

Appeal No: VA19/5/0431 & VA19/5/0440

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Robert Sheahan Manufacturing Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No's 5005503 & 1338606, INDUSTRIAL USES at 3T/B Gortlandroe, Nenagh,
County Tipperary.

B E F O R E

Donal Madigan - MRICS, MSCSI

Caroline Murphy - BL

Annamaria Gallivan- FRICS, FSCSI, MPhil SEE

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF DECEMBER 2022**

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th 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 Properties was fixed in the sum of **€31,900 (PN 5005503)** and **€ 25,300 (PN 1338606)**.

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 inequitable. The property's value as set by the commissioner is not in line with its actual rental value. The subject property is currently vacant and to let and cannot currently achieve a rent of €12000"*

1.3 The amount the Appellant considered ought to have been determined as being the valuation of the properties was revised upwards from **€ 12,760 (PN 5005503)** and **€ 12,160 (PN 1338606)** as stated in the Notice of Appeal to **€ 15,200 (PN 5005503)** AND **€19,100 (PN1338606)** at the hearing.

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 each Property was sent to the Appellant indicating valuations of € 31,900 (PN 5005503) and € 25,300 (PN 1338606).

2.2 Being dissatisfied with the valuations proposed, representations were made to the valuation manager in relation to the valuations. Following consideration of those representations, the Valuation Manager did not consider it appropriate to change those valuations.

2.3 Final Valuation Certificates issued on the 10th day of September, 2019 stating valuations of €31,900 (PN 5005503) and € 25,300 (PN 1338606).

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 4th day of May, 2022. At the hearing the Appellant was represented by Mr. Eamonn S. Halpin B.Sc (Surveying) M.R.I.C.S. M.S.C.S.I. and the Respondent was represented by Mr. Neil Corkery of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

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

4.1 The properties comprise of two conjoined units which are located at Gortlandroe, Nenagh, County Tipperary, an industrial location which formerly accommodated the Procter & Gamble (Coty) factory, being c. 2km North West of the centre of Nenagh;

4.2 The building in PN 5005503 is the original, built in 1976, with a portion added later and this has an eaves height of 4.8 metres and comprises 1,276.70m² whilst the building in PN 1338606 was built some time later and this has an eaves height of 6.0 metres and comprises 1,013.90m²;

4.3 The second building, PN 1338606, has a yard attached of 1,965.00m² which had not been previously valued.

4.4 The buildings are typically built industrial units for their age;

4.5 Both units are leased to one occupier on a short term basis currently.

5. ISSUES

There are four main issues arising in these appeals as follows:

- (i) PN 5005503-issue of quantum of the valuation.
- (ii) PN 1338606-issue of quantum of the valuation.
- (iii) whether the yard should be included in that valuation of PN 1338606.
- (iv) the consequent value of the yard if such be included.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references in this Determination to the Valuation Act 2001 are to that Act as amended.

6.2 In Revaluation type appeals, as in these appeals, sec. 37 provides that the Tribunal must reach a determination having regard to the provisions of sec. 19 (5) of the Valuation Act, 2001, that shall achieve both (insofar as is reasonably practicable)—

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list, and so that (as regards the matters referred to in paragraph (b)) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.

6.3 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.”

6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT'S CASE

7.1 Mr Halpin, for the Appellant, having adopted his precis as his evidence in chief, described the location of the properties at Gortlandroe, Nenagh, County Tipperary, as an industrial location, circa 2 km from the centre of Nenagh. The location is on a small industrial estate which was initially developed by Shannon Development/IDA.

7.2 Mr Halpin described the properties as first generation industrial buildings, originally constructed in 1976, it was his understanding that a portion was added in 1991. The properties are of concrete portal frame with metal deck roofs with 6m and 4.8m eaves, being simple industrial buildings with no insulation. He mentioned that it was significant that there is no office content in the buildings, which he believed sets them apart from the other comparisons.

