

Appeal No: VA19/5/1261

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ZINC PROPERTIES LTD

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 5019195, Office (Industrial) at Unit 2B, Antigen Business Park, Lourdes Road, Roscrea, County Tipperary.

B E F O R E

Hugh Markey - FRICS FSCSI

Sarah Reid - BL

Eamonn Maguire - FRICS FSCSI VRS ARB

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF FEBRUARY, 2024**

1 THE APPEAL:

- 1.1 By Notice of Appeal received on the 9th 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 €22,800.
- 1.2 The sole grounds of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Subject Property is not a determination that accords with that required to be achieved by section 19(5) of the Act because:

*“1. The subject property forms part of the former Antigen/Taro factory complex in Roscrea.
2. The subject property is vacant.
3. There are buildings on this site from as far back as the 1940s and many piecemeal additions over the years. Many of the individual buildings have been vacant for over a decade, with nothing spent on their upkeep.*

4. The complex was bought in its entirety by Zinc Properties Ltd. in October 2017 for €825,000. This gives a very clear indication of the rental value of the complex. Indeed, the purchase price cannot remotely justify a total rental value of €435,000 as assessed by the Commissioner – which would be a yield of over 50%. The fact of the matter is that whilst a number of small parts have been let on a month to month basis, this is a long term project to recondition the buildings and make them again suitable for letting. The current rent roll for the let sections is not even €60,000 per annum, with the landlord responsible for all outgoings – including electricity as the individual units cannot be metered separately due to the cost.

5. Given that the entire site (25 units) is under appeal, we recommend that the Tribunal inspects the entire site so that each unit can be accurately appraised, with regards to both value and capability of occupation.”

- 1.3 The Appellant in his Notice of Appeal considered that the valuation of the Subject Property ought to have been determined in the sum of €11,400.

2 REVALUATION HISTORY:

- 2.1 The present Appeal is one of 25 Appeals taken in respect of Antigen Business Park in Roscrea. On the 15th day of March 2019, the Respondent issued proposed valuation certificates under section 24(1) of the Valuation Act 2001 (“the Act”) for Antigen Business Park and did this in three sections by issuing three valuation certificates in respect of PN 1773627, PN 1773854 and PN 1773909. These were sent to the Appellant indicating valuations of €188,800, €60,100 and €82,800 respectively.
- 2.2 Following representations, the parties agreed to deal with the proposed assessments by way of 25 individual Certificates and the Subject Property was so assessed and assigned PN 5019195.
- 2.3 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation for the Subject Property of €22,800.
- 2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 15th day of September 2017.

3 THE HEARING:

- 3.1 The Appeal proceeded by way of an oral hearing, held in person, on 7th day of December, 2022. The Appellant was represented by Mr. Eamon Halpin of Eamonn Halpin & Co. Ltd. and the Respondent by Mr. Paul Ogbebor of the Valuation Office, counsel for the Respondent. Ms. Rosemary Healy-Rae BL, instructed by the Chief State Solicitors Office
- 3.2 In accordance with the Rules of the Tribunal, the parties filed and exchanged their respective reports and précis of evidence prior to the commencement of the hearing. At

the oral hearing, each witness, having taken the oath, adopted their précis as his evidence-in-chief in addition to giving oral evidence.

- 3.3 This hearing dealt with the valuation evidence pertaining to the Subject Property and at the conclusion of same, it was determined that the Tribunal would conduct a site inspection of the unit, and the business park with Mr. Halpin and Mr. Ogbebor both in attendance, details of which are set out below.
- 3.4 On 10th November 2022, a resumed hearing was held, in person and legal arguments were made regarding four units and whether same were capable of beneficial occupation. Submissions were made by Mr. Halpin for the Appellant and Ms. Rosemary Healy-Rae BL.
- 3.5 At the conclusion of this hearing, and in light of the overlapping evidence and duplicated photographs in respect of the units, the Tribunal directed the parties to agree and compile a single document for each unit under appeal and submit same to the Tribunal. A copy of the said directions is attached as Appendix 1 to this determination (N/A to public).
- 3.6 Subsequent to the submission of these documents, the Tribunal sat a final time on 7th December 2022 for closing submissions from the parties.

4 SITE VISIT:

- 4.1 The members of the Tribunal visited the premises with the parties' representatives on the 14th day of September 2022. Property No. 5019195/Unit 2B was entered and inspected as part of this visit.

