

Appeal No: VA19/5/0416

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Clarke Machinery

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1939610, Industrial Uses at 91E.92BMF Townparks (PT. OF), Kells, County Meath.

B E F O R E

Dairine McFadden - Solicitor

Deputy Chairperson

Annamaria Gallivan - FRICS, FSCSI, MPhil SEE

Member

Gerard O'Callaghan - MRICS, MSCSI

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 25TH DAY OF NOVEMBER, 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 17th day of September 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 €31,900.

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. *The subject property is a pre-1960s basic industrial building with an asbestos roof. Level on the buildings would not*

exceed €20/m² and would be very unlikely to achieve a letting on FRI terms due to condition and age.

2. The yard is substantially over assessed. The Commissioner's estimate of €13,244 could never be realised. Yard should be valued as hardcore at a maximum of 1/20th of the building level (ie. €1/m²)."

1.3 In the Notice of Appeal, the Appellant considered that the valuation of the Property ought to have been determined in the sum of €15,800.

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 €31,900.

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 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 €31,900.

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 2017.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 12th day of August 2022. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Ms. Deirdre Brophy 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. ISSUES

4.1 The matter at issue is quantum.

4.2 In determining this Appeal the Tribunal is required to decide whether the Rateable Valuation of €31,900 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.

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 Halpin, for the Appellant, adopted his précis as his evidence and described the property as a freehold property located on Gardenrath Rd Upper, Gardenrath, Kells, Co. Meath, 1km from the centre of the town. He described the property as a pre-1960s basic industrial building with an asbestos roof, which he said was originally constructed in conjunction with the railway line (now defunct). It was his evidence that approximately half the site was purchased for a sum of €15,000 in 1989 and the remainder for €35,000 in 1994, which he described as modest figures reflecting the type and nature of the buildings.

6.2 Mr Halpin produced photographs in evidence and further explained that the buildings were c.1950s with very little changes since construction. In 1997, the property was inspected by Eamonn Halpin & Co. Ltd. Mr. Halpin described the property as not being situated in a recognised industrial location such as a business park and that the surrounding area was predominantly residential in character. In his opinion, the property was a standalone with access from Gardenrath Road which is predominantly a residential street.

6.3 It was Mr Halpin's contention that the Commissioner had assessed the subject as if it were a modern structure with all of the advantages of same. He further reasoned that the main industrial estate, Kells Business Park, had been assessed in the €35-40/sqm range, and the hypothetical tenant would only be interested in the subject, if it were offered at a significant discount to purpose built modern equivalents.

6.4 Mr Halpin considered that account needed to be taken of the age, nature of the structure and size and nature of the yard. Mr Halpin contended for the application of a 10% end allowance to the buildings (as in PN 1939459) and valuing the yard at 5% of the base level (because its hardcore), or valuation of the buildings at €24/m² and valuing the yard at 10% of the base level, which he reasoned would bring the NAV in line with the comparables in the list in terms of its actual rental potential.

6.5 Mr Halpin put forward seven Tone of the List comparisons:

1. Gardenrath Service Station, Gardenrath Road, Kells, Co. Meath
PN 1553041 €7,570 NAV

| Level | Use | Area (m2) | NAV | |
|-------|-----------|-----------|-------|----------|
| 0 | OFFICE(S) | 13.53 | 32.00 | 432.96 |
| 0 | WORKSHOP | 216.00 | 32.00 | 6,912.00 |
| 0 | YARD | 226.00 | 3.20 | 723.20 |

2. Kells Christian Centre, Moynalty Road, Kells, Co. Meath
PN 1553037 €6,250 NAV

| Level | Use | Area (m2) | NAV | |
|-------|-------|-----------|--------|-------|
| 0 | STORE | | 284.20 | 22.00 |

3. Oliver Usher Auctions, John St, Kells, Co. Meath
PN 1939459 €15,830 NAV

| Level | Use | Area (m2) | NAV | |
|-------|-----------|-----------|----------|-----------|
| 0 | ALLOWANCE | -1.00 | 1,759.00 | -1,759.00 |
| 0 | STORE | 549.77 | 32.00 | 17,592.64 |

