

**Appeal No: VA19/5/0272**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Halpin Aluminium & UPVC Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1553201, Industrial Uses at Cloughmacoo, Nobber, County Meath.

**B E F O R E**

**Donal Madigan - MRICS, MSCSI**

**Eamonn Maguire - FRICS, FSCSI, VRS, ARB**

**Sarah Reid - BL**

**Deputy Chairperson**

**Member**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 9<sup>TH</sup> DAY OF NOVEMBER, 2022**

**1. THE APPEAL**

- 1.1 By Notice of Appeal received on the 8<sup>th</sup> 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 €18,200.
- 1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. In summary, they are as follows:
1. Use- Parts of the property ought not to be valued.
  2. Condition- The roof in Block 5 leaks.
  3. Location & Services - There is no broadband and phonelines are lying in a ditch.
  4. Flooding- Parts of the property flood.
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,000.

## **2. REVALUATION HISTORY**

- 2.1 On the 15<sup>th</sup> day of March 2019 a copy of a valuation certificate proposed to be issued under Section 24(1) of the Valuation Act 2001, as amended, (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €21,300.
- 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 of the Property was reduced to €18,200.
- 2.3 A Final Valuation Certificate in respect of the subject property issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €18,200.
- 2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15<sup>th</sup> day of September 2017.

## **3. THE HEARING**

- 3.1 The Appeal proceeded by way of an in person, oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 3<sup>rd</sup> day of August 2022. At the hearing the Appellant, Mr John Halpin, represented himself, and the Respondent was represented by Ms Deirdre Brophy, Valuer, 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**

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

- 4.1 The Property is located 9.5 km from Kilmainhamwood, 5.4 km from Nobber and 5.7 km from Drumconrath. It is situated 3 km from the R165, 5.1 km from the R162 and 6.8 km from the N52.
- 4.2 The Property comprises a series of connected workshops which is self-contained and accessed directly off the main road. The units are of basic construction, extended in a piecemeal fashion by the Appellant, overtime and appear ‘purpose built’ for the Appellant’s UPVC manufacturing needs at various points over the years. The eaves height varies throughout with a maximum height of 3.2 metres. There are different floor levels between Blocks 1 and 2. There is a concrete yard, also accessed off the main road.
- 4.3 The Property is owner occupied and adjoins the Appellant’s residence though both are separately accessed.

4.4 The agreed floor areas are as follows.

Floor Level	Description	Area Sq. m.
0	Workshop	977.69
0	Store	52
<b>Total</b>		<b>1,029.69</b>

## 5. ISSUES

5.1 The principal issue in this appeal is the quantum of the valuation.

## 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 basis 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. John Halpin, the Appellant, having been sworn in, adopted his précis as his evidence in chief.

7.2 Mr. Halpin stated that the majority of the subject property’s accommodation is obsolete and represents various workshops that were constructed by him over the years in response to his manufacturing needs during those periods. He gave evidence that required accommodation for specialist machines and for ancillary purposes such as storage but as his business declined, so did his use for these units. Mr. Halpin stated that Buildings 1, 2 and 3 have not been in use for 5 years, with Building 1 used for domestic purposes, Building 2 subject to flooding and Building 3 now used for recreational purposes. Mr Halpin works in the business of manufacturing UPVC windows, along with one other. The window business, he said, is difficult, and he stated that he is probably the only supplier between Drogheda and Mullingar. Manufacturers are now larger scale which makes it hard to compete and he does not manufacture double glazing anymore, but he does construct the PVC housing, manufacturing from supplies which he orders in from Germany.

- 7.3 Mr. Halpin stated that the buildings were built on a piecemeal basis by him with mainly surplus or second-hand materials to suit his own business use without giving any thought to the consequences of a higher rates bill. He maintained that a lot of these buildings would not be of use to anyone else and stated that it would be hard to continue in business with a rates bill of €3,700. Indeed, he struggled at the previous level of rates charge and in fact did not make a profit between 2008 and 2014.
- 7.4 Mr. Halpin included in his précis, a valuation report dated 19th March 2019, prepared by DNG Royal County, deriving a current open market rental value of the Property of €8,000 per annum.
- 7.5 Mr Halpin cited issues which would prevent him renting out the premises including 'sketchy broadband' making it difficult to carry out on-line business and particularly banking. He has no landline and although not remote, the access road is long and narrow and presents difficulties when encountering oncoming traffic. As a result, he does not get deliveries from the courier until he has a full load. He referenced problems with flooding too and directed the Tribunal to photographs contained in his précis that showed water ingress in support of his contentions.
- 7.6 Mr. Halpin also cited the absence of a toilet on the property and felt that in the case of a letting, he could not provide a toilet as he would not get planning permission to put the infrastructure in. The man that works with him uses Mr. Halpin's own private toilet in his dwelling house next door.
- 7.7 In cross examination, Ms Brophy asked Mr. Halpin that in terms of remoteness, access and communications, would he accept that his premises were similar to those other rural premises on the list. Mr Halpin did not agree and said that he has a long standing issue over access to a landline. He had originally queried the floor area of the buildings used by the Valuation Office but now agrees the total at 1,029.69m<sup>2</sup>.

