillary buildings	34,850	€80.00	€2,788,000
Total			€8,144,192
Say €8,144,000			

7.9 Under cross examination, Mr. Bagnall confirmed, that his primary comparisons within the Fingal rating authority area are PN570301 and PN295978. He accepted that the details he submitted in respect of the Pfizer facility (PN2170886) were not exact but his best estimate as all he could do was crudely divide the NAV by the size of the plant as he did not know on what basis the NAV had been agreed or determined, or what value had been assessed on the plant. He surmised that if the plant had been valued at €1,000,000, it would lower the rate per m² on the buildings to €70 per m².

7.10 With reference to section 49(2) of the Act, Mr. Bagnall claimed that as the valuation of the only other building equivalent in size to the Property in the Fingal area had not been challenged, it was appropriate to have regard to his primary comparable, the Pfizer plant, and in that regard relied upon section 50(2) and section 37(4) of the Act. When put to him by Mr. Sweeney that such a course was impermissible having regard to section 19 (5) of the Act, Mr. Bagnall did not agree but accepted that section 19 (5) imposes a hierarchy when considering comparable and that he had relied upon a “melting pot”. He claimed that it was inequitable to value the Property at almost three times the value of the Pfizer plant, which is located just a short distance away, although outside the Fingal rating

authority area, and at a value that was two and a half times that of the values on the list for general industrial buildings.

- 7.11 Mr Bagnall accepted the Property is superior to his comparables PN570301 and PN295978 pointing out that he had reflected that factor when valuing the subject by applying a 20% to 30% of a value margin differential to reflect age while also taking account of the fact that the Property is five times larger than that those comparables.
- 7.12 When asked why he had not valued the Property under the Contractor's Basis, Mr. Bagnall replied that he only used that method of valuation as a last resort as it was very unreliable and as the Property was an industrial building in an industrial area, he did not consider it appropriate or necessary to do so. He also confirmed that he had not considered valuation by any other method.
- 7.13 When asked by the Tribunal why, having applied €80 per m² on the ancillary areas on the Property in his second valuation approach, he adopted an overall level of €78 per m² in his first valuation approach, he replied that while he considered PN 2170886 to be his best comparable, he did not have sufficient information as to how the Pfizer facility including its plant had been valued, and so had merely divided the NAV by the overall estimated floor area. He confirmed that the rate of €60 per m² was the highest level adopted for standard industrial buildings in the Fingal area in the 2009 Revaluation and that the higher rate for specialised industrial buildings was €75 to €80 per m² by reference to a valuation date in 2009. Mr. Bagnall stated that on balance he did not consider it necessary to apply a higher valuation level per m² on the ground floor of the MPPC building as the building was designed around the manufacturing process. The buildings themselves had good long term economic use but the manufacturing process they accommodate has a shorter life span. He acknowledged that the three story MPPC building is not a typical industrial building but is an example of a building designed around the plant and processes that require to be housed.
- 7.14 In summing up, Mr. Bagnall stated that he did not accept that a Bio Pharmaceutical facility was more expensive to construct than an API facility. The rateable plant of the Property was separately agreed, so he did not see why different values should be applied to the building floor areas. He submitted that Mr. Sweeney's first comparison is tarnished by reason that the plant was valued by adopting a percentage of the building's valuation and so should not be relied upon.

8. RESPONDENT'S CASE

- 8.1 Mr. Sweeney described the Property as comprising a state of the art multi-product cell culture (MPCC) biologics drug substance manufacturing facility, constructed largely in 2018. He noted that the new facility has retained the existing site services and some of the buildings from the original facility.
- 8.2 Mr. Sweeney gave an overview of the pharmaceutical sector in 2017 and stated that Ireland was the largest net exporter of pharmaceuticals in the EU, accounting for over

55% of all exports (excluding services). He stated that employment in the sector has grown from 5,200 in 1988 to 25,300 in 2010, and to over 30,000 by 2017. He also stated that of the 120 pharmaceutical companies which have bases in Ireland, nine were in the top ten pharmaceutical companies in the world, and that 33 pharma and biopharma plants are FDA approved.

8.3 Mr. Sweeney stated that the difference of opinion between himself and Mr Bagnall stemmed primarily from Mr Bagnall's primary reliance on the valuation of a property situated outside the rating authority area of Fingal.

