

Appeal No: DS24/0/0002

**VALUATION TRIBUNAL
AN BINSE LUACHÁLA**

**DERELICT SITES ACT, 1990
AN tACHT UM LÁITHREÁIN THRÉIGTHE, 1990**

THOMAS MURRAY

APPELLANT

AND

WATERFORD CITY AND COUNTY COUNCIL

RESPONDENT

**In relation to the market valuation of Property Number: DS23023 Old Forge, Summerhill,
Tramore, County Waterford.**

TRIBUNAL	Barra McCabe BL, MRICS, MSCSI	Deputy Chairperson
	T J Kearns B Sc (Surv) MRICS	Member
	Martin Connolly M Agr Sc, MSc, MSCSI, FCI Arb	Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF DECEMBER, 2024

Appearances

For the Appellant:	Thomas Murray, owner
For the Respondent:	Barry McDonald, MSCSI, MIPAV, TEGOVA REG, and Ms Caroline Quinlivan, REA O'Shea O'Toole. Collette O'Brien, Waterford City and County Council

THE APPEAL

1. On the 19th December 2005 Notice of an order in accordance with s. 8(7) of the Derelict Sites Act, 1990 Act ('the Act') was sent to the Appellant indicating that urban land situated at the Old Forge, Summerhill, Tramore, County Waterford (hereinafter referred to as 'the Derelict Site') was entered on the Derelict Sites Register. There was no evidence before the Tribunal as to the precise date on which the Notice of Determination of Market Value in accordance with s. 22 of the Act was sent to the Appellant. In oral evidence Ms O'Brien for the local authority, corroborated by Mr McDonald, indicated that a determination in the amount of €75,000 was made in December 2023.

2. Based on Ms O'Brien's oral evidence the Tribunal takes December 2023 as the date by reference to which the value of the Derelict Site is to be determined.
3. By Notice of Appeal dated the 15th of January, 2024 the Appellant appealed against the Respondent's determination of value. The ground(s) of appeal as set out in the Notice of Appeal are that the determination of the valuation of the Derelict Site is incorrect because:

"As I am not allowed to build/develop the site, I believe the value is not €75,000. The site has no use to anyone. The planning refusal details outlines the small area for development.

4. The Appellant considers that the market value of the Derelict Site ought to have been determined in the sum of €10,000.

THE HEARING

5. The appeal, which was set down for hearing on 16th April 2024 was adjourned, and subsequently proceeded via Zoom platform on 15th May 2024.
6. In accordance with the Valuation Tribunal (Appeals) Rules 2019 the parties exchanged their respective valuation reports prior to the hearing and submitted them to the Tribunal. At the oral hearing, each witness having taken the oath, adopted their valuation report as their evidence-in-chief in addition to giving oral evidence.

RELEVANT STATUTORY PROVISIONS

7. A local authority is required by s. 22 of the Act to determine, as soon as may be after a derelict site has been entered on the derelict sites register maintained under s. 8 of the Act, the market value of that site in such manner and by such means as they think fit. In that regard, a local authority may authorise a person suitably qualified to inspect the site and report to them on the site's market value.
8. Under s. 2 of the Act 'market value' means the value of the relevant urban land assessed in accordance with s. 22. That assessment is undertaken by:

"estimating or causing to be estimated the price which the unencumbered fee simple of such land would fetch if it was sold on the open market on the valuation date in such manner and in such conditions as might reasonably be calculated to obtain for the vendor the best market price for the land."

