

**Appeal No: VA19/5/0629**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Tedcastles Oil Products**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 1990054, Fuel/Depot at, Local No/Map Ref: 5D Knockateery,  
Castlesauderson, County Cavan.

**B E F O R E**

**Hugh Markey - FSCSI, FRICS**

**Deputy Chairperson**

**Orla Coyne - Solicitor**

**Member**

**Fergus Keogh - MSCSI, MRICS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 13TH DAY OF DECEMBER, 2022**

**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 **€26,400.**
- 1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:
- "excessive and inequitable"*
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,730.

## **2. REVALUATION HISTORY**

- 2.1 On the 29<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 €30,500.
- 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 €26,400.
- 2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September, 2019 stating a valuation of €26,400.
- 2.4 The date by reference to which the value of the property was determined is the 15<sup>th</sup> day of September 2017.

## **3. THE HEARING**

- 3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 15<sup>th</sup> day of July 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 Ms. Orla Lambe, B.SC. Honours (Property Economics), MSCSI MRICS of the Valuation Office, ('the Parties').
- 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 their précis as their evidence-in-chief, in addition to giving oral evidence.

## **4. FACTS**

- 4.1 From the evidence adduced by the Parties, the Tribunal finds the following facts.
- 4.2 The Parties are in agreement as to the general physical attributes of the Property which comprises a fuel-oil distribution facility located in a semi-rural location on the outskirts of Cloverhill village in County Cavan approximately 15 kms north from Cavan town centre.
- 4.3 The Property which comprises a concreted yard with a number of small buildings and containment tanks for fuel oil, was developed over two phases. The yard with

containment tanks was initially developed in 1980 and underground fuel tanks and fuel pumps were added in 1995. The accommodation is as follows:

<b>Floor</b>	<b>Use</b>	<b>Size - Sq. M.</b>
Ground Floor	Canopy	1.0
Ground Floor	Portacabin	43.60
Ground Floor	Store	32.00
Ground Floor	Yard	1,900
<b>Plant</b>		
3 x 45,000 litre tanks	Kerosene Storage	135,000 litres
3 x 54,000 litre tanks	Kerosene Storage	162,000 litres
1 x 30,000 litre tanks	Diesel Storage	30,000 litres
<b>Total tank capacity</b>		327,000 litres

- 4.4 The facility has two fuel pumps and a kiosk for fuel sales to the public (fuel throughput). Photographs provided by the Parties indicate that the buildings are of basic construction detail and the facility is in average condition.
- 4.5 In their respective valuations, the Parties disagreed on the methodology to be adopted in the valuation of the Property. The Parties applied different valuation rates per square metre to the buildings within the Property. Mr. Mooney valued the tank element of the Property by adopting the Contractor's Method of Valuation and applying a discount to the estimated replacement cost of the tanks. Ms. Lambe adopted the principle of a valuation schematic developed by the Respondent to value similar properties whereby the tank capacity is valued based on applying a rental value to the tank capacity.

## 5. ISSUES

- 5.1 The appeal raised the sole issue as to whether the Net Annual Value of the Property, as determined by the Respondent, is excessive.

## **6. RELEVANT STATUTORY PROVISIONS:**

- 6.1 The Net Annual Value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

*“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”*

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

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

## **7. APPELLANT’S CASE**

- 7.1 Mr. Mooney, having made the affirmation, adopted his précis as his evidence-in-chief in addition to giving oral evidence.
- 7.2 Referring to his submission, Mr. Mooney described the physical attributes of the Property and included a selection of photographs.

In support of his opinion of value of the Property, Mr. Mooney submitted a chart containing eight identified properties (including the subject Property) in County Cavan which are described as being oil / fuel depots. The chart which is set out in Appendix 1 (n/a to public) attached and included an analysis of the Euro rate per square metre of the value which was applied to the building elements of the various properties as used by the Respondent in the valuation of the properties, when they were entered on the Valuation List. The chart also included Mr. Mooney’s analysis of the plant value in the properties expressed as a percentage of the NAV value of each

property. The value of the plant element of the subject Property was said to be 76.61% of its total NAV value. The plant value of the eight properties expressed as a percentage of their individual NAV values ranged from 68.66% to 90.91%.

- 7.3 In preparing his valuation of the Property, Mr. Mooney adopted the values applied to the building elements of the Property as it appears on the Valuation List.

