

Appeal No: VA19/5/0177

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2015**

Derek Horticultural Supplies Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2183935, Industrial Uses at Tullyard, Trim, County Meath

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF MARCH, 2023.**

BEFORE

Killian O'Higgins FSCSI FRICS PSRA

Tribunal Member

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 3rd 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 €42,200.
- 1.2 The grounds of appeal as set out in the Notice of Appeal dated 2nd October 2019 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 : the Valuation is incorrect. It is excessive, inequitable and bad in law.
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €24,700.
- 1.4 No other details stated in the Valuation List other than the property's value were indicated as incorrect. No argument was advanced to state the property should have been excluded from the Valuation List.
- 1.5 The only other ground upon which the Appellant intended to rely was that the valuation was excessive - a repetition of an earlier ground of appeal.

2. RE-VALUATION HISTORY

- 2.1 On the 15th 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 €42,200.00.

- 2.3 A Final Valuation Certificate issued on the 10th of September 2019, stating a valuation of €42,200.00. The Publication Date was 17th September 2019
- 2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th 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. Mr Tadgh Donnelly, Donnelly Associates, 1st Floor, 37 Watergate Street, Navan, Co. Meath provided an unsigned Précis of Evidence, dated 31st March 2022, on behalf of the Appellant. Mr. Oliver Parkinson provided a signed Précis of Evidence, dated 22nd September 2022 on behalf of the Respondent.

4. FACTS

- 4.1 The parties are agreed as to the following facts.
- 4.2 Mr. Donnelly, for the Appellant, submitted that the property is located 3.5km outside the town of Trim, Co. Meath. Mr. Parkinson evidence is that the property is situated in a rural area between Dunderry and Trim, approx. 2.5km from Trim and 25km from the M3 Motorway offering direct routes to Navan, Dublin and the north-west; and 10km from the N51 which travels from the midlands to the north-east. With location plans provided by each party, it is agreed that the property is between 2.5km and 3.5km north-west of Trim, Co. Meath.
- 4.3 Mr. Donnelly, for the Appellant, described the property as follows: “*The buildings is (sic) are mainly agricultural and consist of 2 Stores, Portacabin, yard and offices. This business is mainly a wholesale business providing a variety of horticultural products to the market*”. Mr. Donnelly submitted that the buildings are neither insulated nor heated.
- 4.4 Mr Parkinson for the Respondent described the property as follows: “ *Horticultural Wholesalers based on former agricultural and partially domestic site. Several older buildings of varying quality and 3 newer steel frame store buildings (Single skin 5-6m eaves). Permeable gravel storage yard to rear containing some stock and two polytunnels.*”
- Mr. Parkinson stated that the property appears to be in good condition throughout and provided photographic evidence externally and internally which appears to confirm his statement. Mr. Donnelly offered no evidence as to condition.
- 4.4 Accommodation figures and uses were agreed albeit with different presentation of data:
- 4.5 Appellant’s Floor Areas

Floor Level	Use	Area Sq M
0	Canopy	552.50
0	Store	1,829.11
0	Portacabin	32.55
1	Office(s)	102.24
MEZZ	Store	102.24
Total Building Area		2,618.64
0	Yard	637.50

4.6 Respondent's Floor Areas:

Floor Level	Use	Area Sq M
0	CANOPY	318.50
0	OFFICE(S)	102.24
MEZZ	STORE	102.24
0	STORE	132.06
0	PORTACABIN	32.55
0	STORE	194.90
0	CANOPY	234.00
0	STORE	630.00
0	STORE	637.00
0	STORE	70.50
0	STORE	164.65
Total Building Area		2,618.64
0	YARD	637.50

Helpfully, Mr. Parkinson also provided a sketched block plan.

5. ISSUES

In the Notice of Appeal the Appellant stated that the Valuation was '*excessive, inequitable and bad in law*'. From the Facts at paragraph 4 there is no significant difference of opinion in relation to location, description or accommodation.