THE FACTS

9. On the basis of the evidence adduced by the parties, the following facts in respect of the physical condition of the Derelict Site were agreed or proved to the satisfaction of the Tribunal:
- (i) The parties agreed that the Derelict Site comprised 0.0022 hectares, formerly used as a forge and now largely overgrown. It is bounded by Summerhill (Road L4116) to the northeast, two laneways to the southeast and northwest and a private residence to the southwest. The perimeter comprises high stone walls and gates. There was no evidence provided to the Tribunal of the dimensions of the Derelict Site, particularly its road frontage, nor was any evidence provided as to the availability of services. Mr McDonald for the Respondent stated in his précis that he assumed that all services were available, but he was unable to confirm this.
 - (ii) The Derelict Site is located in Summerhill at the junction of Summerhill Rise. Immediately to the northwest is a large electricity substation and a cemetery across the road. Summerhill is mainly a residential area located close to Tramore Town Centre.
 - (iii) Mr Murray stated in evidence that he owned the Derelict Site. In his précis Mr McDonald included a copy PRAI map and also listed [folio number] WD 5978 in his undated report but gave no details of ownership or title. Neither party provided detailed information on title as required by Rule 130(a) of the Valuation Tribunal (Appeals) Rules 2019.
 - (iv) The Derelict Site was previously a forge, now ruinous, with the site overgrown. In the current Waterford City and County Development Plan, 2022-2028, it is zoned TC, Town Core, which permits a wide range of uses. The evidence from both parties was that over the past 20 years there were various failed planning applications including for a funeral home and different types of dwellings. The most recent, Planning Application Reference 23/60211, an application to demolish the existing derelict building and construct a new two-storey house, car port and ancillary works was refused on two grounds. It was considered that having regard to the restricted nature of the site and the inadequate sight lines that the proposed development would represent a traffic hazard. It was also considered that in the absence of an area of private amenity the proposed development would represent a substandard form of development.
 - (v) In his précis and oral evidence Mr McDonald contended that that the adjoining owner, who now owns the land on three of the Derelict Site's boundaries, could be a special purchaser.

APPELLANT'S CASE

10. Mr Thomas Murray, the Appellant, gave written and oral evidence on his own behalf.
 - (i) Mr Murray provided a summary of his case, a response to Mr McDonald's précis, and a copy of the decision of Waterford City and County Council's decision to refuse planning application reference: 23/60211. He also provided his own estimate of the value of the Derelict Site of €10,000.
 - (ii) Mr Murray summarised his case by saying that the Derelict Site was small. It was located at a busy junction, with speed ramps, double yellow lines and no footpath on the adjoining road. It is located across the road from a cemetery and beside an unattractive electricity substation. Over the years a number of planning applications had been refused, the most recent on grounds of safety because the proposed development was deemed a traffic hazard, prejudicial to road safety and also lacking an area of private amenity space to serve the proposed dwelling house.
 - (iii) Mr McDonald asked Mr Murray if he considered this a good location, a popular place in which to live. He replied that he would not consider the Derelict Site attractive for the reasons outlined in Paragraph 10(ii) and asked rhetorically if the site were for sale would these items be highlighted.
 - (iv) On the question of alternative uses Mr Murray replied to Mr McDonald that he was not aware of any. The site was small, and the lack of a footpath would limit public access. He also refuted the suggestion in Mr McDonald's précis that it would be possible to engage with the neighbouring landowner in a joint development. This landowner had objected to previous planning applications on the Derelict Site.
 - (v) In response to a question from the Tribunal Mr Murray replied that the reason he did not submit any market evidence was that he could not find evidence of any other similar site in Tramore.
11. Mr Murray summarised his case as follows:
 - (i) For the reasons outlined in Paragraph 10, small site and planning refusals, he believed that the Derelict Site was of no use to anyone. He did not accept the Respondent's estimate of value, €75,000.
 - (ii) In Mr Murray's opinion the Derelict Site was worth €10,000 (Ten thousand euro)

RESPONDENT'S CASE

12. Mr McDonald for the Respondent submitted a précis of his evidence to include details of the location, a site description, services, planning, the site potential and opinion of value. He adduced evidence of four market transactions to assist the Tribunal.

- (i) Mr McDonald stated that he had conducted a number of inspections of the Derelict Site *"on a drive by basis only"*, in November/December 2023 and more recently in March 2024. On questioning by the Tribunal, he indicated that the inspection was done in this manner on instructions from the Respondent. He further stated that such an inspection met the requirements of the Society of Chartered Surveyors Ireland/Royal Institution of Chartered Surveyors for a Red Book valuation.
- (ii) In his précis Mr McDonald described the Derelict Site as being located in Summerhill, Tramore, Co Waterford. In his oral evidence he elaborated that Tramore had the highest increase in property values in Waterford over the previous two years. Summerhill was a good residential area, close to the town centre and its various amenities and with some high residential values.
- (iii) Mr McDonald described the Derelict Site as small, 0.0022 hectares, with a derelict building, a high stone wall and steel gate to the front. He assumed for the purposes of his report that services including mains water, and sewerage were available but was unable to confirm this to the Tribunal.
- (iv) In his précis Mr McDonald dealt with the planning context of the Derelict Site and also its specific planning history. The zoning in the Waterford City and County Development Plan, 2022-2028, is TC, Town Core. This zoning provides for a wide range of uses including retail, residential, commercial, civic and other uses. In his oral evidence Mr McDonald pointed out that nationally planning policy now is to favour higher densities with lower parking provision.