In relation to the valuation of the oil / fuel sales throughput Mr. Mooney adopted the Respondent's schematic, *'Throughput Scheme of Valuation (VO) 2019'*, (as set out in Appendix 1 attached - n/a to public).

To value the tanks in the Property, Mr. Mooney said that he had adopted the Contractor's Method of Valuation. He estimated the replacement cost of the tanks by reference to a document he said was prepared by the Respondent entitled *'Valuation of Tanks Practice Note (VO) 2005'* ('the Practice Note') which listed the 2005 cost of 'Sectional Water Tanks' and 'Sectional Tanks (Steel)' and a descriptive note as to the Valuation of Tanks. A copy of this Note is attached in Appendix 1 (n/a to public)

Mr. Mooney said that he established his opinion of the September 2017 replacement cost of the subject's tanks by increasing the adduced 2005 costs taken from the Practice Note by 13% by reference to the Consumer Price Index (CPI) and subsequently decreased that established value by a factor of 50% by reference to the Valuation Tribunal decision in VA17/05/074 (*Kells Wholemeal Ltd.*), whereby a depreciation factor of 80% was applied to a number of grain storage bins which were in excess of 40 years old.

- 7.4 Mr. Mooney valued the Property at NAV €12,000 as opposed to NAV €7,730 as indicated in the Notice of Appeal, as follows;

1. Valuation of Buildings and Fuel Throughput

Floor Use	Area - Sq. M.	NAV € per Sq.m.	€ NAV
Canopy	x 1	€1,000	€1,000
Portacabin	43.60	€8.80	€383.33
Store	32	€22.00	€704.00
Fuel Throughput	1,200,000 Litres	0.0055	€6,600
Fuel Throughput	500,000 Litres	0.00275	(-€1,375)

		Sub Total	€7,312
		Say,	€7,300

## 2. Valuation of Plant & Combined With Buildings Values

No. of Tanks	2005 Replacement Cost	Total Replacement Cost	CPI Adjustment	Adjusted Replacement Cost	Depreciation Allowance	Total Adjusted Replacement Cost
1	€8,000	€8,800	13%	€9,040	50%	€4,520
3	€9,900	€29,700	13%	€33,561	50%	€16,781
3	€15,500	€46,500	13%	€52,545	50%	€26,273
				€95,146		€47,573
	Add for Land Value	0.5 Acres @ €100,000 per acre				€50,000
				Sub Total		€97,573
				Decapitalised	@ 5%	€4,878.65
					Say,	€4,800
					Add Back Valuation of Buildings & Fuel Throughput	€7,300
					Totals	€12,100
					Say,	€12,000

- 7.5 Under cross examination by Ms. Lambe Mr. Mooney confirmed that the Proposed Valuation Certificate was issued in the sum of €30,500. Following the receipt of Representations, the Final Valuation Certificate was issued in the sum of €26,600 and also acknowledged that the Respondent was now seeking a valuation assessment of €22,000. Mr. Mooney also confirmed that the only issue in dispute is the valuation of the tanks within the Property.
- 7.6 In relation to the chart of comparison fuel depot properties as set out in his précis, Mr. Mooney, in reply to a question from Ms. Lambe, confirmed that he was not aware of how many of these properties were subject to separate appeals but accepted that two of the properties, including the subject were subject to appeals, when advised of this by Ms. Lambe.
- 7.7 Referring to Mr. Mooney's chart of comparison properties, Ms. Lambe asked Mr. Mooney why he had not provided a breakdown of the valuation of the tank elements of the properties. Mr. Mooney replied that this information was not available to him from the Valuation List but did accept that the tanks were valued as per the Respondent's Schematic for the valuation of such tanks at the rate of €0.05 per litre capacity and acknowledged that this information was available on the Respondent's web site.
- 7.8 In response to a question by Ms. Lambe, Mr. Mooney accepted that the comparison properties had been valued in accordance with the Respondent's valuation schematic. Mr. Mooney accepted that the properties were valued in accordance with Section 63.2 of the Act and whilst they are deemed to be correct in accordance with the Act until proven otherwise, he considered that an incorrect method of valuation had been applied to the tank elements and that the more appropriate method of valuation to be adopted by the Respondent in the valuation of tanks is the use of the Contractor's Method of Valuation.
- 7.9 Mr. Mooney accepted that road frontage and fuel pump sales to the public even without a retail shop element is advantageous to the occupier of the Property.
- 7.10 In response to a question by Ms. Lambe whereby she asked Mr. Mooney to confirm his understanding that the level of depreciation applied in the valuation of the silos at the rate of 80% as determined by the Valuation Tribunal in VA19/7/074 (*Kells Wholemeal Ltd.*) was due to the fact that the silos were obsolete. Mr. Mooney confirmed that that three of the six grain silos referred to in *Kells Wholemeal Ltd.* were obsolete and accepted that grain silos were not comparable to oil tanks. He said that these were valued as plant as were the tanks in the subject Property and that the correct method of valuation to be used was the Contractor's Method of Valuation. Mr. Mooney said that in *Kells Wholemeal Ltd.* the appellant had sought a depreciation level of 90% whilst the Respondent sought depreciation of 40%. In the valuation of the subject Property, Mr. Mooney said that he had adopted a depreciation rate of 50%