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. Donnelly, for the Appellant offered only his own opinion of value in evidence, unsupported by any comparative evidence. The heading at paragraph 12 of his Précis stated ‘Comparisons’ but no detail was provided and the paragraph is blank apart from the headline name ‘Comparisons’.

7.2 Mr. Donnelly’s opinion of value was €24,700.88 as follows:

Accommodation	Level	Area Sq. M./Size	NAV psm	Total
CANOPY	0	552.50	€1.00	€552.50
YARD	0	637.50	€1.00	€637.50
STORE	0	1,829.11	€12.00	€21,949.32
PORTACABIN	0	32.55	€4.00	€130.20
OFFICE(S)	1	102.24	€12.00	€1,226.88
STORE	MEZZ	102.24	€2.00	€204.48
Total				€24,700.88
NAV				€24,700.88

7.3 No evidence was offered to support Mr. Donnelly’s valuation or the contention in the Notice of Appeal that the valuation was ‘*inequitable*’ and/or ‘*bad in law*’.

7.4 Mr. Donnelly submitted that the property is in a rural location with access down narrow country roads. The showroom has been closed to the public since the Covid-19 related pandemic started which has resulted in a loss of revenue; the buildings have no insulation or heating.

8. RESPONDENT’S CASE

8.1 In response to Mr. Donnelly’s Précis, Mr. Parkinson for the respondent submitted:

8.1.1 the Valuation date is 15th September 2017 and the effective date for the Meath Revaluation was 31st October 2019. The Covid-19 Pandemic was unknown at either date.

8.1.2 Ninety-six percent of ratepayers with properties classed as “industrial uses” accepted the valuations as applied by the Commissioner of Valuation

8.1.3 the Appellant offered no evidence to support the contention in the Notice of Appeal that the valuation was inequitable

8.1.4 Mr. Donnelly had failed to comply with Rule 39(f) of the Valuation Tribunal (Appeals) rules 2019.

8.2 Mr. Parkinson offered the following comparisons in support of the Commissioner of Valuation's valuation:

NAV Comparison 1 (PN 5007470)

Located 15km south of Trim, a more rural area and approximately 300Sq. M larger compared to the subject property. Same rate psm applied to the two properties. No representations received and not appealed to the Valuation Tribunal. Photos indicate a not dissimilar style of industrial building compared to the subject property.

Accommodation	Level	Area Sq. M./Size	NAV psm	Total
WEIGHBRIDGE	0	1		€2,000.00
STORE	0	2,231.74	€20.00	€44,634.80
OFFICE(S)	0	666.86	€20.00	€13,337.20
Subtotal		2,898.60		€59,972.00
YARD	0	5,968.00	€2.00	€11,936.00
Total				€71,908.00
NAV				€71,900

NAV Comparison 2 (PN 1554538)

Located 15km south of Trim, a more rural area and smaller than the subject property. Same NAV psm applied to the subject property. No representations received and not appealed to the Valuation Tribunal. Photo indicates a less attractive industrial building compared to the subject property.

Accommodation	Level	Area Sq. M./Size	NAV psm	Total
WAREHOUSE	0	1,175.90	€20.00	€23,518.00
PORTACABIN	0	42.16	€8.00	€337.28
Total		1,218.06		€23,855.28
NAV				€23,800

NAV Comparison 3 (PN 2212258)

Located close to the subject property but significantly smaller at 564.25 Sq. M. Higher NAV psm. No representations received and not appealed to the Valuation Tribunal. Photo indicates a not dissimilar style of industrial building compared to the subject property but potentially higher headroom. No representations received and not appealed to the Valuation Tribunal.