7.3 He explained, that, at the effective date, it was understood that the properties were held freehold. Part of the property had been vacant since 2015, whilst the remainder became vacant in 2017. Since then, it was his understanding that the properties had been to let through Sherry Fitzgerald (Talbot) and had not achieved a letting until 2020, when the entire was let for €22,000 (being both PN 5005503 & 1338606).

7.4 Mr Halpin corrected his use of the Property Numbers in his Precis and confirmed the agreed areas as follows:

PN 5005503: Building Floor Area: 1,276.70 square metres

PN 1338606: Building Floor Area: 1,013.90 square metres

7.5 It was Mr Halpin's evidence that, fundamentally, the Appeal concerns the age, type and desirability of the properties, relative to other industrial property in the town. This, he believes is primarily evidenced by the fact that one of the subject properties has been vacant since 2015 whilst the other property has been vacant since 2017. They have both been offered to the open market by Sherry Fitzgerald (Talbot) and neither had achieved a letting prior to the effective date. As far as he was aware, the best offer received was €10,000 for a total of 690 square metres. – a rent of €14.50 per square metre and it was his evidence that the offer was withdrawn due to complications over the rates liability. Mr Halpin confirmed that, subsequent to the effective date (2020), the buildings were let at a total of €22,000 for the entire (being both PN 5005503 & 1338606), which he devalues at €9.60 per square metre. He confirmed that, although this was not known at the time of the revaluation, it is important to highlight because the valuation is more than double the actual letting value.

7.6 Mr Halpin said that the Commissioner had assessed industrial buildings in Nenagh in the range of €15-€40 per square metre. For the Appellants, Mr Halpin introduced comparisons at levels of €15, €17, €18, €20 and €22 per square metre in support of the properties' age and specification, which placed them at the bottom end of this range. He could not understand what the driving force behind the assessment of values was, as he evidenced that the Commissioner had assessed one of the best and newest industrial buildings in the town at €18 per square metre but assessed other properties, which are so poor as to be structurally compromised, as high as €32 per square metre.

7.7 Mr Halpin put forward seven tone of the list (NAV) comparisons as follows:

1. Advanced Environmental Solutions Ireland Ltd., Stereame, Nenagh, Co. Tipperary
 PN 1997184 €20,600 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	OFFICE(S)	55.50	17.00	943.50
0	WAREHOUSE	570.00	17.00	9,690.00
0	WORKSHOP	372.64	17.00	6,334.88
0	YARD (Concrete/Tarmac)	375.00	1.70	637.50
			Additional Items (€)	3,020.00

Mr Halpin described the property as located 2km from Nenagh on the Limerick Road, the same distance from the centre of Nenagh as the subject properties. The properties on this site are believed to have been constructed in the 1970s and 1980s and were converted to waste processing in 1991. He described the buildings as similar to the properties under appeal.

2. Donie Comerford & O'Brien's Garage, Limerick Road, Nenagh, Co. Tipperary

(A) PN 1773335 €4,380 NAV

Level	Use	Area (m2)	NAV (€ per SQM)	NAV (€)
0	WORKSHOP	169.28	20.00	3,385.60
0	YARD (Hardcore)	500.00	2.00	1,000.00
			Additional Items	(€) None

(B) PN 1773336 €4,490 NAV

Level	Use	Area (m2)	NAV (€ per SQM)	NAV (€)
0	STORE	5.25	20.00	105.00
0	WORKSHOP	169.28	20.00	3,385.60
0	YARD (Hardcore)	500.00	2.00	1,000.00
			Additional Items	(€) None

Mr Halpin described the location of this property as on an adjoining site to AES with extensive profile to the Limerick Road. A modern property (c.1992), with a better profile although smaller in area, than the subject properties, he believes this property to be more valuable. He evidenced that despite being the same distance from the centre of Nenagh as the subject, it is currently valued at 25% less.

