

Appeal No: VA19/5/1188

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Monaghan Mushrooms

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1552170, Factory at Local No/Map Ref:4C, Template, Tehallan, County
Monaghan.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF NOVEMBER, 2023**

BEFORE

Martin Connolly, M.Agr.Sc, M.Sc., MSCSI, FCInstArb

Tribunal Member

1.0 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 €91,300.
- 1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

"Excessive, inequitable and bad in law"

- 1.3 The Appellant considered that the valuation of the Property ought to have been determined in the sum of €70,819.92.

2.0 RE-VALUATION 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 €81,600.
- 2.2 There is no evidence before the Tribunal of representations being made to the valuation manager.
- 2.3 A Final Valuation Certificate published on the 17th day of September, 2019 stating a valuation of €91,300.
- 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.

3.0 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 The Tribunal directed the parties to exchange their respective summaries of evidence and submit them to the Tribunal.

4.0 FACTS

- 4.1 Based on the evidence before it the Tribunal finds the following facts.
- 4.2 The subject property is located at Template, Tehallen, Co Monaghan on the Armagh Road, approximately 0.6 miles outside Monaghan Town.
- 4.3 The subject property is in industrial use, and comprises a factory, offices, cold stores, a separate portacabin structure, and yard. It is in use for mushroom production for the home and international markets. The buildings are of good quality, with good parking and adequate truck access.

- 4.5 A final Valuation Certificate was published on the 17th of September 2019 showing a NAV of €91,300 calculated as in the table below, taken from a copy of the Valuation Report published on the Respondent's website and included in the précis submitted by the Appellant.

Level	Use	Area (m ²)	NAV (€/m ²)	NAV €
0	Chill Rooms	1,765.34	€ 19.50	€ 34,424.13
0	Factory	960.85	€ 13.00	€ 12,491.05
0	Factory	1,146.16	€ 19.50	€ 22,350.12
0	Offices	367.74	€ 13.00	€ 4,780.62
0	Portacabin	96.80	€ 5.20	€ 503.36
0	Store	26.60	€ 6.50	€ 172.90
0	Store	25.37	€ 13.00	€ 329.81
0	Workshop	439.20	€ 13.00	€ 5,709.60
0	Yard	1,154.96	€ 1.30	€ 1,501.45
1	Offices	595.62	€ 13.00	€ 7,743.06
	Additional items			€ 1,390.66
				€ 91,396.76
			Say	€ 91,300.00

The total area, including yard, is 6,587.54 m².

5. ISSUES

- 5.1 The issue in dispute is quantum.

6.0 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) provides that:
- “The valuation list referred to in this section 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,*

7. APPELLANT’S CASE

- 7.1 Mr Tadhg Donnelly of Donnelly & Associates, Chartered Surveyor, submitted a précis of evidence on behalf of the appellant.
- 7.2 In his précis Mr Donnelly set out:
- a summary of his experience; more than 40 years as a rating surveyor
 - a description of the property, as summarised at Paragraph 4 at pages 2 and 3 above
 - a location map and a copy floor plans
 - a schedule of floor areas
 - a schedule of areas and values taken from the proposed certificate of valuation issued on the 15th of March 2019
 - a copy of the valuation report dated 17th of September 2019 taken from the Valuation Office/Tailte Éireann website
 - his estimate of NAV and associated calculations.
- 7.3 Mr Donnelly provided neither evidence of the values of other comparable properties on the Monaghan County Council rating list, or elsewhere, nor of any relevant rental transaction to assist the Tribunal.

7.4 At Paragraph 8 of his précis Mr Donnelly provided a schedule of floor areas which is set out in the table below. The total area come comes to 5,029.09 m², not 3.139.46 m² as stated in in Mr Donnelly's table. These figures are reproduced in the table below.

Floor Areas

Area	Floor Use	Area (M ²)
1	Main Office Ground Floor	168.74
1	Main Office (1 st Floor)	161.27
2	Office Ground Floor	190.00
2	Office (1 st Floor)	190.00
3	Crate Store	485.90
4	Dispatch	235.26
4	Dispatch	661.00
5	Washroom	218.08
6	Intake Goods	218.08
7	Intake Goods	531.40
8	Packing Area	852.56
9	Lapel Store	52.12
10	Locker/WC	94.27
11	Canteen	77.66
12	Workshop	66.26
13	Aux Power	67.16
14	Works Office (1 st Floor)	224.53
15	Workshop/Garage	439.22
15	Mezz	69.91
16	Lean To Store	26.60 ¹
	Total	5,030.02

¹ There is some uncertainty about the area of lot 16; it is shown in the table as 26.6/25.37

7.5 Mr Donnelly at Paragraph 11 of his précis contented for a valuation of €70,762.80 calculated as follows:

Floor Use	Floor Use	Area M ²	NAV €/M ²	NAV €
0	Offices	853.47	€12.15	€10,150.91 ¹
0	Factory	1,678.09	€12.15	€20,388.79
0	Cold Stores	952.15	€19.75	€18,804.96
0	Store	1,053.92	€12.15	€12,805.13
0	Portacabin	116.00	€ 4.06	€470.96
0	Yard	1,154.96	€1.21	€1,397.50
0	Offices	198.00	€12.15	€2,405.70
Additional Items				
	Plant/other Tanks	1.00	€788.15	€788.15
	Plant/other Tanks	1.00	€1,844.37	€1,844.37
	Plant/other Boilers	1.00	€886.00	€886.00
	Plant Room	65.57	€12.51	€820.28
			Total NAV	€70,762.76
	Total Area	6,072.16		

