

Appeal No: VA19/5/0461/0456/0450/0443/0436/0433

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Declan McKeever

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1553767, 1553768, 1553764, 1553763, 1553765, 1553762, Industrial
Uses at Clonmagaddan, Navan, County Meath.

B E F O R E

Barry Smyth - FRICS, FSCSI, MCI Arb

Deputy Chairperson

Kenneth Enright - Solicitor

Member

Annamaria Gallivan - FRICS, FSCSI, MPhil SEE

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9th 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

PN1553767 Unit 1 NAV @ €15,480

PN1553768 Unit 2 NAV @€14,600

PN1553763 Unit 3 NAV @ €8,080

PN1553764 Unit 4 NAV @ €7,390

PN1553765 Unit 5 NAV @ €7,460

PN1553762 Unit 6 NAV @€24,100

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

“VA19/5/0461, PN1553767 Unit 1

1. The measurements of the subject property are incorrect. The subject property is just 157.85 SQM.

2. The subject property is one of 6 units, which are all basic single skin shed, and all let on month-to-month contracts IRI. The average rent is €30/SQM, and the subject property should not exceed this.

VA19/5/0456, PN1553768 Unit 2

1. The measurements of the subject property are incorrect; the subject property is just 315.70 SQM.

2. The subject property is one of 6 units, which are all basic single skin shed, and all let on month-to-month contracts IRI. The average rent is €30/SQM, and the subject property should not exceed this.

VA19/5/0450, PN1553763 Unit 3

1. The measurements of the subject property are incorrect; the subject property is just 139.05 SQM.

2. *The subject property is one of 6 units, which are all basic single skin shed, and all let on month-to-month contracts IRI. The average rent is €30/SQM, and the subject property should not exceed this.*

VA19/5/0443, PN1553764 Unit 4

1. The measurements of the subject property are incorrect. The subject property is 139.05 SQM. 2. The subject property is one of 6 units, which are all basic single skin shed, and all let on month-to-month contracts IRI. The average rent is €30/SQM, and the subject property should not exceed this.

VA19/5/0436, PN1553765 Unit 5

1. The measurements of the subject property are incorrect. The subject property is 139.05 SQM. 2. The subject property is one of 6 units, which are all basic single skin shed, and all let on month-to-month contracts IRI. The average rent is €30/SQM, and the subject property should not exceed this.

VA19/5/0433, PN1553762 Unit 6

1. The subject property is one of 6 units, which are all basic single skin shed, and all let on month-to-month contracts IRI. The average rent is €30/SQM. The subject property is let at €1,000/month and being the largest unit of the 6 has the lowest rent per SQM at €22.50/SQM.

1.3 The Appellant considers that the valuations of the Properties ought to have been determined in the sums of

Unit	PN	NAV
1	1553767	€4,730
2	1553768	€9,470
3	1553763	€4,170
4	1553764	€4,170
5	1553765	€4,170

6	1553762	€12,050
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2. REVALUATION HISTORY

2.1 On the 15th day of March 2019 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of

Unit	PN	NAV
1	1553767	€15,480
2	1553768	€14,600
3	1553763	€8,080
4	1553764	€7,390
5	1553765	€7,460
6	1553762	€24,100

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of

Unit	PN	NAV
1	1553767	€15,480
2	1553768	€14,600
3	1553763	€8,080
4	1553764	€7,390
5	1553765	€7,460
6	1553762	€24,100

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 28th day of June 2022. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Ms. Kathy Farrelly 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

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts;

4.2 The properties are located within Elmhurst Industrial Estate just off the Proudstown Road (R162) in Navan. The industrial units are located approximately 1km from the R162/ N51 roundabout, on the northern fringe of Navan beyond the residential development and 2.5 km from the centre of the town.

4.3 There are 14 properties located within Elmhurst Industrial Estate.

4.4 There are six industrial units under appeal, property numbers PN1553767 - Unit 1 and PN1553768 - Unit 2 are located in the 1st block. The remaining four property numbers PN1553763 - Unit 3, PN1553764 - Unit 4, PN1553765 – Unit 5, PN1553762 – Unit 6 are contained in the 2nd block.

4.5 The units are industrial workshops of portal frame construction with single skin roof and blockwork walls. Eaves height of 5 meters. There are mezzanines

floors in 4 of the 6 workshops. The units vary from 138 SQM to 535 SQM, (GEA). The units are in a reasonable state of repair throughout.