8.4 Mr. Sweeney stated that the difference between bio pharma and traditional pharmaceutical facilities refers to the way that drugs are produced. The substantial data received by the Respondent from occupiers of twenty one pharmaceutical properties (of which 12 are located in Fingal) pursuant to Section 45 notices over the course of the 2019 Revaluation, enable the Respondent to identify and categorise the types of pharmaceutical plants and to inform a valuation scheme based on the following sub-categories:

1) Biologics Drug-substance Manufacturing Facility or (BioPharma).

Range in levels applied in Fingal – Process Buildings €240 per m²;

Remainder: €160 per m²

2) Active Pharmaceutical Ingredient (API) Manufacturing Facility.

Range in levels applied in Fingal – Process Buildings €150 per m²;

Remainder: €100 per m²

3) Oral Solid Dosage (OSD) Manufacturing Facility.

Range in levels applied in Fingal – All Areas €150 per m², €110/ m², €90 /m²;

Warehouse: €60 per m²

4) Other -Former Tablet Manufacturing Facility,

Of which there was only one, which was located in Tipperary.

8.5 Mr. Sweeney said the Contractor's Method had been utilised at the initial valuation stages for the Property and in this latest valuation as a cross check exercise to show that the valuation levels applied are reasonable. This approach, he said, ensured correctness, equity and uniformity as prescribed in section 19 (5) of the Act. He confirmed that the construction of the Property had been provided under an accelerated construction clause, and that he had allowed for a discount to reflect this additional cost. If he had relied on the Contractors Method as the primary valuation approach, the valuation of the Property would have been higher.

8.6 He stated that there is no comparable market transactional data available for pharmaceutical facilities. He provided details of NAV comparisons for the Property (details of construction/upgrade costs are contained in the Appendix (N/A to public).

- 1) PN 5008919 - Blanchardstown, Dublin 15.
NAV: €11,899,000
Floor area of 48,656 m² on a site of 41.51 acres
Biologics Drug-Substance Manufacturing Facility with offices, laboratories, data room and warehousing. Construction completed in 2018/2019
Process building of 23,451 m² valued at €240 per m²
Remainder of 25,204 m² valued at €160 per m²
500 car spaces valued at €500 per space
Plant valued at 20% of the valuation of the building.
- 2) PN 359268 – Swords, Co. Dublin
NAV: €1,115,000
Floor area of 6,968.79 m² on a site of 35.33 acres
Biologics Drug-Substance Manufacturing Facility comprising manufacturing building, office, laboratories and warehousing.
Office accommodation of 6,968.79 m² at valuation date valued at €160 per m².
- 3) PN 295978 - Mulhuddart, Dublin 15.
NAV: €1,762,000
Floor area of 11,828 m² on a site of 50.867 acres
API Manufacturing Facility built in 1987
Process Buildings of 5,003 m² valued at €150 per m²
Remainder' of 6,079 m² valued at €100 per m²
Zero value applied to a decommissioned area
Plant valued at €404,364
- 4) PN 570301 – Mulhuddart, Dublin 15.
NAV: €416,000
Floor area of 3,095 m² on a site of 4 acres.
API Manufacturing Facility built in 1993.
Process Buildings of 1,186 m² valued at €150 per m²
Drumstore valued at €50 per m²
Remainder of 1,454 m² valued at €100 per m²
Plant valued at €72,000.
- 5) PN 1141454 – Mulhuddart, Dublin 15.
NAV: €966,000
Floor area of 8,322 m² on a site of 5 acres
Oral Solid Dosage (OSD) Manufacturing Facility built in 1997, extended in 2006 and 2009
Buildings of 8,228 m² valued at €110 per m²
Temporary cold room of 94 m² valued at €55 per m²
Plant valued at €56,400.

