

Appeal No: VA19/5/0720

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

Kavanagh Meats Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2174919, Industrial Uses at LOCAL NO/MAP REF: 2C Moyne Lower,
Enniscorthy Rural, Enniscorthy, County Wexford.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Frank O'Grady - MA, FSCSI, FRICS

Member

Martin Connolly - MAgrSC, M.Sc., MSCSI, FCInstArb Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 3RD DAY OF MARCH, 2023

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 10th 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 €83,700.
- 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 : *“The valuation is excessive and inequitable incorrect rental levels used on valuation comparisons.”*
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €41,379.69.

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 €83,700.
- 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 €83,700.
- 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 27th day of October, 2022. At the hearing the Appellant was represented by Mr. Tadgh Donnelly, Chartered Valuation Surveyor, of Donnelly & Associates and the Respondent was represented by Mr. John O’Brien MSCSI, MRICS, ACI Arb 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 Preliminary Issue

4.1 In his précis Mr Donnelly for the Appellant, put forward six NAV comparisons of meat plants, five of which were outside County Wexford. Mr O'Brien, for the Respondent, contended that these comparisons from other counties were irrelevant and that there was sufficient information of industrial property available within the county.

4.2 Mr Donnelly was strongly of the view that meat plants were a unique type of property and that only information on other meat plants would be of assistance to the Tribunal.

4.3 Mr Donnelly cited the Tribunal judgement, VA08/5/125, Marks & Spencer (Ireland) as authority for using comparators from other rating authorities.

4.4 Mr O'Brien contended that the data from other counties were irrelevant. He stated that the comparisons cited were far removed from the subject and had differing valuation dates. In addition, he said that there is enough evidence of industrial property within the County.

4.5 On questioning, by the Tribunal, Mr O'Brien accepted that the comparisons put forward by the Appellant could be considered as they are "*... other relevant data available on or before the date of issue of the valuation certificate concerned*" in accordance with s 19(5) of the 2001 Act. Thus while maintaining his own view that the data were not relevant, he did accept that the Tribunal was not precluded from considering it.

4.6 Having heard the evidence of both parties the Tribunal decided to hear the details of all of Mr Donnelly's comparisons, without prejudice to their relevance.

5. FACTS

5.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

5.2 The subject is an industrial premises, situated on the old Dublin Road out of Enniscorthy, approximately four kilometres from the town.

- 5.3 The property is held freehold, and is owner occupied. It is used as a meat factory, processing beef. It has all the requisite licences/permissions to operate as a meat processing facility.
- 5.4 The original premises were built in the 1960's and were extended in a piecemeal fashion. However, Mr O'Brien's evidence, both in his précis and orally, was that the entire premises is under one roof. This was accepted by Mr Donnelly.
- 5.5 The premises are in reasonable condition. Internal finishes, floors, walls insulated cold stores and chill rooms meet the required standards to operate as a meat processing plant.
- 5.6 The floor area, 2,484.84 m², was agreed by the parties. The areas are set out in the table below. The area in the table, 2,484.84 m², differs slightly from that shown in Mr Donnelly's schedule of areas, 2,481.52 m². However, Mr Donnelly used the agreed figure in calculating his estimate of value.

Floor	Use	Area (m²)
0	Store	382.48
1	Offices	170.85
1	Store	216.13
0	Cold Stores	110.61
0	Factory	548.76
0	Chill Rooms	864.61
0	Open Store	<u>191.40</u>
	Total Area	2,484.84

6. ISSUES

- 6.1 The issue in this appeal is quantum, with a secondary issue of the admissibility of evidence from outside the rating area.
- 6.2 The difference between the parties is as follows. The Appellant contends for NAV of €41,379.69. The Respondent contends that the List value should be reduced from €83,700 to €80,700 to reflect a reduction on the NAV of the lairage element of the stores.
- 6.3 The differences between the parties are shown in the table at page 6 below.