Unit	PN	Floor areas agreed	Mezz/store (not agreed)	Steel Container
1	1553767	162.2 m ²	41.80 m ²	35.70 m ²
2	1553768	324.48 m ²	138.36 m ²	
3	1553763	147 m ²	45.36 m ²	
4	1553764	134.4 m ²		
5	1553765	135.8m ²	39.13 m ²	
6	1553762	535.76m ²	164.87 m ²	

4.6 All six units are rented, generating some rental evidence.

5. ISSUES

The matter at issue is quantum.

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 Halpin in his Precis and oral evidence noted;

7.2 The properties comprise of six units, colloquially known as Elmhurst Industrial Estate. The six units range from 134m² – 535m² and are located on the northern fringe of the town, 2.5km from the centre. He stated the units were located on what he described as the outskirts of the urban area, a lane off the R162, the beginning of what he described as rural, just beyond residential development.

7.3 Mr Halpin stated that the Commissioner has tried to amend the valuation certificates by the addition of mezzanine areas which had not been included in the final certificate at the Appeal stage. He was of the opinion that it was not correct to add property at the Appeal stage which had not been included in the final certificates. Mr Halpin referred to Rilton decision, ref no. VA145170 which he said concerned a proposal to add a mezzanine to the certificate, which he said was comprehensively ruled out by the Tribunal in that appeal. He further asserted that in the judgement he understood that the Commissioner did not have a right to ‘piggy back’ on the Appeal but required a revision to add the mezzanine.

7.4 All six units are let with a rental range of €22-31/m². It was Mr Halpin’s evidence that the units were basic in nature and facilities, occupied on IRI terms, mostly short term lets, or month to month arrangements. Mr Halpin stated that in his opinion the actual rents are by far and away the best evidence for considering the Navan market. He stated the lettings of these type of industrial units in a non-regulation industrial estate, on long leases, on FRI basis, is almost

impossible, with month-to-month lettings on IRI without security being the only option available.

7.5 Mr Halpin stated that the units were basically sheds (including photographs to indicate the nature and the type of the units) and the Commissioner had not compared like with like. It was his opinion that they were a different classification of property, simple structures without office content, constructed in the style of farm buildings. Mr Halpin said, in his opinion, the Commissioner has compared the units with modern purpose-built industrial estate equivalents, valued at between €45-55/m². It was his evidence that the hypothetical tenant would not be able to afford such accommodation, and would require low-cost, low-quality units. He further stated that the Commissioner had valued a number of industrial premises on the fringes of Navan, at between €20-35/m², a range, Mr Halpin stated was far more representative of the actual value of the properties in question. It was Mr Halpin's opinion, that the Commissioner has had difficulty in determining where Navan ends, and the countryside begins.

7.6 Mr Halpin produced actual passing rental evidence of the units, which are in the appendices (N/A to the public)

7.7 Mr Halpin put forth the following four tone of the list comparisons

1. Tyre Depot, Liscartan Industrial Estate, Ardbraconn, Navan PN 1553552: €7,060 NAV				
Level	Use	Area (m ²)	NAV (€ per m ²)	NAV (€)
0	WORKSHOP	235.46	30.00	7,063.80

Mr Halpin described the location as 5km from the centre of Navan, east of the town towards Kells (on the old Dublin Road). Industrial estate location, being the headquarters of Xtratherm and home to Navan Ford amongst others. He described the unit as a basic workshop not dissimilar to the subject properties, however he pointed out that this property benefits substantially from its actual location to the rear of Ford and its general location in a known industrial area.

He also pointed to other industrial buildings on this site valued between €23-35/m². He described the scheme as follows:

Size	Rate	PN
0-200m ²	€35	1553554, 1553551
200-499m ²	€30	1553555, 1553556
500-999m ²	€25	1987631
1,000+	€23	2191664, 1553553

2. Navan Commercials, Boyerstown, Navan

PN 2109551: €20,300 NAV

Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	PORTACABIN	11.02	8.00	88.16
0	WORKSHOP	762.61	20.00	15,252.20
0	YARD	2,528.75	2.00	5,057.50

Mr Halpin described the location as 4km from the centre of Navan. South west of the town, on the old Athboy Road, 750m from the M3 (2.5km from on ramp at Junction 9). Standalone development in a largely agricultural location. He believed this property should set the base value for the subject property.

