

Appeal No: VA19/5/1896

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BARRACK STREET SERVICE STATION LTD

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1989128, Service Station & Convenience Store at 6BCDEH Main Street,
Bailieborough, County Cavan.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 2ND DAY OF MAY 2025**

BEFORE

John Stewart – FSCSI, FRICS, MCI Arb

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 13th 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 €96,500.

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:

“The methodology used to assess the net annual valuation (NAV) for the small service station / convenience store trade is grossly unjust. This methodology is based on turnover and has resulted in a completely disproportionate & significantly higher NAV rating for this trade sector. This compares to stand alone shops / mini supermarkets which are valued on a €/sqm basis. These local shops / mini supermarkets are basically the same as a service station store but just without the forecourt pumps.

Below listed are examples of valuations on mini supermarket / supermarket NAV currently determined by the valuation office:

Property 1989418 Mini-Supermarket - 403 Sq. sqm €13,010 NAV = Approx €32.20 €/sqm

Property 5016319 Mini-Supermarket - 210 Sq. sqm €19,490 NAV = Approx €92.80 €/sqm

Property 1667034 Supermarket - 1,479Sqm €86,500 NAV = Approx €58.50 / sqm

Property 5009208 Supermarket - 1,351 sqm €96,700 NAV = Approx €71.50 / sqm

Property 1989106 Supermarket - 1302 sqm €85,900 NAV = Approx €66.00 / sqm

This compares to our service station convenience store:

Property Number 1989128 Floor Space 125 sqm NAV of €96,500 = Approx €772 / sqm

The NAV calculations for the small service station / convenience store trade is clearly unjust being up to 10 times the valuation of similar type trades valued on an area methodology.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,500.

2. RE-VALUATION HISTORY

2.1 On the 29th day of March 2019 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €96,500.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €96,500.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th day of September 2017.

3. 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 The parties are agreed as to the following facts.

4.2 The property is located on Barrack Street Bailieborough Co. Cavan which has a population of 4,255 according to the 2022 Census. Barrack Street is just off Main Street.

4.3 The subject property comprises Barrack Street Service Station which is located on a 0.25-acre site. It comprises a retail shop which is branded as Daybreak external stores, and toilet accommodation compressed air, vacuum services and a branded Texaco forecourt under a typical petrol station canopy which has three islands with double sided pumps for petrol diesel and kerosene with a total of 12 pumps.

4.4 The accommodation which was not disputed comprises.

DESCRIPTION	FLOOR	AREA M ₂
Shop	0	167.91
Stores/ancillary	0	20.56
Offices/stores	1	167.91
Stores	1	20.56
Total		376.94

5. ISSUES

5.1 Quantum

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 The Appellant grounded their appeal on an objection to the methodology adopted for small service stations/convenience stores which they regarded as grossly unjust. They argued that the Appellant had not been provided with any calculation or methodology to support the NAV of €96,500. They stated that the exact calculation and methodology used for this valuation was unknown and argued that the comparison NAV valuations for other competitor convenience stores and supermarkets within the local area suggested that the methodology used was very different and inequitable.

7.2 They referred to the Valuation Certificate dated the 10th of September 2019 which stated.

“The basis of calculating your valuation is on the reverse of this document” and noted that the Valuation Certificate provided a very basic description of “1 unit x NAV €per unit of €96,564” without further explanation, breakdown, or workings. They argued that if this method of calculation is factual that by default it is impossible to appeal the NAV valuation and that this is unfair on the appellant property.

7.3 They also argued that the annual rates demand for 2019 versus 2020 showed that the entire method of calculation the NAV valuation and the ARV were changed as both demands contained vastly different a NAV amounts and ARV factors.

7.4 They stated that the substantial valuation of €96,500 when multiplied by the ARV's resulted in a dramatic increase in annual rates from €6,028.56 in 2019 to €19,396.50 in 2020 further increasing to €21,336.15 in 2022. They claimed that this substantial increase was unfair and inequitable particularly considering other economic factors affecting the fuel industry.