Use	Area (m ²)	NAV psm	
		Appellant	Respondent
Chill Rooms	864.61	€17.00	€35.92
Factory	548.76	€16.20	€32.00
Cold Stores	110.61	€20.12	€39.85
Store	573.88	€16.20	€32.00
Office(s)	170.85	€16.20	€32.00
Store	216.13	€16.20	€32.00
Lairage ¹	191.40		€16.00

¹ The lairage area, 191.4 m² which is identified separately in the Respondent's estimate of value is included as part of the Level 0 store area in the Appellant's estimate.

7.0 RELEVANT STATUTORY PROVISIONS:

7.1 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.”

7.2 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.”

8. APPELLANT'S CASE

- 8.1 Mr Donnelly is a Chartered Valuation Surveyor valuer with over 40 years' experience in commercial property, including four years in the Valuation Office. He specialises in rating with particular expertise in the meat industry.
- 8.2 In his précis Mr Donnelly described the subject as a small plant that was constructed in a piecemeal fashion from the 1960's. In his oral evidence he described the premises as "scattered". It has a considerable area of chillers and cold room as befits a factory producing meat for the Irish and export markets. Mr Donnelly considered large parts of the facility as basic in design and specification.
- 8.3 In cross-examination by Mr O'Brien, Mr Donnelly agreed that the plant's fittings and finishes were of a standard required to operate as meat -processing business and were comparable to those in the premises that he had put forward as comparable evidence. He also contended that the lairage should be assessed at a lower level to reflect its use for holding cattle pre -slaughter.
- 8.4 When Mr O'Brien put it to him that the cold room, chill room and floor finishes were of a higher standard than found in industrial premises generally, Mr Donnelly did not disagree. He replied that they were the same as in all of his comparisons. Mr Donnelly also accepted, on questioning by Mr O'Brien, that there were ancillary items of plant such as tanks, generators etc. However, he would not accept Mr O'Brien's proposition that there was a quantum reduction applied in his Comparison no 5, Slaney meats.
- 8.5 On questioning, by the Tribunal, Mr Donnelly confirmed that the factory has all the requisite licences/permits to produce meat for the Irish and overseas markets.
- 8.6 In contending for a reduced NAV Mr Donnelly put forward six comparisons, all meat factories, one on the List, PN2008270, which was subject of a Tribunal judgment, VA19/5/061, and five from outside Co Wexford. The floor areas and valuation data were provided by Mr Donnelly in his précis, while Mr O'Brien provided Valuation Dates for these comparisons.

Comparison 1. PN226660.

This is described as a factory in Co Kilkenny in fair condition, on the outskirts of Waterford City. Floor area is 10,672.93 m² and NAV is €404,000. The NAV per m² is

€30 psm for factory and offices, €38.55 for cold stores and €15 and €20 for stores and €5 psm for mezzanine stores. Valuation Date is 30 October 2015.

Level	Use	Area (M ²)	NAV (€per M ²)	NAV
0	Store	2,32.35	€15.00	€30,483.75
0	Factory	3,508.89	€30.00	€105,266.70
0	Cold Room	227.83	€38.55	€8,782.85
Mezz	Store	271.30	€5.00	€1,356.50
0	Office(s)	604.27	€30.00	€18,128.10
0	Store	467.13	€20.00	€9,342.60
1	Factory	2,493.45	€30.00	€74,803.50
1	Cold Room	463.70	€38.55	€17,875.84
1	Offices	604.27	€30.00	€18,128.10
	Additional Items			€120,000.00
			Total	€404,167.73
			NAV	€404,000

Comparison 2. PN 226674.

This is a factory in Co Kilkenny, adjacent to Comparison No 1, that processes offal from the meat industry. Floor area is 1,334.40 m² and NAV is €42,800. NAV for workshop, stores and offices is €20.00 psm. Valuation Date is 30 October 2015.

Level	Use	Area (M ²)	NAV (€per M ²)	NAV
0	Office(s)	291.48	€20.00	€5,829.60
0	Workshop	939.95	€20.00	€18,799.00
1	Workshop	381.15	€20.00	€7,623.00
0	Store	268.72	€20.00	€5,374.00
0	Weighbridge	2.0	€30.00	€18,128.10
0	Store	467.13	€18.00	€3,600.00
	Additional Items			€1,646.25
			Total	€42,872.00
			NAV	€42,800

Comparison 3. PN 1299508.

