

**Appeal No: VA19/5/0780**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Robert Devlin T/A Meade Potato Company**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2205913, Industrial Uses at Braystown, Lobinstown, Navan, Co. Meath

**BEFORE**

Hugh Markey FRICS, FSCSI

**Deputy Chairperson**

Sarah Reid BL

**Member**

Thomas Kearns MRICS

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 25<sup>TH</sup> DAY OF NOVEMBER, 2022**

**1. THE APPEAL**

- 1.1 By Notice of Appeal received on the 11<sup>th</sup> 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 €234,000.
- 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 it was:  
*“Excessive, inequitable, bad-in-law.”*
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €132,502.65

## **2. REVALUATION HISTORY**

- 2.1 On 7<sup>th</sup> 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 €255,000.
- 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 valuation of the Property was reduced to €234,000.
- 2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €234,000.00.
- 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 2019.

## **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 30<sup>th</sup> day of September 2019. At the hearing the Appellant was represented by Mr Tadhg Donnelly and the Respondent, the Commissioner of Valuation was represented by Mr Martin O’Donnell.
- 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 subject property is situated just off the Ardee Road in a rural area north of Navan town in Co Meath.
- 4.2 The Property comprises a variety of warehouse buildings used in the processing of fruit and vegetables arranged in two main blocks. The main building block at the entrance to the property includes a substantial modern warehouse with a three storey office block to the front. The second block of buildings comprises a number of interconnecting warehouses used for storage and processing of fruit and vegetables. The buildings and warehouses are of modern construction and in good condition throughout in keeping with modern food production standards and are well served with dock levellers.
- 4.3 The floor areas are agreed between the parties with the exception of Block 1b as set out below:

<b>Floor Level</b>	<b>Use</b>	<b>Area M<sup>2</sup></b>
0	Chill Rooms	759.40
0	Dock Levellers (1/30)	
0	Office(s)	360.00
0	Warehouse	6794.25
0	Warehouse	2106.00
0	Warehouse (Block 1b)	968
0	Weighbridge 1	
1	Office(s)	360.00
2	Office(s)	360.00
<b>Total Area</b>		<b>11,707.65</b>

- 4.4 This is a revision appeal and upon inspection by the Respondent prior to the hearing, an additional warehouse building was identified in the facility as Block 1b, the said unit not having been included by the Commissioner of Valuation in the previous valuation of the property. The parties are agreed that the said unit 1b falls to be considered and, accordingly, rated within this appeal.

## 5. ISSUES

- 5.1 The issue before the Tribunal is one of quantum and the Respondent's inclusion of Dock levellers in his calculation of the NAV of the property.

## 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 Donnelly confirmed that the floor areas in the subject property had been agreed between the parties and presented his case by making broad submissions to the Tribunal rather than identifying distinct pieces of evidence or comparison properties in support of his claim. Mr Donnelly made reference to a base rate of €18 per sq. m. being adopted by the Valuation Office to warehouse and offices such as the subject property however, no examples of this were contained in his precis and he contended that none of these properties are of a similar size and scale to the subject which is particularly large and situated in a rural location. Taking the above into account, Mr Donnelly gave his opinion that an NAV rate of €13 per sq. m. was more appropriate given the size and location of the subject property off a narrow country road.
- 7.2 Mr Donnelly did not put forward any comparable evidence within the relevant Local Authority and advised that due to the size of the property and specialist nature of the business (potato processing) he was unable to locate any comparable properties within the Local Authority area that were applicable to the present case.
- 7.3 Mr Donnelly included two Valuation Tribunal decisions in his précis:  
**1. Property No 2206358** Philip Draper, Coolnagrower, Birr, Co Offaly, Valuation €7080 NAV Level €15per sq. m.  
**2. Property No 933808** Nangles Properties Ltd, Carrigrohane, Ballincollig, Co Cork but no distinct submissions were made by the Appellant in respect of these and their application to the subject property.
- 7.4 Under cross examination, Mr Donnelly accepted that no evidence had been put forward by him within the relevant Local Authority area and also stated that he was free to go outside this area referring to the Valuation Tribunal judgment in Marks & Spencer Dept Store, Quarryvale case, Property No 1544744 in support of this claim.
- 7.5 Mr O'Donnell, for the Respondent, referred to Sect 19(5)(b) of the Valuation Act 2001, as amended, and asked Mr Donnelly if he agreed with the wording in this section which made reference to the use of evidence outside the Local Authority area only "if no such values exist" which he argued was not the case in this instance. Mr Donnelly stated that he did not agree with the legislation in this regard and maintained an entitlement to rely on examples outside the Local Authority area if there was some use to be gained from them.