7.5 They acknowledged that the purpose of the revaluation of all rateable property was to reflect changes in value due to economic factors such as differential movements and property values or other external factors and changes in local business environment. However, they argued that a series of external economic factors had severely impacted on the fuel industry in recent years including a substantial increase in taxes and duties on carbon-based fuels; substantial increase in labour costs due to government policies; substantial increases in energy costs particularly electricity and substantial increases in rates for service stations. They added that national and worldwide governmental policies provided for a concentrated move away from carbon-based fuels to green alternatives.

7.6 They stated that it was not possible to get the valuation reports of any service station online as distinct from other types of properties. They noted that the Valuation Office website confirms "*It is not possible to show the breakdown of the valuation for this property as it may contain confidential information*" They added that the valuation calculation and the ability to properly compare the breakdown with other similar properties was unavailable and therefore not transparent. They noted that the onus of proof was placed on the Appellant to convince the Valuation Tribunal regarding these valuations however they stated that the Appellant was severely restricted with the restricted information available from the Valuation Office. They argued that this lack of transparency is inequitable and against the stated purpose of the revaluation.

7.7 The Appellants referred to significant lobbying and questioning of the methodology of revaluations for service stations which was undertaken by fuel industry groups and in particular the Irish Petrol Retailers Association IPRA. The IPRA argued that the valuation methodology adopted treated the shop portion of service stations unfairly in comparison to other convenience stores and supermarkets. They argued that the methodology demanded significant financial data from service stations to calculate their valuation where is the valuation of other convenience stores and supermarkets was based solely on their respective floor areas. They noted that following phase one of the revaluation evaluation methodology appears to have been amended by the valuation office which they argued suggested the methodology was clearly incorrect to begin with. They further argued that low margin and agency items such as lottery bill payment services, fuel card bunkering transactions and cigarettes should be excluded from the turnover of service stations and smaller convenience stores as they are low margin items which distort turnover. They also claimed the methodology designed and used by the valuation office was incorrect and unfair and that the IPRA had demonstrated this with a number of examples comparing service station convenience stores with larger supermarkets in different locations throughout the country.

7.8 The Appellants referencing the IPRA confirmed that the revaluation methodology was based on turnover and have evidenced that the new methodology used to rate filling stations was not fair or equitable and could lead to the closure of independently owned service stations as they cannot compete with local supermarkets or convenience stores who have secured a much more favourable methodology based on floor area. They refer to the Explanatory Guide For Commercial Ratepayers leaflet published by the Valuation Office which states the purpose of the revaluation was to *“bring more equity, uniformity, fairness, and transparency into the local rating system. Following revaluation there will be a much closer relationship between the rental value or valuation of a property and its commercial rates liability.”* They claimed the revaluation of the subject property has not brought equity, uniformity fairness or transparency to the rates applicable to this property particularly when considered against the hypothetical rent payable by a large-scale supermarket such as Costcutter Lidl or Supervalu.

7.9 The Appellants reviewed the Revaluation Statistics For Cavan County Council and confirmed that the appellant property has an NAV valuation significantly in excess of €31,606.13 being an average valuation and is also subject to a rates demand far in excess of €6,352.83 the average rates payable for 819 industrial use properties. They stated that NAV of the subject property was more than three times the average valuation of 32% of valuation certificates issued in County Cavan for industrial properties while acknowledging the appellant property was not an industrial property. They added that the statistics place the appellant property, a small service station, in the top 7.58% of ratepayers in the entire County with a rates bill at the upper limit of the highest *“median rates bill”* of €19,436.70.

7.10 The Appellants submitted their appeal in October 2019 without the benefit of further communication from the Valuation Office on the methodology used despite the above lobbying from the IPRA.