This is a meat factory in Rathkeale, Co Limerick. The floor area is 10,433.37 m². The NAV is €170,500 and the NAV psm is €30 for the offices and factory and €39.4 for the cold room. Valuation Date is 01 March 2014.

Level	Use	Area (M ²)	NAV (€per M ²)	NAV
0	Factory	8,085.91	€15.00	€30,483.75
0	Factory	1,207.25	€7.50	€9,054.38
0	Cold Room	1,005.90	€23.50	€23,638.65
0	Factory	134.31	€10.00	1,343.10
	Additional Items			<u>€15,264.00</u>
			Total	€170,588.78
			NAV	€170,500

Comparison 4. PN116970.

This is described as beef processing plant in Athleague, Co Roscommon. In Mr Donnelly's oral evidence, he stated that it is a well-built compact plant, under one roof. However, he did say that the location in Co Roscommon was inferior to the subject. The floor area is 6,456.60 m² and the NAV is €235,000. NAV psm is €30 for the factory and offices and €39.40 for the cold store. Valuation Date: 30 is October 2015.

Level	Use	Area (M ²)	NAV (€per M ²)	NAV
0	Office(s)	753.60	€30.00	€23,508.00
1	Offices	503.00	€30.00	€25,090.00
0	Factory	5,100.02	€30.00	€153,000.60
0	Cold Room	1,000.30	€39.40	€39,411.82
	Additional Items			<u>€4,000</u>
			Total	€235,010.42
			NAV	€235,000

Comparison 5. PN1446568.

An abattoir Mullingar Co Westmeath., Valuation Date is 30 October 20125. The NAV is €63,800 and the NAV psm for the factory is €17.00 psm. There is no further information provided in the précis, but Mr Donnelly, on questioning by the Tribunal, did describe the property as being “*at the bottom of the hill*”.

Comparison 6. PN2008270.

The premises are described in the précis a meat factory which is located at in Co Wexford. Floor area is 21,329.34 m² and the NAV is €565,700. The Valuation Date is 15 September 2017. This property was subject of Tribunal judgment VA19/5/0621, which was not placed before the Tribunal by either party. In his summary Mr Donnelly states the factory level, NAV psm, was €27 and gives a more detailed breakdown to include: factory €12.00-27.00 psm; offices €27-32 psm; stores €13.50-€27 psm; chill rooms and cold stores €27.00 psm. In addition, there was an allowance of -€24,346.82 and additional items of €29,755.42. Mr Donnelly described this comparison as a well-built, compact factory. On questioning, by the Tribunal, Mr Donnelly stated that this comparison was superior and more efficient than the subject, which was developed piecemeal.

Mr Donnelly’s analysis of the Tribunal findings is set out in the table at page 10 below.

On questioning, by the Tribunal, Mr Donnelly ranked his comparisons in order:

1. PN 2008270, Co Wexford; a better facility but nearest to the subject.
2. PN 1299508, Rathkeale, Co Limerick.
3. PN 1446568 Co Roscommon
4. PN 226660, Co Kilkenny, which he described as being in a different class, of superior quality.

Level	Use	Area (M ²)	NAV (€per M ²)	NAV
0	Dock Leveller	16.00	1,000	€16,000.00
0	Allowance	-1.00	€24,346.82	-€24,346.82
0	Factory	3,901.82	€12.65	€49,358.02
0	Factory	1,3008.00	€12.00	€15,696.00
0	Workshop	382.07	€27.00	€10,315.89
1	Factory ¹	183.00	€13.50	€2,470.50
0	Factory	8,619.83	€27.00	€232,735.41
0	Store ¹	1,346.83	€27.00	€36,364.42
0	Office(s)	284.02	€27.00	€7,668.54
0	Weighbridge	1.00	€2,000	€2,000
0	Offices	723.11	€32.00	€23,139.52
0	Store	556.23	€13.50	€7,509.10
1	Office(s)	175.96	€27.00	€4750.92
0	Canopy	11.25	€6.00	€67.50
0	Cold Stores	3,281.22	€27.00	€8,592.86
0	Cold Room	620.60	€27.00	€16,565.20
0	Canopy	65.48	€27.00	€1,767.96
1	Store ¹	1,1960.00	€20.00	€23,920.00
1	Offices	665	€32.00	€2,1280.00
	Additional Items ²			<u>€29,766.442</u>
			Total	€565,812.00
			NAV	€565,700

¹ These figures are not in accord with the Tribunal's published judgment.