## **8. RESPONDENT'S CASE**

- 8.1 Ms. Brophy, Valuer for the Respondent, adopted her précis as her evidence-in-chief.
- 8.2 Ms. Brophy stated that the valuation was based on the premise of a hypothetical tenant in occupation, on a tenancy from year to year, in the property in its actual state, on the assumption that the annual cost of repairs, insurance and other necessary expenses were borne by the tenant. She queried the extent of 'flooding' contended for by the Appellant and opined that the evidence of same, as per the photos, could be accounted for by inadequate building maintenance and accordingly, she submitted that any issue of maintenance or roof issues are a burden on Mr. Halpin in common with all occupiers. Ms. Brophy stated that the extent of water ingress is not established in this case, notwithstanding that Tribunal determination VA10.3.029 (Momentum Creative Marketing Services, PN 2203801) found that Section 49 of the Valuation Act 2001, as amended, must be complied with having regard to the tone of the list which in this case, this means equity and uniformity across ratepayers. She also referred to Tribunal determination VA17.5.788 (Michael Doran, PN 1207397) in which the Tribunal also determined that no allowance should be made for issues of flooding.

- 8.3 Ms. Brophy stated that the Property was self-contained, it had its own access and on inspection the Property was deemed to be in fair condition to rent. The yard was mainly for circulation and no value was applied to that. Ms. Brophy stated that the storing of materials and obsolete machinery in connection with the business does constitute commercial use and is rateable and not exempt under Schedule 4 of the Act. On the day of inspection, Ms. Brophy stated that she found Blocks 1 - 7 to be in commercial use, thereby satisfying the requirements of Schedule 3 of the Valuation Act 2001, as amended, to be relevant property.
- 8.4 Ms. Brophy stated that her opinion of value had been altered upon inspection of the Property, having agreed the joint measurements with Mr. Halpin. The store valuation per square metre was reduced to 50% of the rate used to value the balance, to account for its different nature of construction. An additional building at the rear of Block 7 (Block 8) was found to be in domestic use at the time of inspection and removed from the valuation at representation stage.
- 8.5 As regards the Appellant's claim that there were inadequate broadband services to the Property, Ms. Brophy stated that the Property is an industrial building, and the availability of broadband would not affect its value when compared with other similarly circumstanced industrial properties.
- 8.6 In the case of the Property, the valuation level of €18 per m<sup>2</sup> was applied, based on the scheme for old rural industrial buildings of a similar size and location. There have been no amendments to the level applied to the Property, to arrive at an NAV of €18,060.
- 8.7 Ms. Brophy submitted the following Key Rental Transactions as set out in the Appendix (N/A to public) with Property Numbers redacted here to preserve confidentiality:
- 1) Slane, Co. Meath. Property measures 427.29 m<sup>2</sup>. Let on a 5-year lease for €12,000 per annum. The accommodation comprised workshop of 366.52 m<sup>2</sup>, showroom of 60.77 m<sup>2</sup>, and yard of 100 m<sup>2</sup>. The Commissioner has valued the property as follows; workshop at €25 psm, showroom at €30 psm, and yard at €2.50 psm. Let 4 months after the valuation date. Smaller than Property and NAV lower than rent agreed.
  - 2) Dunshaughlin, Co. Meath. Property measures 207.36 m<sup>2</sup>. Let on a 1-year lease for €10,800. The accommodation comprised warehouse of 207.36 m<sup>2</sup> and store of 41.67 m<sup>2</sup>. The Commissioner has valued the property as follows; warehouse at €25 psm, and the store at €5 psm. Let 2 months after the valuation date. Smaller than the Property and NAV lower than rent agreed.
  - 3) Trim, Co. Meath. Property measures 885.58 m<sup>2</sup>. Let on a 4-year, 9-month lease for €25,000 per annum. The accommodation comprised showroom of 262.55 m<sup>2</sup>, warehouse of 623.03 m<sup>2</sup>, and showroom of 151.14 m<sup>2</sup>. The Commissioner has valued the property as follows; showroom at €30 psm, warehouse at €25 psm, and showroom at €12 psm. Let 16 months prior to the valuation date. Smaller than the Property and older industrial unit in cluster of units.