3.Transport for Ireland Motorway Maintenance Depot, Tullahedy, Nenagh, Co. Tipperary

PN 5005904 €30,000 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	OFFICE(S)	233.84	18.00	4,209.12
0	STORE	65.88	9.00	592.92
0	WAREHOUSE	566.61	18.00	10,198.98
0	WORKSHOP	174.64	18.00	3,143.52
0	YARD (Con/Tarmac)	3,045.00	1.80	5,481.00
1	OFFICE(S)	233.84	18.00	4,209.12
	MEZZ STORE	44.40	3.60	159.84
	Additional Items			(€)2,026.00

Mr Halpin described the location of the property as being at Junction 26 off the M7 at Nenagh South. He further described the property as a modern transport workshop and two-storey industrial offices constructed in c.2015. He said that this is one of the newest industrial buildings in Nenagh, built to a very high specification with almost 40% of quality office content for the motorway network, which he believed was significant. He said it was difficult to understand how the subject properties could be more valuable than this property, in any respect.

4. Gortlandroe, Nenagh, Co. Tipperary

PN 1338603 €3,110 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	STORE	207.58	15.00	3,113.70
	Additional Items			(€) None

Mr Halpin described the property as located in close proximity to the subject but with access via the Dromineer Road, at the rear of a domestic premises. Mr Halpin has assumed that this property is circa 1960s and represents the lowest level assessed in the town. He evidenced that the appellants have accepted this property as being poorer than the subject properties, in many respects, however, he believes as the subject properties are substantially larger, then that would require a quantum discount below €15 per square metre.

5. Celtic Mobile Sandblasting, Gortlandroe, Nenagh, Co. Tipperary

PN 1338585 €1,570 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	STORE	104.96	15.00	1,574.40
	Additional Items			None

Mr Halpin described the property as being in close proximity to the subjects but with a lower eaves height and located to the rear of a residential property. The subject properties in his opinion are 11-12 times larger and believed a quantum discount would apply

6. Gortlandroe, Nenagh, County Tipperary

PN 1338604

€30,300 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	WAREHOUSE	1,379.70	22.00	30,353.40
			Additional Items	(€) None

Mr Halpin described the property as located in the same park as the subject properties and being the only other building outside of the former Proctor and Gamble (Coty) factory. He described the property as originally constructed as a factory in 1975. He further evidenced that in 2018, the property was granted planning for demolition and construction of a new warehouse on the site. He believes that that indicates the life span of similar structures, as the occupiers found it more cost efficient to demolish the property rather than modernise. He considered that the properties under appeal, appear to fit the same pattern, as they had been vacant for a number of years.

7. Former Proctor & Gamble (Coty) Factory, Gortlandroe, Nenagh, County Tipperary

(A) Unit 1: PN 1338607

€300,000 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	DOCK LEVELLER	3.00	1,100.00	3,300.00
0	FACTORY	8,719.00	27.00	235,413.00
1	FACTORY	1,434.00	27.00	38,718.00
2	FACTORY	114.00	27.00	3,078.00
			Additional Items	(€) 20,051.05

(B) Unit 2: PN 5018943

€318,000 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	DOCK LEVELLER	2.00	1,300.00	2,600.00
0	WAREHOUSE	9,958.60	27.00	268,882.20
1	WAREHOUSE	811.40	27.00	21,907.80
2	WAREHOUSE	384.00	27.00	10,368.00
			Additional Items	(€) 15,200.00

(C) Unit 3: PN 5018944

€82,000 NAV

Level	Use	Area (SQM)	NAV (€ per SQM)	NAV (€)
0	WORKSHOP	1,797.00	30.00	53,910.00
1	OFFICE(S)	160.00	30.00	4,800.00
			Additional Items	(€) 23,322.00

Mr Halpin explained that in his opinion this property was not comparable to the properties under appeal, although being in the same location as them, the specification was higher as borne out by the rent and purchase price. He evidenced that this property was bought for a total of €3.05 million in April 2019. Unit 2 (the high bay section, 15m eaves) was subsequently let on terms which are redacted to preserve confidentiality. He understood these transactions transpired although the property was constructed in the 1980s, because it was constructed to international factory specifications.