² This figure does not accord with the figure for additional items in the Tribunal's published judgement, €21,600.00, excluding the weighbridge, which is included in the table.

9 RESPONDENT'S CASE

9.1 Mr O'Brien, a Valuer in the Valuation Office gave evidence for the Respondent.

9.2 In his précis Mr O'Brien provided revaluation statistics and the distribution of the rates burden in Co Wexford, the property description, including maps, floor plans and photographs. He also gave his response to the grounds of appeal, Key Rental Transactions and comparative evidence to support his valuation.

- 9.3 He described the property as meat processing plant including slaughtering facilities and ancillary buildings. There are specialist floor and wall coverings as well as cold stores and chill rooms with specialist insulation, mechanical refrigeration and temperature controls.
- 9.4 Mr O'Brien's evidence, which was not challenged, was that there is a dearth of rental evidence for meat plants. Most are owner-occupied. Therefore, his approach was to use relevant industrial data, adjusted where necessary to reflect the superior finishes and fittings in a meat factory, such as cold stores. He contended for a rate of €32 psm for the factory, storage and office space. This is a composite figure to reflect the added value of various items of plant, tanks, etc, which were not valued separately, unlike in the Slaney Meats comparison. He assessed cold stores and chill rooms at €39.84 and €35.92 psm respectively and €16 psm for the lairage. This latter figure represents a reduction of €16 psm and results in Mr O'Brien contending for a reduced NAV of €80,700 compared with the figure on the List.
- 9.5 Mr O'Brien put forward four Key Rental Transactions which helped to inform the valuation scheme for industrial property in Wexford. Details are presented in Appendix 1 (N/A to public)
- 9.5.1 KRT No 1 is a unit in the Enniscorthy Business Park with a floor area of 237.92² and an annual rent of €10,800. Lease term is four years and nine months from 01 February 2016. Net effective rent at the Valuation Date was €9,905 per annum, which Mr O'Brien analysed as €40.71 psm for office and warehouse and €4.07 for stores. NAV was €40 psm for the warehouse and €8 psm for the store.
- 9.5.2 KRT No 2 is a unit at Hewtisisland, New Ross. It comprises 390.6 m² and has an annual rent of €16,200. The lease term was six years from 01 June 2017. Net Effective Rent at the Valuation Date was €12,970. Mr O'Brien analysed this as €37.00 psm and €7.40 psm for warehouse and mezzanine space respectively. NAV was €32 psm for the warehouse and €6.40 for the mezzanine.
- 9.5.3 KRT No 3 is a unit located at Castlebridge, comprising 374.4 m² industrial space and 1,020 m of yard, let for a term of five years from 01 September 2016. Rent is €18,200 per annum. The NER of the industrial space was €37.73 psm and NAV was €32 psm.
- 9.5.4 KRT No 4 is an industrial unit located in White Mill Industrial Estate Wexford. It comprises 2,532.96 m² in total, 2,080.7 m² of factory, 412.16 m² of office space and

500 m² of yard and is held on a 10 year lease from August 2015. NER for the factory and office space was €25 psm and NAV €35 psm.

9.6 In contending for a reduced NAV of €80,700, Mr O'Brien put forward details of five properties from the List that he considered similarly circumstanced.

N 1 PN2008270.

