

Appeal No: VA19/5/0671

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 20215**

Oriel Fuels Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1278947, Industrial Uses at Unit 23 Ardee Enterprise Centre, Ardee, County Louth.

B E F O R E

Dolores Power - MSCSI, MRICS

Orla Coyne - Solicitor

Gerard O'Callaghan - MRICS, MSCSI

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4th 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 **€29,500**.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *"I believe the valuation of the subject property is excessive and does not accord with Section 19(5) of the Valuation Act, 2001 as amended by the Valuation (Amendment) Act 2015 (the Act) as in my opinion it does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list.*

More specifically I do believe that correctness of value has been achieved between comparable properties as I believe the subject property has unique characteristics which differentiate it from similarly categorised properties in the list. Including the quality of the building, restrictive communal yard space and restricted parking facilities. This is supported by the rental information on the subject property. In addition, there are discrepancies in the floor areas outlined in the assessment. In consideration of these specific matters, I believe a lower valuation asset out herein is more representative of a reasonable Net Annual value in accordance with Section 48 of the Act."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €12,000

2. REVALUATION HISTORY

2.1 On the 15th day of March, 2019 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €29,500.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation manager did it not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €29,500.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2019.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 8th day of July, 2022. At the hearing the Appellant was represented by Mr Paul Mooney MSCSI MRICS (Hons) Dip Rating of Avison Young and the Respondent was represented Mr John O’Connor 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. Unit 23 (Property No. 1278947) is a detached warehouse property situated on the western side of Ardee Enterprise Centre, circa 1 km from Ardee Town centre.

4.2 The unit has an eaves height of 6 meters and is constructed with concrete block walls and single skin asbestos sheet roofing. The property was described by both parties as being in fair to poor condition.

4.3 Ardee Enterprise Centre comprises various light industrial/ workshop units subdivided from a large textile plant constructed circa 1956.

4.4 The floor areas have been agreed as follows;

Unit 23	Floor	Floor Area M ²
Warehouse	Ground	786.84
Store	Mezzanine	61.94
Total		848.78

5. ISSUES

In determining this Appeal the Tribunal is required to decide whether the Rateable Valuation of €29,500 as determined by the Commissioner of Valuation for the relevant date of September 15th, 2017 has been shown to be excessive and if so by how much.

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. Paul Mooney of Avison Young set out the case for Oriel Flues Limited.

7.2 Mr. Mooney described the property as being situated in a predominantly industrial area situated circa 1km from Ardee town centre and circa 7km from the nearest M1 motorway junction.

7.3 Ardee Enterprise Centre was described as a former textile manufacturing plant that had been sub-divided for light industrial use into various units. Mr. Mooney described the Centre as rundown and generally in poor structural and aesthetic condition. The roof of no. 23 and the rest of the centre are single skin asbestos sheeting and the unit was described as being in poor condition.

7.4 Mr. Moody described no.23 as being damp and due to the single skin asbestos roof, the unit had no insulation value. As such, it was stated that no.23 had limited potential uses and would see very limited market demand if offered for rent on the open market at the Valuation Date. In summary in Notice of Appeal, the Appellant stated “*The subject properties have unique considerations which differentiate them from similarly categorised properties in the list including the quality of the building, restrictive communal yard space and restricted parking facilities.*”

7.5 The passing rent for Unit 23 at the Valuation date of September 15th, 2017 was €8600 per annum on FRI terms which was set in January 2017. The Appellant stated that the

Commissioner of Valuation failed to achieve correctness of value by disregarding the relevance of the passing rent.

7.6 Mr. Mooney offered the following NAV comparisons;

	Property No.	Description	Location	Valuation	NAV SQ.M
1	1282916	Warehouse	Manfieldstown, Ardee, Co. Louth	€31,600	€20
2	2166770	Warehouse	Hoathstown, Ardee, Co. Louth	€13,370	€25
3	2167373	Warehouse	Shamrockhill, Dunleer, Ardee, Co. Louth	€37,800	€40
4	2187668	Warehouse	Dawson's Domaine, Ardee, Co. Louth.	€21,700	€40
5	2196376	Warehouse	Castlebellingham, Ardee, Co. Louth.	€5,090	€25
6	2214176	Warehouse	Collon, Ardee, Co. Louth.	€15,750	€27

7.7 Mr. Mooney made the case that all the comparable properties cited by the Commissioner were either modern purpose built warehouse facilities or warehouse premises of significantly higher standard of construction and repair than the subject property. Therefore, Mr. Mooney expressed his view that the Commissioners valuation of €35 per sq.m was excessive when set against the above comparable properties.