7.8 In summing up his evidence, Mr Halpin stated that the warehouses were constructed c. 1976, are conjoined and located in an industrial location, 2 km to the centre of Nenagh. He reiterated that there are no comparisons to justify a level of value of more than €15 per square metre, based on the specifications and age of the buildings, being old and having relatively low eaves. The properties had been on the market to let with a reputable agent for a considerable period with the best offer being €14.50 per square metre on a small section. It is his opinion that, categorically, the hypothetical tenant would have very limited interest in the properties. He stated that the key rental transactions relied upon by the Respondent were a different class of property to the subject properties and therefore not comparable to them.

7.9 Mr Halpin stated that he was not clear on what the primary motivator of value was in Nenagh, in relation to the Commissioner's tone of the list comparisons. For the appellants he introduced a range of comparisons principally concentrated in the range between €15-20 per square metre. Properties that are valued at €17-20 per square metre in the valuation list are, in his opinion, superior to the properties under appeal. Accordingly, this, he believed, leads the appellants back to the level which he has adopted of €15 per square metre.

7.10 On behalf of the Appellant he stated his valuations on the subject properties, as being the fairest reflection of the market evidence, to inform the hypothetical tenant's bid per Section 48 of the Valuation Act 2001, as follows:

NAV as at 15th September 2017:

PN 5005503: Warehouse 1,013.90m² @ €15/m² = €15,208

Say €15,200

PN 1338606: Warehouse 1,276.70m² @ €15/m² = €19,150

Say €19,100

7.11 Mr Halpin stated that, in relation to the yard, submissions were made before its inclusion, based on what had actually been appealed (the two units). It was his contention that the yard was not subject to revaluation in this appeal and therefore the Appellant would be prejudiced because they had not been able to make representations, which would be, in his opinion, denial of fair procedures. Mr Halpin furnished recent decisions of the Valuation Tribunal that he considers strengthens his argument that the Commissioner could not introduce additional property if it had not been part of the valuation stage. When asked by the Chair to clarify, he stated that he was not putting forward alternative valuations on the yard, because he did not have the opportunity to value the yard and it was not appealed and so he was of the belief that it was not before the Valuation Tribunal.

7.12 Under cross examination by Mr Corkery, for the Respondent, Mr Halpin was asked to admit that as part of his comparisons 2, 3 and 4 that there were a number of yards valued and in or around Nenagh. Mr Halpin replied that he had no problem with that, however, he considered that yards had to be significant in terms of the size of the building to be included as part of the revaluation. Mr Corkery pointed to a satellite view in his own précis, which showed that the previous occupier made use of the yard, however, Mr Halpin thought, photos in his own précis (taken on a different date) show very little use being made of the yard and once again reiterated that the yard was not part of the revaluation.

7.13 Mr Corkery confirmed with Mr Halpin that the properties are by name and in nature an industrial estate. Mr Corkery asked Mr Halpin if a fair categorisation of the properties would be 'industrial estate old' which he agreed. Mr Corkery pointed to a comparable that they both made use of - comparison no. 6 at €22 per square metre and confirmed with Mr Halpin that it was similar to the properties under appeal. Mr Corkery pointed out that comparison no. 6 has an asbestos roof, whereas Mr Halpin confirmed the subject property had a metal clad roof. In relation to comparison no 7, Mr Corkery asked if he agreed that it was larger than the appealed properties and Mr Halpin agreed that it was.

7.14 Under cross examination Mr Halpin clarified that the yard was not included in the appeal because it was not on the Valuation List, and that, in his opinion, in order to add the yard the Commissioner of Valuation would have had to undertake a revision thereby allowing the Appellant to make representations against its inclusion.

8. RESPONDENT'S CASE

8.1 Mr. Corkery, for the Respondent, having adopted his precis as his evidence in chief, described the location and description of the buildings in similar terms to Mr. Halpin and confirmed the agreed floor areas. He confirmed that the yard was an addition after the original valuation certificate was issued and as other yards were included on the Valuation List this addition was made to correct an error on that list. He said that a unit value rate of € 25.00 per square metre had been applied to value these two properties based on an analysis of available market information and after relevant adjustments having being made, where required.