Accommodation	Level	Area Sq. M./Size	NAV psm	Total
OFFICE(S)	0	66.12	€25.00	€1,653.00
WAREHOUSE	0	498.13	€25.00	€12,453.25
Total		564.25		€14,106.25
NAV				€14,100

NAV Comparison 4 (PN 2108080)

Located approximately 7km from Trim, comprising a detached store with separate two-storey offices and yard. Smaller than the subject property. Higher NAV psm. Photo illustrates the two-storey offices only. Representations were received – the valuation remained unchanged. No appeal to the Valuation Tribunal.

Accommodation	Level	Area Sq. M./Size	NAV psm	Total
OFFICES	0	148.72	€25.00	€3,718.00
STORE	0	558.00	€25.00	€13,950.00
OFFICES	1	148.72	€25.00	€3,718.00
Subtotal		855.44		€21,386.00
YARD	0	1,500.00	€2.50	€3,750.00
Total				€25,136.00
NAV				€25,100

8.3 Mr. Parkinson for the Respondent referenced Tribunal Decision VA 14.5.970 in respect on PN 2196990 in support of his contentions:

(i) The onus is on the Appellant to demonstrate that the valuation of property which is under appeal is incorrect and not determined in accordance with Section 29(1) of the Valuation Act 2001. The Appellant has not provided clear or coherent evidence to suggest that this is the case.

(ii) No clear or compelling evidence was put before the Tribunal to suggest that the valuation of the said property was incorrect.

(iii). The Appellant did not produce clear evidence to suggest that the rateable valuation was not fair or equitable.

In the referenced case, the Valuation Tribunal affirmed the valuation set out by the Commissioner of Valuation.

8.4 Mr. Parkinson referenced a second Valuation Tribunal decision VA 00/2/032 (PN 2196990) in relation to whether a discount should be applied due to the locations of the comparisons relative to the property under appeal. Mr. Richardson submitted that the judgement held that the onus of proof lay with the Appellant to prove its case.

8.5 Mr. Parkinson submitted that the that the Appellant had not provided any evidence to suggest that the valuation applied by the Commissioner of Valuation was excessive and

inequitable. Mr. Parkinson maintained that Mr. Donnelly, for the Appellant, had failed to produce any comparable evidence and accordingly failed to support his opinion on value.

- 8.6 In relation to the Valuation Commissioner's, Mr Parkinson submitted that the correct NAV was €42,200 on the following basis:

Accommodation	Level	Area Sq. M./Size	NAV psm	Total
OFFICE(S)	0	102.24	€20.00	€2,044.80
PORTACABIN	0	32.55	€8.00	€260.40
CANOPY	0	552.50	€3.00	€1,657.50
STORE	Mezz	102.24	€4.00	€408.96
YARD	0	637.50	€2.00	€1,275.00
STORE	0	1,829.11	€20.00	€36,582.20
Total				€42,228.86
NAV				€42,200

9. FINDINGS AND CONCLUSIONS

- 9.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Meath County Council.
- 9.2 The location of the property is agreed and despite different nomenclature, there is no significant difference of opinion between the parties as to the description or size of the property. These facts are agreed. However, Mr. Parkinson's descriptive evidence is preferred as his Précis is accompanied by photographs of the subject property and a sketched block plan.
- 9.3 In determining the rent at which it is estimated a relevant property might reasonably be expected to be let, the best evidence is lettings of comparable premises in the open market. Use of the rental method of valuation depends, however, on sufficient, appropriate, and reliable comparable evidence being available from the marketplace; if it is available then it is top of the evidential hierarchy. No such evidence was offered by either party.
- 9.4 Under the Valuation Act 2001, as amended, Section 19(5) requires:

*"... valuation certificates to 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."

Mr. Parkinson for the Respondent offered evidence of the valuation of other properties on the list and considered by Mr. Parkinson to be comparable, or relative to the value of the subject property.