3. J & S Motor Repairs Limited, The Lane, Navan

PN 2214918: €22,100 NAV

Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	WORKSHOP	877.50	25.00	21,937.50
MEZZ	STORE	44.18	5.00	220.90

Mr Halpin described the location 5km from the centre of Navan, with full profile on to the M3 (between Junctions 8 and 9). Standalone modern purpose-built workshop. Level inclusive of extensive hardcore yard.

4. Navan Glass & Glazing, Kells Road, Navan

PN 1553822: €23,200 NAV

Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	STORE	400.74	25.00	10,018.50
0	WORKSHOP	519.00	25.00	12,975.00
MEZZ	STORE	60.43	5.00	302.15

Mr Halpin described the location as just off the N51, 2km from the centre of Navan to the rear of a domestic house and immediately opposite Blackwater Retail Park.

7.8 Mr Halpin contended for the following NAV

Unit	PN	Size	NAV/m ²	NAV
1	1553767	162.2 m ²	€30	€4,866 say €4,860
2	1553768	324.48 m ²	€25	€8,112 say €8,110
3	1553763	147 m ²	€30	€4,410
4	1553764	134.4 m ²	€30	€4,032 say €4,030
5	1553765	135.8m ²	€30	€4,074 say €4,070
6	1553762	535.76m ²	€20	€10,715 say €10,710

7.9 Under cross examination Mr Halpin confirmed that he had inspected the properties, but he did not agree that the location is in “an industrial estate”. He said

there were units further up the road, that are in Elmhurst Industrial Estate, which are modern units with standard services, but the units in question, were not in that location and may have tagged on/ adapted to that name. He could not confirm that there were mezzanine areas in the units, he said there had been planning applications for some of the units to include mezzanines and that some of the work may have occurred since the revaluation. Mr Halpin confirmed that many of his NAV comparisons were standalone and not in industrial estates. He confirmed that the date of the actual lettings did not coincide with the valuation date but were what he termed 'representative'.

7.10 In summing up, Mr Halpin stated the actual rents were the best evidence and that the Commissioner is focused on comparison with modern industrial estate units and that he had valued a number of units on the fringes of Navan at between €25 to €35/M², which he stated was far more representative of the actual value and the fairest reflection of the units.

8. RESPONDENT'S CASE

8.1 Ms Farrelly in her Precis and oral evidence noted;

8.2 Ms Farrelly described the properties as situated in Elmhurst Industrial Estate just off the Proudstown road (R162) in Navan, 1km from the R162/ N51 roundabout, and as approximately a three-minute drive into Navan and a major transport link. The Industrial Estate being situated adjacent to a number of residential developments and The Simonstown Gales GAA Club. Ms Farrelly noted that there are 14 properties located and valued in Elmhurst Industrial Estate. Ms Farrelly explained that there were six units in total. The first of the two property numbers (A. PN1553767 - Unit 1 & B. PN1553768 - Unit 2) under review are located in the 1st block. The final four property numbers (C. PN1553763 - Unit 3, D. PN1553764 - Unit 4, E. PN1553765 – Unit 5, F. PN1553762 – Unit 6) under appeal are contained in the 2nd block.

8.3 Ms Farrelly described the subject properties as industrial workshops of portal frame construction with single skin roof and blockwork walls with eaves height of 5

meters, including mezzanines floors in 4 of the 6 workshops. It was her evidence that the sizes of the units vary from 138 m² to 535 m². Ms Farrelly explained that the mezzanine areas had not previously been valued. Ms Farrelly confirmed that the properties were measured Gross External Area (GEA) in accordance with the Society of Chartered Surveyors Measuring Practice Guidance Notes.

8.4 Ms Farrelly confirmed that the ground floor measurements were agreed with Appellant's Agent, Eamon Halpin on the 7th of March 2022. But she also noted that the Mezzanines areas had not been agreed, as the agent was not accepting the inclusion of the mezzanine areas.

