

**Appeal No: VA19/5/0504**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**ESB**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 1034935, Office(s) at St Margaret's Road (Finglas), Dublin, County Dublin

**B E F O R E**

**John Stewart - FSCSI, FRICS, MCI Arb**

**Kenneth Enright - Solicitor**

**Annamaria Gallivan - FRICS, FSCSI, MPhil SEE**

**Deputy Chairperson**

**Member**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27<sup>TH</sup> DAY OF FEBRUARY, 2023**

**1. THE APPEAL**

- 1.1 By Notice of Appeal received on the 14<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 **€563,000**.
- 1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *"The valuation of the subject property is excessive and does not accord with Section 19 (5) of the Valuation Act, 2001 ... It does not achieve correctness of value, more particularly, as the classification of a second generation office is incorrect, the description is more in line with Industrial (Office) or Training Centre as previously detailed to the Valuation Office, through the Representations stage and therefore the valuation should be reduced to reflect a reasonable Net Annual Value in accordance with Section 48 of the Act as per my valuation set out herein. ...I do not believe that equity and uniformity of value have been achieved between comparable properties as...the subject property has unique considerations which differentiate it from similarly categorised properties in the List."*
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €439,000.

## **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 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €753,000.
- 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 €563,000.
- 2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €563,000.
- 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 remotely on the 3<sup>rd</sup> day of October 2022. At the hearing, the Appellant was represented by Mr Paul Mooney MSCSI MRICS (Hons) Dip Rating of Avison Young, and the Respondent was represented by Mr Terry Devlin of the Valuation Office.

## **4. FACTS**

- 4.1 In this case the facts are included in Findings and Conclusions.

## **5. PRELIMINARY ISSUE**

- 5.1 The Tribunal, sitting on Monday 3 October 2022, noted that the Respondent’s precis of evidence had not been delivered to the Registrar until the afternoon of Friday 30 September 2022 in accordance with the Rules of the Tribunal.. Mr Devlin acknowledged that his precis was delivered outside the time allowed for by the Rules of the Tribunal and apologised to the Tribunal. He said that access to the Property had been delayed at an earlier stage but that “a glitch” in a new system in the Valuation Office had resulted in the delay.
- 5.2 Mr Mooney, for his part, confirmed that he had not received the Respondent’s precis from the Tribunal until late on the said Friday afternoon. He said that he was going to object to the submission of the precis but stated, at the same time, it might be helpful for the Tribunal to have sight of it.
- 5.3 The Chairman said the Tribunal would consider the question of the admissibility of the Respondent’s precis but would hear, in the meantime, on a strictly provisional basis, the evidence of both parties. The Chairman made it clear to the parties that in accordance with the rules in the event the Tribunal decided that the Respondent’s precis was inadmissible it would disregard the Respondent’s precis of evidence and take account only of the Appellant’s evidence. The Tribunal was satisfied that Mr Devlin understood and acknowledged this position. He stated that it was the first time in twenty years that he had been late with a precis, and confirmed that he would accept whatever decision the Tribunal reached on the matter.
- 5.4 The Tribunal has considered this preliminary issue. The Rules of the Tribunal on this point are clear. Rule 34 (c) provides that “(ii)he respondent’s précis of evidence shall be filed

within 15 working days of the date of receipt of the appellant's statements of evidence from the Registrar." The Appellant's precis was filed on 7 July 2022 and forwarded to the Respondent on that date. The Respondent, as Mr Devlin acknowledged at the hearing, did not file its precis of evidence until 30 September 2022, outside the allowed time. It was open to the Respondent to apply to the Tribunal for an extension of time under Rule 34 (d) and (e) setting out the reasons for the delay but the Respondent did not make any such application.

5.5 The purpose of the Rules and the time-limits for the submission of precis are to facilitate the work of the Tribunal and to allow adequate time for the parties to make their respective cases and to respond to points raised by the other side, as well as to allow sufficient time for the Tribunal to carefully consider the issues in dispute. In circumstances where the Appellant received the Respondent's precis on the afternoon of the working day immediately preceding the hearing, the Tribunal finds that it would be prejudicial to the Appellant to admit the Respondent's precis of evidence.