5 FACTS:

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

- 5.1 The Subject Property is located in an industrial park close to the town centre, on Lourdes Road in Roscrea, Tipperary.
- 5.2 The Subject Property under Appeal is part of Antigen Business Park which was created by the subdivision of the former Antigen/Taro pharmaceutical factory into 27 units. The original plant was constructed in the 1940s and expanded and improved thereafter up until the 1980s with additional units being added on the site.
- 5.3 The Subject Property has changed ownership over the years being occupied by Antigen, Miza and Taro industries before being purchased by the present owners who embarked on a process of letting the units individually and rebranding the property as 'Antigen Business Park'.
- 5.4 In line with its former use as a pharmaceutical plant, some of the units in the development were constructed as, and used for, distinct processing functions. Certain

units have been excluded from the List, other units have been repurposed and are occupied by commercial tenants. The majority of the complex is vacant, while a number of units are let on a short-term basis.

5.5 The Subject Property under Appeal (PN 5019195) comprises a first floor office space of concrete block wall construction, with pebble dash rendered exterior and Upvc windows. Internally the finishes include panelled walls, ceiling with ceiling tiles and surface mounted lighting and mechanical ventilation in part. It is clear from the photographs introduced by the valuers to assist the Tribunal and the Members on-site inspection that the building is of a reasonable standard. The Respondent has classified the building as Industrial – Office(s) and valued at a rate of €30 psm.

5.6 The Subject Property is freehold.

5.7 The agreed floor area of the unit is:

Description	Floor Level	Sq. M.
Offices (Industrial)	1	763.17

6 ISSUES

6.1 The sole issue is one of quantum. The Appellant claims that the Valuation, as assessed, is excessive and inequitable and should be reduced to reflect the condition of the premises, the historic and defunct use of the premises, its location and the fact that the business park is a poorly performing commercial entity with high levels of vacancy.

7 RELEVANT STATUTORY PROVISIONS:

7.1 The NAV of the Subject Property must be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“(1) 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.

(2) Subsection (1) is without prejudice to section 49.

(3) 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 expected to let from year to year, on the assumption that the probable average 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.”

- 7.2 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.”

- 7.3 Section 19(5) of the 2001 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.”

8 APPELLANT’S EVIDENCE:

- 8.1 In opening the case on behalf of the Appellant, Mr. Halpin said that many of the individual buildings in the complex had been vacant for over a decade with nothing spent on their upkeep.
- 8.2 Mr. Halpin suggested that the purchase price in October 2017 of €825,000 gave a very clear indication of the rental value of the complex. He said were one to adopt the total rental value (for the entire complex) of €435,000 as assessed by the Respondent, this would suggest a yield of over 50%. He noted that while a number of smaller units have been let on a month-to-month basis, the purchase by the Appellant was a long-term project involving reconditioning of the buildings to make them suitable for letting. He evidenced that the current rent roll for tenanted units was less than €60,000 per annum with the landlord responsible for all outgoing, including electricity. He said there was a single electricity meter serving the entire complex and to have the units have separately metered would cost a six-figure sum.

- 8.3 Mr. Halpin further noted that of the twenty vacant units, which he accepted were capable of beneficial occupation, only eight had been let between November 2017 and September 2019 during that 22-month period. He said this represented 14.44% of the entire lettable floor space and noted that the largest of the let units was 427.34 psm. Mr. Halpin suggested that the market for this type of unit is limited and when there are requirements, the amount of space required is small.
- 8.4 Mr. Halpin posited that the easiest way to value the subject, by reference to the tone of the list, is by way of an end allowance. He noted how the Respondent had shown a reluctance to vary the absolute rate per sq. m adopted and suggested that, by contrast, end allowances have been applied elsewhere. He said the best example of this was factories located in Wicklow Port where the Respondent adopted the same base level as modern warehousing but allowed a 50% end allowance (where the buildings were basic and pre 1960s) and a 20% allowance (where the buildings were basic and constructed between 1970 and 1999). Based on this, Mr. Halpin contended for a 50% devaluation allowance on structures which were developed pre 1950 in the Subject Property and a 20% allowance on those constructed between 1960 and 1980. Mr. Halpin sought to have the NAV adjusted in line with the comparables in the list in terms of the subject's actual rental potential.
- 8.5 In terms of offices in an industrial setting, Mr. Halpin relied on five 'Tone of the List' NAV comparisons, all of which are located in Roscrea and its environs. The brief details are set out below and full details are included at Appendix 2 to this judgment (N/A to public).
- 8.6 He noted this industrial facility is located in Roscrea and extends to 14,750 sq. m. It is an industrial facility used as a meat processing plant, constructed in a piecemeal fashion between the 1960s and the 2000s.
- 8.7 Mr. Halpin suggested this illustrated the appropriate levels for fully functioning factory buildings which had been constructed over time. He evidenced that the level applied to the office(s) elements were €17 to €22 psm. Of the 9 NAV Comparables adduced by the Appellant, 5 fell into the category of Office-(Industrial) viz – No's 2B, 1C, 2, 6, and 7.