7.8 Mr. Mooney proposed the following methodology for his opinion on value;

Floor	Use	SQ.M	€/ SQ.M	NAV
Ground Floor	Factory	786.84	€15	€11,802.60
Mezzanine	Storage	61.94	€5	€309.70
			Total	€12112.3

Rounded say €12,000

8. RESPONDENT'S CASE

8.1 Mr. John O'Connor of the Valuation Office set out the case for the Commissioner.

8.2 Mr. O'Connor described the property as a detached warehouse in fair condition on the Ardee Town side of the Estate.

8.3 Mr. O'Connor stated that the Lease on the property dated from 2013 and the rents were set at this time and therefore were too far removed from the Valuation date of September 15th, 2017 to be considered, irrespective of whether the Landlord chose not to increase the rents when Rent Reviews were due in the interim.

8.4 The Respondent outlined 6 Key Rental Transactions outlined in Appendix (N/A to public) which in their view support the Valuation scheme employed by the Commissioner. The KRT's showed rents ranging from €31.30 to €224.94 per square meter with lease dates ranging from May 1st, 2015 to January 1st, 2019.

8.5 Mr. O'Connor outlined 7 NAV comparisons as follows;

	Property No.	Description	Location	Valuation	NAV SQ.M
1	1320673	Warehouse	Unit 10 Ardee Enterprise Centre	€10,350	€35
2	5014731	Warehouse	Unit 15 Ardee Enterprise Centre	€10,030	€35
3	1278953	Warehouse	Unit 15 Ardee Enterprise Centre	€11,650	€35
4	2187668	Warehouse	Unit 3 Ardee Enterprise Centre	€16,510	€35
5	1278967	Warehouse	Sean O'Carroll Street, Ardee	€15,330	€32
6	1282871	Warehouse	Ravel, Dunleer, Ardee,	€27,300	€32
7	1278976	Warehouse	Stoney Lane, Ardee	€12,830	€32

8.6 Mr. O'Connor stated that the most relevant comparable properties were the 4 other properties located in Ardee Enterprise Centre which were all assessed with an NAV of €35 per square meter.

8.7 Mr. O'Connor expressed his view that the NAV comparisons proposed by the Appellant, being 1 to 14km away were too far removed geographically and further stated that the most relevant comparisons were the other units in Ardee Enterprise Centre.

8.8 Under cross examination from Mr. Mooney, Mr. O'Connor stated that none of the NAV comparisons cited in Ardee Enterprise Centre made representations on the proposed Rateable Valuations. 7.8 Mr. Mooney proposed the following methodology for his opinion on value;

Floor	Use	SQ.M	€/ SQ.M	NAV
Ground Floor	Factory	786.84	€35	€27,539.40
Mezzanine	Storage	61.94	€7	€433.58
			Total	€27,972

Rounded say €27,900

9. SUBMISSIONS

There were no Legal submissions by either party.

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 Louth County Council

10.2 The Tribunal agreed with both parties that the property is in poor to fair condition and agreed with the Appellant that there would be limited demand for the property if offered for rent on the open market. Given that subject property was part of a former textile plant constructed in the 1950's and sub-divided for letting purposes, it differed substantially from most of the comparison properties cited by both parties.

10.3 The Tribunal did feel that the most relevant comparison was the Respondent's KRT transaction 3. This was a former manufacturing plant in Drogheda which had Net effective Rent of €38.80.

10.4 The Tribunal determined that the passing rent set in 2017 was relevant and that the Commissioner should have given more regard to the passing rent in determining the Rateable Valuation.

10.5 The Tribunal considered that Unit 23 was a detached unit with an eaves height of circa 6.5 meters and as such was of moderately better quality than some of the other units in Ardee Enterprise Centre.

10.6 The Tribunal determined that the Commissioner's scheme of valuation that applied an NAV of €35 per square meter to Units 3,10,11,13,15 and 23 in Ardee Enterprise Center failed to take account of the anomalous specification and conditions of the various units.

10.7 The Tribunal found that the appropriate NAV per square meter for Unit 23 ground floor is €27 per square meter reduced from €35 as set by the Commissioner. The NAV of €7 per square meter for the mezzanine floor as determined by the Commissioner was upheld.

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 €21,700.

NAV Calculation

Floor	Use	SQ.M	€/ SQ.M	NAV
Ground Floor	Warehouse	786.84	€27	€21,244.68
Mezzanine	Storage	61.94	€7	€433.58
			Total	€21,678.26

Rounded say €21,700