8.2 Mr. Corkery relied on three Key Rental Transactions **KRTs** (full details are set out in the Appendix to this decision – n/a to public) and on six further Net Annual Value (NAV) comparables. Brief redacted details of the KRTs are set out hereunder and following those, the NAV comparables:

KRT 1

Cashel, Co. Tipperary.

Warehouse unit of 184.22 m² let on a one year lease from December, 2017 at the rent of € 9,180 p.a. reflecting an net equivalent rent of € 49.83 per square metre. This is assessed at the NAV of € 4,600 which devalues to a unit value rate of € 25.00 per square metre.

KRT 2

Clonmel, Co. Tipperary

Warehouse and office unit of 277.34m² let on a five year lease from May, 2017 at the rent of € 10,731 reflecting a net equivalent rent of € 38.29 per square metre. This is assessed at the NAV of € 11,090 which devalues to a unit value rate of € 40.00 per square metre.

KRT 3

Clonmel, Co, Tipperary.

Ground and first floor unit of 1,100.20m² let on a 21 year lease from May, 2016 at the rent of € 50,000 p.a., reflecting a net equivalent rent of € 45.45 per square metre. This is assessed at the NAV of € 38,500 which devalues to a unit value rate of € 35.00 per square metre.

Mr. Corkery confirmed that no representations or appeals had been made in respect of KRTs 1 & 2 above but that KRT No. 3 was subject to an appeal to the Tribunal.

NAV Comparison 1

Property Number	5018944
Occupier	VACANT
Address	UNIT 3 GORTLANDOE IND EST, NENAGH, CO. TIPPERARY
Total Floor Area	1957 M2
NAV	€ 82,000

Comparative Analysis of NAV

Level	Description	Size	NAV /SQM
0	PLANT / OTHER - TANKS	2	€ 11661
1	OFFICE(S)	160	€ 30
0	WORKSHOP	1797	€ 30
	Total	1957	€ 82000

Mr Corkery commented that the NAV comparison 1, is located in the same Industrial Estate as the appealed properties and a similar size but being more modern it was valued at higher level of €30/SQM.

NAV Comparison: 2

Occupier	TUBEX LTD
Address	5AA LISBUNNY, NENAGH, CO. TIPPERARY.
Total Floor Area	2200.98 M2
NAV	€ 75600

Comparative Analysis of NAV

Level	Description	Size	NAV/SQM
	FACTORY	1982.28	€ 30
	OFFICE(S)	105.12	€ 30
0	PLANT / OTHER - TANKS	1233.18	€ 1
1	OFFICE(S)	105.12	€ 30
0	PLANT / OTHER - BOILERS	8017	€ 1
0	FACTORY	8.46	€ 15
0	PLANT / OTHER - MOTIVE POWER	149	€ 3.04
	Total	2200.98	€ 75600

11.

Mr Corkery commented that the unit was let close to the valuation date, located close to subject and similar size but was more modern and valued at higher level of €30/SQM.

NAV Comparison: 3

Property Number	2186632
Occupier	MACKEY PLANT CONSTRUCTION LTD
Address	1DB SPRINGFORT STREAME, NENAGH, CO. TIPPERARY,,
Total Floor Area	1446 M2
NAV	€ 48700

Comparative Analysis of NAV

Level	Description	Size	NAV/SQM
	OFFICE(S)	96	€ 30
0			
1	OFFICE(S)	96	€ 30
0			
0	YARD (Concrete/Tarmac)	1800	€ 3
	WAREHOUSE	1254	€ 30
	Total	1446	€ 48700

Mr Corkery stated that the unit was located close to subject and a similar size but was valued at higher level of €30/SQM, with the yard valued at 10% of the industrial, €3.00/SQM.

NAV Comparison: 4

Property Number	1338144
Occupier	WILLIAM MCLOUGHLIN LTD.
Address	48B THOMAS MACDONAGH STREET, NENAGH, CO. TIPPERARY,
Total Floor Area	260.3 M2
NAV	€ 10970

Comparative Analysis of NAV

Level	Description	Size	NAV/SQM
0	YARD (Hardcore)	1460	€ 2.70
0	WAREHOUSE	260.3	€ 27.00
	Total	260.3	€ 10,970

12.