1. NAV Comparison 2B, PN 1773632 NAV €203,000
Roscrea, Co. Tipperary

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Factory	5,229.62	€17	€88,903.54
0	Office (s)	556.00	€17	€9,452.00
0	Store	1,979.51	€17	€33,651.67
1	Factory	3,624.03	€17	€61,608.51
	Additional Items			€9,806.51
	Total	11,389.16		€203,422.23
			Say	€203,000

2. NAV Comparison 1C, PN 1773629 NAV €42,900
Roscrea, Co. Tipperary

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Office (s)	2.24	€22.00	€51.48
0	Store	15.30	€22.00	€336.60
0	Warehouse	1,363.50	€22.00	€29,997.00
0	Yard (Concrete/Tarmac)	5,700.00	€2.20	€12,540.00
	Total	7,081.04		€42,925.08
			Say	€42,900

3. NAV Comparison 2, PN 1773813 NAV €4,950
Castleholding, Roscrea, Co. Tipperary

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Office (s)	18.90	€20.00	€378.00
0	Store	16.20	€10.00	€162.00
0	Store	33.75	€20.00	€675.00
1	Workshop	134.30	€20.00	€2,686.00
1	Yard (Concrete/Tarmac)	526	€2.00	€1,052.00
	Total	729.15		€4,953.00
			Say	€4,950

4. NAV Comparison 6, PN 1773662 NAV €27,400
The Glebe, Roscrea, Co. Tipperary

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Store	188.70	€22.00	€4,151.50
0	Office (s)	27.50	€22.00	€605.00
0	Warehouse	843.80	€22.00	€18,563.60
0	Store	188.70	€22.00	€4,151.40
	Total	1,248.7		€27,471.50
			Say	€27,400

5. NAV Comparison 7, PN 2166285 NAV €97,400
Parkmore Industrial Estate, Roscrea, Co. Tipperary

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Factory	1,657.91	€22	€36,474.02
0	Loading Bay	564.86	€22	€12,426.92
0	Office (s)	347.76	€22	€7,650.72
1	Factory	333.61	€22	€7,339.42
1	Office (s)	347.76	€22	€9,806.51
	Additional items			€25,868.71
	Total	3,251.9		€99,566.30
			Say	€97,400

8.8 Mr. Halpin also introduced what he described as ‘Context Comparisons’. The brief details are set out below and full details are included at Appendix 2 to this judgment (N/A to public).

Context Comparison A:

PN 662504/ 5019297/ 5019298/ 5019299/ 5019300/ 5019301/ 5019302/ 501-9303/ 5019304

Mr. Halpin outlined how this former factory in the Murrough, Wicklow, constructed in the mid-1960s which has been vacated following cessation of the factory use in 2014. He noted that the total NAV for this development is €325,660 following the application of a 50% end allowance and this reflected a yield of approximately 15-17.5%. He contrasted this with the effective yield of 35.16% of the entire of the Antigen Business Park and noted how an end allowance of 50% had been applied to all of these valuations.

A1) Unit 1&2 PN 662504 NAV €60,000

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	3,639.85	33.00	120,115.05
0	Warehouse	-1.00	60.050.00	-60,500

A2) Unit 3A PN 501297 NAV €12,600

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	600.00	42.00	25,200
0	Warehouse	-1.00	12.600.00	-12,600

A3) Unit 3B PN 501298 NAV €23,800

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	1,286.55	37.00	47,602.35
0	Warehouse	-1.00	-23,801.18	-
				23,801.18

A4) Unit 4 PN 5019299 NAV €29,300

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	1,588.90	37.00	58,789.30
0	Warehouse	-1.00	-29,394.65	-
				29,394.65

A5) Unit 5 PN 5019300 NAV €42,400

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	2,292.00	37.00	84,804.00
0	Warehouse	-1.00	-29,394.65	-
				42,402.00

A6) Unit 6A PN 50199301

NAV €9,160

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	436.65	42.00	18,339.30
0	Warehouse	-1.00	- 9,169.65	-9,169.65

A7) Unit 6B PN 501302

NAV €13,600

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	647.85	42.00	27,209.70
0	Warehouse	-1.00	-13,604.85	-13,604.85

A8) Unit 7&8 PN 5019303

NAV €111,900

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	6,787.00	33.00	223,971.00
0	Warehouse	-1.00	-111,985.50	-111,985.50

Context Comparison B:

PN 662998/ 640390/ 640393/ 2170974

Mr. Halpin noted that the first of these (PN 662998) had a 20% end allowance agreed prior to a Tribunal appeal. He said the property is a basic transit shed constructed in 1997 and with concrete walls to a height of 2.5 metres and a single skin side and roof. He further noted that the same 20% end allowance had been applied to the other comparables listed above.