which he considered reasonable as the tanks were still being used and maintained though their useful life had expired. He said that it was inappropriate that the Respondent applied the same rate of €0.05 per litre to brand new tanks as to, say, tanks that are 40 years old.

Mr. Mooney confirmed that in valuing the subject Property that he had adopted the values for buildings as contained in the chart of comparison properties in his précis. He said that he had adopted the Respondent's schematic in relation to valuing the fuel sales throughput and he confirmed that he had adopted the Contractor's Method of Valuation in accordance with section 50 of the Act to value the tank elements.

- 7.11 Mr. Mooney confirmed that he had relied upon the Valuation Office's 2005 Practice Note and Policy Document and that he was not aware that it had been updated for the 2011 revision valuations in Dublin City or the 2015 revision valuations in Limerick.
- 7.12 Ms. Lambe asked Mr. Mooney if he was aware that the 2005 Practice Note and Policy Document was used for the valuation of ancillary tanks within large factories and not for the valuation of fuel tanks. Mr. Mooney said that he did not accept this position.
- 7.13 In reply to a question from the Division, Mr. Mooney said that he was accepting the Respondent's valuation of the various elements of the subject Property other than the valuation applied to the tanks.
- 7.14 In reply to a question from the Division, Mr. Mooney confirmed that the basis of his valuation of the tank elements of the subject Property was the indexation of the 2005 tank costs taken from the Respondent's Practice Note to arrive at an adjusted replacement cost of the tanks. He acknowledged that this approach was not ideal and that he should have used actual 2017 tank replacement cost values. When asked if he could not have established the 2017 replacement costs of the tanks from his client or a third party, he advised that this information was not available to him.

## **8 RESPONDENT'S CASE**

- 8.1 Ms. Lambe, having made the affirmation, adopted her précis as her evidence-in-chief in addition to giving oral evidence.
- 8.2 Referring to her précis, Ms. Lambe said that description of the location, accommodation and capacity of the tanks within the subject Property generally accords with that of the Mr. Mooney and confirmed that the only issue in dispute was the valuation of the fuel tanks within the subject Property.



- 8.3 Ms. Lambe said that the subject Property had been valued in accordance with the Respondent's valuation schematic for the valuation of fuel oil depots in County Cavan and that it has been valued in a similar manner to seven other fuel oil depots in County Cavan. Of the eight facilities in Cavan, two are subject to appeals, including the subject Property and the assessments of the remaining six properties had been accepted by the occupiers.

Ms. Lambe considered that there was an established Tone of the List for this category of property in County Cavan as each property had been through the rigours of the valuation process, including representations and the option of an appeal stage and accordingly in accordance with the Act that these valuations are deemed to be correct.

- 8.4 Ms. Lambe provided analysis details of the valuation assessments of six properties, which were also common comparisons, which she said were not subject to appeals to the Valuation Tribunal and which she termed NAV Comparisons. Full details of these properties are set out Appendix 2 (n/a to public) attached and which are summarised as follows:

**NAV Comparison No. 1.** - is a facility with a tank capacity of 200,000 litres valued at €0.05 per litre. The assessment was reduced at representation stage and was not appealed further.

**NAV Comparison No. 2.** - is a facility with a tank capacity of 181,600 litres valued at €0.05 per litre. No representations were received and the assessment was not appealed.