Mr Corkery stated that the unit is a similar size and location as the properties under appeal but valued at a slightly higher level of €27/SQM, with the adjoining yard space at 10% of the prevailing industrial level, €2.70/PSQM

NAV Comparison: 5

Property Number	1329837
Occupier	PAT RYAN WINDOWS LTD
Address	3A/7.8 GARRYVICLEHEEN, THURLES, CO. TIPPERARY.
Total Floor Area	878.6 M2
NAV	€ 21900

Comparative Analysis of NAV

Level	Description	Size	NAV/SQM
0	WAREHOUSE	878.6	€ 25
	Total	878.6	€ 21900

Mr Corkery stated that this unit is a similar size to the properties under appeal and valued at the same level

NAV Comparison: 6

Property Number	1338604
Occupier	Ger Gavin Home Interiors
Address	3RA GORTLANDROE INDUSTRIAL ESTATE, NENAGH, CO. TIPPERARY,
Total Floor Area	1379 M2
NAV	€ 30,300

Comparative Analysis of NAV

Level	Description	Size	NAV/ SQM
0	WORKSHOP	1379	€ 22

Mr Corkery commented that this unit is similar size to the subjects, an old industrial property within the same estate as subject, valued at €22/SQM. He clarified that the eaves height was 4.8 metres, which he believes to be similar to the subject.

8.3 Mr Corkery contended for valuations on the following basis;

PN 5005503

Floor	Use	Area (m ²)	NAV € (SQM)	Total NAV €
0	WAREHOUSE	1,276.7	€ 25	€31,917.50
			Rounded	€31,900

PN 1338606

Floor	Use	Area (m ²)	NAV € (SQM)	Total NAV €
0	WAREHOUSE	1,013.90	€ 25	€25,347.50
	Yard	1,965	€2.5	€ 4912.50
			Total	€30,260.00
			Rounded	€30,200

8.4 In summary, Mr Corkery stated that the established level for old industrial buildings of the type of the properties under appeal, located in industrial estates is €25 per square metre. It was his opinion that there are benefits from having a large concrete yard attached. The tone of the list for yards attached to industrial buildings is assessed at 10% of the prevailing building level.

8.5 Under cross examination, Mr Corkery confirmed that the property was inspected on 28th February 2022, and at that time, the yard was added, although it was not on the valuation certificate of 2019. He confirmed that this was the first time the yard was valued. It was Mr Corkery's evidence that there was precedent set for the adding of the yard and as part of the revaluation, values have been attributed to yards, as the yard has a value and should therefore be valued. Mr Corkery confirmed that his comparison no 6, had a yard, but the yard could not be in use, as it was a hardcore yard which was overgrown and in poor repair, as opposed to the subject property, which has a concreted yard. Mr Corkery confirmed that in relation to comparisons, where the yard is not valued, there is either no yard, or the yard cannot be used.

8.6 It was put to Mr Corkery by Mr Halpin that, in general, the Respondent's comparisons were modern buildings with office content, as opposed to the subject properties, which are not modern. Mr Corkery confirmed that this was taken into consideration. Mr Halpin questioned the level of €18.00 per square metre placed on the modern Transport for Ireland building (Appellant's NAV comparison No. 3) which had extensive office content, Mr Corkery pointed to the category of property as "outside an industrial estate" as opposed to "within an industrial estate". When questioned about the evidence of the current letting of the subject properties, Mr Corkery said that it was three years after the valuation date and thus less relevant.

8.7 Mr Halpin put it to Mr Corkery that the three KRT's relied upon by him were of different type and nature to the subject properties, being modern, high specification buildings. Mr Corkery confirmed that the properties in Clonmel were analysed close to the valuation date with yards. Under cross examination from Mr Halpin, Mr Corkery agreed that there was a stark contrast between the current passing market rent of €22,000 (three years post the valuation date) and the total NAV proposed by him of €62,100 (i.e. PN 5005503 € 31,900 & PN 1338606 € 30,200) at the valuation date.

