

Appeal No: VA20/4/0049

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Fergal Flavin t/a Grain & Groove

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 5019441, Showroom (Industrial), Warehouse at Beechmount Home Park,
Navan, County Meath.

BEFORE

Hugh Markey FRICS FCSI

Deputy Chairperson

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13th DAY OF APRIL 2023

1. THE APPEAL

1.1 By Notice of Appeal received on the 4th day of December, 2020 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 €23,100.

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 28(4) of the Act because : *“The Value on this property jumped up by 189% without the footprint or use of the building changing. This is totally unsustainable jump. We have had 4 break ins since taking on the property and are the only unit in Beechmount3 Home Park not permitted to install security fencing due to the new building regs. The back wall at the property is falling down and is leaving us in a vulnerable position from the housing estate behind, people are using it as a shortcut as well as antisocial behaviour. We do not have our own phone line. Our broadband speeds are nothing short of appalling to run a business. Today our speed is 1.78 download, this is a daily struggle.*

We are also the very last unit within the home park - to have any increase in rates with such a low footfall and no passing trade is unjustifiable. There is no public lighting on the street for us or our customers.

We have spent an absolute fortune on wheelchair accessibility and are the only business in Beechmount to have gone through this rigorous process.

In a nutshell, we have pumped so much money into this building, business and creating local employment - it is simply unsustainable for any sort of rate increase whatsoever.

This valuation should have been in line with the original valuation of the building when we acquired it.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €8,000.

2. VALUATION HISTORY

2.1 On the 30th day of September, 2020 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 €23,100.

2.2 A Final Valuation Certificate issued on the 10th day of November, 2020 stating a valuation of €23,100.

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, with 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 following facts have been agreed by the parties or are not in dispute.

4.2 The subject property is located in Beechmount Home Park, Navan, Co Meath C15 AN8Y.

4.3 The subject property is an end of terrace unit, one of three formed by the subdivision of a former factory building. It is in use as a paint supplier retail outlet. There is also an ancillary storeroom/warehouse to the rear. There is also some car parking.

4.4 The exterior of the subject property was renovated in a recent years to include the addition of double glazed entrance doors.

4.5 The following floor areas have been agreed:

	Floor	M2
Canteen	0	11.40
Office(s)	0	20.00
Showroom	0	212.23
Store	0	222.47
Toilets	0	6.90
Total	-	473.00

5. ISSUES

5.1 The sole issue in this appeal is one of quantum.

6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28 (4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property”

7. APPELLANT’S CASE

7.1 Representations were made on behalf of the Appellant by a director of the company, Mr. Fergal Flavin. The main issues identified by the Appellant centred on the increase in the valuation of the property (189%); he suggested the rate per square metre of €54.00 which had been applied to the subject property was excessive when compared with another property (PN 1553840) in Beechmount Home Park which had been valued at a rate of €36.00 per for square metre for the office and store space and €43.20 for the showroom areas. He noted that the comparison property as cited above is at the entrance to the park which has the highest footfall and passing trade. He noted that the subject property was at the ‘very bottom of the Home Park with the least passing trade and footfall’.

7.2 The Appellant cited issues with security, antisocial behavior: poor broadband speeds and the absence of a dedicated telephone line. He noted that there is no public lighting on the street and this is the last unit in and industrial estate.

7.3 The Appellant contended for a NAV of €8,000

8. RESPONDENT’S CASE

8.1 A submission was made on behalf of the Respondent by Mr. Andrew Cremin.

8.2 In his submission Mr. Cremin outlined the basis of revaluation and revision and their purpose.

8.3 He noted how the subject property is located in Beechmount industrial estate which is known locally as a Beechmount Home Park. The park is situated approximately 2 kilometres from Navan town centre. He said it is an older industrial park dating from the 1970s and which originally consisted of factories and workshops. He noted how the occupancy of the park had transitioned to a retail park and is now dominated by home interior providers such as furniture showrooms. He included the marketing map of the park in his submission. He also included a block plan and photographs of the subject property.

8.4 Mr. Cremin described the subject to property as being an end of terrace unit being one of three being a subdivision of a larger building. He noted that it was narrow and rectangular with a wider rear storage area giving an ‘L’ shape. He said the subject property is currently occupied as a paint supplies provider which functions as a retail unit with a large ancillary store/warehouse to the rear. In addition there is a small yard and some additional car parking. He indicated that the condition of the property was good, the exterior had been renovated in recent years with the addition of double glazed entrance doors.