B1) Conway Port PN 662998

NAV €32,560

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Warehouse	868.00	47.00	40,700.00
0	Allowance	-1.00	-8,140.00	-8,140.00

B2) Waterbrand Holdings PN 640390

NAV €35,400

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Allowance	-1.00	-8,865.61	-8,865.61
0	Store	198.80	47.00	9,343.60
0	Warehouse	744.35	47.00	34,984.45

B3) Waterbrand Holdings PN 640393

NAV €21,900

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Allowance	-1.00	-5,480.20	-5,480
0	Warehouse	583.00	47.00	27,401.00

B4) Waterbrand Holdings PN 2170974

NAV €11,930

Level	Description	Size – Sq. m.	NAV €/psm	NAV (€)
0	Allowance	-1.00	-2,983.74	-2,983.74
0	Warehouse	317.42	47.00	14,918.74

8.9 Appellant's Valuation:

Mr. Halpin contended for a NAV of €11,440. This represents a 49.82% discount to the level applied by the Respondent. His calculation is as follows:

Unit Number	Sq. M.	NAV/Sq.m.	Allowance	NAV
2B	763.17	€30		€22,895.10
			50%	€11,447.55
			NAV	€11,440

- 8.10 Mr. Halpin was cross-examined by Ms. Healy Rae BL. When asked if some of the units within the business park were occupied, Mr. Halpin confirmed that to be the case and accepted that all the units were available to let. He suggested that in order for the owners to avail themselves of a vacancy relief, the units must be available to let.
- 8.11 Mr. Halpin was asked for a breakdown of the gross figures provided in relation to the units which had been let but was unable to clarify this as he had been provided with the gross figures which had not been broken down and he was not in a position to provide further details in that regard. He accepted that the yield derived from the purchase price was of limited relevance, but argued valuers would be conscious of how the capital value related to the net annual value.
- 8.12 Mr. Halpin maintained that the legislative basis for assessing the NAV was the rent achievable on an assumed 'one year with another' basis and suggested that the owners would struggle to let the various units in the complex on any longer term.
- 8.13 In respect of the end allowance which he proposed, Mr. Halpin said this was something which had been adopted by the Respondent elsewhere thus avoiding the need to use a lower rental rate.
- 8.14 In so far as Mr. Halpin adduced evidence in relation to properties in Wicklow, it was put to him that evidence from another rating authority was not relevant in the context of the property in County Tipperary. He felt it was relevant insofar as the Wicklow comparisons showed the Respondent had taken the age of the buildings into account in that exercise and could or should adopt a similar approach here.
- 8.15 When questioned about his comparison No. 7 (PN. 2166285), which the Respondent had categorized as 'Town - Old' in the schematic below, Mr. Halpin commented that it was a fully functioning factory, and it was irrelevant how it was categorized by the Respondent.

- 8.16 With regards to his context comparisons from Co. Wicklow, Mr. Halpin confirmed that he had inspected these properties and was putting them forward, not on their NAV values, but on the basis that they demonstrated an appropriate end allowance had been applied by the Respondent and he argued there must be equity and uniformity in the approach taken to valuation of all properties the Commissioner values.
- 8.17 When it was put to him that the application of a 50% discount was not equitable or uniform, he replied that 'uniformity was simple' but 'equity meant dealing with the property as it exists'. He suggested the Valuation Act starts with the individual property not the schematic 'blanket' which was the Respondents preferred approach.
- 8.18 In summarising his case, Mr. Halpin suggested that the Subject Property should be considered in the context of other industrial properties in Roscrea and in order to do this properly, adjustments needed to be made. He suggested a valuation range of €17 to €30 per sq.m for ground floor properties which he suggested was in line with comparisons in the town but an end allowance of 20% or 50% in line with the Respondent's approach to such structures in Wicklow town, was appropriate.
- 8.19 He confirmed that there had been no investment of any consequence in the buildings in the previous 20 years and despite being fully available and to let since the date of purchase, only 15% of the floor space had actually been let and that and no section larger than 500 sq.m had been leased.
- 8.20 Mr. Halpin suggested that there was a need to bring everything back to basics. He noted that the Respondent had suggested that properties should 'fit into the schematic'; however, he said, there was a vast range of properties in the business park as was evidenced from the on-site inspection. Some of the properties in the business park were very old, while some were more modern, dating from the 1980s.
- 8.21 He cited the example of his comparisons in Wicklow Town where the Respondent had adopted an end allowance for older buildings, all of which were capable of occupation.
- 8.22 He said the Respondent had a 'vast amount' of comparisons which led to the formulation of the scheme. He said these were mostly modern buildings and cited by way of example Comparison No. 18, a high bay warehouse in Cahir which had been valued by the Respondent at a rate of €25 psm and comparison No.9 which was a state-of-the-art meat plant valued at €18psm, with the cold store element valued at €27 psm. He further alluded to the Respondent's comparisons No's 25 and 26 which are located in Carrick on Suir and which he described as having been repurposed and reclad. He suggested these were significantly improved buildings and were valued at €20 psm.
- 8.23 Mr. Halpin went on to posit that there were 'infirmities' in the manner in which the business park had been dealt with by the Respondent and noted that he was contending for figures as most recently submitted to the Tribunal.

