

**Appeal No: VA19/5/1779**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Roe Oils Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of  
Property No. 1989427, Fuel/Depot at 17B Main Street, Shercock, County Cavan.**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 20<sup>TH</sup> DAY OF FEBRUARY 2024**

**BEFORE**

**Dairine Mac Fadden, Solicitor**

**Deputy Chairperson**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 14<sup>th</sup> 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 €70,700.

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:

*"This fuel distribution premises has been grossly overvalued by the Valuation Office at a value of €70,700.*

*This is a business premises that has a very limited lease / rent value for the following reasons:*

- The premises is based in a small rural village in County Cavan with only a population of 600 people.*
- It is within a rural disadvantaged area with sparse industrial employment and a dying agricultural trade sector.*
- This premises is based just 14 miles from the border of Northern Ireland from where domestic heating oil is being smuggled across on a wholesale basis due to the lower duties & taxes in Northern Ireland & a lack of legal controls along the border.*
- There is an over supply of fuel distribution operations in this northeast region and there are six fuel distribution depots within a 10 mile radius of our premises - Lough Egish, Ballybay, Cootehill, Kingscourt & Carrickmacross (2).*

- *Fuel Distribution is a trade in decline due to the move towards a more environmentally friendly / low carbon environment.*
- *Due to the continuous drive for more economic business operations fuel distribution depots will only be sought after in the bigger urban centres like Navan, Dundalk, Cavan & Monaghan.*

*This business premises has also been unfairly valued by reference to other fuel distribution premises within the local counties. The following is a sample of valuations on other Oil Fuel Depots of a similar nature in both rural & urban locations:*

*Property No 1990714 – In Cootehill, Co Cavan NAV €21,700*

*Property No 5014986 – In Kingscourt, Co Cavan NAV €16,970*

*Property No 1990054 – In Cloverhill, Co Cavan NAV €26,400*

*Property No 1558431 – In Cavan, Co Cavan NAV €43,000 \*NB\* Urban location*

*Property No 1990409 – In Stradone, Co Cavan NAV €13,710*

*Property No 1441438 – In Lough Egish, Monaghan NAV €29,100*

*Property No 2135139 – In Carrickmacross, Co Monaghan NAV €5,710*

*Property No 1551106 – In Carrickmacross, Co Monaghan NAV €38,600*

*Property No 1281398 – In Dundalk, Co Louth NAV €30,700 \*NB\* Urban location*

*Property No 1281384 – In Dundalk, Co Louth NAV €27,500 \*NB\* Urban location "*

1.3 In the Notice of appeal, the Appellant considered that the valuation of the Property ought to have been determined in the sum of €30,000.

## **2. RE-VALUATION HISTORY**

2.1 On the 29<sup>th</sup> 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 €55,900.

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 increased to €70,700.

2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September, 2019 stating a valuation of €70,700.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15<sup>th</sup> 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.

#### 4. FACTS

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

1. The Property is located just off Main Street, Shercock, Co. Cavan and is situated approx. 10km north-east of Bailieborough.
2. The Property is a fuel depot which is used for the storage and distribution of petroleum products. The Property comprises of a 2-storey office block, 2 workshops/stores, concrete yard with gantry under canopy, overground tank bunk with racking and underground tanks.
3. The tenure of the Property is freehold.
4. The areas to be valued are:

Level	Use	Area
0	Canopy	1
0	Offices	245
0	Store	359
0	Yard	2,000
0	Tanks (litres)	982,000
0	Plant (racking)	1

5. The throughput is set out in the Appendix (N/A to public)

#### 5. ISSUES

This is an appeal on the issue of quantum only. The Appellant disputes the NAV which has been placed on the Property by the Respondent.

#### 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. Paraic Roe, Managing Director of the Appellant submitted a précis on behalf of the Appellant. Following receipt of the Respondent's précis, he submitted a response to same dated 14<sup>th</sup> December 2023.