8.8 Ms. Brophy submitted the following NAV comparisons.

- 1) PN 5008830 - Trim, Co. Meath – comprising first floor store of 183 m<sup>2</sup>, and ground floor store of 1,314 m<sup>2</sup>. The Commissioner has valued the property as follows; first floor store at €18 psm and ground floor store at €18 psm. Ms. Brophy stated that the property is situated in a rural location with similar access to the Property.
- 2) PN 1553120 - Kells, Co. Meath – comprising a weighbridge, retail warehouse of 51.84 m<sup>2</sup>, mezzanine store of 89.90 m<sup>2</sup>, office of 22 m<sup>2</sup>, store of 980.64 m<sup>2</sup>, store of 270.82 m<sup>2</sup>, plant/other – silos 30 m<sup>2</sup>, yard (hardcore) of 594 m<sup>2</sup>. The Commissioner has valued the property as follows; weighbridge at €2,000, retail warehouse at €21.60 psm, mezzanine store at €3.60 psm, office at €18 psm, store at €18 psm, store at €9 psm, plant/other – silos at €10 psm and yard at €1.80 psm. The comparable property is situated in a rural location with similar access to the Property. The comparable property is in retail use by an agricultural and farming supplier. This is an old agricultural type of property, with piecemeal development overtime. The site is shared with a domestic dwelling and a working farm.
- 3) PN 2205905 - Kells, Co. Meath – comprising a weighbridge, portacabin of 75.69 m<sup>2</sup>, office of 150 m<sup>2</sup>, plant room of 31 m<sup>2</sup>, and warehouse of 6,116.63 m<sup>2</sup>. The Commissioner has valued the property as follows; weighbridge at €2,000, portacabin at €7.20 psm, office at €18 psm, plant room at €18 psm and warehouse at €18 psm. The comparable property is situated in a rural location with similar access to the Property. Ms. Brophy confirmed the property is a modern building.
- 4) PN 5014963 - Drumconrath, Co. Meath – comprising a workshop of 155.48 m<sup>2</sup>, mezzanine store of 12.21 m<sup>2</sup>, yard (hardcore) of 260 m<sup>2</sup> and yard of 155.48 m<sup>2</sup>. The Commissioner has valued the property as follows; workshop at €25 psm, mezzanine store at €5 psm, both yards at €2.50 psm. The comparable property is an old building used as a mechanics workshop and is valued higher than the Property at €25 psm. The yard to rear is unsurfaced and waterlogged in parts. Valued without adjustment in line with the Tone.
- 5) PN 1591968 – Drumconrath, Co. Meath – comprising warehouse of 727.96 m<sup>2</sup>, and office of 62.23 m<sup>2</sup>. The Commissioner has valued the property as follows; warehouse at €25 psm and office at €25 psm. Property is situated in a rural location with similar access conditions to the Property. Modern building used by vegetable processors and suppliers.
- 6) PN 5012435 - Navan, Co. Meath – comprising office of 39.08 m<sup>2</sup>, store of 179.84 m<sup>2</sup>, workshop of 482.92 m<sup>2</sup>, portacabin of 44.13 m<sup>2</sup>, mezzanine store of 64.78 m<sup>2</sup>. The Commissioner has valued the property as follows; office at €25 psm, store at €25 psm, workshop at €25 psm, portacabin at €10 psm, mezzanine store at €5 psm. Property is situated in a rural location with similar access conditions to the Property. Modern building at back of domestic dwelling with its own access.

- 7) PN 2179058 – Donaghpatrick, Co. Meath – comprising office of 105.75 m<sup>2</sup>, and workshop of 680.50 m<sup>2</sup>. The Commissioner has valued the property as follows; office at €25 psm and workshop at €25 psm. Property is situated in a rural location with similar access conditions to the Property. Modern building at back of domestic dwelling with its own access.

8.9 Ms. Brophy submitted her valuation as follows:

Floor Level	Use	Area Sq. m.	NAV €/Per Sq. m,	Total NAV €/Sq. m.
0	Workshop	977.69	€18	€17,598.42
0	Store	52	€9	€468
<b>Total</b>		<b>1,029.69</b>		<b>€18,060</b>

- 8.10 In response to a question posed by the Tribunal directly as to what distinguishes a property as ‘old’ or ‘new’, Ms. Brophy responded that her definition of old warehousing was defined, mainly, by whether it had single skin or double skin insulated roof.
- 8.11 As regards the amenities in the Property, Ms. Brophy was not aware whether the Property had a toilet or whether any of her comparable evidence had toilets but stated that it was not uncommon for warehouses not to have kitchens or toilets. The presence of toilets was of more concern to her in the case of measuring offices or retail accommodation because they were excluded under measurement practice, than it was in warehousing facilities.
- 8.12 In response to the question of headroom, Ms. Brophy stated that this was a moot point in any event as she did not consider height to be a limiting factor in the use of the Property but that only Block 7 had a lesser height than could be expected.

