

Appeal No: VA19/5/0842

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Harney Masonry LTD

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1789706, Minerals at Local No/Map ref: ON4B, Cloncannon, Borrisnoe, Roscrea, County Tipperary.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF NOVEMBER, 2023**

BEFORE

Thomas J Kearns, B.Sc. (Surv), MRICS

TRIBUNAL MEMBER

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th 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 €40,800.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

“• The valuation is incorrect based on the annual rent of comparable properties, PNS 212382 and PN 1446869 were quoted.

• The washing plant and the sheds are old, the net annual value should take into account the age, construction and suitability of the plant and buildings on site.

• The net annual value should take into account the output and the ability to pay of the company.

• We currently pay €1,441.00 in rates. If a 100% was applied, this would give a figure of €13,800. If someone was to rent the premises this would roughly be the figure that would be paid due to the age and condition of the plant and buildings.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €13,800.

2. RE-VALUATION HISTORY

- 2.1 On the 10th day of May, 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 €146,500.
- 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 €40,800.
- 2.3 A Final Valuation Certificate issued on the 10th day of September 2019, stating a valuation of €40,800.
- 2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th day of September, 2017.

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. The Appellant's summary was prepared by Mr Kevin Harney, owner and occupier of the subject property and the Respondents summary was prepared by Mr Oliver Parkinson.
- 3.3 The precis of evidence submitted by Mr Parkinson contained the Declaration and Statement of Truth required under Tribunal Rules.

4. FACTS

- 4.1 The parties are agreed as to the following facts.
- 4.2 The property is located in a rural area in Cloncannon, Co Tipperary, approximately 6km south of Junction 23 and the M 7 motorway linking Dublin to Limerick.
- 4.3 The subject property comprises a quarry facility, with a variety of workshops, sheds, washing area and a mix of concrete and hardcore yard areas.
- 4.4 The facility and buildings are quite dated and in poor condition dating back to the 1950/60's.

5. ISSUES

- 5.1 The issues relate to quantum, size and property description.

The areas of the buildings as set out in the Valuation Certificate dated 10th Sept 2019, following representation stage are as set out hereunder:

Level	Use	Area (m ²)
0	Workshops	1,784
0	Yard Concrete	360
0	Yard Hardcore	1,491
<u>Additional Items</u>		<u>Units</u>
	Plant/Other Weight Pit	1
	Quarry (Tonnes)	1

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.”

6.3 Section 19 (5) of the Valuation Act 2001, as amended by the Valuation (Amendment) Act 2015 provides:

The valuation list in this section shall be drawn up and compiled by reference to the relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)

(a) correctness of value and

(b) equity and uniformity of value between properties on that valuation list,

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

7. APPELLANT'S CASE

7.1 Mr Kevin Harney, on behalf of the Appellant, who is also the owner and occupier of the property, described the premises under six headings as follows;

- **Covered Yard** comprising a concrete slab, concrete columns and steel work roof beams with single skin corrugated roof panels incorporating translucent roof light panels. The building was constructed in the mid 1960's and is in poor overall repair and condition. The majority of the building (approx. 80%) is described as not having the benefit of side elevations connecting to the roof structure. The Appellant states that this structure may have been described as a workshop at previous stages in the Revaluation process and that this "is not a fitting description for the type of structure and use of this area of the premises".
- **Hardcore and Concrete Yards** surrounding the covered yard dating back to the mid 1960's.
- **Workshop** constructed c1950 of steel frame and concrete block walls. In poor condition with leaking roof and no heating.
- **Offices** are part of an original domestic building over 100yrs old in very poor condition with only c 25 m² being capable of office use.
- **Wash Plant** dates back to the late 1950's and is in poor repair and in need of substantial repair and maintenance to operate. Very inefficient and poor output compared to modern facilities.
- **Quarry** comprises a gravel pit which includes hardcore roads.

7.2 The Appellant floor areas and description are set out below. These differ from the floor areas and description of premises in the Valuation Certificate dated 10th Sept 2019 as per previous paragraph 5.1 above.

Use	Area (m ²)
Covered Yard	1,800 m ²
Hardcore Yards	1,575 m ²
Concrete Yards	250 m ²
Workshop	120 m ²
Offices	25 m ²
Additional Items	Wash Plant and Quarry

7.3 Mr Harney refers to two comparable properties below in the Grounds of Appeal section of his Appeal submission. Mr Harney states that these facilities are similar to the subject in terms of producing concrete blocks, but they have a higher annual output are far bigger and superior plant and machinery,
Property No 212382
Property No 1446869

7.4 Mr Harney also includes 5 further comparable properties which are similar in nature to the subject property. He also states that he is familiar with these properties and believes that they

would command a higher annual rental than the subject due to their more modern design, efficiencies and superior condition.