PN1553767: Unit 1		Floor	M2
	WORKSHOP	0	162.24
	STORE	0	41.80
	STEEL CONTAINER	0	35.70
	TOTAL		239.74

PN1553768: Unit 2		Floor	M2
	WORKSHOP	0	324.48
	STORE	Mezz	138.36
	TOTAL		462.84

PN1553763: Unit 3		Floor	M2
	WORKSHOP	0	147
	STORE	Mezz	45.36
	TOTAL		192.36

PN1553764: Unit 4		Floor	M2
	WORKSHOP	0	134.40
	TOTAL	0	134.40

PN1553765: Unit 5		Floor	M2
	WORKSHOP	0	135.80
	STORE	Mezz	39.13
	Total		174.93

PN1553762: Unit 6		Floor	M2
	WORKSHOP	0	535.76
	STORE	Mezz	164.87
	Total		700.63

8.5 Ms Farrelly stated that in each of the notice of appeal to the Tribunal, the Appellant has stated that the units are all let on a month to month contracts, however tenancy information has been supplied for unit 1, with the tenancy commencing in 2017 IRI and lease information for Unit 2 (2017, for 4 years and 9 months), Unit 3 (2012, for 10 years) and Unit 4 (2020, 5 years).

Ms Farrelly also produced the rental evidence provided by the Appellant which are in the Appendix (N/A to the public). It was her evidence that the Commissioner would only be cognisant of comparisons that were in and around the valuation date.

8.6 Ms Farrelly had the following comments on the tone of the list comparisons in use by the Appellant;

1. PN1553552: NOEL FLANNAGAN CAR VALETING, LISCARTON, IND ESTATE, KELLS ROAD, NAVAN, C15 C520. Ms Farrelly described the Industrial Estate as

approximately 3.6 km from the R147 & N51 junction on the outskirts of Navan, and although in use as a workshop, it is located outside Navan, thus valued at lower rate of €30/sqm.

2. PN2109551: NAVAN COMMERCIALS LTD, BOYERSTOWN, NAVAN, C15 HT44. Ms Farrelly described the industrial unit as rurally situated on the Athboy Road (L1014) outside of Navan, a standalone, old industrial unit, on a narrow link road, approximately 2.9 km from the N51 junction on the outskirts of Navan. The workshop measures over 762.61 sqm and is valued at €20/sqm.

3. PN2214918 J.S. MOTOR REPAIRS LTD., GAINSTOWN, NAVAN, C15 Y302. Ms Farrelly described the two detached workshops as rurally located, alongside the M3 motorway (access to motorway is 5km away). The access to the workshop is via a minor road. The workshop measures over 877.50 sqm and is valued at €25/sqm.

4. PN1553822 NAVAN GLASS & GLAZING, KELLS ROAD, NAVAN, C15 E436. Ms Farrelly described the workshop as located on the Kells Road in Navan, access to the workshop is via a shared private residential entrance. The workshop is located to the rear of the residential property. The workshop measures 919.74 sqm and is valued at €25/sqm.

Ms Farrelly stated that the Appellant's Agents had examined four properties in his evidence. The first property was an industrial unit located in an industrial estate outside of Navan, the second and third were industrial units located on a narrow road or via a minor road outside Navan and the fourth an industrial unit which is located via a shared access with a domestic property. Ms Farrelly described the properties under appeal as Industrial units all located with an industrial estate in Navan. It was her opinion that the Appellant was not comparing like with like.

8.7 Ms Farrelly explained that a valuation scheme was developed to give fairness and equity by grouping all relevant properties together. Grouping properties showing similar characteristics such as, location, size within an industrial estate or not, within Navan/outside Navan, links to transport and she put forward the following three Key Rental Transactions (full details in Appendix - N/A to the public).

KRT 1:

Located in an industrial estate in Navan and similar in size to three of the properties under appeal.

Total Floor Area	326.98 SQM	Similar in size to three of the properties under appeal.
Commencement	01.02.2018	The lease was agreed 4 ½ months after the valuation date of the 15th of September 2017.
Term	3 Years	
Rent per Annum	€ 15,000	
NER @ Valuation Date	€ 14,550	
NAV	€ 15,710	

Level	Description	Size	NER /SQM	NAV /SQM
0	WAREHOUSE	223.45	€ 41.67	€ 45
MEZZ	STORE	110.95	€ 8.33	€ 9
0	OFFICE(S)	103.53	€ 41.67	€ 45
	Total	326.98		€ 15,710

The NAV € per sqm of €45 is slightly higher than the NER per sqm of €41.67

KRT 2

Located in an industrial estate in Dunboyne.