A purpose-built meat plant, which was subject of Tribunal judgement VA19/5/0621. and also put forward by Mr Donnelly for the Appellant. Total floor area is 19,720.36 m² and the NAV is €565,700. The main industrial space was assessed at €27 psm, with an addition of €12.65 psm for cold stores. A small area of the factory was assessed at €13.50 psm and stores and open stores at €13.50. Offices were assessed at €32 psm and €27.00 psm. The lairage was valued at €12 psm and there was a fragmentation allowance of 5%. Tanks, a weighbridge, canopies, dock levellers, a generator and boilers were assessed individually and came to €39,600, 7% of the total or €1.70 psm.

Mr O'Brien analysed the Tribunal decision as set out in the table at page 13 below.

¹ The description of 1,364.83 m² at Level 0 as store is not in accord with the Tribunal's published judgement.

² The description of 1,196 m² at Level 1 as store is not in accord with the Tribunal's published judgement.

Level	Use	Area (M ²)	NAV (€per M ²)	NAV
0	Dock Leveller	16.00	1,000	€16,000.00
0	Allowance	-1.00	€24,346.82	-€24,346.82
0	Factory	3,901.82	€12.65	€49,358.02
0	Factory	1,3008.00	€12.00	€15,696.00
0	Workshop	382.07	€27.00	€10,315.89
1	Factory	183.00	€13.50	€2,470.50
0	Factory	8,619.83	€27.00	€232,735.41
0	Store ¹	1,346.83	€27.00	€36,364.42
0	Office(s)	284.02	€27.00	€7,668.54
0	Weighbridge	1.00	€2,000	€2,000
0	Offices	723.11	€32.00	€23,139.52
0	Store	556.23	€13.50	€7,509.10
1	Office(s)	175.96	€27.00	€4750.92
0	Canopy	65.48	€27.00	€67.50
0	Cold Stores	3,281.22	€27.00	€8,592.86
0	Cold Room	620.60	€27.00	€16,565.20
0	Canopy	65.48	€27.00	€1,767.96
1	Store ²	1,1960.00	€20.00	€23,920.00
1	Offices	665	€32.00	€2,1280.00
0	Plant/generators	1	€12,000	
	Plant room	302.46	€27.00	
	Plant/tanks	1	€2,100.00	
	Plant/boilers	1	€7,500.00	
	Yard	3,250	€0.00	
			NAV	€565,700

N 2. PN 2171087

This is property located on the outskirts of Enniscorthy is described in the précis as 1,334.42 m² comprising show room, factory and mezzanine space with an NAV of €58,500. These elements are valued at €38.40, €32.00 and €6.40 psm respectively. In addition there are 3,093 m of yard valued at €3.20 psm. The Tribunal notes from information provided and closer examination of the maps and photographs available -

those in the Respondent's précis were quite faint - that these premises are a hardware business not a factory.

Level	Description	Size	Nav per m ²
0	Showroom	387.81	€38.40
0	Yard (Concrete/tarmac	3,093	€3.20
0	Factory	946.59	€32.00
Mezz	Mezzanine	537.72	€6.40
	Total	1,334.4	€58,500

The Tribunal notes the total area shown in the précis excludes the yard and mezzanine.

N 3. PN 2008002.

A 2,210.29 m building with an NAV of €71,200 located in Templeshannon, on the edge of Enniscorthy. The factory, office and workshop elements are valued at €32.00 psm and the show room at €38.40 psm. Based on the photographic evidence this is a modern industrial building in use as a motor factors business.

Level	Description	Size (m ²)	NAV per m ²
0	Factory	879.15	€32.00
0	Warehouse	729.93	€32.00
0	Showroom	74.4	€38.40
0	Workshop	133.58	€32.00
0	Office(s)	251.57	€32.00
1	Offices	141.66	€32.00
	Total	2,210.29	€71,200

N4. PN 2007938

From the photographic evidence in in the Respondent's précis this appears to be a basic warehouse in a largely residential area in Enniscorthy. The stores and offices are assessed at €32.00 psm. The breakdown of the valuation is shown in the table at page 15 below.