**NAV Comparison No. 3.** - is a facility with a tank capacity of 327,000 litres valued at €0.05 per litre. No representations were received and the assessment was not appealed.

**NAV Comparison No. 4.** - is a facility with a tank capacity of 224,000 litres valued at €0.05 per litre. No representations were received and the assessment was not appealed.

**NAV Comparison No. 5.** - is a facility with a tank capacity of 607,985 litres valued at €0.05 per litre. No representations were received and the assessment was not appealed.

**NAV Comparison No. 6.** - is a facility with a tank capacity of 298,000 litres valued at €0.05 per litre. Under subsequent cross examination Ms. Lambe said that this property was subject to an appeal to the Tribunal.

- 8.5 Ms. Lambe valued the subject Property at an NAV of €22,000, reduced from €26,400 as it currently appears on the Valuation List, as follows;

Floor	Use	Floor Area Sq. M.	€ PSM	€NAV
0	Portacabin Office	43.60	6.00	261.60
0	Offices / Stores	32.00	15.00	480.00
0	Open store	28.42	7.50	213.15
0	Canopy / Gantry	1	-	1,000.00
0	Canopy	37.35	2.25	84.03
0	Fuel Kiosk	2.87	6.00	17.22
0	Yard	414.00	1.50	621.00
<b>Additional Items</b>				
0	Throughput	700,000	0.004	2,800.00
0	Throughput	500,000	0.002	1,000.00
<b>Total Buildings &amp; Throughput</b>				<b>6,477.00</b>
1 x 27,000 L	Tank	27,000		
3 x 43,500 L	Tanks	130,500		
3 x 52,500 L	Tanks	157,500		
<b>Total Tanks</b>		315,000	0.05	<b>15,750.00</b>
Total NAV				€22,227
			<b>Say,</b>	<b>€22,000</b>

- 8.6 Under cross examination by Mr. Mooney, Ms. Lambe confirmed that the fuel throughput sales were valued at the rate of €0.004 cent per litre. Ms. Lambe confirmed that the tanks were valued at the rate of €1.00 replacement cost per litre of capacity and devalued by the statutory rate of 5% as provided for in section 50 of the Act to arrive at the rate of €0.05 per litre.

In response to a question from the Division as to how the rate of €1.00 replacement cost per litre of capacity was established Ms. Lambe said that it was derived from a Valuation Office Valuation schematic established in 2005 for the South Dublin Revision and subsequently used in the 2011 Revaluation and also implemented in the 2015, 2017 and 2019 Revaluations. It was devised by the central valuation team in the Respondent's office.

- 8.7 Ms. Lambe confirmed in response to a question from Mr. Mooney that details of this schematic was not contained in her précis of evidence and said that the schematic was to be found in the valuation comparisons in her précis. Ms. Lambe confirmed that her précis did not contain details of the Respondent's throughput valuation schematic and said that this throughput valuation scheme was as set out in Mr. Mooney's précis.
- 8.8 In relation to the eight fuel oil depot properties in County Cavan that were in the Valuation List, Mr. Mooney asked Ms. Lambe as to how he could show that there was not an error in these valuations. Ms. Lambe said that Mr. Mooney would be entitled to a copy of the valuation reports for these properties. Mr. Mooney said that this was incorrect and that appellants were not entitled to valuation reports of comparison properties as they were not provided by the Respondent under GDPR rules. Ms. Lambe said that the relevant information is available on the Valuation Office web site which would give a breakdown of the valuation of the property and which would show the throughput at €0.05 per litre.
- 8.9 Ms. Lambe accepted that her decapitalised valuation of NAV €15,750 for the tanks at the rate of 5% implied a notional replacement cost for the tanks of €315,000. Referring to his précis and the chart of replacement costs of water tanks Mr. Mooney asked Ms. Lambe to agree that the replacement cost in 2005 of a one million litre sectional steel water tanks was €120,000. Ms. Lambe said that the tanks referenced in the chart were the most basic ancillary Balmoral tanks used for ancillary purposes and not tanks used in fuel oil depots.
- In reply to a request from the Division to clarify this response, Ms. Lambe accepted that the 2005 replacement cost of a one million litre Balmoral water tank was as set out in the chart in Mr. Mooney's précis but that it was not relevant as these tanks were not fuel oil tanks and the costs in the chart were not used for the valuation of fuel oil tanks.
- 8.10 Ms. Lambe agreed with Mr. Mooney that in *Kells Wholemeal Ltd.* the case dealt with silos and not fuel tanks and that the cost guide Practice Note would be of no relevance to the valuation of silos. In response to a question from the Division as to whether the silos were valued as ancillary plant, Ms. Lambe said she was not aware of the breakdown of the valuation in that case and was not aware as to what was or was not rateable plant in that particular property.
- 8.11 In reply to a question from the Division as to whether the Practice Note refers to tanks or ancillary tanks Ms. Lambe said that it refers to tanks but that the premise of the document was its use in the valuation of ancillary tanks. Mr. Mooney said that he did not agree with this comment.