Total Floor Area	894.96 SQM	Similar in size to three of the properties under appeal which are valued at €45/sqm and measuring between 201/sqm to 1000/sqm.
Lease Commencement Date	01 July 2017	Lease agreed three months prior to the valuation date of 15th of September 2017.
Lease Term	1 Years & 6 Months	
Rent per Annum	€ 45,000	
NER @ Valuation Date	€ 42,852.10	
NAV	€ 40,200	

Level	Description	Size	NER /SQM	NAV/SQM
0	WAREHOUSE	704.88	€ 47.88	€ 45

0	OFFICE(S)	95.04	€ 47.88	€ 45
1	OFFICE(S)	95.04	€ 47.88	€ 45
	Total	894.96		€ 40,200

The NAV € per M2 of €45 is slightly lower than the NER per sqm of €47.88.

KRT 3

Located in an industrial estate in Navan.

Total Floor Area	293.27 M2	Similar in size to three of the properties under appeal which are valued at €45/sqm and measuring between 201/sqm to 1000/sqm.
Lease Commencement Date	01 September 2016	Agreed one year prior to the valuation date of 15th of September 2017.
Lease Term	2 Years	
Rent per Annum	€ 15,000	
NER @ Valuation Date	€ 14,550	
NAV	€ 14,090	

Level	Description	Size	NER /SQM	NAV /SQM
0	WAREHOUSE	261.84	€ 46.47	€ 45
0	OFFICE(S)	31.43	€ 46.47	€ 45
MEZZ	STORE	99.23	€ 9.29	€ 9
	Total	293.27		€ 14,090

The NAV € per M2 of €45 is slightly lower than the NER per sqm of €46.47.

8.8 Ms Farrelly put forward the following NAV comparisons

NAV comparison 1

Property Number	5012477
Occupier	Thomas Sosin
Address	3A Elmhurst Industrial Estate, Proudstown Road, Navan, C15TKP6. Located further off the Proudstown Road in the Elmhurst Industrial Estate, of which the properties under appeal are located.

Total Floor Area 393.6 M2

NAV € 17,890

Level	Description	Size	NAV /SQM
MEZZ	STORE	20	€ 9
0	WORKSHOP	393.6	€ 45
	Total	393.6	€ 17,890

The property is valued in line with three of the subject properties under appeal (PN1553767, PN1553768 and PN1553762) due to its similar size and location.

NAV comparison 2

Property Number	2169354	Closest of the NAV comparisons
Occupier	Proudstown Furniture Frames Ltd.	
Address	12B Elmhurst Industrial Estate, Proudstown Road, Navan, C15CPC7. Situated further off the Proudstown Road in the same Industrial Estate as the subject properties under appeal.	
Total Floor Area	402.78 M2	
NAV	€ 18,120	

Level	Description	Size	NAV /SQM
0	WORKSHOP	352.98	€ 45
0	OFFICE(S)	49.8	€ 45
	Total	402.78	€ 18,120

The property is valued in line with three of the subject properties under appeal (PN1553767, PN1553768 and PN1553762) due to its similar size and location.

NAV comparison 3

Property Number	1553772
Occupier	Midland Waste

Address Proudstown Road, Navan, C15P977.
 Located further off the Proudstown Road in
 The Elmhurst Industrial Estate.

Total Floor Area 486.16 M2
 NAV € 21,800

Level	Description	Size	NAV /SQM
0	FACTORY	432.76	€ 45
0	STORE	53.40	€ 45
	Total	486.16	€ 21,800

The industrial unit is valued the same as three of the subject properties (PN1553767, PN1553768 and PN1553762) due to the similar size and location.

NAV comparison 4

Property Number 1994598

Occupier B.C. Engineering

Address Beechmount Homepark, Dan Shaw Road,
 Navan, C15 H7DD.
 Located in Beechmount Home Park in Navan.

Total Floor Area 738.06 M2
 NAV € 33,600

Level	Description	Size	NAV /SQM
MEZZ	STORE	44.73	€ 9
0	WAREHOUSE	693.33	€ 45
0	OFFICE(S)	44.73	€ 45
	Total	738.06	€ 33,600

The property is valued the same as three of the subject properties (PN1553767, PN1553768 and PN1553762) due to their similar size and location.

NAV comparison 5

Property Number 1553849

Occupier Noel Casey

Address Unit 3 Beechmount Homepark, Navan, C15 XY06.
Located in Beechmount Home Park in Navan.