## 9. SUBMISSIONS

- 9.1 There were no legal submissions in this case.

## 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 Meath County Council.
- 10.2 The Tribunal has examined the details of the Property and considered the written and oral evidence adduced by Mr Halpin who contended for a revised NAV of €9,000 and that adduced by Ms. Brophy contending for a NAV of €18,060 which she felt was fair and equitable and should be entered into the Valuation List in accordance with Section 48 of the Valuation Act 2001 and Section 19(5).

- 10.3 Mr. Halpin included two distinct grounds of appeal in relation to flooding of the subject property and directed the Tribunal to photos showing minor water ingress in support of this claim. The Tribunal finds from the evidence that the extent of flooding of the premises is unproven, and that the onus was on the Appellant to make their case, with sufficient evidence in respect of flooding, in order to be successful in this Appeal.
- 10.4 The Tribunal finds from the evidence that all of Blocks 1 to 7 are “relevant property” under Schedule 3 of the Valuation Act 2001, as amended, and not exempt meaning they fall to be rated. The Tribunal notes that Mr. Halpin represented himself at the Appeal and placed great emphasis on the fact that due to the financial performance of his business and the decline in manufacturing in recent years, he would be unable to meet the proposed rates bill that flows from the Respondent’s valuation.
- 10.5 The Tribunal must emphasise that the commercial viability of a property, as used by an Appellant, is not a matter that falls to be considered in this, or any, Appeal before it. Under the Valuation Act, 2001, as amended, the task of the Tribunal is to ensure that the Final Certificate of Valuation for a property fairly reflects a correct value and that value relative to other similarly circumstanced properties in the local rating area, and that is not instructed by whether that value, and the consequent rates charge based on that valuation, is one the Appellant can afford. A rates bill is composed of two parts, namely, the valuation (Net Annual Value) and the ARV-the annual rate on valuation. The ARV is fixed annually by the rating authority. The Tribunal is only concerned with and has jurisdiction limited to determining the Net Annual Value. It cannot alter rates bills, per se.
- 10.6 The inclusion in Mr. Halpin’s précis of a valuation report, compiled by a 3<sup>rd</sup> party without that 3<sup>rd</sup> party being available for cross examination at the subsequent hearing denied both the Tribunal and the Respondent the ability to test this evidence and so it was of little assistance in the present case.
- 10.7 In the context of the KRT evidence submitted by Ms. Brophy, the NAV subsequently applied in each case by the Commissioner to the warehouse content was €25 psm. This informed the scheme of valuation for older rural based warehousing at €18 psm.
- 10.8 In the context of the NAV comparisons submitted by Ms. Brophy, specifically PN 5008830, and PN 1553120, the Tribunal finds from the evidence that whilst the buildings appear of very dated construction, they do not appear from the photographic evidence to be of piecemeal construction in the same way as the Property.
- 10.9 In the case of NAV comparisons, PN 2205905, PN 5014963, PN 1591968, PN 5012435, and PN 2179058, the Tribunal finds from the evidence that these buildings are of superior construction and specification and comparable to the evidence adduced from the KRT’s submitted. In the case of the latter three, the warehouse content was valued at €25 psm, in the case of PN 2205905, the warehouse content was valued at €18 psm, reflecting its substantially greater lot size.



10.10 The Tribunal notes that in arriving at the NAV of €18 psm applied to the workshop, no further amendments were made to the value of Property by Ms. Brophy, beyond its classification under the scheme as ‘older, rural based industrial building stock’. The Tribunal finds from the evidence submitted by Mr. Halpin that the Property does not have its own toilet and that the Property was constructed in a very piecemeal fashion, for the most part by the Appellant himself and in order to house, or otherwise accommodate his specific business needs, same being evidenced in the dimensions, proportions and layout of the Appellant’s various workshops. The Tribunal finds that these deficiencies do set the Property apart from the comparables relied on by the Respondent in this case.

10.11 In order to achieve 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, the Tribunal deems it appropriate to allow for an adjustment to the rate applied to the workshop areas of the subject property, being a reduction of 5%, from the valuation of the €18 psm that had been applied by the Respondent to the revised, agreed floor area. Accordingly the Tribunal adjusts the value of the workshop from €18 psm to €17.10 psm. The Tribunal does not consider any adjustment is required to be made to the rate adopted for the value of the Store because the relative value of that, at € 9.00 psm, reflects the specification of that building compared to the rest of the accommodation on site.

**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 **€17,180** broken down as follows:

Floor Level	Use	Area Sq. m.	NAV €/Per Sq, m,	Total NAV €/Sq. m.
0	Workshop	977.69	€17.10	€16,718.50
0	Store	52.00	€ 9.00	€ 468.00
Total		1,029.69		€17,186.50
<b>Rounded</b>			<b>NAV</b>	<b>€17,180</b>