5.6 Thus, for the reasons aforesaid, the Tribunal finds that the Respondent's precis of evidence is inadmissible, and, in its consideration of the appeal, the Tribunal has had no regard whatever to the Respondent's precis or the evidence of Mr Devlin. Accordingly, this judgement takes account only of the evidence of Mr Mooney as presented directly by him and under cross-examination by Mr Devlin.

## **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 In accordance with the Rules of the Tribunal, Mr Mooney had submitted his precis of evidence. He took the oath and adopted his precis as his evidence-in-chief.

7.2 Mr Mooney stated that the subject property was located on St. Margaret's Road Finglas Co. Dublin approximately 4 km northwest of Dublin city centre. He noted that the surrounding area comprised a mix of industrial, retail, domestic and recreational uses. He stated that the

subject property was immediately adjacent to Jamestown Business Park and other occupiers in the Estate included CHEP Ireland, An Post DSU, Allegro and RSA. He also stated that Century Business Park was located just north of the subject property. He provided a Google map which identified the location of the subject property and an aerial photograph which identified Jamestown and Century Business Parks.

7.3 Mr Mooney described the subject property as comprising a 2-storey office block with stores attached to the rear constructed in 1997 and it also comprised equipment sheds, an oil store and an extensive yard for vehicles, storage of cables and associated equipment for maintaining the electricity grid. He stated the building was an ESB depot essentially a base from which staff assembled and equipped themselves with vehicles and necessary tools for their work as ‘network technicians’ He added that ESB had informed him that this is the largest depot in Dublin and formerly a large amount of training had been provided in the offices and yard. He added that most of the training now is conducted in Portlaoise, and this facility was described as an industrial, warehouse/training centre.

7.4 Mr Mooney stated that the office Block 1 appeared to be of good construction with concrete floors at ground and first floor level, concrete block walls and a steel frame supported ceiling. He noted that the building was covered in an insulated aluminium cladding on the external walls and roof and the office had double glazed PVC windows and several roof lights which provided a good level of light. He stated that the warehouse Block 2, which is connected to the offices, is of standard industrial construction and comprises double skin aluminium cladding and an eaves height of 6 metres. He stated it is used for parts and machinery and include a small mezzanine. He stated that the property also comprises a single storey store Block 3 used for the storage of tools and equipment. He stated that this building is long and narrow and of concrete block construction covered with aluminium cladding similar to the warehouse. The eaves height is 3 metres, and the roof is of flat construction. Additional properties include a small portacabin Block 4 constructed in 2003 and Block 5 relates to a small fuel store for flammable liquids which is of basic construction. The property also comprises a large yard used as a car park and a storage facility for large cable drums and line equipment. The yard is finished with asphalt and is mainly used for the storage of heavy goods vehicles.

7.5 Mr Mooney provided a schedule of the floor areas which were agreed between the parties after the hearing and are as follows:

<b>Block</b>	<b>Level</b>	<b>Description</b>	<b>Area/ M<sub>2</sub></b>
1	0	office	1,670.64
1	1	office	1,504.97
2	0	warehouse	550.00
2	Mezz.	Warehouse mezzanine	69.82
3	0	portacabin	64.70
4	0	stores	288.00
5	0	Fuel store	56.40
		yard	7,162.00

7.6 Mr Mooney confirmed that the property was freehold and that the zoning objective type was referred to as ‘General Employment’ and the zoning objective description was stated to ‘provide opportunities for general enterprise and employment.’ He referred to three planning applications the first, F94A/0266 - erect office and warehouse development; the

second, F99A/0616 - external works and the third, F04A/ 1184 - installation of single storey portacabin.

7.7 The Appellant presented four NAV comparisons, all of which were within 4 km of the subject which he relied upon in arriving at his estimate off NAV. He provided photographs of these properties.