7.11 The Appellants stated that as the methodology is based on turnover this has resulted in a completely disproportionate and significantly higher NAV for this trade sector particularly when compared with standalone shops and mini supermarkets which are valued on a rate per square metre basis. They provided examples of a number of local shops and convenience stores in Cavan which they argue are basically the same as a service station store but without the forecourt pumps which are listed below.

7.12

1989418	Costcutter Convenience Store Main Street Shercock Cavan			
Floor Level	Floor Use	Area M₂	NAV (€/M₂)	NAV €
0	Retail Zone A	45.58	€100.00	€4,558.00
0	Offices	5.8	€20.00	€116.00
0	Store	221.01	€20.00	€4,420.20
1	Store	13.72	€30.00	€3,921.60
				€13,015.80
			Total say	€13,010.00

Appellant comments: This comparator is a large Costcutter convenience store in Cavan with a floor area of 403.11M₂ where the subject property comprises 125M₂. The subject property has forecourt pumps however the comparator property was valued at €13,010 for a significantly larger convenience store when compared to the subject property which is valued at €96,500.

7.13

5016319	Costcutter Convenience Store Main Street Virginia Cavan			
Floor Level	Floor Use	Area M₂	NAV (€/M₂)	NAV €
0	Retail Zone A	67.57	€180.00	€12,162.60
0	Retail Zone B	47.91	€90.00	€4,311.90
0	Retail Zone C	39.44	€45.00	€1,774.80
0	Retail remainder	55.18	€22.50	€1,241.55
				€19,490.85
			Total say	€19,490.00

Appellant comments: This comparator is a large Costcutter convenience store in Cavan with a floor area of 210.10M₂ where the subject property comprises 125M₂. The subject property has forecourt pumps however the comparator property was valued at €19,490 for a convenience store when compared to the subject property which is valued at €96,500.

7.14

1667034	LIDL Supermarket Magheross Carrickmacross Monaghan			
Floor Level	Floor Use	Area M₂	NAV (€/M₂)	NAV €
0	Entrance hall	10.43	€50.00	€521.50
0	Supermarket	1,174.99	€50.00	€58,749.50
0	Offices	52.52	€50.00	€2,626.00
0	Store	241.15	€50.00	€12,057.50
	Additional items			€12,570.35
				€86,524.85
			Total say	€86,500.00

Appellant comments: This comparator is a large LIDL supermarket in Monaghan with a floor area of 1,479.09M₂ where the subject property comprises 125M₂. The subject property has forecourt pumps however the comparator property was valued at €86,500 for a significantly larger supermarket (11 times larger) when compared to the subject property which is valued at €96,500.

7.15

5009208	SuperValu Kells Road Kingscourt Cavan			
Floor Level	Floor Use	Area M₂	NAV (€/M₂)	NAV €
0	Supermarket	935.36	€60.00	€56,121.60
0	Offices	208.96	€60.00	€12,537.60
0	Store	207.03	€60.00	€12,421.80
	Additional items			€15,675.67
				€96,756.67
			Total say	€96,700.00

Appellant comments: This comparator is a large SuperValu supermarket in Cavan with a floor area of 1,351.35M₂ where the subject property comprises 125M₂. The subject property has forecourt pumps however the comparator property was valued at €96,700 for a significantly larger supermarket (10 times larger) when compared to the subject property which is valued at €96,500.

7.16

1989106	SuperValu 62A/B Main Street Bailieborough Cavan			
Floor Level	Floor Use	Area M₂	NAV (€/M₂)	NAV €
0	Supermarket	826.52	€65.00	€53,723.80
0	Store	87.71	€65.00	€5,701.15
0	Shop	69.6	€65.00	€4,524.20
-1	Store	259.74	€32.50	€8,441.55
1	Store	19.60	€32.50	€637.00
1	Offices	38.34	€32.50	€1,246.05
	Additional items			€11,685.47
				€85,959.02
			Total say	€85,900.00

Appellant comments: This comparator is a large SuperValu supermarket in the same town Bailieborough Cavan with a floor area of 1,301.51M₂ where the subject property comprises 125M₂. The subject property has forecourt pumps however the comparator property was valued at €85,900 for a significantly larger supermarket (10 times larger) when compared to the subject property which is valued at €96,500.