9 RESPONDENT'S EVIDENCE:

- 9.1 Mr. Ogbebor on behalf of the Respondent outlined the background to the revaluation in Tipperary County Council. He described, in detail, the Subject Property and the complex of which it forms part. He outlined the revaluation milestones and then went on to consider the representations put forward by Mr. Halpin on behalf of the Appellant.
- 9.2 Mr. Ogbebor indicated that all properties within Antigen Business Park (25 in total) had been appealed to the Valuation Tribunal. He explained the schematic which had been arrived at by the Respondent in valuing industrial properties in the County Tipperary revaluation and provided the categorization of properties, as set out below.
- 9.3 It was the Respondent's evidence that a Valuation scheme is applied for Industrial Properties located across County Tipperary however, the Industrial Estates and Business parks are mainly located in Clonmel, Cahir, Carrick-on-Suir, Nenagh, Thurles, Roscrea, Cashel and Tipperary Town. The adopted scheme divides properties into the following categories:
1. **Old units (200 - 1000sqm)** located within industrial estates in towns (Carrick On Suir, Roscrea, Tipp Town, Cahir, Templemore) valued at €30/sqm (Showroom)
 2. **Old units (200 - 1000sqm)** located within industrial estates in towns (Carrick On Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €25/sqm (Warehouse)
 3. **Old units (> 3000sqm)** located within industrial estates in towns (Carrick On Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €18/sqm (Office) – Reduced at representation stage.
 4. **Old units (0 -200sqm)** located within industrial estates in towns (Carrick On Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €30/sqm (Warehouse)
 5. **Modern units (1001 - 3000sqm)** located inside industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €25/sqm (Warehouse)
 6. **Modern units (201-1000sqm)** located inside industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €30/sqm (Warehouse)
 7. **Modern units (201-1000sqm)** located inside industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €36/sqm (Gym)
 8. **Old units (1001 - 3000sqm)** located within industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at

€24/sqm (Office)

9. Old units (1001 - 3000sqm) located within industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €20/sqm (Warehouse)

10. Modern units (1001 - 3000sqm) located inside industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €25/sqm (Warehouse)

11. Modern units (0 -200sqm) located within industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €35/sqm (Warehouse)

12. Old units (0 -200sqm) located within industrial estates in towns (Carrick-on-Suir, Roscrea, Tipperary Town, Cahir, Templemore) valued at €30/sqm (Warehouse)

- 9.4 Mr. Ogbebor outlined that properties were categorised according to the town in which they were located and were subdivided by age, location and use (e.g. showroom, warehouse, office, gym). The rental level applied depended on the category into which the individual properties fell. The Subject Property falls into Category Type 33. This category includes Tier 3 Town, old units located inside industrial estates between the range of 200 and 1,000 sq.m.
- 9.5 Mr. Ogbebor confirmed that the above schematic had been arrived at following the collation and analysis of available market evidence in county Tipperary. The Respondent identified six items of market information which informed the valuation scheme, and these were used to estimate the net annual value (NAV) of the Subject Property. These transactions were described as Key Rental Transactions (KRTs) and are included in Appendix 3 to this judgment (N/A to public). Arising from this exercise, the rate derived and applied to the Subject Property was €30 psm giving an NAV of €22,800.
- 9.6 NAV Comparisons:
Mr. Ogbebor introduced 33 NAV comparisons as evidence of equity and uniformity. A schedule of these NAV comparisons is included in Appendix 4 to this judgment (N/A to public). Of the 33 NAV Comparables adduced by the Respondent, 10 fell into the category of Office- (Industrial) viz – No's 8, 14, 15, 17, 19, 20 and 27.

NAV Comparison 8 (N8) PN 2007521
 Commons, Thurles Rural, Thurles, Co. Tipperary

NAV €103,700

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Portacabin	67.16	€7.2	€483.55
0	Warehouse	4,155.06	€18	€74,791.08
0	Workshop	538.72	€18	€9,696.96
0	Yard	8,546.8	€1.8	€15,384.24
0	Store	64.61	€18	€1,162.98
0	Office(s)	124.93	€18	€2,248.74
	Total	4,883.32		€103,767.55
			Say	€103,700

NAV Comparison 14 (N14) PN 2183238

NAV €64,400

Cahir Business Park, Caherabbey Upper, Kilcommon, Clogheen, Co. Tipperary.