4. Mark's Car Wash, Bective Street, Kells, Co. Meath
PN 5013108 €1790 NAV

| Level | Use | Area (m2) | NAV | |
|-------|--------------------|-----------|-------|----------|
| 0 | STEEL | 34.05 | 16.80 | 572.04 |
| 0 | CONTAINER | | | |
| 0 | YARD (Hardcore) | 488.00 | 2.50 | 1,220.00 |

5. McManus Concrete Products, Oldcastle Road, Kells, Co. Meath
PN 1553047 €11,000 NAV

| Level | Use | Area (m2) | NAV | |
|-------|--------------------|-----------|-------|----------|
| 0 | WORKSHOP | 480.32 | 20.00 | 9,606.40 |
| 0 | YARD (Hardcore) | 700.00 | 2.00 | 1,400.00 |

6. P & M Grimes & Sons, Oldcastle Road, Kells, Co. Meath
PN 5006292 €25,600 NAV

| Level | Use | Area (m2) | NAV | |
|-------|---------------------------|-----------|-------|-----------|
| 0 | CANOPY | 43.70 | 3.00 | 131.10 |
| 0 | SHOWROOM | 58.80 | 24.00 | 1,411.20 |
| 0 | STORE | 165.60 | 20.00 | 3,312.00 |
| 0 | WORKSHOP | 912.27 | 20.00 | 18,245.40 |
| 0 | YARD (Concrete/Tarmac) | 485.60 | 2.00 | 971.20 |
| 1 | SHOWROOM | 58.80 | 24.00 | 1,411.20 |
| MEZZ | OFFICE(S) | 15.12 | 8.00 | 120.96 |

7. Glass & Alu CAD Ltd, Kells Business Park, Kells, Co. Meath
PN 2205844 €83,500 NAV

| Level | Use | Area (m2) | NAV | |
|-------|---------------------------|-----------|-------|-----------|
| 0 | OFFICE(S) | 397.78 | 35.00 | 13,922.30 |
| 0 | STEEL CONTAINER | 30.00 | 7.00 | 210.00 |
| 0 | STORE | 281.03 | 35.00 | 9,836.05 |
| 0 | WORKSHOP | 1,556.44 | 35.00 | 54,475.40 |
| 0 | YARD (Concrete/Tarmac) | 1,160.00 | 3.50 | 4,060.00 |
| 1 | OFFICE(S) | 28.84 | 35.00 | 1,009.40 |

6.6 In relation to his tone of the list comparisons Mr Halpin made the following observations:

1. Gardenrath Service Station, Gardenrath Road, Kells, Co. Meath is 500m from the property in question and the only other commercial property on Gardenrath Road, indicating the level for a substantially smaller, more modern workshop, considering the level for the property should be discounted for age and quantum to make them relative.
2. Kells Christian Centre, Moynalty Road, Kells, Co. Meath is located on the Moynalty Road, almost equidistant from the centre of Kells to the subject. Standalone industrial unit constructed in the 1970s in use for Christian worship. The level of

€22/m² is indicative of the lowest level applied inside the town limits of Kells. There is no addition for the yard area.

3. Oliver Usher Auctions, John St, Kells, Co. Meath, an Auction house and stores located in the centre of Kells. Old buildings to the back of the main street. The Commissioner has used exactly the same base level for this property as he has for the subject but applied a 10% end allowance. The appellants believe that this logic could be applied to the subject, but the allowance would need to be greater owing to the asbestos roof.
4. Mark's Car Wash, Bective Street, Kells, Co. Meath, located on the same side of Kells as the subject. Small steel container and hardcore yard. This indicates the level for standalone yards in Kells at €2.50/sqm. The subject requires discount for quantum and the presence of buildings.
5. McManus Concrete Products, Oldcastle Road, Kells, Co. Meath, located just 1.5 km from the centre of Kells and just outside the N52 ring. Standalone industrial building of similar size to the property. The Commissioner has applied a level of €20/sqm, the yard is 10%.
6. P & M Grimes & Sons, Oldcastle Road, Kells, Co. Meath, is regarded by Mr Halpin as the best comparison, located 2.5 km from the centre of Kells on the Oldcastle Road. This property is a similar distance from Kells to the business park but is standalone and therefore more readily comparable to the subject. The base level of €20/sqm has been applied, yard at 10%.
7. Glass & Alu CAD Ltd, Kells Business Park, Kells, Co. Meath, was constructed c. 2007 a high-spec industrial buildings in the town, vastly superior in every aspect (located in a designated industrial estate, fully modern construction with high quality offices). If the hypothetical tenant could rent this for €35/sqm, he would pay a fraction for the subject. The Commissioner's current relativity has less than 10% between the subject and this property per sqm.