The planning history of the Derelict Site in Mr McDonald's précis is essentially as set out in Paragraph 9 (iv) above. He acknowledged the previous planning refusals but in his oral evidence he gave the opinion that the most recent application, Planning Register Number 23/60211, did not adequately address the issues raised in the previous refusals. He also contended that the various planning refusals could be an advantage as they would inform a prospective purchaser as to what kind of development might or might not be acceptable to the planning authority on the Derelict Site.

- (v) In his assessment of the site Mr McDonald contended that notwithstanding the refusals of planning permission that there was potential for some scaled back development, such as a smaller residence with pedestrian access only,

with possible on-street parking. In cross examination the Appellant put it to Mr McDonald that on street parking would be impossible because the Derelict Site was located between to two junctions, with double yellow lines on the road and the presence of an electricity substation. Mr McDonald replied that it is possible to park on a side road off Summerhill.

- (vi) Mr McDonald contended that that it would be possible to carry out a joint development of the Derelict Site in co-operation with the adjoining landowner with the proceeds shared between them. The Appellant asked him if he was aware that the adjoining owner, who owns the land on three of the Derelict Site's boundaries, had objected to his previous planning applications. Mr McDonald replied that he was aware of this but still contended that the possibility of a joint development added to the inherent value of the Derelict Site.
- (vii) Mr McDonald submitted evidence of four market transactions, which he listed in order of relevance, to assist the Tribunal. These are set out in the table below.

No.	Address	Description	Date	Price	Comment
1	Kennedy Park, Tramore	0.0404 ha site	February 2024	€92,000	Full PP for a detached house.
2	Site No 5, Seanrod, Tramore	0.042 ha site	April 2023	€150,000	Full PP for a detached house. Close to the Derelict Site
3	Site No 6, Seanrod, Tramore	0.042 ha site	April 2023	€150,000	Full PP for a detached house. Close to the Derelict Site
4	Galweys Hill, Tramore	0.41 ac	May 2024	€190,000	Cliff top, zoned High Amenity

On cross examination by the Appellant, Mr McDonald accepted that sales of sites in Tramore comparable to the Derelict Site were *"hard to come by"*. He also accepted that Comparable No. 4 was not directly comparable to the Derelict Site. Comparables No, 2 and 3 formed part of a small residential development site of 7 or 8 units. When put to him by the Appellant he accepted that Seanrod was a quiet area close to the beach and other amenities. Comparable No 1 was in a single site, 0.0404 hectares, in what was a local authority development built in the 1960-70's. He accepted in cross examination that this was also a quiet residential area and added that it was close to schools and playing fields. Mr McDonald described Comparables No. 1, 2 and 3 as *"shovel ready"*. He also contended that their zoning, Residential, was more limited than that of the Derelict Site, Town Core. On questioning by the Tribunal Mr McDonald was asked by how much the value of a site with planning permission should be

adjusted to reflect the value of a similar site without permission. He replied that arguably it could be as high as 50% but in the present case 30% would be more realistic having regard to the more advantageous zoning of the Derelict Site.

13. In summing up Mr McDonald set out the rationale for and provided an opinion of value.
- (i) He accepted that there were limitations to the Derelict Site. Sight lines were limited, and the small size restricted the possible uses.
 - (ii) The Derelict Site was well located close to the town centre and a range of amenities.
 - (iii) Property values were strong in Tramore with values increasing sharply over the past two years.
 - (iv) The zoning of the Derelict Site, Town Core, provided for a wide range of uses.
 - (v) There was potential for a joint development with the neighbouring landowner which would enhance the value of the Derelict Site.
 - (vi) In Mr McDonald's opinion the market value of the Derelict Site at the Valuation Date was €60,000 (Sixty Thousand Euro)

FINDINGS AND CONCLUSIONS

- 14 On this appeal the Tribunal is required to determine the market value of the Derelict Site as defined in s. 2 of the Act assessed in accordance with s. 22 of the Act. More precisely Market Value is defined by the International Valuation Standards, 31 January 2022 at Paragraph 30.1 as:

"... the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion."