7.2 Mr. Roe stated that the valuation of the Property has increased substantially from 2019 to 2020 and has resulted in a dramatic increase of 133% in the annual rates demand from €6,087 in 2019 to €14,210.70 in 2020, with a further increase to €15,631.77 in 2022. His position was that the proportionate increase was excessive. He stated that the significant component of the Respondent's valuation was in respect of additional items totalling €56,100, which was made up of Plant/Pipe Racking € 2,000, Tanks €49,100 and throughput in litres as set out in the Appendix hereto (N/A to public).

7.3 In relation to the tanks, Mr. Roe submitted that the Respondent was valuing the physical structures only and did not seem to consider economic or environmental factors such as Brexit, the move away from carbon-based fuels to "green" alternatives, improved transport infrastructure which reduced the need for full tank storage capacity, Government policy to reduce greenhouse gas emissions and additional taxation on carbon fuels, which resulted in a progressive decrease in the use of oil fuels in all areas. He submitted that the Respondent's calculation assumed the tanks were operating at maximum 100% capacity, when in fact 4 x 45,000 litre tanks were redundant, and the average monthly stocks held ran at 25% of total capacity.

7.4 The Appellant had not been provided with the details of the valuation methodology used, or logic behind any calculations, either before or after Revaluation. The calculation in relation to the tanks outlined at paragraph 4.4 of the Respondent's précis was not outlined in the Valuation Certificate dated 10<sup>th</sup> September 2019. If the onus of proof rests with the Appellant then the Appellant should be furnished with all reasoning, calculations and valuation methodology used to be in a position to disprove. The Appellant has still not been furnished with the methodology used. Further the Respondent was relying on a tribunal decision, VA19.5.1869, in relation to a property outside County Cavan as authority for the proposition that the onus of proof rested on the Appellant.

7.5 He submitted that the Property appears to have been unfairly valued by reference to other fuel distribution premises within the local counties. The comparable valuations on properties of similar businesses and competitors in the surrounding areas are significantly less. He referenced the following properties:

- A) Property No 1990714 – In Cootehill, Co Cavan NAV €21,700. He believed this property had been appealed.
- B) Property No 1990054 – Cloverhill, Co Cavan NAV €18,740 (Note €26,400 at time of Appeal)
- C) Property No 1558431 – Cavan, Co Cavan NAV €43,000 (\*NB\* Urban location)
- D) Property No 1990409 – Stradone, Co Cavan NAV €13,710
- E) Property No 1551438 – Lough Egish, Monaghan NAV €29,100
- F) Property No 2135139 – Carrickmacross, Co Monaghan NAV €5,710
- G) Property No 1551106 – Carrickmacross, Co Monaghan NAV €38,600
- H) Property No 1281398 – Dundalk, Co Louth NAV €30,700 (\*NB\* Urban location)
- I) Property No 1281384 – Dundalk, Co Louth NAV €27,500 (\*NB\* Urban location)
- J) Property No 5014986 – Kingscourt, Co. Meath NAV €16,970

- 7.6 The Property had a very limited lease or rental value for the following reasons:
- a. The premises is based in the small rural village of Shercock in County Cavan with a population of approximately 1,276 people (per 2022 Census – 600 people per 2016 Census at the time of Appeal).
  - b. It is within a rural disadvantaged area with sparse industrial employment and a dying agricultural trade sector.
  - c. The Property is based just 14 miles from the border of Northern Ireland from where domestic heating oil is being smuggled across on a wholesale basis due to the lower duties & taxes in Northern Ireland & a lack of legal controls along the border.
  - d. There is an over-supply of fuel distribution operations in this northeast region and there are six fuel distribution depots within a 10 mile radius of our premises – Lough Egish, Ballybay, Cootehill, Kingscourt & Carrickmacross (2).
  - e. Fuel Distribution is a trade in decline due to the move towards a more environmentally friendly and low carbon environment.
  - f. Due to the continuous drive for more economic business operations fuel distribution depots will only be sought after in the bigger urban centres like Navan, Dundalk, Cavan & Monaghan.
  - d. The closest fuel depot and competitor to the Property is actually located in Co. Monaghan;

## **8. RESPONDENT'S CASE**

8.1 Mr. Oliver Parkinson, Valuer on behalf of the Respondent submitted a précis on behalf of the Respondent.

8.2 He stated that the Valuation of the Property had increased from €55,900 to €70,700 following representations and areas and tank capacities being updated to reflect the plans submitted by the Appellant.