8.5 The Respondent, having noted the basis of the appellants appeal, contended that there was no further clarifying information or clarifying information such as a floor areas breakdown provided in relation to the NAV of the one property referenced - PN 1553840.

8.6 He noted that this property, PN 1553840 is a very large furniture store comprising 3,952.76 square metres over two floors. He included the following table which showed the full breakdown of the valuation of this property. This is shown below:

PN 1553840

LEVEL	USE	AREA (m2)	NAV€(m2)	TOTAL NAV€(m2)
0	OFFICES	59.94	36	€2,157.84
0	SHOWROOM	2675.79	43.2	€115,594.13
0	STORE	1045.59	36	€37,641.24
1	SHOWROOM	171.44	43.2	€7,406.21
			Total NAV	€162,799.42
			NAV say	€162,700.00

8.7 Mr. Cremin suggested that this was not an appropriate comparison to use with the subject property. He indicated that the floor areas are substantially different and the evaluation levels affected accordingly.

8.8 He went on to note that the rate per square metre applied to this comparable property reflects the tone of the list in the park for units of this size and scale, noting that it extended to almost 4,000 square metres. Mr. Cremin suggested that the rental rate per square metre for such a substantial property would be somewhat lower to compensate for scale, compared with a small unit; smaller units tending to attract a higher rent per square metre due to their size and demand.

8.9 The witness outlined the planning history of the building of which the subject property forms part, noting that planning permission had been granted for subdivision of the existing building into 3 no. retail units and change of use of part of the area of the existing from factory to retail.

8.10 He noted how the valuation is concerned with the net annual value (NAV) as per section 48 and 49 of the Act and, having regard to the tone of the list, the subject property had been valued and compared with suitable, appropriate properties. He further noted that all the comparables used by him are situated in Beechmount Retail Park.

8.11 The Respondent indicated that he could not respond to the lack of services as outlined by the Appellant, these are localised factors and not relevant to the valuation.

8.12 Mr. Cremin introduced 3 comparable properties which, he suggested, demonstrated that both correctness and equity and uniformity of value had been achieved in the instant case. He said properties which are 'similarly circumstanced' are considered comparable. This is where they share use, size, location and/or construction characteristics. Details of the 3 comparable properties adduced are set out in the table below.

Type	Property No	Occupier	Address	NAV per sqm	NAV
Subject Property	5019441	Paint Hub	Beechmount Home Park, Navan	Showroom: €54.00 Store: €45 Office: €45	€23,100.00
Comparison 1	1553857	Fergus Flanagan Furniture	Beechmount Home Park, Navan	Showroom: €54.00	€18,810.00
Comparison 2	1553720	James Carpenter	Beechmount Home Park, Navan	Showroom: €54 Office: €45 Store: €45	€59,800.00
Comparison 3	1994598	B.C. Engineering	Beechmount Homepark, Navan	Warehouse: €45.00 Office: €45.00	€33,615.00

8.13 The Respondents Opinion of Value is €23,100. This is as set out in the table below.

LEVEL	USE	AREA (m2)	NAV€(m2)	TOTAL NAV€(m2)
0	CANTEEN	11.4	45	€513.00
0	OFFICE	20	45	€900.00
0	SHOWROOM	212.23	54	€11,460.42
	STORE	222.47	45	€10,011.15
0	TOILET	6.9	45	€310.50
			Total NAV	€23,195.07
			NAV say	€23,100.00

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 Meath County Council.

9.2 As with any appeal to the Tribunal, the onus of proving that the Respondent's estimate of value is incorrect lies with the Appellant.

9.3 In the instant case the Appellant relied on matters which do not come within the remit of the Tribunal and as such cannot be considered in arriving at a determination. These matters such as security, boundary and broadband issues cannot be considered by the Tribunal when assessing the appropriate valuation to be applied to the subject property.

9.4 The Appellant introduced the evidence of a single comparator to support its view that the valuation placed on the subject property by the Respondent was excessive. No evidence was given as to the floor areas nor was a breakdown of the valuation provided. Neither was evidence provided of similarly circumstanced properties which would have supported the Appellant's opinion of value.

9.5 On the other hand, the Respondent provided a full analysis of the Appellant's single comparator and an explanation as to the differing rental levels applied. Furthermore, he provided the Tribunal with 3 comparables which are similarly circumstanced and located in Beechmount Home Park. These comparables support the level applied by the Respondent to the subject property.

9.6 The Tribunal finds that the onus of proving that the Respondent's valuation should be disturbed has not been met by the Appellant.

10. 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.