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Office(s)	46.24	€25	€1,156.00
0	Plant/Other – Motive Power	110.33kw	€3.04/kw	€335.40
0	Warehouse	2,472.4	€25	€61,810.00
1	Office(s)	46.24	€25	€1,156.00
	Total	2,564.88		€64,457.40
			Say	€64,400

NAV Comparison 15 (N15) PN 1773609

NAV €50,800

Ashbury, Roscrea, Roscrea, Co. Tipperary

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Warehouse	1,816.70	€25	€45,417.50
0	Office(s)	119.08	€25	€2,977.00
0	Store	50.76	€25	€1,269.00
Mezz	Store	237.96	€5	€1,189.80
	Total	1,986.54		€50,853.30
			Say	€50,800

NAV Comparison 17 (N17) PN 2166247

NAV €43,500

Carrick Business Park, Carrick on Suir, Co. Tipperary

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Office(s)	67	€25	€1,675.00
0	Store	194.70	€25	€4,867.50
0	Warehouse	1,479.95	€25	€36,998.75
	Total	1,741.65		€43,541.25
			Say	€43,500

NAV Comparison 19 (N19) PN 2163353
 Archerstown Industrial Estate, Thurles, Co. Tipperary.

NAV €27,700

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Office(s)	126.2	€30	€3,786.00
0	Factory	773.44	€30	€23,203.20
0	Store	128.8	€6	€772.80
	Total	899.64		€27,762.00
			Say	€27,700

NAV Comparison 20 (N20) PN 2168470
 Cabragh Business Park, Thurles, Co. Tipperary

NAV €18,910

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Yard (Hardcore)	700	€3	€2,100.00
1	Office (s)	34.56	€30	€1,036.80
0	Office (s)	34.56	€30	€1,036.80
0	Factory	491.40	€30	€14,742.00
	Total	560.52		€18,915.60
			Say	€18,910

NAV Comparison 27 (N27) PN 1346560
 Ballylynch, Carrick on Suir, Co. Tipperary

NAV €44,800

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Showroom	157.48	€24	€3,779.52
0	Office(s)	163.5	€20	€3,270.00
0	Store	166.77	€20	€3,335.40
0	Workshop	1,218.46	€20	€24,369.20
0	Canteen	45.06	€20	€901.20
0	Yard	1,976	€2	€3,952.00
1	Store	261	€20	€5,220.00
	Total	2,012.27		€44,827.32
			Say	€44,800

9.7 Respondent's Valuation:
 Mr. Ogbebor contended for a valuation as follows;

Level	Description	Size – Sq. m.	NAV €/psm	NAV/€
0	Office (Industrial)	763.17	€30	€22,895.20
			NAV	€22,800

- 9.8 In cross examination, Mr. Ogbebor was asked why he had excluded Mr. Halpin's comparators in Wicklow. It was put to him that the Commissioner must adopt a similar approach across the rating authorities, that is fair and balanced. Noting that the Revaluation of Tipperary was undertaken at the same time as the Wicklow Revaluation, Mr. Halpin questioned why the same allowances were not applied in Tipperary as had been in Wicklow. Mr. Halpin further enquired who decided the categories in the Respondent's scheme and questioned whether there was equity in the application of the scheme. He also sought details as to the allowances that were given having regard to the attributes of the particular properties, as opposed to the categories devised. Mr. Ogbebor replied that Wicklow was a different rating authority and therefore considerations in that valuation exercise were not relevant in the present Appeal.
- 9.9 Mr Halpin asked Mr. Ogbebor why there were no KRT's in Roscrea and what criteria had been adopted in establishing the relevant Tiers in the scheme he had outlined. Mr. Ogbebor replied that there were KRT's from other towns which had been grouped into tiers and that Roscrea was grouped under Tier 3. He was asked what criteria was adopted to include the town in Tier 3 and Mr Ogbebor replied that the Respondent took into account local population, size of the town, the number of commercial properties in those towns, access to public transport, and which were the main towns in the local authority.
- 9.10 Insofar as the age of a property was an important factor to be considered, Mr. Ogbebor was re-examined to clarify how the age of the property was determined and he confirmed that the Respondent looked to the roof construction and specification in that regard.
- 9.11 In summing up the Respondent's case, Ms. Healy Rae said that the application, by Mr. Halpin, of a 20% or 50% end allowance was arbitrary and a very large discount being sought. She noted that these adjustments were not included or referenced in the Notices of Appeal and there was no basis for them. She suggested the Appellants use of the purchase price and yield to establish a rental value was irrelevant and maintained that the Subject Property was valued by the Respondent in accordance with s19 and s 48 of the Act.
- 9.12 Relying on his adduced comparisons, she said Mr. Ogbebor evidence was that the tone of the list is well established. All the properties in this business park were valued at these levels and suggested that in his opinion the NAV level applied by the Respondent for the Subject Property was fair and reasonable. In the circumstances, she requested that the Tribunal affirm the valuation as representing its Net Annual Value in accordance with Section 48 of the Valuation Act 2001 and the requirements of Section 19(5).
- 9.13 In her closing submission Ms. Healy Rae suggested that the end allowances suggested by Mr. Halpin of 50/20% were very large and arbitrary. She noted that these suggested allowances had not been included in the representations or appeal notice stages and are without basis.
- 9.14 She said there was no substance to the methodology used by Mr. Halpin in devaluing the purchase price to arrive at the yield and rental - the properties all had to be valued in accordance with s19/ s48 of the Act.