- 9.5 Mr. Donnelly, for the Appellant, offered no comparative evidence to support his opinion of value of €24,700.88. Such absence of comparative evidence is in breach of Rule 39 (f) and 39 (g) of the Valuation Tribunal (Appeals) Rules 2019.
- 9.6 Other than his own unsupported opinion, Mr Donnelly offered no other evidence to support his opinion that the valuation of the subject property was excessive. No evidence was advanced in relation to comparable properties on the County Meath List which might challenge the Commissioner of Valuation’s valuation of €42,200.
- 9.7 No evidence was offered by Mr. Donnelly to support the claim in the Notice of Appeal that the valuation was otherwise inequitable and/or bad in law.
- 9.8 Comparable evidence offered by Mr. Parkinson is considered in the context of the Certificate of Valuation which included data outlined in the following table, and affirmed in Mr. Parkinson’s valuation:

Accommodation	Level	Area Sq. M./Size	NAV psm	Total
OFFICE(S)	0	102.24	€20.00	€2,044.80
PORTACABIN	0	32.55	€8.00	€260.40
CANOPY	0	552.50	€3.00	€1,657.50
STORE	Mezz	102.24	€4.00	€408.96
YARD	0	637.50	€2.00	€1,275.00
STORE	0	1,829.11	€20.00	€36,582.20
Total				€42,228.86
NAV				€42,200

- 9.9 Comparable NAV 1 offered relevant comparable evidence. This NAV psm is €20 for offices and stores of approximately 2,898.60 Sq. M compared to the subject property 2,618 Sq. M (including canopy of 552.50 Sq. M.). Offices and stores at the subject property are also valued at €20 psm by Mr. Parkinson. A considerably larger yard of 5,968 Sq. M is valued at €2 psm aligned with the €2 psm applied to the subject property’s yard of 637.50 Sq. M
- 9.10 Comparable NAV 2 offered relevant comparable evidence. The NAV psm is €20.00 for a 1,175.90 Sq. M warehouse and a NAV psm of €8.00 for a portacabin of 42.16 Sq. M. The warehouse and portacabin NAV psm accords with the stores and portacabin NAV’s psm in the Certificate of Valuation and supported by Mr. Parkinson’s valuation.
- 9.11 Comparable NAV 3 offers less relevant comparable evidence as the property is significantly smaller (564.25 Sq. M) than the subject property. NAV’s psm are €25.00 in respect of both offices and warehouse.

- 9.12 Comparable NAV 4 offers less relevant comparable evidence as the property is significantly smaller (855.44.Sq. M) than the subject property. NAV's psm are €25.00 in respect of both offices and warehouse and €2.50 psm for a 1,500 sq. M yard.
- 9.13 Comparables NAV 1 and NAV 2 are of primary assistance to the Tribunal and provide direct evidence to support the Respondent's NAV's psm for Offices, Ground Floor Stores, Portacabin and Yard at the subject property – approximately 92% of the €42,200 valuation in the Valuation Certificate. The other elements are the canopy (NAV €3.00 psm and the mezzanine stores NAV €4.00 psm have not been referenced, specifically, in comparable evidence supplied by Mr. Parkinson. In the absence of evidence to support Mr. Donnelly's opinion of value, the Tribunal accepts Mr. Parkinson's NAV's psm for the canopy and mezzanine stores.
- 9.14 The only grounds contended by Mr. Donnelly was that the Commissioner of Valuations valuation was excessive. No evidence was offered by the Appellant that the valuation was inequitable and/or bad in law. Contentions related to the Covid-19 pandemic and impact on the Appellant's business are not relevant as the valuation date is 15th September 2017.
- 9.15 Although Mr. Parkinson referenced two previous Valuation Tribunal judgements, each case before the Tribunal is unique to itself and is considered on its own facts and merits.
- 9.15 In appeals before the Valuation Tribunal, the onus of proof strictly rests with the ratepayer – the Appellant in this case. In offering no comparable evidence to support an opinion of value, Mr. Donnelly, for the Appellant, has not provided proof to support the Appellant's case that the valuation is excessive.

DETERMINATION:

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