Comparison 1 (318497) comprises a two-storey office block in Ballycoolin Business Park which is approximately 4 km from the subject property and 1.5 km from the M50. It includes offices on the ground floor and first floors totalling 12,611.96M<sub>2</sub>. Mr Mooney noted that the property was categorised as Office (Business Park) and did not contain any industrial uses. He stated that the property had benefited from recent renovations in 2013 and 2015 and that the passing rent was €1.21 million per annum based on a 7-year lease from December 2015 (source: Irish Times). He stated that the location was similar to the subject property and the office block was almost 3 times larger than the area of the subject property and the overall NAV could be devalued to €67.63/M<sub>2</sub>, and he argued that allowing for a quantum reduction for the larger area this could not support the Respondent's NAV of €140.00/M<sub>2</sub> on the subject offices.

Comparison 2 (2171107) is also located in Ballycoolin Business Park and was constructed c. 2001. Mr Mooney stated that the planning describes the construction as a light industrial facility with two storey offices and laboratories. It includes offices on the ground floor and first floors totalling 668.28M<sub>2</sub>, a ground floor warehouse of 1,099.08M<sub>2</sub> and mezzanine stores of 358.40M<sub>2</sub>. He noted the offices are less than a quarter of the area of the subject property's' offices and are valued at €60.00/M<sub>2</sub> and that the NAV valuation included a warehouse which is also devalued at €60.00/M<sub>2</sub>, and a small store valued at €12.00M<sub>2</sub>, and an overall devaluation would provide a rate of €51.89/M<sub>2</sub>. He noted that the subject property store/warehouse is on the list at €70.00/M<sub>2</sub>.

Comparison 3 (318498) is also located in Ballycoolin Business Park and described as similarly circumstanced (office block in an industrial setting) approx. 4 km from the subject property. Mr Mooney refers to this property as an Office in the 1999 and 2004 planning applications which included retaining and refurbishing existing office accommodation. It includes offices on the ground floor and first floors totalling 7,526.82M<sub>2</sub>, ground floor and first floor portacabins of 2,305.20M<sub>2</sub>, stores of 129.36M<sub>2</sub> and a steel container of 237.60M<sub>2</sub>. He noted that the office space is twice the area of the subject property office but was valued at €72.00/M<sub>2</sub>. The portacabins were valued at €28.80/ M<sub>2</sub> and a steel container was valued at €14.40/M<sub>2</sub> with a rate of €60.00/M<sub>2</sub> or €81.00/M<sub>2</sub> if the large value attaching to the portacabins was discounted. He argued that this was a substantial office block located in an industrial location.

Comparison 4 (2179119) comprises a purpose-built premises for Dublin Bus constructed in 2004. It is located 2.5 km from the subject, in a non-industrial setting. Mr Mooney described the property as comprising a modern 3 storey office block to the front which was similar to the subject property. It also comprised a large rear workshop and a substantial yard for the storage of buses. The floor areas are offices on three floors totalling 2,396.99/ M<sub>2</sub>, ground floor warehouse of 5,790.06/ M<sub>2</sub>, stores of 646.86/ M<sub>2</sub> and 335.36/ M<sub>2</sub> a pump house of 73.06/ M<sub>2</sub> and a yard at 7,428.00/ M<sub>2</sub>. He noted that the offices area is two thirds the area of the subject and devalues at €80.00/M<sub>2</sub> or €91.00M<sub>2</sub> if the large yard was disregarded. Mr Mooney has described this as his best comparison.

7.8 The Appellant described the subject property as an industrial building with ancillary offices in an industrial setting, and he claimed that the Valuation Office had recognised this to be

the case in all of the NAV comparisons presented by the Appellant. He further said that the property had been previously described as office /industrial by the Valuation Office.

7.9 During cross examination, Mr Mooney agreed that the subject property had approximately 76% offices, but he argued that it was not a standard property, and that the valuation was clouded by the present 2<sup>nd</sup> generation office categorisation. He noted that at representation stage the categorisation of 3<sup>rd</sup> generation office to 2<sup>nd</sup> generation office had resulted in a change to the office values from €200.00/M<sub>2</sub> to a rate of €140.00/M<sub>2</sub>. He agreed that the premises had been developed as a training centre, but this use had now ceased, and it no longer was fitted for this use.