¹ Error in calculation. The figure should read €10,369.66

8.0 RESPONDENT'S CASE

- 8.1 On the 25th of August 2023 an email with the précis of evidence submitted by the Appellant was set to the Commissioner of Valuation under Section 36(2) of the Act. The Commissioner was directed to submit the respondent's précis within 10 working day, i.e. 8th September 2023.
- 8.2 On 8th September 2023 a representative of the Commissioner replied to the Registrar by email to request an extension of time and to say that a valuer had been assigned to the case.
- 8.3 On 8th September 2023 the Tribunal replied granting an extension of time and directing that the Respondent's précis be filed by 5 pm on 22nd September 2023.
- 8.4 No précis on behalf of the Respondent was filed.

9. SUBMISSIONS

- 9.1 There were no legal submissions.

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 Monaghan County Council.

10.2 Section 63(1) of the Valuation Act 2001, as amended provides that:

“The statement of the value of property on a valuation list shall be deemed to be a correct statement of that value until it has been altered in accordance with the provisions of this Act.”

10.3 The onus is on the appellant to prove that the valuation on the list is incorrect. This has been held by the Tribunal in several cases, including VA00/2/032, Proudlane; VA07/2/045, William Savage Construction and VA09/1/018, O’Sullivan Marine Limited.

10.4 Mr Donnelly contended for NAV levels of:

- €12.15/m² for the offices, factory, and stores
- €19.75/m² for the cold stores
- €1.21/m² for the yard
- €4.06/m² for the portacabin.
- additional items €4,339.10.

The corresponding figures on the Respondent’s website were:

- offices, €13.00/m²
- factory, €13.00 and 19.50/m²
- chill rooms, €19.50/m²
- stores, €13.00 and €6.50/m²
- workshop, €13.00/m²
- portacabin, €5.20/m²
- yard, €1.30/m²
- €1,390.66 for extra items.

In his précis Mr Donnelly provided no explanation to assist the Tribunal for the lower values that he was contending for. Neither was any evidence of the values of comparable

properties on the valuation list nor examples of rental transactions provided to the Tribunal for guidance.

10.5 In the précis submitted on behalf of the Appellant four different tables showing the floor areas of the subject property were set out:

- the area shown in the proposed certificate of valuation dated 15th March 2019
- the area shown in the valuation report for property number 1552170, published by the Respondent on 17th September 2019
- a schedule of floor areas in Paragraph 8 of the Appellant's précis
- the areas used for the Appellant's estimate of NAV at Paragraph 11 of the précis.

The latter three tables are summarised in the table at page 9 below with elements such as office and store combined. There are differences of 1,548.62 m² and 506.48 m² between the Respondent's figures and those shown at Paragraph 8 of the précis and in the Appellant's estimate of value at Paragraph 11 respectively. The only element on which there is agreement is the yard with an area of 1,154.96 m².

10.6 The differences in areas, particularly those used in the respective estimates of value, are significant. This issue was not addressed in the appellant's précis. No explanation was given as to why the areas used by the respondent may be wrong and no assistance was provided to the Tribunal to resolve these differences. Even allowing for some differences in nomenclature e.g., possibly referring to factory space as a store or workshop, a significant difference in the areas of 506.48 m² remains between the Appellant's estimate in his valuation and the figures on the Respondent's website. There is a floor plan at Paragraph 12 of the précis, but it is not to scale and is not annotated. Thus, it is of no assistance to the Tribunal in this regard. With the information available to it the Tribunal is unable to resolve its conflict between the parties on floor areas.

Summary of Areas (M ²)			
	Appellant		Respondent
Use	Précis, Par 8	Valuation	Valuation
Office	934.54	1,051.47	963.36
Factory	0.00	1,678.09	2,107.01
Cold Store	0.00	952.15	1,765.34

Store	538.02	1,053.92	51.97
Portacabin	0.00	116.00	96.80
Yard	0.00	1,154.96	1,154.96
Workshop	505.48	0.00	439.20
Plant room	0.00	65.57	
Dispatch	896.26		
Washroom	218.08		
Intake Goods	749.48		
Packing Area	852.56		
Locker W/C	94.27		
Canteen	77.66		
Aux Power	67.16		
Mezz	69.91		
Lean To Store	26.60		
Total	5,030.02	6,072.16	6,578.64

10.7 In summary, the Appellant has put forward no evidence to justify his contention that the NAV levels and floor areas applied by the Respondent were incorrect and consequently that the NAV should be reduced to €70,763.76. Thus, the Tribunal finds that the appellant has not met the required level of proof to establish that:

- the levels of NAV applied by the respondent were too high
- the floor areas used in calculating the NAV shown in the valuation certificate were wrong
- the valuation was excessive, inequitable, and bad in law as asserted in the notice of appeal.

10.8 Accordingly, for the above reasons the Tribunal disallows the appeal.

DETERMINATION:

The Tribunal disallows the appeal and confirms the decision of the Respondent.