Total Floor Area 491.31 M2

NAV € 26,800

Level	Description	Size	NAV /SQM
0	YARD (Concrete/Tarmac)	1048	€ 4.5
0	WORKSHOP	491.31	€ 45
	Total	491.31	€ 26,800

The property is valued the same as three of the subject properties (PN1553767, PN1553768 and PN1553762) due to its similar size and being located in an industrial estate in Navan.

NAV Comparison: 6

Property Number 1553845

Occupier Mr. Brendan Clarke

Address Unit 2 Beechmount Home Park, Dan Shaws Road,
Navan, C15 NR76.
Located in Beechmount Home Park in Navan

Total Floor Area 113.03 M2

Level	Description	Size	NAV /SQM
0	OFFICE(S)	23.86	€ 55
0	WORKSHOP	89.17	€ 55
	Total	113.03	€ 6,210

The property is valued the same as three of the subject properties (PN1553763, PN1553764 and PN1553765) under appeal due to its similar size and being located in an industrial estate in Navan.

NAV Comparison: 7

Property Number 5013700

Occupier Derek Clarke

Address Balsaw, Walkinstown, Navan, C15 W2R5.
Rural standalone workshop located approximately 8 km from the R162/ N51 at 'The Round O' round about in Navan.

Total Floor Area 184.04 M2

NAV € 5,520

Level	Description	Size	NAV /SQM
0	WORKSHOP	184.04	€ 30
	Total	184.04	€ 5,520

The workshop is valued at €30/sqm which is comparable to modern rural standalone workshops measuring between 0- 200 sqm.

NAV Comparison: 8

Property Number 2195345

Occupier Mirek Podemski

Address Gibstown Demesne, Donaghpatrick, Navan, C15 AW29.
Situating in a rural location approximately 9.5 km from the R162/ N51 at "The Round O" round about in Navan.

Total Floor Area 171.05 M2

NAV € 5,130

Level	Description	Size	NAV /SQM
0	OFFICE(S)	42.25	€ 30
0	WORKSHOP	128.8	€ 30
	Total	171.05	€ 5,130

The workshop is valued at €30/sqm which is comparable to modern rural standalone workshops measuring between 0- 200 sqm

NAV Comparison: 9

Property Number 1553989

Occupier Briordy Bedding Ltd.

Total Floor Area	172.05 M2
NAV	€ 5,160

The factory is valued at €30/sqm which is comparable to modern rural standalone workshops measuring between 0-200 sqm

Property Number	5012427
Occupier	Jimmy McNamee
Address	Herberstown, Crossakiel, Co. Meath, A82 F8P2. Stuated in a rural location approximately 19 km from Kells, Co. Meath.
Total Floor Area	106.57 M2
NAV	€ 3,190

The workshop is valued at €30 /sqm which is comparable to modern rural standalone workshops measuring between 0- 200 sqm.

PN1553767 Unit 1	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	162.24	€45	€7,300.80
	0	Store	41.80	€45	€1,881.10

	0	Steel Container	35.70	€9	€321.30
		Total			€9,503.10
		NAV			€9,503.10

PN1553768 Unit 2	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	324.48	€45	€14,601.60
	Mezz	Store	138.36	€9	€1245.24
		Total			€15,846.84
		NAV			€15,846.84

PN1553763 Unit 3	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	147.00	€55	8085.00
	Mezz	Store	45.36	€11	498.96
		Total			€8583.96
		NAV			€8,583.96

PN1553764 Unit 4	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	134.40	€55	€7,392
		NAV			€7,390

PN1553765 Unit 5	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	135.80	€55	€7,469.00
	Mezz	Store	39.13	€11	€430.43
		NAV			€7,899.43

PN1553762 Unit 6	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	535.76	€45	€24,109.20
	Mezz	Store	162.05	€9	€1,483.83
		Total			€25,593.03
		NAV			€25,593.03

8.10 Under cross examination Ms Farrelly confirmed that the lease of only one of the properties under appeal, namely Unit 2, would have been close to the relevant valuation date. She would not agree that there was a distinction between sheds and industrial units, she reiterated that the units were classed as “industrial units in an industrial estate”. Ms Farrelly confirmed that she was not aware if her comparisons NAV 1 and 2 were of a more modern construction than the units under appeal. When it was put to her that they were not comparable because of their build quality, being modern, double skinned (insulated) with office space, she confirmed she believed them to be portal frame construction and confirmed that they were similarly located and similar in size. Ms Farrelly confirmed that her KRT 1 is an industrial unit within an industrial estate but could not confirm the construction type, other than portal frame with office content. When asked if a modern purpose-built unit was comparable to a single skin unit without office and tarmac parking, she agreed that the construction type was not comparable. Ms Farrelly said that she was not involved in the production of the scheme but that there is always a percentage increase for smaller units relative to larger units.