Ms. Lambe confirmed that the appeal of the other fuel depot in Cavan that was under appeal had not yet come before the Tribunal. Ms. Lambe confirmed that she was not aware of any case settlements for fuel depots that had been agreed using the Contractor's Method of Valuation.

Ms. Lambe confirmed that she was involved in the valuation of the six common comparison properties in the Parties précis and that whilst representations had been received in relation to some of the properties, these representations related to the building elements only and no representations related to the assessment values of the tanks.

Ms. Lambe confirmed that none of the NAV comparisons contained a throughput element.

In reply to a question from the Division, Ms. Lambe accepted that there was an emerging Tone of the List and that the Tone of the List had not yet settled and would not be settled until all appeals had been heard.

- 8.12 Ms. Lambe confirmed that she understood that similar facilities in Limerick were valued in a similar manner to the subject Property and that she was not aware of the valuation method used in South County Dublin. In reply to a question as to when it is appropriate to use section 50 of the Valuation Act to value properties, Ms. Lambe said that section 50 should be used for non-standard facilities. Ms. Lambe accepted that the subject Property was a non-standard facility however as there were no letting comparisons that it was appropriate to rely upon NAV comparisons.

## **9 SUBMISSIONS**

- 9.1 There were no legal submissions from the Parties.
- 9.2 In conclusion Mr. Mooney said that he considered that as Ms. Lambe had not provided any evidence either to him, or to the Division, as to the basis of the valuation schematic used to value the subject Property that he could analyse and arrive at a judgement as to consider whether it was fair or not, that he was obliged to rely upon his own evidence of tank replacement costs and that the correct approach in this appeal was to rely upon section 50 of the Act and the Contractor's Method of Valuation when valuing tanks.
- 9.3 In conclusion Ms. Lambe said that the main issue of the appeal was the valuation of the tanks. Ms. Lambe said that Mr. Mooney had relied upon the same comparison properties as the Respondent and that Mr. Mooney had not provided any valuation breakdown of these properties which she said had been valued in line with the Valuation Office schematic with only two properties having been appealed to the

Valuation Tribunal. Ms. Lambe considered that an emerging Tone of the List had been established and by reference to section 63 of the Act that these valuations are correct as the occupants had been given the opportunity to go through the appeals process and had been accepted without appeal.

## **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.
- 10.2 The Tribunal finds that the Property comprises a fuel depot located in a rural location with offices, out buildings and with 6 no. oil storage tanks which at the valuation date ranged in age from approximately 22 to 37 years old. The combined capacity of the tanks within the facility is 327,000 litres. The facility has an agreed sales throughput of 1,700,000 litres of fuel through two fuel pumps. The facility is dated and in average condition.
- 10.3 Despite the Parties being in agreement on the values to be applied to the buildings within the Property, the valuation to be applied to the fuel sales throughput and the capacity of the tanks at 327,000 litres, their evidence and their respective approach to the valuation of the fuel oil tanks on any basis provides a very mixed picture. Mr. Mooney contended for a reduction in the NAV of the property from €26,400 to €12,000. He approached the valuation of the tanks by adopting the Contractor's Method of Valuation, by first establishing his opinion of the replacement cost of the tanks on the valuation date and then by depreciating the resultant value to reflect their age.
- 10.4 Mr. Mooney established his opinion of the replacement cost of the tanks by reference to the 2005 replacement cost of sectional water and sectional steel tanks as set out in the internal Practice Note prepared by the Respondent's office and then indexing this value by 13% to reflect the movement in the Consumer Price Index in the intervening period up to the valuation date. He then reduced this figure by a factor of 50% to take account of the age and condition of the tanks, reflecting a Valuation Tribunal decision in VA17/05/074 (*Kells Wholemeal Ltd.*)

Ms. Lambe confirmed that the internal Practice Note of 2005 was out of date and no longer in use and that the replacement costs for the sectional water and steel tanks referenced in the Practice Note were never used by the Respondent in the valuation of fuel oil tanks in this particular revaluation.