- 8.7 Mr Sweeney said that in the case of pharmaceutical facilities where there was insufficient detail regarding items of plant, a value was applied that equated to 20% of the NAV applied to the buildings. However, in the case of the Property, Mr. Sweeney stated that a sufficient level of detail was supplied by the Appellant prior to the appeal hearing.
- 8.8 In response to a question from the Tribunal he confirmed that a Dollar to Euro Exchange rate of 0.09819 at valuation date of 15th September 2017 was used to convert the construction costs provided by the Appellant.
- 8.9 Under cross examination Mr. Sweeney agreed with Mr. Bagnall that a list valuation agreed between professional valuers, is reliable evidence. When Mr. Bagnall asked Mr. Sweeney to accept that if the Pfizer plant were located in the Fingal rating area, it would be the ideal comparison for the Property, as both occupiers were engaged in the same industrial processes and the valuation of that plant had been agreed between the parties' respective valuer, Mr. Sweeney said he was hesitant to talk about the Pfizer plant or the valuation approach adopted as the same level of detail had not been provided in respect of that property as had been provided in respect of the Property. Mr. Sweeney did not accept Mr Bagnall's contention that the valuation of PN5008919 is tarnished, as a Section 45 return was received from the occupier and whilst he accepted that valuing the plant of that property by taking 20% of the NAV of the buildings was not ideal, nonetheless he saw no issue with the adoption of that approach.
- 8.10 Accepting that an office space rate of €65.00 per m² was applied in the valuation of PN295978 as well as to several ancillary buildings, Mr. Bagnall asked Mr. Sweeney if he was unaware that general office valuations in Fingal ranged between €150 per m² and €200 per m² and queried why the offices in his second Comparison PN359268 had been valued at the rate of €160 per m². Mr. Sweeney replied that he was not familiar with valuations in that sector in the Revaluation. Given the disparity between the floor area of the Property and that of Mr Sweeney's third Comparison PN295978, Mr. Sweeney did not consider that a quantum allowance should apply as there was no supporting rental evidence upon which to base Mr. Bagnall's assumption that as the size of a property increases the value per square metre decreases.
- 8.11 In the course of cross-examination Mr. Sweeney did not dispute Mr Bagnall's evidence that there had been a 30% drop in the levels of NAV valuations applied to general industrial property since the 2009 Revaluation but considered that the pharmaceutical industry was on a different trajectory during that time. He said he did not have rental comparisons, but had the details provided in the Section 45 returns which indicated that Bio Pharma plants were more valuable as 20% of the entire buildings comprised a controlled environment.
- 8.12 Mr. Sweeney in response to questions from the Tribunal stated that if the Pfizer plant had been valued at the same time as the Property, it would likely have had a similar valuation outcome. He clarified that the rate of €240 per m² applied to Bio Pharma buildings was exclusive of rateable plant. The application of that rate of €240 per m² to manufacturing areas in the Bio-Pharma category was a judgement call, informed by the higher levels of construction cost compared to those associated with the lower sub-categories in the

valuation scheme. The approach was to value on an overall basis rather than to get caught up in the intricacies of individual buildings on each site. The alternative was to look at each property, disregarding any relationship with other buildings on the valuation list and rely solely on the Contractor's Method. He had relied on section 19(5) of the Act and his Summary Table of Comparisons was part of an emerging tone of the list. Mr. Sweeney confirmed that in the absence of any market rental evidence the plant in a pharmaceutical facility was a key factor of the valuation, having regard to the technology and processes carried out. At the hearing Mr. Sweeney did not have the information to hand to inform the Tribunal as to when PN2170886 was constructed. He subsequently confirmed after the hearing that construction was reported to have been commenced in 2004.

- 8.13 In summing up, Mr. Sweeney stated that the valuation of the Property's plant was agreed between the parties, as detailed in the Appendix (N/A to public) of his Précis, and that other plant was valued as being intrinsically part of the buildings. He characterised his Comparison properties as "common comparisons" rather than direct comparisons and pointed out Comparisons 3, 4 and 5 were agreed at Representation Stage by Mr. Bagnall's firm and that Mr. Bagnall had effectively accepted the valuation scheme under cross examination. His first Comparison was his best comparison and, in his view, Mr. Bagnall had overly focused on the car parking assessment in order to justify a quantum allowance for the Property. He said properties in South County Dublin, Longford or Sligo fell to be disregarded as is made clear by section 19(5) of the Act. He pointed out that Mr. Bagnall had not valued the Property by the Contractors Method as he had done in the past, even as a cross check exercise to see if his valuation was correct or reasonable. Rather Mr. Bagnall had relied upon the emerging tone of the list of general industrial property values in support of his alternative valuation levels of €78 and €200 per m² respectively, without providing any specific details or specifications, neither of which were supported or underpinned by comparisons in the Fingal rating area but were contended for on the basis of a 25% to 33% drop in general industrial property valuations.