9. SUBMISSIONS

There were no legal submissions.

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 Properties as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Tipperary County Council.

10.2 The key issues arising in these two appeals are the unit value rate per square metre to apply to the warehouses, the inclusion or exclusion of the yard in the second property (PN 1338606) and the unit value rate to be attributed to that yard, if so included.

10.3 The Tribunal finds Mr Halpin's comparison no's 1 and 2 were rurally located and comparison no 3 was not in an industrial estate. Comparison no's 4 and 5, although nearby the properties under appeal, are at the rear of domestic premises and being 207m² and 104.96m² respectively, are much smaller than the subjects, therefore the unit value rate per square metre would need to be adjusted to reflect the differences with the appeal properties.

10.4 The Tribunal had difficulty applying the key rental transactions cited by the Respondent to the subject properties as none were in Nenagh (one in Cashel, and two in Clonmel) with the first two being substantially smaller in size to the subjects and the third being more in the nature of a pharma/laboratory type building, than a pure industrial/warehouse type building. However, the NAV comparisons submitted by Mr. Corkery did indicate a reasonably consistent approach by the Commissioner of Valuation in the application of unit value rates for other industrial type buildings.

10.5 The Tribunal found some common ground in the use by both Surveyors of the unit at the other side of the estate, being Appellant's comparison No. 6 and Respondent's Comparison No. 6 also, being PN 1338604. This indicates a unit value rate of € 22.00 per square metre. Whilst the Tribunal notes the general level of values, in the other comparables, advanced by both Surveyors, this is the preferred best indicator of value in the present case because it has the most similarities with the properties under appeal by virtue of location, size and specification. In the absence of any contrary evidence, the Tribunal adopts a unit value rate in the case of both buildings of € 22.00 per square metre.

10.6. The Tribunal finds that the valuation in the final Valuation Certificate of PN 1338606 is incorrect by reason of the omission of the yard which the Respondent did not value prior to issuing the final Valuation Certificate. In the interest of equity and uniformity, the Tribunal considers that the yard should be included in the valuation of PN 1338606. The Tribunal attached weight to the Respondents assertion that the property has a yard and that, although it was not originally included, the Tribunal considers that it should be included because it would have a value to the hypothetical tenant (and, in this regard, a photograph in Mr. Corkery's precis showed, historically, this to be in use) and following on from the judgment in Commissioner of Valuation v Seven Wonders Limited [2020] IEHC 474 where it was held, in a case dealing with street furniture, that where a component part of property is held to be of benefit to the occupier, and all the other ingredients of rateable occupation apply, then that part should be valued. Mr. Corkery supplied comparables (NAV comparables No.s 3 & 4)

indicating a consistent approach by the Respondent to apply a ratio of 10% of the building value unit rate to derive the unit value rate for the yard and the Tribunal accepts this as being the most appropriate measure, no other alternative value being proffered by the Appellant's Surveyor, Mr. Halpin. Accordingly, the Tribunal adopts a unit value rate for the yard at 10% of the building value rate advanced in 10.5 above which is € 2.20 per square metre.

DETERMINATION:

(1) Accordingly, for the above reasons, the Tribunal allows the appeal in the case of PN 5005503 and decreases the valuation of that Property as stated in the valuation certificate to € 28,000.

(1) VA.19/5/0431

PN 5005503

	Area (m ²)	NAV € (SQM)	Total NAV €
WAREHOUSE	1,276.70	€ 22.00	€ 28,087.40
		Rounded to NAV	€28,000

(2) Accordingly, for the above reasons, the Tribunal allows the appeal in the case of PN 1338606 and increases the valuation of that Property as stated in the valuation certificate to €26,600.

(2) VA.19/5/0440

PN 1338606

	Area (m ²)	NAV € (SQM)	Total NAV €
WAREHOUSE	1,013.90	€ 22.00	€22,305.80
Yard	1,965.00	€ 2.20	€ 4,323.00
		Total	€26,628.80
		Rounded to NAV	€26,600

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.