8.3 He submitted that the Annual Rate of Valuation is decided by the Local Authority at their yearly budgetary meeting and has nothing to do with the NAV applied to the Property and must be disregarded.

8.4 There was no factual evidence to support the Appellant's contention that the Property was located in a disadvantaged rural area, or that the agriculture sector was in decline or that the fuel distribution business was impacted by the move to a low carbon environment or by smuggling.

8.5 The Appellant did not comply with the S.45 notice which was issued in August 2018 and had not provided any audited accounts to show that the agriculture sector is in decline. In accordance with s. 34(3) of the Act, the Appellant should therefore not be allowed to ground or support the appeal on information which it had failed to supply.

8.6 In accordance with s.19(5) of the Act, and as the Appellant's NAV comparisons E) to J) are located in a different rating authority to the Property, they should be disregarded.

8.7 In relation to the other NAV comparisons relied on by the Appellant, Mr. Parkinson submitted that:

NAV A), he noted that the service station was located to the rear of that property and was separately rated. He also noted that the buildings in that comparison had been valued @

€22m<sup>2</sup> in comparison to the @ €17m<sup>2</sup> for the Property, in consideration of the Property's rural location;

NAV B), he advised had been appealed to the Valuation Tribunal which had discounted the valuation of the tanks by 25% ( from €26,400 to €18,740) in consideration of their age. He was of the view that the tanks in the Property appeared to be in good condition and were well maintained and that a reduction was not warranted;

NAV C), he noted that that the buildings were valued @ €32m<sup>2</sup> while the Property's buildings were valued at €17 m<sup>2</sup>;

NAV D), he noted had not been appealed and that the appellant in that case had complied with the s.45 notice.

8.8 Mr. Parkinson put forward the following NAV comparisons:

NAV 1, PN 1558431 ( Appellant's NAV, C ) located within the same rating authority, s.45 compliant, buildings valued at €32m<sup>2</sup> in comparison to the Property at €17m<sup>2</sup>. The tanks were valued on the basis of a capacity of 607,985 litres @0.05 resulting in an NAV for the tanks of €30,399.30 and a total NAV of €43,000.

NAV 2, 1990409 ( Appellant's NAV, D) located within the same rating authority, s.45 compliant at representations stage. The store buildings were valued at €15m<sup>2</sup> in comparison to the Property at €17 m<sup>2</sup>, in consideration of the construction and location of the buildings. The tanks were valued on the basis of a capacity of 224,000 @ 0.05 resulting in an NAV of €11,200 for the tanks and a total NAV of €13,710.

NAV 3, 2159905, located within the same rating authority, s.45 compliant at revaluation stage. The canopy was valued at €1,000 and the tanks were valued on the basis of a capacity of 200,000 @ 0.05 resulting in an NAV of €10,000 for the tanks and a total NAV of €11,000.

NAV 4, 1990714 ( Appellant's NAV, A ) located within the same rating authority, not Section 45 compliant at Revaluation stage; however, the tank capacities were provided at a previous revision of valuation under Section 50 of the Valuation Act 2001-2020. The tanks were valued on the basis of a capacity of 298,000 @ 0.05 resulting in an NAV of €14,900 for the tanks and a total NAV of €21,700, which included buildings at €22 m<sup>2</sup>.

8.9 The onus of proof rested on the Appellant to demonstrate that the valuation levels proposed by the Respondent were incorrect, as stated in the Valuation Tribunal appeal VA 19.5.1869 ABP Vs Commissioner of Valuation. Mr. Parkinson submitted that the Appellant had failed to discharge this onus. He requested that the Tribunal affirm the valuation of the Property at €70,700 (full breakdown in the Appendix – N/A to public).

## **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 Co. Cavan.

9.2 The onus of proof is on the Appellant. The Appellant questioned the Respondent's reliance on a case concerning a property outside the County of Cavan (VA19.5.1869), to support his submission that the onus rested on the Appellant. However, this is a long established and accepted principle in valuation law and applies irrespective of which rating authority area a property is located in.