9. FINDINGS AND CONCLUSIONS

- 9.1 The Property must be treated as a specialised property for which there is no rental market. There are no comparable properties as similar pharmaceutical plants are owner occupied and not let out to tenants. Therefore, the Property cannot be valued on the comparative principle for want of rental comparisons. The Tribunal was informed that 100 of the 126 acres of the site is let from the IDA but the rent under that land lease is not of any use in estimating the NAV of the Property.
- 9.2 Mr Bagnall's first approach was to value the Property at €4,442,000 as he considered the valuation of the Pfizer facility (PN 2170886) to be good evidence of what the hypothetical tenant would pay for the Property. He devalued the NAV of the Pfizer facility by reference to the size of the facility. He accepted under cross examination that did not know on what basis the NAV had been agreed or determined, or what value had been assessed on the plant in the Pfizer facility. The Tribunal does not accept this valuation exercise to be an appropriate method by which the value of the Property can be determined. Aside from

not knowing what valuation methodology was used, the Pfizer facility was valued two years earlier by reference to a different valuation date.

9.3 Furthermore, section 19(5) of the Act does not allow comparison of the Property with the values of other pharmaceutical plants situated outside the rating authority area of Fingal County Council as it expressly requires the Respondent and the Tribunal to ensure that the value of the property under appeal is relative to the value of other properties comparable to that Property on the valuation list. There are eleven other pharmaceutical plants on the valuation list for the Fingal rating authority area. Therefore, it is illegitimate to determine the value of the Property either explicitly by reference to Mr Bagnall's comparison PN 2170886 which is in the rating authority area of South County Dublin or those situate in the rating authority areas of County Longford and County Sligo. While the Tribunal has some sympathy with the Appellant's position and indeed Mr Bagnall's settled and resolute belief that the valuations of the Property and the Pfizer facility, if carried out in a proper manner, should not have resulted in the wide disparity between their respective valuations, his valuation approach is unsustainable in the teeth of the section 19 of the Act, and for the reasons set out hereunder he cannot rely on either section 50(2) or section 37(4) of the Act.

9.4 Section 50(2) of the Act applies to a property that has been valued on the contractor's basis and permits an adjustment to be made, if necessary, to the amount arrived by that valuation method as the net annual value, so that the property's value is, insofar as reasonably practicable, relative to the values of comparable properties on the valuation list. Mr Bagnall's reliance on section 50(2) is rejected for two reasons. Firstly, he did not value the Property on the contractor's basis and secondly, even if he had done so, the express power conferred by section 50(2) to adjust the amount arrived by that valuation method limits any adjustment by reference to the values of other properties comparable to the Property on the valuation list for the rating authority area of Fingal County Council and if there are no comparable properties to adjust the amount so that it is relative to the value of other properties on the list for that rating authority area.. Any adjustment of the Property's value to bring it in line with the NAV of the Pfizer facility is simply not permitted by section 50(2).

9.5 While section 37(4) enables the Tribunal to determine the NAV of a property by reference to whatever method of valuation or combination of methods of valuation as the Tribunal, in its discretion may deem appropriate, it does not entitle the Tribunal to disregard section 19(5) of the Act. Section 37(4) simply confers discretion as to the choice of valuation method. It does not enlarge the Tribunal's jurisdiction to have regard to the values of comparable properties entered on the valuation lists of other rating authority areas. Mr Bagnall did not to identify any provision in the Act that would confer jurisdiction on the Tribunal in this respect.

9.6 Mr Bagnall was of the view that the valuation of the Property should reflect the decline in NAV values for general industrial buildings in the 10 year period between the two revaluation dates of the rating authority area. His alternative approach was to value the Property at €8,144,000 by firstly reducing the €240 per m² rate applied by the Respondent to the MPCC building to €200 per m² and secondly by reducing the €160 rate per m² on the ancillary buildings to €80 per m² to reflect an increase on the €60 per m²

rate applied to two industrial units (PN 1035193 and PN 1035197) in the adjacent Blanchardstown Business and Technology Park to account for the better finishes due to the presence of laboratories. Mr Bagnall also considered that the valuations agreed in respect of two older pharmaceutical facilities, PN 295978 and PN 570301 in Damanstown Industrial Park which had been appealed to the Tribunal provided useful guidance as to the value of the Property. He uplifted the main building level of €150 per m² by 33% and lowered the ancillary building level of €100 per m² by 20% to reflect the difference in size.