15. Findings

- (i) The date by which the value of the Derelict Site is assessed is the date on which the particulars of the determination were entered on the register in accordance with the provisions of s. 22 (3) of the Act. The Tribunal is surprised that no written record of this entry was furnished to it by the Respondent, but it accepts the oral evidence, which was not challenged, that the entry was made *"at the start of December 2023"*.
- (ii) Mr McDonald stated that on the instructions of the Respondent he carried out a *"drive by"* inspection of the Derelict Site and that this form of inspection meets the

requirements for a Red Book valuation of the Society of Chartered Surveyors/Royal Institution of Chartered Surveyors. The Tribunal understands this may be the case in limited circumstances, but a drive by inspection is not satisfactory for an expert witness giving evidence to assist the Tribunal in assessing the correct value of a derelict site, especially when for example, there had not been a previous valuation of the site or where the site is not dangerous.

- (iii) The Derelict Site had been subject of a number of planning refusals, the most recent in 2006 for a small house and in 2023 for a smaller one. The Appellant argued that this planning history rendered the site of no use to anyone. On the other hand, Mr McDonald contended that knowledge of previous refusals could inform a potential purchaser of the kind of development that might be permitted. On balance, the Tribunal finds that the planning history of the Derelict Site had a negative effect on its value
- (iv) The Tribunal accepts Mr McDonald's evidence that Summerhill is an attractive area, conveniently located close to the town centre of Tramore and a number of amenities. However, the Tribunal also accepts the Appellant's evidence that the Derelict Site itself is not so appealing. It is small and located beside a large electricity substation. It has poor sight lines, no footpath, speed ramps and double yellow lines on the road in the immediate vicinity. It is located between two junctions, all of which limit the possibility of on street parking and its overall development potential.
- (v) Mr McDonald contended that the most recent planning application did not have sufficient regard to the reasons for the previous refusals. In the absence of expert planning evidence, the Tribunal notes the application was prepared by a competent architect and therefore does not accept this contention.
- (vi) Mr McDonald contended that it would be possible to carry out a joint development by combining the Derelict Site with part of the adjoining holding which has a similar zoning and thereby could avail of the potential synergies between them to enhance the value of the Derelict Site. While the Tribunal accepts that, physically, this could be done the International Valuation Standards, 31 January 2022, at Paragraph 30.7 state that:

"Market value does not reflect attributes of an asset that are of value to a specific owner or purchaser that are not available to other buyers in the market [as in the present case].... Market value requires the disregard of any such element of value because at a given date it is only assumed that there is a willing buyer, not a particular willing buyer."

In any event, the Appellant's evidence was that because of previous planning objections by the adjoining landowner there was no prospect of a joint development taking place. The Tribunal, therefore, disregards the prospect of any synergistic value to the Derelict Site on the Valuation Date.

- (vii) Mr McDonald put forward evidence of sales of four sites in Tramore to assist the Tribunal. The parties, with whom the Tribunal agrees, accepted that Comparable No 4, a 0.41-acre site at Galweys Hill, was of little assistance. It was 7.6 times larger than the Derelict Site, located on a cliff top and zoned High Amenity. Comparables No 2 and 3 were two 0.042-hectare sites, approximately twice the size of the Derelict Site, which sold for €150,00 each in April 2023. They were located in a small residential development, with full planning permission for detached residences and ready for construction to begin. Comparable No 1, which the Respondent described as the best comparison, was a 0.0404-hectare site, approximately twice the size of the Derelict Site. It was also located in Kennedy Park, an established residential area that had full permission for a detached residence and construction could start immediately. It sold for €92,000 in February 2024, and the Respondent reduced his valuation by 35% to arrive at his opinion of value for the Derelict Site.

16 Conclusions

- (i) On the evidence before the Tribunal, it finds that the Derelict Site had limited development potential at the Valuation Date. It was restricted by its small size, 0.022 hectares, poor access, no on street parking and an adverse planning history.
- (ii) There was very little relevant market evidence furnished to the Tribunal for similarly circumstanced sites in Tramore. The Respondent put forward details of three residential sites, with the Kennedy Park comparison, which sold for €92,000 in February 2024, being regarded as the most relevant. He applied a reduction of approximately 35% to arrive at his estimate of market value of €60,000 for the subject property.
- (iii) Notwithstanding the favourable zoning of the Derelict Site, the Tribunal is of the view that the discount applied by Mr Mc Donald is insufficient and does not adequately reflect the relative disadvantage of the Derelict Site, in terms of its smaller size, poor layout and specific location and its negative planning history. The Tribunal finds that based on the evidence put before the Tribunal and given the restrictions of the derelict site, a reduction of closer to 70% would be more appropriate.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and determines that the market value of the Derelict Site falls to be amended to **thirty thousand euro, €30,000** as of the valuation date.

RIGHT OF APPEAL

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.