8.10 Ms Farrelly confirmed when questioned that the mezzanine areas were not part of the original valuation certificate. She said, however, that once appealed all properties must be inspected and that she had measured and included the mezzanine areas. She referred to Tribunal decision Mary Boylan v Commissioner for Valuation VA17.5.170 which stated, at paragraph 10.3, “section 37(2)(ii) provides that in accordance with the matters set out in section 19(5), the Tribunal may increase or decrease a valuation as stated in the valuation certificate”.

8.11 In summing up Ms Farrelly described the properties as units in an industrial estate in Navan town. She said that they were not, in contrast with Mr. Halpin's comparisons, rurally located. She confirmed that the units were single skin construction with 4 of the 6 units containing additional mezzanine areas. Ms Farrelly stated that there was an emerging tone of the list relevant to the type, location and size of the property. She stated that her NAV comparisons 1-6 were in industrial estates in Navan or close to a major motorway. She said the level to be applied was €55/sqm for units measuring up to 200 sqm and €45/sqm over 201 sqm. Ms Farrelly pointed out that Mr Halpin's NAV comparisons 7-10 were rural standalone units valued at €30/sqm. She confirmed it was the location that established the rate between properties on the Valuation list.

9. SUBMISSIONS

9.1 There were no legal submissions made by the parties.

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 Co Meath.

10.2 The Tribunal has examined the particulars of the Property and considered the written and oral evidence adduced by Mr. Halpin who contended for a revised valuation of

Unit	PN	NAV
1	1553767	€4,730
2	1553768	€9,470
3	1553763	€4,170
4	1553764	€4,170
5	1553765	€4,170
6	1553762	€12,050

and by Ms. Farrelly who sought confirmation of the Respondent's determination of

Unit	PN	NAV
1	1553767	€15,480
2	1553768	€14,600
3	1553763	€8,080
4	1553764	€7,390
5	1553765	€7,460
6	1553762	€24,100

as being fair and equitable.

10.3 The Appellant's case was that there was direct rental evidence available for similar properties, and the actual rents passing were the best rental evidence. The Appellant was of the view that the Commissioner had treated the properties as if they were in a prime location in a modern industrial estate and had compared them to other properties so located, but it was Mr Halpin's opinion that the units had more in common with rurally located, less modern, single skin units without office space.

10.4 The Respondent relied on a scheme which divided industrial units into those located inside industrial estates from those not in industrial estate and then adjusted the valuations to take account of type and size. Under this scheme the Respondent identified what it saw as Key Rental Transactions comparable to the subject properties and valued the subject properties having regard to these transactions.

10.5 In determining the rent at which it is estimated a relevant property might reasonably be expected to be let, the best evidence is evidence of lettings of comparable premises in the open market. Use of the rental method of valuation depends, however, on sufficient, appropriate and reliable comparable evidence being available from the marketplace.

10.6 On this appeal, there was no evidence of lettings of directly comparable premises in the area at or around the valuation date other than the lettings in the subject properties. The type of the key rental comparisons relied upon by the Respondent relied heavily on the location aspects of the units, mainly whether they were within industrial estates or not. Other characteristics appear not to have been sufficiently accounted for or indeed accounted for at all. The properties that were the subject matter of the Respondent's Key Rental Transactions were not in terms of their construction, age, condition, or location so comparable to the subject properties as to be of any real assistance. It is the Tribunal's opinion that the NAV of the Property should fully reflect the type, condition, and location of the property relative to the available comparisons. As the rental evidence is poor, it is therefore appropriate to take into account the value of comparable properties on the valuation list so as to ensure that the value of the Properties is measured properly relative to the value of those other properties.