- 9.7 The Tribunal rejects this valuation approach as the Property is purpose-built with special features and the use to which it is put is quite different from that of ordinary industrial units, a fact acknowledged by Mr. Bagnall in evidence. For security reasons the Tribunal was only provided with three stock photographs of the interior of the MPPC building. No evidence was adduced of the construction materials used, or of any details concerning the finishes, fittings, plant or services of the four buildings comprised in the Property. Accordingly, the Tribunal has insufficient evidence from the parties upon which it can assess whether any property relied upon parties' valuers is similar in all respects to the Property and from which it can interpolate to allow for differences. Moreover, the Tribunal has no evidence as to whether the valuations of the older pharmaceutical facilities in Damanstown Industrial Park were based on the contractor's method of valuation or of the matters discussed which lead to the valuers to agreeing reductions in the certificate values of PN 295978 and PN 570301 when compromising the appeals.
- 9.8 Bearing in mind the lack of evidence to support other valuation approaches the Tribunal finds that valuation of the Property might have been better informed by adopting the contractor's basis. The actual construction costs which were incurred in respect the Property close to the valuation date were available. In his Précis Mr Sweeney stated that the contractor's basis was utilised at the initial valuation stage and subsequently as a cross-check exercise to show that the valuation level applied is reasonable. He described the valuation methodology used to estimate the NAV of the Property as "*very much a comparative method using all available information to arrive at a fair estimate of net annual value.*" Yet, while the Tribunal was informed of the general nature of the information requested no evidence was adduced as to what information was provided and extracted from the Section 45 returns in respect of the pharmaceutical properties on the valuation list to prepare a valuation scheme, what valuation methodology was used to value the pharmaceutical properties or of the valuation scheme adopted by the Respondent other than the different rates applied per square metre to biopharmaceutical properties and API facilities. In the circumstances the Tribunal does not know how the rate of €240 per m² was derived for biopharmaceutical properties. The Respondent valuer presented NAV figures for other pharmaceutical properties on the list and asserted them to be correct.
- 9.9 The contractor's basis requires careful consideration of the amount arrived by that valuation method as the net annual value and, if possible, the checking of that amount by such comparable material as may be available. The amount arrived at in Mr Sweeney's cross check valuation on a contractor's basis as the net annual value of the Property valuation in Appendix (N/A to public) is almost 29% higher than the list value. Mr

Sweeney said that valuing the Property on the contractor’s basis produced too high a result. It is noted that Mr Sweeney did not make any adjustments or allowances at stage 5 of his contractors basis valuation either to reflect factors which affect the value of the Property as a whole or for the purpose specified in section 50(2) of the Act. The fifth stage of the contractors’ basis often calls for a correction of some part of the earlier calculations or the making of some end allowance to achieve a reasonable result. The lack of reliable rental evidence has already been noted and so any correction would fall to be made by reference to contractor’s basis valuations carried out in respect of comparable properties in the pharmaceutical sector on the valuation list. Neither valuer adduced any contractor’s basis valuations of comparable properties in support of their valuations. Mr Sweeney referred to ‘*substantial data received by the Respondent from occupiers of twenty one pharmaceutical properties (of which 12 are located in Fingal)*’ yet only limited information concerning five properties was adduced in evidence.

- 9.10 The Appellant’s appeal is allowed in part by reason of the parties agreement that the plant should be valued at €938,192. However, for the reasons stated above the evidence adduced on behalf of the Appellant has not satisfied the Tribunal that the valuation level of €240.00 per m² applied to the MPPC building or the valuation level of €160.00 per m² for the other buildings is excessive.

DETERMINATION

Accordingly, the Tribunal allows the appeal in part and decreases the valuation as stated in the valuation certificate to €11,817,000 calculated as follows:

Use	Area m ²	NAV per m ²	Total NAV
Manufacturing Building	22,090	€240	€5,301,600
Ancillary Buildings	34,858	€160	€5,577,280
Plant			€938,192
Total NAV Rounded €11,817,000			