- 9.15 She went on to suggest that the comparisons introduced by the Appellant in Wicklow Town were not relevant and were not located in industrial estate like the Respondent's comparisons.
- 9.16 She said the units in the business park were advertised as being available for letting.
- 9.17 She noted that only gross figures had been provided in terms of income from the licensees and net rentals had not been provided to the Tribunal.
- 9.18 She said that the Respondent's witness had outlined the methodology adopted and that this was entirely appropriate as per s19 of the Act. The witness had set out how the tone had been established; she asked that the tribunal uphold the Commissioners valuations and dismiss the appeal.

10 SUBMISSIONS:

- 10.1 There were no formal legal submissions concerning the Subject Property.
- 10.2 As regards costs, the Respondent submitted that in the event that the Tribunal determines that the present Appeal is not well founded, the Respondent would seek its costs on the basis that they follow the event with *Killarney Country Lodge Limited VA98/2/006* relied on in that regard.

11 FINDINGS AND CONCLUSIONS:

- 11.1 In this appeal the Tribunal has to determine the value of the Subject Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Subject 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.
- 11.2 The burden of proof in all appeals before the Tribunal lies with the Appellant. (VA00/2/032 Prounlane Ltd. t/a Plaza Hotel, VA07/3/054 William Savage Construction and VA09/1/018 O'Sullivan's Marine Ltd.)
- 11.3 In coming to its determination, the Tribunal inspected the Subject Property, examined the Respondent's scheme and considered the written and oral evidence, including submissions, adduced by Mr. Halpin who contended for a revised NAV of €11,440 and that of Mr. Ogbebor who contended for an NAV of €22,800.
- 11.4 The unusual circumstances of this Appeal are that, while the Subject Property falls to be determined before the Tribunal under Appeal VA VA19/5/1256, a total of 25 appeals were lodged in respect of the Antigen Business Park. A hearing was undertaken in respect of all

25 appeals and the evidence adduced encompassed the entirety of the properties under appeal. The Tribunal takes no issue with this approach, however the range of accommodation under appeal varied significantly between the properties in terms of size, construction and condition, and the Tribunal was tasked with separately applying the Appellant and Respondent's comparison properties to each individual property under appeal. In that regard, the Tribunal has identified, for the purposes of the present appeal, the relevant evidence as it applied to the Subject Property.

11.5 The evidence before the Tribunal was that the Respondent adopted a scheme in the context of industrial units in the rating authority of Tipperary County Council whereby the following towns were categorised as 'Tipperary Tier 3 Towns': Carrick-on-Suir, Roscrea, Tipp Town, Cahir, Templemore. The Respondent's evidence was that the said scheme divided relevant buildings into the following categories:

Tier 3: Town	Old units	located within Industrial Estate.	0 -200sqm
Tier 3: Town	Old units	located within Industrial Estate.	200 - 1000sqm
Tier 3: Town	Old units	located within Industrial Estate.	> 3000sqm
Tier 3: Town	Modern units	located Inside Industrial Estate.	0 -200sqm
Tier 3: Town	Modern units	located Inside Industrial Estate.	201-1000sqm
Tier 3: Town	Modern units	located Inside Industrial Estate	1001 - 3000sqm

11.6 In the context of the present Appeal, the Subject Property fell to be considered as Type 33: Tier 3: Town, Old units located within an industrial estate, 200 – 1000 sq.m. and the valuation applied by the Respondent to the Subject Property being similarly circumstanced within that grouping, was €22,800.