7.10 Mr Devlin put it to Mr Mooney that his first comparison previously comprised an industrial building. Mr Mooney replied that he was not aware of its history but noted that it now comprised two office floors and had been valued as such.

7.11 Mr Devlin referred to the second comparison and put it to Mr Mooney that the proportions between offices and industrial accommodation in this case was more standard. In his response Mr Mooney referred to the photograph in his precis and noted that it looked more like an office than an industrial building.

7.12 Mr Devlin referred to the third comparison and put it to Mr Mooney that this building had been converted from a warehouse to a call centre. In response Mr Mooney referred to the large area of offices included in the Valuation Report and said that the building had been valued by the Commissioner as offices with a large portacabin complement and a small store and steel container.

7.13 Referring to Comparison 4, Mr Mooney agreed that the split between office and industrial was approximately 75%/25% - the opposite of the subject property - but noted the workshop had an 11 metre eaves and that no distinction had been made between the values attributable to the office and the industrial elements where all the building elements had been valued at €80.00/M<sub>2</sub> with €88.00/ at €80.00/M<sub>2</sub> for the industrial section and the yard at €8.00/M<sub>2</sub>. He referred to this approach as a 'red flag' and argued that the subject property was not a purpose-built 2<sup>nd</sup> or 3<sup>rd</sup> generation office but was constructed as part of a 1997 training centre and substantial parts were utilised for staff changing facilities.

7.14 Mr Devlin referred to the previous revaluation of the subject property wherein it had been valued at €150.00/M<sub>2</sub> for the offices and €100/M<sub>2</sub> for the industrial element. Mr Mooney claimed that these rates were based on 2005 values and were not relevant. This concluded the cross examination.

7.15 Mr Mooney summarised his approach and claimed that the subject included an office in an industrial setting in line with his comparisons. He argued that the change in categorisation from 3<sup>rd</sup> generation to 2<sup>nd</sup> generation had clearly shown that values were determined by their description, and he stated that the subject property was an office in an industrial setting and should be valued accordingly on an overall rate in line with his comparisons.

7.16 In his concluding remarks, Mr Devlin stated that the subject property was an office with ancillary stores, and he disagreed that a change of description would always lead to a change in value. He sought confirmation of the valuation at €563,000.

7.17 Following a question to Mr Devlin from the Tribunal Mr Devlin agreed that this was an unusual property. He did not accept that the issue was one of classification, but the issue was one of valuation and like should be valued with like. He agreed that car parking associated with 2<sup>nd</sup> generation offices would usually be valued/rentalised however this was not the case in the subject property though he noted that car parking was provided to the front of the offices.

7.18 The Tribunal requested the parties to provide an agreed floor area and the agreed areas are included in 8.5 above.

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

8.1 The Tribunal has found that the Respondents precis was not presented in accordance with Tribunal Regulations, and it has been disregarded.

## **9. SUBMISSIONS**

9.1 No legal submissions were made.

## **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 Fingal County Council.

10.2 The Tribunal finds that the property comprises a large office/ industrial complex on an extensive site and is located on St. Margaret's Rd Finglas Co. Dublin. The property was constructed circa 1997 and comprises a 2-storey office block with warehouse accommodation to the rear as well as equipment sheds an oil store and an extensive yard for the storage of vehicles and cables. The office building has concrete floors, concrete block walls and a steel framed roof and is finished with an insulated aluminium cladding to the external walls and roof. It has double glazed PVC windows and includes roof lights. The warehouse is linked to the rear of the office building and is of standard industrial construction with double skin aluminium cladding and an eaves height of approximately 6 metres. The area includes a small mezzanine store. The other accommodation comprises a long narrow storage building with an eave's height of approximately 3 metres which is of block and aluminium construction, and it also comprises two portacabins and a small flammable liquids store. The property also includes a substantial yard which provides car parking and storage accommodation for large cable drums and assorted equipment. The yard is finished with asphalt and much of the yard is used for the storage of heavy goods vehicles.

