

Appeal No: VA19/5/1862

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ABP Ireland Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 1773346, Factory at Grange, Nenagh, County Tipperary**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF APRIL, 2023.**

BEFORE

HUGH MARKEY FRICS FSCSI,

Deputy Chairperson

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 Property was fixed in the sum of €506,000.

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

“the valuation is excessive. Incorrect rental levels adapted in computation”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €221,966.27.

2. RE-VALUATION HISTORY

2.1 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 it not consider it appropriate to provide for a lower valuation.

2.2 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €506,000

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th day of September, 2019.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 The parties are agreed as to the following facts:

The subject premises comprises an EU approved beef processing plant with five main buildings on the site constructed in the 1980s.

The floor areas have been agreed as follows:

Level	Use	Area M ²
	Factory	
0	Factory	346.53
0	Factory	3371.31
0	Factory	Mezz 369.42
0	Factory	323.51
0	Factory	800.31
1	Factory	800.31
0	Factory	181.92
1	Factory	181.92
0	Factory	188.87
1	Factory	188.87
0	Factory	310.78
1	Factory	Chill Rooms 327.18
1	Factory	Chill Rooms 961.40
0	Factory	Canteen/Vet Office 391.92
0	Factory	Canteen 26.75
0	Factory	Lockers/WC 427.94
0	Factory	Laundry Room 133.27
	Total Factory	9332.20
	Buildings External Areas	
	Lairage	1146.80
	Lairage	365.38
0	Lairage	538.62
0	Store	400.95
0	Store	281.96
0	Boiler House	130.24
0	Plant	50.40
0	Store	30.45
	Total External Areas	2944.80
0	Portacabin	Office 18.54
0	Portacabin	Office 28.62
	Portacabin	Security Hut 29.89

	Portacabin	Canteen Extension	75.03
	Total Portacabins		152.08

5. ISSUES

5.1 The sole issue in this dispute is one of 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 In his evidence Mr. Donnelly noted that the subject property has grown significantly since it was first established in 1970. He noted that as it was primarily a beef supplier, a large amount of storage is required for the large carcasses. He suggested a lamb supplier would require less space. He outlined how the site had a single entrance for ingress and egress which caused issues for larger vehicles. He noted that the site is on a narrow country road, which is, in turn, off a busy main road.

7.2 The witness suggested that if the Appellant were to rebuild the factory it would do so as one large facility to cater for the easy transporting of carcasses around the facility.

7.3 He noted that there are a substantial number of clean rooms and chillers which are required in a factory supplying the market with fresh meat.

7.4 Mr. Donnelly said the buildings on the site are of significant age but are in good condition. He went on to note that large parts of the factory would be considered ‘very basic’ in terms of design and specification.

7.5 He suggested the holding pen for the abattoir should be assessed at a very low level to reflect the fact it holds livestock awaiting slaughter.

7.6 Mr. Donnelly indicated that ‘*there are over 68 industrial buildings described as factory on the Valuation List, of which only 2 have higher assessments*’.

7.7 The witness introduced the following table showing the level applied to ‘factories’ in various locations in counties Kilkenny, Limerick, Roscommon, Westmeath and Wexford.

Property No	Description/Uses	Address	Valuation	Factory Level
226660	Factory	ABP, Kilculliheen, Waterford, Co Kilkenny	€404,000	€30
226674	Workshop	Munster Proteins, Kilculliheen, Waterford, Co Kilkenny	€42,800.00	€20
1299508	Factory	ABP, 21 Kyletaun, Rathkeale, Co Limerick	€170,500	€15
116970	Factory	Kepak, Cloonkelly, Athleague West, Roscommon, Co Roscommon	€235,500	€30
1446568	Abattoir	Kepak, Ardnaglew, Mullingar, Co Westmeath	€63,800	€17
2008270	Factory	Slaney Foods International, Ryland, Bunclody, Co Wexford	€565,700	€27

A full breakdown of these comparables is provided at Appendix 1 to this judgment (n/a to public).