7.17 Service Station comparisons.

2211122	Tesco/Certa Bailieborough Cavan
Valuation	€28,400 It is not possible to show breakdown of the valuation for this property and it may contain confidential information

Appellant comments: This comparator is a large Tesco/Certa service station in the same town Bailieborough Cavan approx. 250m from the subject property. The Appellants claim that this is a significantly larger filling station valued at €28,400 versus €96,500 for the subject property.

They acknowledge that it does not have a related convenience store but was formerly part of the Tesco site. They claim this demonstrates the inequality between the NAV valuations and suggests that the appellant property is being penalised for the presence of a convenience store as it is valued using a different valuation methodology which was not provided. They argued that the combination of a small convenience store and filling pumps appears to place the appellant property in the same NAV valuation bracket as much larger supermarket chains.

7.18

1989096	Applegreen Service Station Bailieborough Cavan
Valuation	€44,000 It is not possible to show breakdown of the valuation for this property and it may contain confidential information

Appellant comments: This comparator is a medium sized Applegreen service station in the same town Bailieborough Cavan approx. 250m from the subject property. The Appellants claim that this filling station valued at €44,000 versus €96,500 for the subject property refers to similar sized filling stations. They note that it does have a related convenience store and claim that the disparity suggests the appellants are being penalised due to a having a slightly larger convenience store.

7.19

2189421	Maxol Service Station Ballyjamesduff Cavan
Valuation	€137,000 It is not possible to show breakdown of the valuation for this property and it may contain confidential information

Appellant comments: The Appellants noted that this comparison is also located in Cavan County Council area and that the NAV has been appealed to the Valuation Tribunal however the outcome was unknown. They stated it comprises a much larger property than the subject property however the fact that the details of the appeal are unknown makes it very difficult to compare with the subject property.

7.20

2191776	Great Gas Service Station Mullagh Cavan
Valuation	€151,700 It is not possible to show breakdown of the valuation for this property and it may contain confidential information

Appellant comments: The Appellants noted that this comparison is also located in Cavan County Council area and that the NAV has been appealed to the Valuation Tribunal however the outcome was unknown. They stated it comprises a much larger property than the subject property however the fact that the details of the appeal are unknown makes it very difficult to compare with the subject property.

7.21 The Appellants stated that they Respondent was obliged to file their precis of evidence by Friday 26th January 2024 and having sought an extension this was extended to the 9th February 2024. They stated that while the Respondents precis was dated 9th February 2024 it had not been submitted until the 14th November 2024 and consequently was over nine months late without reason. They stated that the Respondent had failed to comply with the directions of the Valuation Tribunal and failed to comply with the Valuation Tribunal (Appeals) Rules 2019. They noted that had the Appellant has failed to comply with the Tribunals directions the case would have been struck out however these rules did not apply to the Respondents.

7.22 The Appellants stated that at the representation stage the Appellants had provided the Valuation Office with an auctioneer's opinion as to the hypothetical rental value of the subject property when compared to a similar property in Mayo which was significantly less than the NAV placed on the property by the Respondent however this opinion had been ignored.

7.23 The Appellants acknowledged that specific financial information had been requested from them and that all ratepayers were required by law to provide the specific information. However, they argued that this appeal was based on the fact that the NAV of service stations was to be based on this financial information whereas financial information was not requested for NAVs calculated on other commercial properties which are based on rates per square metre.

7.24 The Appellants argued the methodology used to assess the NAV for small service stations and convenience stores was grossly unjust. They added that this methodology is based on turnover and has resulted in a completely disproportionate on significantly higher NAV rating for this trade sector. They added the reliance on trading potential and profitability by the Respondent highlights a significant unfairness and inequality for service stations which are based on sensitive and confidential financial information whereas this financial data was not the basis of the NAV calculation for much larger competing supermarkets and convenience stores. They conclude that this methodology cannot bring greater equity uniformity fairness and transparency to the market.