11.7 The Tribunal notes that the Valuation Act 2001, as amended, requires that there be equity and uniformity in the approach to valuation. While the application of a single rate gives rise to uniformity, it can lead to inequity between valuations. In that regard, the Tribunal notes that a scheme for a set of Tipperary towns was relied on but the Respondent failed to introduce comparable evidence before the Tribunal from the town of Roscrea, this evidence being available (and so advanced by the Appellant) but the Respondent chose not to introduce or rely on it. The evidence adduced by the Respondent before the Tribunal consisted of a broad range of comparables from elsewhere in the Tipperary rating authority, whereas the evidence from the Appellant was better focused on the town of Roscrea.

11.8 The Tribunal acknowledges that for various reasons it can be challenging to collate information in respect of a rating area or similarly circumstanced relevant properties, but the Tribunal relies on both parties before it, to provide relevant evidence as will enable it to adjudicate the valuation under dispute and weigh it against similar and/or comparable market values in order to establish equity and uniformity in the List.

- 11.9 In contending for a lower valuation, the Appellant did not introduce any KRTS, other than referencing a single casual tenancy in the subject estate. Had such evidence of market rentals been available to the Tribunal, it would have greatly assisted the Tribunal in its task.
- 11.10 Mr. Halpin's comparators containing office accommodation (industrial based) PN 1773629, PN 1773813 and PN 1773662 are substantially smaller than the Subject Property and two of which are not located in an industrial estate and therefore of no assistance to the Tribunal. His comparator PN 1773632 includes office accommodation of 556 sq.m. valued at €17 psm, and comparator PN 2166285, includes office accommodation of 347.76 sq.m. per floor, valued at €22 psm.
- 11.11 Mr. Halpin in evidence confirmed the annual rent being charged on PN 5019203 which measures 320.51 sq.m., including the cost of utilities was €37.44 psm, albeit it was leased on a month, to month tenancy.
- 11.12 Three of the five KRTs submitted by Mr. Ogbemor which he stated informed the valuation scheme, are relevant in the context of containing office accommodation (industrial based). PN 2204854, with offices measuring 215.81 sq.m. on both ground and first floors, was valued at €36 psm whilst both PN 2144928 and PN 2165273, are of less assistance, given the substantially smaller quantum of office accommodation relative to the Subject Property.
- 11.13 In addition, the Tribunal finds that no KRTs were submitted by the Respondent concerning comparators that are located in the subject town of Roscrea.
- 11.14 Mr. Ogbemor submitted thirty-three NAV comparators, of which seven contained offices (industrial based) ranging in size from 67 sq.m. to 163.50 sq.m. in contrast to the Subject Property measuring 763.17 sq.m. These comparators have a range of NAV values from €20 to €30 psm.
- 11.15 Just one comparator, submitted by Mr. Ogbemor, PN 1773609, measuring 119.08 sq.m. which is valued at €25 psm, is located in the town of Roscrea.
- 11.16 Mr. Ogbemor stated that the Five 'Key Rental Transactions' (KRTs) submitted in this Appeal informed that valuation scheme and are relied on as being relevant. In the case of office space in an industrial property setting, there were three KRTs. These are of limited assistance, given that there appears to be little correlation between the net effective rents (NER) achieved in these lettings and the net annual value (NAV) attributed to them by the Respondent. In some of the KRTs, the disparity between the NER achieved and the NAV applied was as much as 60%. This suggests that little reliance can be placed on these KRTs.
- 11.17 Mr. Halpin confirmed in evidence that the Subject Property was vacant and to let but with no tenancy secured.

11.18 The Tribunal finds that the Respondent’s scheme, outlined above, acknowledges, and makes allowances for the older nature of properties and the Respondent’s evidence inter alia stated ‘It is important to note that the application of the scheme is only the starting point. Following application of the scheme values, if there are any relevant individual considerations in relation to the Subject Property, relative to that group, further adjustments may be made to the Subject Property’s estimate of NAV’.

11.19 The Tribunal notes that the Respondent has, in other revaluations, adopted a policy of allowing discounts to reflect the age and condition of the buildings under valuation and accepts the Appellant’s position that this is necessary to ensure equity in the scheme of valuation. The Tribunal finds, having considered the evidence placed before it and following an inspection of the Subject Property, that the level placed on it by the Respondent does not adequately reflect its age and condition. Significant expenditure would be required to bring it up to a modern standard, in line with the comparables advanced in evidence. In the instant case, the Tribunal finds that an appropriate rental level to apply to the Subject Property is €22.50 psm, which reflects a 25% discount on the Respondent’s value of €30 psm for this category of industrial property, an appropriate reflection of the age, condition and any other restrictions that apply to the unit.

12 DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Subject Property as stated in the valuation certificate to €17,170 (Seventeen Thousand, One Hundred and Seventy Euro).

Calculated as follows:

Floor Level	Use	Area - Sq.m.	NAV /€- PSM	NAV
Ground		763.17	€22.50	€17,171.33
			NAV	€17,170

And so the Tribunal Determines.

13 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.