Level	Description	Size	NAV per m ²
0	Office(s)	152.12	€32.00
0	Factory	1,701.13	€32.00
0	Yard concrete/tarmac	1,152	€3.20
0	Store	173.85	€32.00
	Total	2,027.1	€68,500.00

N 5 PN 2007898

A small abattoir in a rural location near Clonroche. Floor area 520.77 m and the NAV is €12,170. The office, factory and a small, 5.59 m, store are valued at €20psm with the cold store at €27.65 and a larger store at €4.00 psm.

Level	Description	Size	NAV per m ²
0	Cold Room	47.51	€27.65
0	Office(s)	46.86	€20.00
0	Store	5.59	€20.00
0	Factory	420.81	€20.00
Mezz	Store	350	€4.00
	Total	520.77	€12,170.00

The Tribunal notes the area shown in the précis. 520.77 m², is not correct.

10. Closing Argument

10.1 In summing up Mr Donnelly submitted that the Respondent was using small units which bore no resemblance to the subject as comparators. He also reiterated his justification for using NAV comparisons from outside County Wexford and cited the Marks & Spencer judgment, cited above, in support of this view.

10.2 Mr O'Brien again expressed the opinion that there was no need to go outside the County for evidence. His view was that the KRTs and NAV comparisons put forward, particularly Slaney Meats supports his revised estimate of NAV 's evidence,

11. FINDINGS AND CONCLUSIONS

11.1 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 county Wexford.

- 11.2 In determining the rent at which a property might reasonably be expected to let the best evidence is lettings of comparable premises on the open market. Use of this rental method of valuation requires sufficient appropriate and reliable evidence from the marketplace. If available, it would be at the top of the evidential hierarchy.
- 11.3 There was no rental evidence for comparable premises in County Wexford and indeed it was agreed by the parties that there is a dearth of such evidence in Ireland generally. Most meat factories are owner-occupied. Three of the KRTs put forward were 8%, 13% and 14%, respectively the size of the subject. While they may have assisted the Commissioner in developing a valuation scheme for industrial property in Wexford, the Tribunal finds that they are not similarly circumstanced to the subject and thus are of no assistance in this case. KRT No 4 is of similar size to the subject and appears from the photographic evidence supplied to be an attractive modern industrial unit. However, there was no evidence adduced as to how it may or may not be similarly circumstanced to the subject. In addition, it is difficult to analyse the data; the NER is €25 psm while the NAV is €35 psm.
- 11.4 Turning to the Comparisons, introduced by the Appellant, four were meat processing facilities from outside County Wexford, one was an associated facility from outside Wexford and one from within the County. The Tribunal notes that Mr Donnelly provided neither maps nor photographs of his comparator properties, as required by Rule 36(d) of the Valuation Tribunal (Appeals) Rules 2019. The Respondent did not object, but the lack of this supplementary information rendered these comparisons less helpful to the Tribunal than they might otherwise have been.

Comparison No 1. PN226660, a 10,673 m meat processing plant in Co Kilkenny on the edge of Waterford City, some 60 km from the subject. The main factory and office space has an NAV of €30 psm with a premium of €8.65 on the cold stores. There were additional items, not specified, of €100,000. The valuation date, 30 October 2015 is within the time frame, two years, agreed by the parties as being relevant. The Tribunal, while noting that this property is more than twice the size of the subject, considers this evidence to be of some assistance.

Comparison No 2. PN226674. This factory is located adjacent to No 1. Unlike No 1, or the subject, it is not engaged in cattle slaughtering or meat processing. It is a rendering plant dealing with offal from the meat industry. As such it is not comparable to the subject.

Comparison No 3 PN1299508, Valuation Date 01 March 2014. This facility is located at Rathkeale County Limerick. The Tribunal considers the valuation date and the location too remote from the subject to be of any assistance.

No 4. PN116970, Valuation Date: 30 October 2015. The Tribunal notes that this is a good quality meat plant in Athleague Co Roscommon. The Tribunal, however, finds that the location is too remote from the subject, a point accepted by Mr Donnelly.

No 5. PN1446568. This is a meat plant in Co Westmeath. No detailed information was provided other than an overall rate of €17 psm for the factory. Mr Donnelly accepted, on questioning, by the Tribunal that this is an inferior property.