7.25 Addressing the Application of the Valuation Scheme the Appellants noted that over the years the scheme had been modified to take account of low margin items however they argued that as at the time of valuation in October 2019 no such modification was in place. They noted that the Respondent confirmed that the Valuation Scheme was since modified to take account of low margin items and that consequently the original methodology was clearly incorrect and unjust to begin with.

7.26 The Appellants addressing the claim that the occupier was non-compliant at draft certificate stage, and they remained non-compliant at representative stage regarded it as unfair to state that they were non-compliant at either stage. They referred to the IPRA and the fact that it was engaging with the Valuation Office in relation to service stations valuations and referred to correspondence and a white paper on the matter prepared in January 2020. They added that they Respondents in their response of the 5th of July 2019 did not elaborate on the reasoning for the application of this valuation methodology based on financial data or why it did not apply to other properties. They added that this correspondence carried a threat that it was an offence risking prosecution to fail to comply with Section 45 notice adding a dissatisfied ratepayer may appeal to the Valuation Tribunal.

7.27 The Appellants stated that the value of €7,500 included in the notice of appeal was based on the floor area when compared to larger supermarkets and convenience stores and noted that the value of €60,000 at representation stage was based on an opinion by an independent auctioneer.

7.28 The Appellants took issue with the Respondents dismissal of the various supermarket and convenience store rental values provided by it as it claimed had been valued on a different basis. They noted that in the case **Michael Leonard vs Commissioner of Valuation 2017** that the relationship between supermarkets and fuel pumps can be contentious and debatable. In that case they stated the supermarket area was valued based on floor area, but adjustments were made for fuel sales. The Appellants query why the Valuation Office did not adopt this methodology for all service stations which they argued would have provided a fairer and more equitable valuation. The Appellants refers to a separate case of a group related company property number of 1989427 which comprised a larger fuel depot and public fuel pumps however in that case the valuation was based on the floor area and not on trading information.

7.29 The Appellants state that the Respondents have valued the subject property in line with and relative to other comparable properties and refer to two comparable properties provided by the Respondent PN to 2111122 and PN 1989096 with NAV valuations of €28,400 and €44,000 yet the NAV for the subject property is €96,500. The Appellants acknowledge that no trading information was provided however they argued that they fail to see how the Respondent could have placed a valuation of €96,500 on the subject property without this financial information. They argue that given the variance of the excessive NAV valuation when compared to the comparable properties and taking account of the additional properties referred to in it's the Respondents precis of evidence it is clear they claim that the Respondents have not determined NAV in the subject property having regard to fair and maintainable trade of comparable properties. The Appellants claim that Valuation Office has deviated in their approach when valuing the subject property.

7.30 The Appellants took issue with the details contained within Section 45 one of the Valuation Act 2001 noting that at the time of appeal in 2019 the legislation did not specify the list of sensitive financial information required noting” *such information as a specified in the notice, being information which is necessary for the purpose of the performance by that or any other officer of the commissioner of his or her function under this Act.*” They argued that it is the Valuation Office that decided that this extensive list of sensitive and confirmational data should be provided in relation to service stations as distinct from other rateable properties. They claimed that the Valuation Office should have applied the valuation scheme to all commercial rate properties across the county and not just specifically to service stations.