6.7 Under cross examination Mr Halpin confirmed that he did not have rental comparisons to underpin his opinion as it is difficult to get rental evidence for older industrial properties in Kells, but rather believed the value would be relative to those in industrial estates, which are similar to the levels the Commissioner has applied. He also confirmed the end allowances were based on the fact that the Commissioner can

and had used the same method, to reflect the buildings in their actual state. The reduction to 5% on the yard was based on the size and the historic precedence of using that on hardcore yards. Mr Halpin agreed that his comparison no 1 had a corrugated roof and was the same size as the property in question, however he did point out that the yard of the subject was much larger. He agreed that the subject was a standalone industrial unit.

6.8 In summing up Mr Halpin reiterated that the buildings were old, simple structures, with a hardcore yard. He commented on the fact that the Commissioner's comparisons did not have yards yet one third of the valuation of the property was on the yard. He stated that based on the same pool of rental information other properties were valued at €20 & €22/sqm and there was no basis for the €32/sqm level. It was his opinion that the Commissioner has a one fits all policy with the comparisons not similar, and allowances were needed to reflect the actual property in its actual state. Mr Halpin said the Commissioner had two approaches available to correct the valuation, the first being the application of a 10% end allowance to the buildings, and valuing the yard at 5% of the base level, giving an NAV of €23,100 or valuation of the buildings at €24/sqm, the mezzanine at 20% of the base level and valuing the yard at 10% of the base level, which he reasoned would bring the NAV to €22,800 in line with the comparables in the list in terms of its actual rental potential. He stated that he believed the latter method to be fairer stating that his comparisons showed a level of €20/sqm.

7. RESPONDENT'S CASE

7.1 Ms Brophy adopted her précis as her evidence in chief and described the property as located approximately 750 m from the centre of Kells, fronting onto the Gardenrath Road, 1.3 km from the M3 motorway and approximately 17.5 km from Navan, in a predominantly residential area.

7.2 Ms Brophy described the property as an old industrial building in fair condition, first valued in 1972 as a factory, currently in use as farm machinery sales, repairs and storage. She described the site as measuring approximately 5000 sqm and enclosed

predominantly by palisade fencing. Ms Brophy clarified that the building had been extended and upgraded over time and comprised of a steel frame structure and blockwork walls, with asbestos roof on steel and timber rafters and purlins. It was her evidence that the floors throughout are concrete. A portion of the building has been reclad with double skin cladding and contains a basic timber mezzanine in use for storage. The showroom portion of the building has been modernised with painted plasterboard walls and ceiling mounted lighting. A portion of this area has a tiled floor. The yard is gravel and is used for machinery display and sales. Ms Brophy pointed out that there has been an agreed area for circulation with Mr Halpin.

7.3 Ms Brophy included photos and a floor plan in her précis

7.4 Ms Brophy made the following comments in relation to the Appellants tone of the list evidence:

APPELLANT COMPARISON 1 – 1553041 (€32/sqm)

This property is valued in line with the subject property. Is it an old industrial property, of concrete construction with a single-skin roof. It is located 500 m from the subject property, on the same road, farther away from the centre of Kells. It is in a similar size category to the subject property. She said that this property supports the level applied to the subject property.

APPELLANT COMPARISON 2 – 1553037 (€22/sqm)

This a standalone, old industrial property first valued in 1977. The appellant is correct that it is a similar distance from the centre of Kells as the subject property, however its context and local environment bear no similarities to that of the subject property. The immediate context of this property is a mix of residential and agricultural. The Monalty Road, on which is this property is located, has few properties directly fronting it, and has at least seven housing estates accessed off it. There are no other commercial properties located on this 1km stretch of road from the junction with Carrick Street, Kells as is illustrated in the below maps. For these reasons, she said that this property is not comparable to the subject property and therefore is not valued in line with it.