## 8. RESPONDENT'S CASE

- 8.1 Mr O'Donnell provided a summary of his case, his response to the Appellant's case, the valuation history, a location map, block plan and pictures of the subject property. He maintained the view that the values applied to the property were fair in the circumstances and met the requirements under Section 19(5).

8.2 Mr O'Donnell put forward two NAV comparisons of potato farm buildings in the subject local authority area as follows:

**(i) J&C Sheridan - PN 1553893**

<b>Level</b>	<b>Use</b>	<b>Area (m2)</b>	<b>NAV (€/m2)</b>	<b>NAV (€)</b>
<b>0</b>	<b>Store</b>	<b>2,323.41</b>	<b>18</b>	<b>41,821.38</b>
<b>Rateable Valuation</b>				<b>€41,800.00</b>

**(ii) Mount Hanover Potatoes - PN 5013532**

<b>Level</b>	<b>Use</b>	<b>Area (m2)</b>	<b>NAV (€/m2)</b>	<b>NAV (€)</b>
<b>0</b>	<b>Store</b>	<b>368.64</b>	<b>25</b>	<b>9,216.00</b>
<b>0</b>	<b>Workshop</b>	<b>386.64</b>	<b>25</b>	<b>9,216.00</b>
<b>Rateable Valuation</b>				<b>€18,432.00</b>

8.3 Mr O'Donnell also put forward a summary table of 8 industrial properties in the Meath local authority area as additional evidence. These showed an NAV range of €18 to €40 per sq. m. on industrial warehouses and €2,000 per dock leveller.

8.4 Mr O'Donnell contended that a total of 30 dock levellers serving the various warehouse buildings in the subject property are an advantage for both loading and unloading purposes. Given that the dock levellers are installed at an additional cost, Mr O'Donnell said that it is established practice that they have an additional value which is reflected in the NAV when comparing to buildings that do not have the benefit of such dock levellers. By way of comparison, Mr O'Donnell noted the inclusion of comparison PN 2162092 (Erne Mineral Water) in his sample of industrial properties in County Meath which had its dock levellers valued at €2,000 each which is twice the rate used in his NAV calculation for the subject property.

8.5 Mr O'Donnell stated that Appellant had not put forward any comparable NAV evidence in the subject property's local authority area and that the evidence supplied by the Appellant's expert witness was insufficient to support a reduction in the valuation of the subject property.

## **9. SUBMISSIONS**

9.1 No legal submissions were made to the Tribunal.

## 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 onus in an appeal to the Tribunal is on the Appellant to discharge the burden of proving that the valuation placed on the Property should be disturbed.
- 10.3 The Tribunal finds that in seeking to have the quantum of the Respondent's assessment reduced, the Appellant's expert witness failed to introduce any supporting comparisons within the relevant Local Authority area as required under Section 19(5) of the Valuation Act, 2001 as amended.
- 10.4 The Respondent provided two NAV comparisons within the relevant Local Authority area. The comparisons are potato processing facilities with an NAV per square metre of €18per sq. m. and €25per sq. m., though both properties are acknowledged as being smaller than the subject. The Appellant made no submission in respect of these properties or otherwise sought to distinguish them from the present property save to note that they are of an entirely different size and so had little bearing on the subject property.
- 10.5 The Tribunal accepts the evidence of the Respondent that the additional Block 1b should be included in the valuation and notes that the figures cited in Mr O'Donnell's precis comprises Warehouse Total 9,868.25 sq.m. to include 968 sq.m. in respect of Block 1b. The Tribunal also notes that the Appellant accepted this unit fell to be valued in the circumstances.
- 10.6 The Tribunal finds the Respondent's approach in attributing a value to each of the dock levellers is the correct approach.
- 10.7 The Appellant has failed to introduce any supporting evidence to support its appeal, which must therefore fail

## **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and affirms the valuation arrived at by the Respondent, amending the Final Certificate of Valuation as set out hereunder:

<b>Floor Level</b>	<b>Use</b>	<b>Area M<sup>2</sup></b>	<b>NAV (m2)</b>	<b>Total NAV (m2)</b>
0	Chill Rooms	759.40	€23.25	€17,656.05
0	Dock Leveller	30	€1,000	€30,000
0	Office(s)	360.00	€18	€ 6,480
0	Warehouse	9,868.25	€18	€ 177,628.5
0	Weighbridge	1	€2,000	€2,000
1	Office(s)	360.00	€18	€6,480
2	Office(s)	360.00	€18	€6,480
<b>Total Area</b>		<b>11,707.65</b>		
			<b>Total NAV</b>	<b>€246,724.55</b>
			<b>Rounded</b>	<b>€246,500.00</b>

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## **And the Tribunal so Determines**

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## **RIGHT OF APPEAL**

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court.

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.