No 6 PN2008270. This comparison is a meat factory in Wexford and was the subject of a Tribunal judgment and was put forward by the Respondent. Both parties accept that this is their best comparator. It is a large 19,720.36 M² meat processing plant, located about 15km from the subject. Both parties accept that the rate for the factory element of the property is €27.00 psm, while the Tribunal added a premium of €12.65 for the cold stores and listed various items such as tanks, weighbridge, boilers etc individually.

11.5 In contending for an NAV of €80,700, Mr O'Brien put forward five NAV comparisons.

N1. PN 2008270. This is a meat factory in County Wexford, which was also put forward by Mr Donnelly and is discussed at Paragraph 11.4.

N2. PN2171087. These premises, which from the photographic evidence appear modern, are similarly located on the outskirts of Enniscorthy. While the property is described as having 946.59 m² of "Factory" as well as mezzanine and show rooms it appears to the Tribunal from a closer examination of the maps that this is, in fact, a hardware store.

N3. PN 2008002. This is a modern industrial premises located on the outskirts of Enniscorthy. It is a mix of factory, warehouse, showroom, workshop and offices, coming to 2,210.29 m². It is similarly located to the the subject and somewhat smaller.

However, examination of the maps indicate that it is being used as a motor factor business.

N 4. From the photographic evidence provided these premises appear to be a low eaves height warehouse in a residential area in Enniscorthy comprising office, factory, and store. All elements are valued at €32 psm. Given its town centre/residential location this property could not be considered comparable with the subject.

N 5. This is a small abattoir, located in a rural area, near Clonroche. It comprises a cold room, office, factory and store and is described as being 520.77 m² in all. The factory element is valued at €20 psm and the cold store at €27.65. Mr O'Brien's explanation, which the Tribunal accepts, for the relatively low value attached to the factory space compared with PN 2008270 and the other meat plants put forward by Mr Donnelly was that it is a small abattoir serving local needs.

11.6. The Tribunal accepts Mr Donnelly's contention, which he based on the Tribunal judgment in VA/5/0125, Marks and Spencer, that it may look outside County Wexford for relevant comparisons. The Tribunal notes that this Judgment related to sections 30-33 of the Valuation Act 2001, which were since repealed. However, section 19(5) of the Valuation Act 2001, as amended, provides that the list shall be drawn up "...by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificate concerned".

11.7 Considering Section 19(5) in the context of the comparators provided, the Tribunal sees merit in Mr Donnelly's approach to rely on other comparable meat factories rather than standard industrial units. Bond and Brown in *Rating Valuation Principles and Practice* (4th Edition Routledge, 2018) point out that abattoirs are *sui generis* and at page 96 specifically observe:

"In Cheale Meats Limited v Ray (VO) [2012] RA 357 The Upper [Lands] Tribunal was careful to explain that an abattoir was not the same mode or category of use as a standard industrial unit and therefore could not be valued by comparison simply with industrial units...The Tribunal was careful to prefer evidence of settlements reached for other abattoirs and use them to value the subject hereditament as they were within the same mode or category."

However, the authors also state that, ultimately, some at least, of the comparators relied upon to develop a tone for meat plants will be based on industrial properties.