APPELLANT COMPARISON 3 – 1939459 (€32/sqm)

This property is very similar to the subject property, although older, dating from the late 1930s and first valued in 1958. It is a similar type of construction to the subject property with concrete walls and an asbestos roof. It is a similar size to the subject property. It was fully inspected by her at Representations stage after which a 10% allowance was applied to reflect the property's restricted access via a single laneway measuring 2.6m in width. She said that this property supports the level applied to the subject property.

APPELLANT COMPARISON 4 – 5013108 (€2.50/sqm of yard)

This property is valued in line with standalone unsurfaced yards at €2.50/sqm. For further supporting evidence relating to this category of property, she referred to Comparison 7 & 8 in Section 7.3 of the précis. She said that this property supports the level applied to the subject property.

APPELLANT COMPARISON 5 – 1553047 (€20/sqm)

This is an old industrial property which was fully inspected by her at Representations stage. It is of basic steel, timber and concrete construction with corrugated cladding (including corrugated iron). It is located outside the Kells Ring Road, in an area that is mixed agricultural and residential, and at the rear of the occupier's domestic dwelling. The level applied reflects its immediate context, its distance from Kells, its age and type of construction, and the fact that it shares its site with a domestic dwelling. For these reasons, she said that this property is not comparable to the subject property and therefore is not valued in line with it.

APPELLANT COMPARISON 6 – 5006292 (€20/sqm)

This property is located off the R163 Oldcastle Road and is accessed via a narrow lane. The location is rural, and the context is not comparable to the subject property (see aerial location map below). The property is twice the size of the subject property. She said that this comparison is not comparable to the subject property and is not valued in line with it.

APPELLANT COMPARISON 7 – 2205844 (€35/sqm)

This property is a modern industrial unit located in Kells Business Park and is approximately four times the size of the subject property. It is superior to the subject property and is valued at a level which reflects this. The yard is valued at 10% of the prevailing industrial level. She said that this property supports the level applied to the subject property.

7.5 Ms Brophy put forward three Key Rental Transactions (KRT). Full details in the appendices (n/a to public).

| | Property No. | Lease Date | NER | NER/sqm | NAV |
|----|--------------|------------|-------------|---------|----------|
| 1. | 2199493 | 1/01/2016 | € 12,000 | 46.78 | € 10,260 |
| 2. | 2109839 | 18/8/2016 | € 58,461.71 | 49.51 | € 56,600 |
| 3. | 2187709 | 1/09/2016 | € 14,550 | 46.47 | € 14,090 |

Ms Brophy made the following observations on the KRT's:

1. Property no. 2199493: Modern, purpose-built, mid-terrace industrial unit located in a Business Park, steel frame construction, blockwork infill and double skin cladding. Similar size category to the subject property. Property NAV lower than rent agreed on the property. €/sqm applied to this property is 25% higher than the level applied to the subject property, reflecting its superior location, age and construction. Valued in line with 59 other similar properties, (37 of which are in Kells Business Park), of which one is appealed to the Tribunal.
2. Property no. 2109839: located on the outskirts of Navan. Larger than the subject property. Valued in line with the Net Effect Rent on the property. Improved fitout for showroom use and valued at 20% of the prevailing industrial level of €40/sqm to reflect this. €/sqm applied is 50% higher than the base €/sqm applied to the subject property. Valuation amended at Representations stage, but no change made to the €/sqm level applied. Valued in line with 62 other similar properties, of which two are appealed to the Valuation Tribunal. Both appeals are outstanding.