10.7 The Tribunal heard evidence in relation to the mezzanine areas. The Tribunal accepts that there are mezzanine areas in four of the six units but that these areas were not included in the final valuation certificates. The Tribunal notes in this regard the decision of the High Court in ***Commissioner of Valuation v. Carlton Hotel Dublin Airport Limited & Ors [2013] IEHC 170***. The decision in that case applies to the current appeal just as it did in the Tribunal's decision in *Mary Boylan v Commissioner for Valuation VA 17/5/170* (referred to by Ms. Farrelly in her submissions) in which appeal the Tribunal at paragraph 10.5, found as follows:

In the High Court decision of Commissioner of Valuation v. Carlton Hotel Dublin Airport Limited & Ors [2013] IEHC 170 Ms. Justice O'Malley [at para. 61] clarified that logically the prior issue for consideration is whether the NAV of the Property has been properly assessed in the first place as there is no merit in the uniform application of a mistake. This comment was made in the context of the methodology used to ascertain the NAV of the property; however, it seems that it is a generally applicable principle. Furthermore, Ms. Justice O'Malley also confirmed [at para. 69] that appeals to the Tribunal have always been de novo hearings and the Court could

not see anything in the 2001 Act to alter that understanding. All matters of fact and law are determined afresh albeit in the context of the grounds of appeal stated in the notice of appeal in a de novo hearing.

The Rilton case quoted by Mr Halpin predates the Carlton case and is effectively overturned by it.

At the request of the Tribunal, Mr Halpin supplied information in relation to the sizes and dates of construction of the mezzanines which information was shared with the Respondent. It is the Tribunal's opinion that the NAV of the Property should fully reflect the facts. The mezzanine areas are an intrinsic part of the relevant properties and should, accordingly, be included in their valuations as they would be in the case of other properties on the list, in order to be fair and equitable.

10.8 The Tribunal finds as a matter of fact that the properties are relatively simple, uninsulated, single-skin, shed-like structures located outside of a serviced industrial estate. Taking this into account, the tribunal was more persuaded by the appellant's argument and comparisons. The Respondent seemed to hold the view that, as the properties' address is noted as Elmhurst Industrial Estate, that in compliance with Section 19(5)(b) of the Act, they must be valued in line with other units in other industrial estates. This does not take account of the differences in quality, construction etc. between these units and those in other industrial estates. All elements of a property must be taken into account in assessing its value relative to another property to achieve correctness as well as equity and uniformity. The use of a term such as "industrial estate" does not per se confer a particular level of value. The Tribunal notes the opinion of the Appellant on the NAV of the Properties when they are viewed in comparison with the NAV of other similar properties.

Taking account of the location of the properties as not in a serviced part of an industrial estate but rather on a lane that leads to the entrance of an industrial

estate, secondly, the nature of the construction and actual condition of the units, being simple, single-skin structures without offices and their relative sizes and noting the passing rents while acknowledging that some pre date the statutory valuation date the Tribunal determines that units 1,3,4 & 5 should be reduced to €35/m2, unit 2 to €30/m2, and unit 6 to €25/m2. The Tribunal accepts the evidence of the Respondent in relation to the inclusion of the mezzanine areas that existed at the valuation date as set out by Mr Halpin, at 20% of the rate.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate and includes (where mentioned) the mezzanine areas.

PN1553767 Unit 1	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	162.24	€35	€5,678.40
	0	Store	41.80	€30	€1,254
	0	Steel Container	35.70	€9	€321.30
		Total			€7,253.70
		NAV			€7,253.00

PN1553768 Unit 2	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	324.48	€30	€9,734.40
	Mezz	Store	138.36	€6	€830.16
		Total			€10,564.56
		NAV			€10,564

PN1553763 Unit 3	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	147.00	€35	€ 5,145
	Mezz	Store	45.36	€7	€ 317.52
		Total			€ 5,462.52

		NAV			€ 5,462.
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PN1553764 Unit 4	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	134.40	€35	€4,704
		NAV			€4,704.00

PN1553765 Unit 5	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV € (SQM)
	0	Workshop	135.80	€35	€4,753
	Mezz	Store	39.13	€7	€273.91
		Total			€5,026.91
		NAV			€5,026

PN1553762 Unit 6	Floor	Use	Area (SQM)	NAV € (SQM)	Total NAV €
	0	Workshop	535.76	€25	€13,394
	Mezz	Store	162.05	€5	€810.25
		Total			€14,204.25
		NAV			€14,204

And the Tribunal so determines.