7.31 Specifically addressing the confidential financial and commercial information sought by the Valuation Office the Appellants argued that the Valuation Office relies solely on turnover and fuel throughput which they state supports the Appellants reluctance to provide this ‘*onerous and intrusive list of trading information.*’

7.32 The Appellants refers to four properties PN 1989096, PN 2117890, PN 2198421 and PN 1989793 referred to as similarly circumstanced and comparable by the Respondent but with three of the similarly circumstanced properties providing NAV valuations are €44,000, €31,500, and €32,000 they argued that this could not be compatible with the subject property valued at €96,500. Referring to the 4th property they stated that this is substantially larger than the subject property. They argued that the Respondent cannot argue successfully that it has valued the subject property having regard To Fair Maintainable and Trade of comparable properties or relative to valuations applied to comparable properties when such a disparity exists between these NAV valuations and the subject property. The Appellants states that the contributing factors to the calculation of NAV valuations relied on shop turnover and throughput in litres only however they took issue with the onerous and intrusive list of commercially sensitive information sought under the guise of S 45 (1) which included ‘*three years audited accounts and further management accounts, breakdown of shop turnover by departments, financial projections for a further 12 month period, details of throughput in litres for a three year period, and projections for a further year, copy franchise and other commercial agreements, details of licence agreements, tank capacities, lease/freehold documents and considerations paid, full details of any construction or redevelopment costs over a five year period and budget estimates for future developments.*’ they argue that by valuing service stations on turnover and throughput alone the respondent has demonstrated that this’ *owners list of commercially sensitive material was neither necessary nor essential to perform the valuations.*’

7.33 This they claim justified their position for not providing the information requested. They have argued that such sensitive information could make its way into the public domain noting that they have now received financial turnover and trading information for competitor properties provided by the Respondent. They state that they will not divulge this sensitive information. Have addressing the methodology they noted that the four properties adopted different rates 3% to 4% which they argue suggests that the methodology not only differs between service stations and other property types but also between different service stations within the same county. They argue this does not promote equity uniformity fairness or transparency in the methodology used by the Respondent.

7.34 The Appellants addressed the claim by the Respondents that the Appellants had *‘failed to provide financial data which they were statutory obliged to under S 45 of the Valuation Act 2000 -2020. This information was asked of all rate payers of service station type properties. Without the requested information, the Head of Valuation has been denied access to essential information. The trading information is required by statute in order to apply the scheme in a uniform manner. The Appellant has failed to provide evidence to disturb the valuation on the list and by failing to do so has not discharged the onus of proof in this case. The subject property has been treated the same as other service stations in County Cavan. To deviate from this approach would not provide fairness, equity, and transparency to all rate pairs. Therefore, the valuation assessment of €96,500 deemed to be correct.’* The Appellants stated that the request did not apply to all properties but solely to service station type properties and that the Respondent did not use the majority of the information provided. They argued that the Respondent refused to decrease the NAV when the Respondent itself has demonstrated that it did not require or use the information for the basis of valuation. They referred to the parent group related property where the NAV was calculated on a floor area basis note that the only distinguishing feature in this instance was the inclusion of a convenience store.

7.35 In conclusion Appellants state that the NAV of €96,500 was excessive and argued that the Appellant had discharged the onus of proof of an unfair methodology. They claimed that the sole reason for not reducing the NAV was the fact that the Appellant had not provided the requested financial data which was not specified in the legislation. They stated that the basis or breakdown of the valuation of €96,500 was not evidenced in any way by the Respondent particularly when compared with three of the four comparable properties. This concluded the evidence from the Appellant.

8. RESPONDENT’S CASE

8.1 Ms Roisin Casey represented the Respondents and provided a written precis. She provided a background to the Revaluation and its purpose wherein she stated revaluation refers to the process whereby the valuation of every relevant property in particular raising authority is updated by reference to a single valuation date. The process commences when the Head of Valuation makes a statutory order and results in the publication of Valuation List which contains the valuations of all rateable properties in that rating authority. After the first revaluation of a rating authority area is completed, revaluation is then repeated every 5 to 10 years on a recurring basis. She added that having a modern valuation base is very important for the levying of commercial rates on a fair and equitable basis across all property sectors. The Valuation Acts provide for the revaluation of all rateable property within a rating authority area so as to reflect changes in value due to economic factors such as differential movements in property values or other external factors and changes in the local business environment. She states that revaluation brings greater equity, uniformity, fairness, and transparency into the local rating system, resulting in a more equitable distribution of the overall commercial rates burden among ratepayers.