- Property no. 2187709: Modern, end-of-terrace industrial unit located in an Industrial Estate, on the outskirts of Navan. Construction of steel portal frame construction, blockwork walls and double skin cladding. Similar size category to the subject property Valued in line with the NER on the property. €/sqm applied is 40% higher than that applied to the subject property

7.6 Ms Brophy put forward eight Tone of the List comparisons:

| Property Number | Address | NAV/sqm | NAV |
|------------------------|--|----------------|------------|
| 1939459 | 11AC JOHN STREET, KELLS, CO. MEATH | € 32 | € 15830 |
| 1553041 | 1Ca4 Gardenrath Road, Kells, Co. Meath | €32 | €7,570 |
| 1741933 | 9B.26AC (PT) THE GREEN, TRIM, CO. MEATH | € 32 | € 14460 |
| 1741921 | 26AAFA (PT) THE GREEN, TRIM, CO. MEATH | € 38.40 | € 32000 |
| 1741949 | 14E MANORLAND, TRIM, CO. MEATH | € 32 | € 16,820 |
| 2205843 | UNIT L KELLS BUSINESS PARK, KELLS, CO. MEATH | € 48 | € 26,300 |
| 2197081 | RATH CROSS, ASHBOURNE, CO. MEATH | € 10 | € 11,640 |
| 5016428 | Meenlagh, Carnaross, Kells, Co. Meath | €2.50 | €8,660 |

7.7 Ms Brophy made the following observations in relation to the Tone of the List comparisons:

- 11 AC John St., Kells, Co. Meath: Similar property to the subject property, although older, dating from the late 1930s and first valued in 1958. Old industrial property of blockwork and poured concrete construction with an asbestos roof with eaves heights ranging from 2.5m to 5.4m. 10% allowance applied at Representations stage after inspection to reflect restricted access via single laneway measuring 2.6m in width. Representations submitted by occupier but not appealed to the

Valuation Tribunal. Fully inspected by her at Representations stage. Ms Brophy believes this is the best comparison to the property.

2. 1C, 4 Gardenrath Road, Kells, Co. Meath: Located on the same road as the subject property, 500m farther away from the centre of Kells. Old industrial property, of blockwork construction with a single skin roof. Similar size category to the subject property. Valued at the same €/sqm as the subject property, along with 17 other comparable properties, 7 of which are in Kells. Three of these 18 properties are appealed to the Valuation Tribunal, of which the subject property is the only one located in Kells. Yard valued at 10% of the prevailing industrial level. No representations received and not appealed to the Valuation Tribunal.
3. 9B. 26AC (PT) The Green, Trim, Co. Meath: Similar age and construction type to the subject property, with concrete walls and asbestos roof. Similar size to the subject property. Valued at the same €/sqm as the subject property, along with 17 other comparable properties, 7 of which are in Kells. Three of these 18 properties are appealed to the Valuation Tribunal, of which the subject property is the only one located in Kells.
4. 26AAFA (PT) The Green, Trim, Co. Meath: Located adjacent to Comparison 3 above in the centre of Trim. Front façade improved but similar age and construction type to the subject property, with concrete walls and asbestos roof. Similar size category to the subject property. Valued at the same €/sqm as the subject property, along with 17 other comparable properties, 7 of which are in Kells. Three of these 18 properties are appealed to the Valuation Tribunal, of which the subject property is the only one located in Kells.
5. 14E Manorland 2nd DIVN (PT OF), Trim, Co. Meath: Located adjacent to Comparison 4 above in the centre of Trim. Old industrial property of concrete construction with single skin roof. Similar size to the subject property. Valued at the same €/sqm as the subject property, along with 17 other comparable properties, 7 of which are in Kells. Three of these 18 properties are appealed to the Valuation Tribunal, of which the subject property is the only one located in Kells. Representations made but valuation not appealed to the Valuation Tribunal.
6. UNIT L Kells Business Park, Kells, Co. Meath: Superior location to that of the subject property, being located in a purpose-built industrial estate. Superior building when compared to the subject property, of steel frame construction with

blockwork walls and double skin cladding. Valued in line with a prevailing industrial level of €40/sqm with a 20% add-on for improved (showroom) fit out. Valued in line with 59 other similar properties, of which one is appealed to the Valuation Tribunal.