- 2163167 in Roscrea, Tipperary with a valuation of €18,280
- 2169455 in Toomevara, Tipperary with a valuation of €13,340
- 1804270 in Clonmel, Tipperary with a valuation of €8,370
- 1772489 in Birr, Co. Offaly with a valuation of €29,900
- 2165043 in Rathcoole, Tipperary with a valuation of €17,760

7.5 Mr Harney seeks a valuation of €14,935, calculated as follows;

Description		Size m ²	NAV	Total NAV
Covered	Yard	1800	4	7,200
Hardcore	Yard	1575	1	1575
Concrete	Yard	250	2	500
Workshop		120	8	960
Offices		25	8	200
Wash Plant				3,000
Quarry				1,500
Total				€14,935

8. RESPONDENT'S CASE

8.1 Mr Oliver Parkinson on behalf of the Respondent, described the property as a Quarry comprising workshops, sheds, out buildings with concrete/hardcore yards including washing plant, hoppers and tanks. The buildings are described as old and dating back to the 1950/60's situated in the townland of Cloncannon approx. 6km from Junction 23 of the Dublin to Limerick motorway.

8.2 The floor areas are not agreed between the parties and Mr Parkinson notes that the floor areas and area of the concrete and hardcore used in his statement of evidence were amended to those put forward by the Appellants Agent at representation stage in June 2019.

8.3 Mr Parkinson notes that properties which are "similarly circumstanced" are considered comparable. He states that such comparable properties share various characteristics such as use, size, location and or construction. There is also reference to market evidence to assist with developing a scheme of valuation, however no such evidence was provided.

8.4 Mr Parkinson has put forward 4 NAV comparisons as follows:

Property No	NAV psm	NAV
PN - 2163167	€20	€18,280
PN - 2169455	€20	€13,340
PN - 1804270	Plant output	€8,370
PN - 1772489	€20	€29,900

8.5 Mr Parkinson seeks a valuation of €40,800, calculated as set out hereunder

Level	Use	Area	NAV psm	Total NAV €
0	Workshop	1784	15	26760
0	Yard C/T	360	4	1440
0	Yard H	1491	1.5	2236.50
	Additional	Units	NAV € per Unit	
	Plant/Other	1	€2409.00	2409
	Quarry	1	€ 8000.00	8000
Total			NAV	40,845.5
			NAV Rounded	€40,800

9. SUBMISSIONS

9.1 There were no legal submissions. The Respondent did note the Tribunals decision in VA 19.5.1869 ABP V's COMMISSIONER OF VALUATION to support its contention that the onus of proof rests with the Appellant.

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 Tipperary County Council.

10.2 The Appellant's case is that the valuation as proposed is not in accord with the values of similar properties in the State, taking into account the age, inferior condition and inefficiencies associated with the subject property. The Appellant also disputes the description and size of the Workshop area 1784 m² in the Valuation Certificate and describes it as a 1800 m² "Covered Yard" with leaking roof and missing approximately 80% building façade/elevations. In addition the plant output is severely restricted due to the age of the plant and machinery which suffers significant downtime and constant maintenance.

- 10.3 The Respondents case is that the property is a Quarry with dated workshop and out building's dating back to the 1950's/60's and includes old plant past its natural life span. After taking consideration of evidence received at Representation stage from the Appellants Agent in relation to age and output of the facility during 2016, 2017 and 2018, the valuation was reduced from €146,900 to €40,800. The Respondent believes that the valuation is in line with the tone of the list for Tipperary County Council having adjusted the NAV from €20psm to €15psm on the Workshop to reflect age and poorer condition of the subject buildings.
- 10.4 The Appellant has put forward 7 comparisons, 2 of which were included under page titled "Grounds of Appeal" and 5 NAV comparisons in their statement of evidence. In relation to the two comparable properties located in Co Kilkenny, PN 212382 (valuation date October 2015) and Co Westmeath PN 1446869 (valuation date October 2015), the Tribunal does not consider this comparable evidence to be of assistance in arriving at its decision due to failure in meeting Section 19 (5) of the Valuation Act as amended.
- 10.5 The remaining 5 NAV comparisons (PN 2163167, PN 2169455, PN 1804270, PN 1772489, PN 2165043) are located in Co Tipperary and offers assistance in terms of Workshop/Outbuildings NAV's in the €15 to €20psm range and NAV range of €1 to €4psm for Hardcore Yards and Concrete/Tarmac yards.
- 10.6 The Tribunal is satisfied that the Respondent has shown that the tone of the list for Workshops is set at approximately €20psm and that the subject property received a fair downward adjustment to €15psm to allow for inferior dated subject workshop/covered yard out buildings. The Tribunal is also satisfied that this adjusted rate be applied to the lower workshop floor area of 1784 m² following representation stage.
- 10.7 In relation to additional items and output, the Appellant contends that all the NAV comparisons command a higher annual output than the subject, however no specific evidence was supplied to the Tribunal in support of these statements.
- 10.8 The Tribunal finds that in this appeal as in all appeals before the Tribunal, the onus of proof rests with the Appellant and this remains the guiding principle for the Tribunal's determination.
- 10.9 The Tribunal finds that the Appellant has failed to provide sufficient evidence that the valuation proposed by the Respondent is incorrect.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the valuation of the Property as stated in the valuation certificate of €40,800.

Level	Use	Area (m²)	NAV psm	Total NAV €
0	Workshop	1784	15	26760
0	Yard C/T	360	4	1440
0	Yard H	1491	1.50	2236.5
	Additional	Units	NAV € per Unit	
	Plant/Other	1	€2409.00	2409
	Quarry	1	€ 8000.00	8000
Total			NAV	40845.50
			NAV Rounded	€40,800