8.2 She added that all ratepayers are required by law to provide specific information in relation to their property at the outset of a Revaluation. In order to assist ratepayers Tailte Eireann makes available both the hard copy revaluation information forms and an online submission which can be completed via the Tailte Eireann website. All ratepayers are informed of this obligation when the Valuation Order is signed by the Head of Valuation.

8.3 In addition to information received directly from ratepayers, details of market transactions are also obtained from both the Revenue Commissioners and the Property Services Regulatory Authority. Other publicly available information such as brochures and published market reports are also considered. All available market information is investigated, verified, and analysed and the conclusions drawn from the analysis are used to develop valuation schemes. The purpose of employing schemes of valuation is to ensure individual correctness and equity and uniformity between ratepayers who occupies similarly circumstanced properties in that rating authority area.

8.4 Ms Casey states the valuation of service stations are made on a direct rental basis; suitably adjusted rents being devalued for analysis purposes to a price per thousand litres of maintainable throughput. Analysis is also carried out on turnovers achieved from shop and car wash elements of trade with regard had to the Fair Maintainable Trade. An established method of valuation for service stations exists where rental values are linked to the trading potential and profitability of a service station. In the market the assessment of future (genuine) sustainable trading potential, the profit that will be generated, is one of the fundamental principles - if not the fundamental principle - when valuing a service station. This method of valuation is applied to the varying types of service stations ranging from low volume sites with a basic forecourt shop offering, to larger volume sites where substantial convenience stores are attached. She adds the market data and financial information analysed by the Valuation Office since the first revaluation was conducted in 2005 suggests that the valuation approach adopted in relation to service directions is reflective of the open market and compatible with the statutory requirements of Part 5 of the Valuation Acts. Over the years the scheme has been modified to take account of low margin items. The scheme and valuation methodology has been applied in the rating authority areas revalued to date.

8.5 The Respondent confirmed that the property was located on Barrack Street Bailieborough Co. Cavan which had a population of 4,255 according to the latest census. She noted that Barrack Street was located just off Main Street the main road to Virginia a distance of 14 kilometres while Cavan town is approximately 32 kilometres distant. She noted that Dublin is accessible by the nearby M3 motorway.

8.6 She described the subject property as Barrack Street Service Station located on a 0.25-acre site which consisted of a shop branded Daybreak, external stores and WC, air and vacuum services and a Texaco branded forecourt. She noted the forecourt had a few car spaces below the canopy to the front of the shop. There are three islands below the canopy with double sided pumps totalling 6 and there are two nozzles on each pump giving a total of 12 pumps for petrol diesel and kerosene. She added the property is presently operating and appeared to be well maintained. She provided the following floor areas (which were not contested):

Description	Floor	M ₂
Shop	0	167.91
Stores/ancillary	0	20.56
Offices/stores	1	167.91
Stores	1	20.56
Total		376.94

She also provided block plans for the ground floor and first floors as well as a number of external and internal photographs. She confirmed the property was freehold.

8.7 In relation to the Cavan Revaluation with a valuation date of 15/09/2017 the Respondents confirmed that a Section 45 notice was issued on the 20th June 2018; a draft certificate with a NAV of €96,500 was issued on the 29th March 2019; Representations were received on the 7th May 2019 and a Final Certificate was issued with a NAV of €96,500 on the 10th of September 2019. She confirmed that an appeal was largely with the valuation tribunal in October 2019 and a precis of evidence was received from the Appellant on the 15th January 2024.

8.8 The Respondent stated that the occupier was non-compliant of draft certificate stage and remained non-compliant at representation stage. They acknowledged that a valuation report from an auctioneer was provided which referred to a comparable property in Mayo with a rent of €84,000 per annum and that the auctioneer had put a rental value on the subject property of €60,000 per annum. The Respondent confirmed that the evidence provided was considered together with other evidence submitted by other occupiers and confirmed that the particular relation to the subject property were not challenged. Having considered all the evidence provided the valuation remained unchanged as no financial information was submitted at representation stage.