10.3 The agreed floor areas are as follows.

<b>Block</b>	<b>Level</b>	<b>Description</b>	<b>Area/ M<sub>2</sub></b>
1	0	office	1,670.64
1	1	office	1,504.97
2	0	warehouse	550.00

2	Mezz.	Warehouse mezzanine	69.82
3	0	portacabin	64.70
4	0	stores	288.00
5	0	Fuel store	56.40
		yard	7,162.00

10.4 The Tribunal finds that property number 318497 referred to as Comparison 1 was of assistance and it does not accept that the previous use for industrial purposes undermines its credibility. It comprised a substantial area approximately 12,612M<sub>2</sub> and was valued as offices at €66.00/M<sub>2</sub>. The Tribunal was informed that it had been extensively refurbished in 2013 and 2015 and had a passing rent of €1.21m from December 2015 and this evidence was not disputed.

10.5 The Tribunal finds that the second comparison was of limited use due to its smaller floor area and a lack of a large site/yard.

10.6 The Tribunal noted that Comparison 3 property number 318498 comprises a substantial office extending to 7,526.80/M<sub>2</sub> and that the offices and stores were valued at the same rate of €72.00/M<sub>2</sub> with a lower rate of €28.80/M<sub>2</sub> for the substantial portacabins and a lower rate of €14.40/M<sub>2</sub> for the steel container. The Appellants stated that planning applications between 1999 and 2004 refer to the subject property as offices and that the applications included retaining and refurbishing existing office accommodation. This evidence was not disputed by the Respondents though they had argued that the property previously comprised warehouse accommodation.

10.7 Comparison 4 (property number 2179119) comprises purpose-built accommodation constructed in 2004. This property is similar to the subject property in that it comprises an office block to the front with a warehouse or workshop to the rear, along with a yard of similar size to that of the subject, used for similar purposes. The Tribunal notes that while the warehouse area at this property is – at 5,790 m<sup>2</sup> – much larger than its adjacent ancillary office space (resulting in a roughly opposite ratio of office to warehouse space to that of the subject property) this comparison property is, nevertheless – in terms of its location, use, the disposition of its buildings and the size of its yard, its external appearance is similarly-circumstanced to that of the subject property. Notwithstanding this similarity, the main areas of this property have been valued at €80.00/M<sub>2</sub> for the office, pump house, store with €88.00/ M<sub>2</sub> for the warehouse compared to €140/m<sup>2</sup> for the subject.

10.8 The Tribunal notes that unlike most second-generation offices the car parking spaces included with the subject property had not been rentalised. This approach is usually associated with offices in an industrial location in line with the four comparisons provided by the Appellants.

10.9 The Tribunal find that on the basis of the evidence provided to it that the subject property must be regarded as offices/industrial. The property is located on a large industrial site containing stores, equipment sheds, an extensive yard. It retains its original character as a “depot” type premises with office space. In the light of this, the office section must be regarded as ancillary and subsidiary to the industrial function. The offices should not therefore be treated separately and regarded as 2<sup>nd</sup> generation offices. The overall site must be considered as a unit in the context of its location and having regard to comparable properties. As previously mentioned, the Tribunal is of the view that the most suitable



comparison is the Appellant's Comparison 4 and the Tribunal finds that the levying of an overall valuation rate for the main building elements, as the Commissioner has done in the context of Comparison 4, to be the most equitable approach to this particular property. The Tribunal has discounted the mezzanine value by 75% and the portacabin by 40% and adopted the accepted ratio of 10% for the yard area.

10.10 The Tribunal finds that the valuation should be determined at €386,350.00.

Block	Level	Description	Area/ M <sub>2</sub>	€/M <sub>2</sub>	NAV €
1	0	office	1,670.64	€80.00	€133,651.20
1	1	office	1,504.97	€80.00	€120,397.60
2	0	warehouse	550.00	€80.00	€44,000.00
2	Mezz.	Warehouse	69.82	€20.00	€1,396.40
3	0	portacabin	64.70	€32.00	€2,070.40
4	0	stores	288.00	€80.00	€23,040.00
5	0	Fuel store	56.40	€80.00	€4,512.00
		yard	7,162.00	€8.00	€57,296.00
					€386,363.60
					Say €386,350

#### **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 €386,350.00.

#### **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.