7. Rath Cross, Ashbourne, Co. Meath: Standalone tarmac yard in use for car sales. Valued in line with 26 other standalone yards of which one is appealed to the Valuation Tribunal. The appeal is outstanding. No representations submitted and not appealed to the Valuation Tribunal
8. Meenlagh, Carnaross, Kells, Co. Meath: Standalone hardcore yard in use as carpark. No allowance for quantum. Representations submitted by agent, but valuation not appealed to the Tribunal.

7.8 Under cross examination Ms Brophy confirmed that there was a difference in value between a standalone unit and a unit located in an industrial estate. Ms Brophy confirmed that the property was valued relative to the KRT's, which were not entirely comparable, being in an industrial estate without a yard. Ms Brophy confirmed that she did not have KRT's to illustrate the 20% add on for the showroom, however there were NAV comparisons. Ms Brophy confirmed that the best comparison to the subject is NAV 1, which did have vehicular access, although the access was narrow, that the property was similar in age and location but did not have a yard.

7.9 Ms Brophy in summing up said the burden of proof lay with the Appellant and the property should be valued in line with the comparisons and no rental evidence was produced to support the Appellants opinion of value. She reiterated that the property was valued based on its age, location and type in line with the emerging tone of the list. Ms Brophy stated that there were 18 properties valued at €32.00/sqm with 3 appealed and there was no precedent for a quantum allowance on yards. She further stated that there was a 20% add on for the showroom element. She stated that her comparisons support the level of €32/sqm. Ms Brophy contended for an NAV of €31,800.

8. SUBMISSIONS

8.1 There were no legal submissions.

9. FINDINGS AND CONCLUSIONS

9.1 From the evidence adduced by the parties, the Tribunal finds the following facts and came to the following conclusions.

9.2 The property is located approximately 750m to 1 km from the centre of Kells, onto the Gardenrath Road Upper, Gardenrath. The surrounding properties are residential in nature. The property is 1.3km from the M3 motorway and approximately 17.5km from Navan.

9.3 The property is a standalone pre-1960s industrial building, with a corrugated asbestos roof, first valued in 1972 as a factory. The present use is farm machinery sales, repairs and storage. The building is comprised of a steel frame structure and blockwork walls, with asbestos roof on steel and timber rafters and purlins. The original building has been extended and upgraded. A portion of the building has been reclad with double skin cladding. There is a mezzanine in use for storage, constructed with timber. The showroom portion of the building has been modernised with painted plasterboard walls and ceiling mounted lighting; a portion of this area has a tiled floor. The remaining flooring is concrete.

9.4 The site measures approximately 5000 sqm and with boundaries of palisade fencing. The yard is gravel and is used for machinery display and sales.

9.5 The floor areas are agreed;

| | Floor | M2 |
|------------------------|--------------|---------------|
| WORKSHOP | 0 | 248.86 |
| STORE | 0 | 102.51 |
| STORE | MEZZ | 181.98 |
| SHOWROOM | 0 | 226.42 |
| TANKS | 0 | 3 x 1360L |
| YARD (Hardcore) | 0 | 3311.12 |
| Total | | 577.79 |

9.6 The property is held freehold.

9.7 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 County Meath.

9.8 The Appellant's NAV comparison number 6, P & M Grimes & Sons, Oldcastle Road, Kells, Co. Meath, is regarded by Mr Halpin as the best comparison. However, the Tribunal agrees with the Respondent's view that this property is not comparable being in a rural location and accessed via a narrow lane and also being twice the size of the subject property.

9.9 The parties had 2 tone of the list comparisons in common as follows:

Appellant NAV 1, being Respondent NAV 2. Mr. Halpin considered that this was substantially smaller and had a more modern workshop than the subject property and argued therefore for a discount. The Respondent's position was that this was an old industrial property, of concrete construction with a single-skin roof. Mr. Halpin stated in cross-examination by Ms Brophy that he had not inspected this property. The Appellant has not satisfied the Tribunal that there are sufficient differences between this property and the subject to justify the discount sought.