- 11.8 The Tribunal agrees with both parties that PN2008270 is the best comparator. Mr Donnelly contended that it is a better-quality factory than the subject but gave little specific evidence to support this contention. Based on the Tribunal judgment VA19/5/0621 it, like the subject, was built in stages. Its construction is also similar for the most part, with concrete walls and metal sheeting. However, photographic evidence from the Respondent indicates a more recent addition which is of higher quality. At 19,720.36 m² it is considerably larger than the subject. The importance of size in the valuation of meat plants was not argued by either party before the Tribunal. Mr O'Brien did suggest a quantum reduction, without being specific. However, he also expressed the view, correctly in the Tribunal's opinion, that the reason for the lower NAV, €20.00 psm, in his other abattoir comparator, N 5, was due to its small size. Thus, it appears to the Tribunal that size in the valuation of meat plants may not be as important as for industrial property generally.
- 11.9 Mr Donnelly stated that the subject was inferior to PN 2008280 but gave no specific reasons to demonstrate this assertion. He contends for a base rate of €16.20 psm to be applied to the factory element of the property. This is lower than the lowest value he put forward himself, €17 psm for PN 1445568. The Tribunal finds that this figure is too low given there are no comparators to support it.
- 11.10 On the other hand Mr O'Brien contended for a base rate of €32 psm, which he stated was a composite of factory rate and an addition for items such as tanks, boilers etc. These were not quantified in the Respondent's précis but there is photographic evidence of tanks and canopies. In the Tribunal judgement VA19/5/0361 these items were quantified separately as they also seem to have been in the comparators put forward by the Appellant. All had additional items listed and while these were not identified in the précis it is reasonable to assume that modern meat processing facilities would have tanks, boilers etc.
- 11.11 Having regard to the superior quality of part of the buildings in part of PN 2008280 on the one hand, but also the smaller size of the subject the Tribunal finds that a factory rate of €28.50 psm, €27.0 plus €1.50 for ancillary items, tanks, canopies etc is appropriate.
- 11.12 In all of the relevant comparisons of meat plants put forward by both parties, cold stores attracted a premium, ranging from €7.65 in Comparison No 5 of the Respondent to

€12.65 in Tribunal judgement VA19/5/0621. The Tribunal, therefore, cannot accept the Appellant's contention of a premium of €4.20 and €1.00 psm for cold stores and chill rooms, respectively. The respondent contends for rates of €39.85 psm for the cold room and €35.92 for the chill room. These would represent a premium of €11.53 and €7.42 respectively on the factory rate. In VA19/5/0621 the Tribunal applied a premium of €12.95 psm for the cold room. On that basis the Tribunal accepts Respondent's evidence for these items.

- 11.13 Photographic evidence presented by both parties indicates the office accommodation is of good quality by industrial office standards. In judgement VA19/5/0621 the better office space was valued at €32 psm as was the office space in the Respondent's comparisons Nos 2 and 3. For these reasons the Tribunal prefers the Respondent's figure of €32 psm for the office space.
- 11.14 The parties are in effective agreement of the rate for the lairage/open storage. The Respondent identifies this separately at a rate of €16 psm, while the Appellant includes it as part of the overall store area at a rate of €16.20 psm. The tribunal accepts the Respondents' figure as it more accurately represents the nature of the user.
- 11.15 The Respondent contends for €32 psm for stores and the Appellant €16.20. In their analyses of Tribunal judgement VA19/5/0621 both the Respondent and Appellant cite values of €20-27 psm for stores. This is not in accord with the Tribunal's published judgment. The Tribunal applied a value of €13.50 for open stores and stores at Level 1 and €12 psm for lairage in VA19/5/0621. The small premium over lairage, €1.50 psm, suggests that the open store at Level 0 and the store at Level 1 were not of high quality. There is little of assistance in the Respondent's précis to assist in determining an appropriate value for stores. NAVs range from €4 psm in N 5, to €8 psm in KRT 1 to €32 psm in N 3. There was also a small area of store, 5.59 m², in N 5 assessed at €20 psm. . In Mr Donnelly's NAV comparison 1, a meat factory stores were assessed at €5, at mezzanine level, and €15 and €20 psm at Level 0. The Tribunal finds, on the balance of probabilities, that the stores in the subject case are superior to the open stores/lairage; Mr O'Brien reduced his estimate of value from that on the List to reflect this. Therefore, the NAV of the store is assessed at €18 psm.

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 **€70,400** as calculated below.

Use	Area M²	NAV €/M²	Total NAV €
Store	382.48	€18.00	€6,884.64
Office(s)	170.85	€32.00	€5,467.20
Store	216.13	€18.00	€3,890.34
Cold Stores	110.61	€39.85	€4,407.81
Factory	548.76	€28.50	€15,639.66
Chill Rooms	864.61	€35.92	€31,056.79
Open Store/Lairage	191.4	€16.00	€3,062.4
Total			€70,408.84
		Rounded	€70,400.00