- 10.5 The Tribunal considers that Mr. Mooney's approach to valuing the fuel tanks by indexing the 2005 replacement costs of sectional water and sectional steel tanks to be unreliable. Whilst the Contractor's Method of Valuation has both merits and flaws, Mr. Mooney's use of the method would have been better served by reference to the replacement costs of comparable oil tanks to those in the Property, at the relevant valuation date. Mr Mooney advised the Tribunal that such information was not available to him, however the Tribunal considers that an experienced valuer with the appropriate research being undertaken would be able to establish such costs. Mr. Mooney could have sought advice from an expert in this particular area.

The Tribunal considers that Mr. Mooney's reliance on the indexation of the 2005 replacement costs of sectional water and sectional steel tanks, as set out in the Practice Note, to be inappropriate and further accepts the confirmation by Ms. Lambe that the Practice Note was both out of date and not used in the valuation of fuel tanks in the instant revaluation. The Tribunal further considers that Mr. Mooney's précis, oral evidence and valuation approach did not contain the necessary proofs to make good the claim adduced therefrom.

- 10.6 Ms. Lambe valued the tanks by reference to a valuation schematic whereby she applied a rate of €0.05 per litre to the combined tank capacity. Ms. Lambe confirmed that the tanks were valued at the rate of €1.00 replacement cost per litre of capacity and devalued by the statutory rate of 5% as provided for in section 50 of the Valuation Act to arrive at the rate of €0.05 per litre. This schematic had been applied to the 8 no. fuel oil depots properties within the Cavan local authority area of which 2 no. assessments had been appealed, the subject Property being one.

- 10.7 The Parties are in agreement on the general physical attributes of the Property. Though dated and in average condition with tanks that range in age from approximately 22 to 37 years old, it is accepted by Mr. Mooney they are not obsolete and are in daily use. The Tribunal considers that it is appropriate to have particular regard to the age and condition of the tanks and the actual condition of the Property. The pictorial evidence of the comparisons relied upon, as submitted by Ms. Lambe in her valuation of the subject, indicate superior properties in better condition and locations.

Whilst Mr. Mooney has failed to convince the Division that the Respondent's Valuation Schematic should be disturbed, the Tribunal considers that cognisance needs to be taken of the age of the tanks and the condition of the Property as evidenced by the photographs adduced. The Tribunal finds it appropriate to apply a discount of 25% to the value to the tank elements of the Property to reflect the age and condition of the tanks.

The Tribunal notes that Ms. Lambe, in the preparation of her valuation, had reduced the NAV values of those elements of the Property as they appear on the Valuation List other than the values applied to the tanks and the fuel throughput sales. The Tribunal noted Mr. Mooney's acceptance of these values. The Tribunal accepts that the combined capacity of the tanks as advised by Mr. Mooney is 327,000 litres.

#### **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 €18,740 as follows;

<b>Floor</b>	<b>Use</b>	<b>Floor Area Sq. M.</b>	<b>€ PSM</b>	<b>€NAV</b>
0	Portacabin Office	43.60	6.00	261.60
0	Offices / Stores	32.00	15.00	480.00
0	Open store	28.42	7.50	213.15
0	Canopy / Gantry	1.00	-	1,000.00
0	Canopy	37.35	2.25	84.03
0	Fuel Kiosk	2.87	6.00	17.22
0	Yard	414.00	1.50	621.00
<b>Additional Items</b>				
0	Fuel Throughput	700,000	0.004	2,800.00
0	Fuel Throughput	500,000	0.002	1,000.00
<b>Total Buildings &amp; Fuel Throughput</b>				<b>6,477.00</b>
1 x 30,000 L	Tank	30,000		
3 x 45,000 L	Tanks	135,000		
3 x 54,000 L	Tanks	162,000		
<b>Total Tanks</b>		327,000 L	0.05	<b>16,350.00</b>
<b>Total NAV</b>				€22,827.00
		Allowance,		€4,088.00
				€18,739.00
			<b>Say,</b>	<b>€18,740</b>

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.