7.8 Appellant's Opinion of Value

Mr Donnelly contended for a revised valuation of € 221,996.27, as follows:

Floor area	Floor Use	Floor Area	NAV € per m ²	NAV €
0	Warehouse	701.21	17.00	11,920.57
0	Store	2215.00	17.00	37,655.00
0	Factory	6609.47	17.00	112,360.99
0	Office(s)	1359.00	17.00	23103.00
0	Dock Leveller	7.00	500.000	3500.00
1	Factory	1181.96	17.00	20,093.32
Mezz	Factory	353.42	4.000	1413.68
	Additional Items	Units	NAV € per Unit	Total NAV €
	Plant/Other Motive Power	587.50	3.0400	1786.00
	Plant/Other Weight Pit	1.000	2000.00	2000.00
	Plant/Other Tanks	1.00	1137.00	1137.00
	Plant/Other – Tanks	1.00	6996.71	6996.71
	Plant/Other – Tanks	1.00	2000.000	2000.00
		Total NAV (€)(Rounded)		221,996.27

Opinion of Value €221,996.27

(Two Hundred and Twenty-One Thousand, Nine Hundred and Ninety-Six Euro and Twenty-Seven Cent)

8. RESPONDENT'S CASE

- 8.1 Mr. Gogu, on behalf of the Respondent, outlined the basis, purpose and the statutory provisions involved in the revaluation exercise. He noted the net annual value (NAV) had been estimated in accordance with section 48 of the Valuation Act 2001, as amended by the Valuation (Amendment) Act 2015. He outlined how the valuation is based on the premise of a hypothetical tenant paying a rent for exclusive occupation one year with another, for a property in its actual state on the assumption that the probable annual cost of repairs, insurance and any other expenses necessary to maintain the property in that state including rates and other taxes are borne by the tenant.
- 8.2 The witness noted that the property is a fully integrated meat processing site with animal slaughter, cutting, deboning, customer packaging, further processing and cold storage facilities operated by the Appellant.
- 8.3 He said that the property was freehold.
- 8.4 The witness said that while Representations had been made on behalf of the Appellant, no market evidence or comparable properties had been provided and following this exercise the valuation of €506,000 had not been amended.
- 8.5 Mr. Gogu recited the Appellant's opinion of value as being €221,966 27. He noted that no rental evidence had been adduced by the Appellant and as evidence of the tone of the list the Appellant had introduced a number of comparisons.
- 8.6 Having recited section 19 (5) of the Valuation Act 2001-2020, the witness noted that none of the comparables introduced by the Appellant fulfilled the requirements of section 19 (5) as they were all located in different rating authority areas and most were valued by reference to a different valuation date. As such, he said these were not valid comparables.
- 8.7 Mr. Gogu outlined how three items of market information had been used to inform the valuation scheme which was then used to estimate the Net Annual Value of the subject property. These 3 Key Rental Transactions are included in Appendix 2 to this judgment(n/a to public).
- 8.8 The witness introduced 3 'Tone of the List' comparables in support of his opinion that the rate of €40 per sq. m he had applied was correct. He suggested that as these comparisons were in the list, they were deemed to be correct in accordance with section 63 of the Valuation Acts 2001-2015. These comparisons are included at Appendix 3 to this judgment(n/a to public).
- 8.9 Mr. Gogu suggested that the additional cost of fitting basic industrial premises to provide a temperature controlled environment needed to be reflected in the rental value. He noted how he had applied lower rates per square metre to the stores/workshop/boiler house to which he had applied a rate of €27 per square metre; the lairage €22 per sq. metre and portacabins €16 per square metre.

9. FINDINGS AND CONCLUSIONS

9.1 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 Tipperary County Council

9.2 In this, as with any appeal to the Tribunal, the onus of proving that the Respondent's opinion of the NAV is incorrect lies with the Appellant. In the instant case, this burden of proof has not been met. The only evidence introduced by the Appellant was from other rating authority areas and as such these does not comply with the requirements of section 19 (5) of the Act.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

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.