9.3 As regards the Appellant's submission that the Respondent had not provided details of the valuation methodology used, the Tribunal notes that the details of the schematic are not in the Respondent's précis but in the Respondent's NAV comparisons. It would be preferable if the valuation schematic of tanks being valued at the rate of €0.05 per litre capacity had been set out in the valuation certificate. However, the Tribunal does note that it is clearly stated in the certificate that if any further clarification was required by the occupier that contact could be made to a specified email address or a helpline, the number of which was also given. Further, details of the valuation schematic are clear from the decisions of previous tribunal decisions in relation to fuel stations.

9.4 S. 19(5) of the Act provides as follows:

*(5) The valuation list as referred to in this section shall be drawn up and compiled by reference to 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 that 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”.*

The Tribunal must also and as set out in s. 37 (10) of the Act achieve a determination that accords with that required to be achieved by s.19(5) of the Act.

9.5 There were other properties comparable to the Property located within the same rating authority area and in accordance with s.19(5) of the Act, these are the properties which must be looked to. It follows therefore that the Tribunal cannot in these circumstances have regard to the properties put forward by the Appellant which are situate outside Co. Cavan (Appellant's NAV E) -J) inclusive.

9.6 Valuations are not based on the use to which a particular occupier makes of a property but rather in accordance with s. 48(3) of the Act, are based on the premise of a hypothetical tenant. There was no evidence to support the Appellant's submissions that another occupier could not or would utilise the full capacity available. The Appellant's submission that account should be taken of the actual use of the tanks i.e. that they were only operating at 25% of their total monthly capacity, is not accepted.

9.7 The Appellant did not furnish any evidence to quantify how the economic and environmental factors he referred to in his evidence would actually affect the Property and failed to comply with s. 45 of the Act when the notice was served on the 22<sup>nd</sup> August 2018, requesting details of the capacities of the tanks and accounting and trading information for the then most recent 3 years and financial projections for the next 12 months.

9.8 None of the parties put forward evidence of any market transactions. However, the Tribunal does note the statement in Mr. Parkinson's précis at paragraph 2.3 in relation to market information sources.

9.9 Each of the parties put forward 4 NAV comparisons within the County of Cavan and of these 3 were common comparators. As regards the valuation of the tanks which was the main issue of concern to the Appellant, the Appellant did not demonstrate that the factor of €0.05 per litre capacity applied by the Respondent was incorrect. The Appellant put forward NAV B) where a tribunal had applied a 25% reduction to the valuation of the tanks on the basis of the age and condition of the tanks. However, the Appellant did not put any evidence forward as regards the age or condition of the tanks; his case was based on the actual usage and the impact of economic and environmental factors.

9.10 In relation to the valuation of the Buildings, and on the basis of the comparative table in Mr. Roe's Original Précis at page 37, the Tribunal notes that of the properties in Co Cavan (including the Property), the NAV per m<sup>2</sup> for (1) the office areas are €32 per m<sup>2</sup>, €22 per m<sup>2</sup>, €17 per m<sup>2</sup> and €15 per m<sup>2</sup> and with the Property at €17 per m<sup>2</sup> (2) the store warehouse areas are €32 per m<sup>2</sup>, €22 per m<sup>2</sup>, €17 per m<sup>2</sup>, €15 per m<sup>2</sup> and €7 per m<sup>2</sup> and with the Property at €17 per m<sup>2</sup> (3) the yards range from €3.20 per m<sup>2</sup>, €2.20 per m<sup>2</sup>, €2.00 per m<sup>2</sup> €1.70 per m<sup>2</sup> and €1.50 per m<sup>2</sup>, with the Property at €1.70 per m<sup>2</sup>. The NAV properties in the County of Cavan advanced by the Appellant do not demonstrate that the valuation applied to the buildings, canopy and yard are incorrect. The Appellant did not dispute the valuation of the throughput.

9.11 The amount of the actual rates levied by a Local Authority is not a matter for the Tribunal can have regard to.

9.12 Consequently, the Tribunal finds that the Appellant has not demonstrated that the valuation levels of the Property are incorrect and further notwithstanding that the onus of proof rested with the Appellant is satisfied on the basis of the foregoing analysis that the Respondent has demonstrated both correctness of value and equity and uniformity as required under 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.