Appellant NAV 3, being Respondent's NAV 1. Oliver Usher Auctions, John St, Kells, Co. Meath, an Auction house and stores located in the centre of Kells. Old buildings to the back of the main street. The Commissioner has used exactly the same base level for this property as he has for the subject but applied a 10% end allowance. Mr. Halpin contended that the Commissioner's approach was correct as regards the base level and the end allowance of 10% applied but argued for a greater end allowance owing to the asbestos roof on the subject. The Respondent's position was that this was similar to the subject property, and it also had an asbestos roof but gave a 10% allowance for the restricted access. The Tribunal considered that this property being significantly older than the

subject and having poor access was supportive of the Commissioners assessment of €32 per square meter for the workshop and store in the subject property.

As regards the remaining Appellant NAV comparisons, NAV 2 (Worship Centre), and as apparent from the maps supplied, that is the only commercial property in an area where the mix is primarily residential and agricultural and for these reasons the Tribunal finds that it is not comparable. NAV 4 (Carwash), this while being a standalone yard, supports the level applied by the Commissioner. There is no justification for giving a discount for, as argued by Mr. Halpin, the fact that the subject property also has buildings or for quantum. NAV 5 (Concrete Products), Mr. Halpin confirms that he did not inspect this property. It was inspected by the Respondent at representations stage. The Tribunal notes that this is located in an area which was largely agricultural/residential in nature, which was accepted by Mr. Halpin under cross examination and further that he also accepted that it was in close proximity to a domestic dwelling, the evidence of Ms. Brophy being that it is located directly to the rear of the dwelling. Consequently, the Tribunal accepts as argued by the Respondent that this property is not similar to the subject and that is not to be valued at the same level. As regards NAV 7, there is no doubt that this appears from the photos supplied to be a superior, larger and more modern building. However, the Tribunal accepts as submitted by the Respondent that the level applied of €35 SQM reflects that and supports the level of €32 SQM applied to the subject property.

As regards the tone of the list comparisons of the Respondent, the common two NAV comparators support the levels applied. Of the remaining Respondent NAV comparators, the Tribunal has noted that NAV's 3, 4, and 5 are all of a similar age and construction to the subject property and that NAV's 3 and 4 also have an asbestos roof. NAV comparison no. 6 while superior, is valued at a higher rate of €48 and €19.20 compared to the subject at €32, to reflect that. NAV comparison no 7 with a value of €10 for a standalone yard, also supports the Respondent's valuation.

The Appellant furnished no evidence of key rental transactions. The Respondent furnished evidence of three rental transactions and in all of these the €/sqm applied was between 25%-50% higher than the base €/sqm applied to the subject property.

9.10 The Tribunal considered the Respondents comparisons. Comparison no 1 was comparable, No.'s 2, 4, 5 and 7 were not comparable. No 3 had somewhat restricted access but supported the Respondents valuation, No 6. supported the Appellant's valuation.

9.11 The Tribunal finds the Respondents KRT No 1, was geographically relevant and was a common comparison that both parties produced in evidence. The Tribunal finds the yard should be valued in line with the comparisons at 10% of the base rate.

9.12 Mr Halpin for the Appellant referred to a judgement of the Valuation Tribunal, VA17.5.072 - Spring Elegance Ltd t/a. Ceramica. The relevant extract from that Tribunal's decision is in paragraph 10.4 *"The Tribunal was not satisfied that the Respondent provided sufficient justification for the loading of 20% for the purported showroom use. The inconsistent application of this loading, as suggested by the Appellant's valuer, led the Tribunal to the conclusion that a loading was inappropriate in this instance."* The Tribunal must decide each case on the facts before it. The onus is on the Appellant to convince the Tribunal that it should adjust the level set by the Respondent and in this instance, the Tribunal is persuaded by the evidence of the Respondent's valuer who provided the Tribunal with both key rental and tone of the list evidence of broadly similar type properties valued at the same rate or adjusted for differences.

9.13 In this instance, the Tribunal was persuaded by the Respondent's valuer who provided the Tribunal with evidence of broadly similar type properties valued at the same rate or adjusted for differences on the other hand the Appellant lacked rental evidence to support a reduction. The onus is on the Appellant to convince the Tribunal that it should adjust the level set by the Respondent and in this instance; the Tribunal determined that insufficient evidence was placed before it to so do.

DETERMINATION:

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

And the Tribunal so determines.

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.