8.9 Addressing the basis of the appeal the Respondent stated the five supermarket comparisons were not comparable as service stations were valued on a Fair Maintainable Trade 'FMT' basis. She added the Appellants had not submitted any trading information for the subject property. In relation to property PN 221-1122 Tesco/Certa Service Station NAV €28,400 this comparison had submitted financial data as requested which resulted in a lower NAV. In relation to property PN 1989096 Applegreen Service Station NAV €44,000 this comparison also submitted financial data as requested which resulted in a lower NAV. She stated the NAV of the subject property was determined having regard to FMT of comparable properties as no trading information was submitted. She added that the property was valued in line with Section 19 (5) of the Valuation Acts 2001 to 2020 ensuring relativity with the valuations applied to comparable properties. She stated that the Appellant provided no trading information which was a statutory obligation under a Section 45 (1) notice. She stated that the occupier was issued with a Section 45 (1) notices on the 20th June 2018 3rd July 2019 and 24th January 2024 but did not comply with these notices which was an offence. She quoted from Section 34 (3)' *a person who fails to supply information specified in a notice served under Section 45)1) ... shall not be permitted to ground or support an appeal to the Tribunal by reference to information the person has failed to supply*'.

The Respondents stated the subject property had been treated the same as all of the service stations in Co. Cavan and to deviate from this approach would not provide fairness, equity, and transparency to all ratepayers.

8.10 The Respondents acknowledge that the valuation of €96,500 was estimated as there had been no response from the occupier in relation to a Statutory Information notice served on the 25th January 2019. She noted a schedule of the information both financial and property details was required however none of which were supplied to the Valuation Commissioner. She added that financial information had been supplied by 33 service stations in the Cavan Rating Authority area at the initial valuation stage and that 7 service stations provided rental evidence at Representation stage. She added that Tailte Eireann had engaged in extensive communication with the various occupiers and their agents at various clinics and that parties had been encouraged to submit additional evidence of financial information to further support their submissions. She stated the valuation scheme used for service station retail is applying the percentage to the FMT attributable to shop turnover in car wash turnover and a Navy per litre of fuel through fish to arrive at the NAV. He stated this scheme adopts a scale of values applied to the income streams/throughput under allowances were applied to reflect the reduced profitability of certain items.

8.11 The Respondents stated that there are 42 service stations in the county and that 17 appealed to the Valuation Tribunal noting that just under 60% had accepted their valuations. She stated that these are deemed to be correct and there are the 17 that while being appealed to the Valuation Tribunal 7 had been agreed and she concluded therefore that the scheme had been confirmed as the appropriate approach. She stated that properties which are '*similarly circumstanced*' are considered comparable and that this means they share characteristics such as location and accessibility, physical characteristics, design and functionality, trading style, adaptability, and competition. She says to her report sets out comparative evidence to demonstrate that both correctness and equity and uniformity of value have been achieved in this case.

8.12 To support her case she provided 4 NAV comparisons and showed the locations relative to the subject property.

NAV Comparison 1

Property No.	Occupier	Address		NAV
1989096	Bailieborough Service Station	Tanderagee Bailieborough Cavan		€44,000
Description	Size M ₂	FMT	%to NAV	NAV
Shop Turnover	67.08	€1,200,000	0.035	€42,000
Shop Turnover allowance Lotto. cigarettes		-€500,000	0.0175	-€8,750
Throughput in litres		1,800,000	0.0060	€10,800
			NAV	€44,050
			NAV	€44,000

Notes: Located in the same village as the subject property. This property was appealed to the Valuation Tribunal but agreed before hearing as financial data was submitted and the NAV was reduced. No representations were received; an agent did not represent the property, and it was appealed to the Valuation Tribunal. A sitemap and external photograph was provided.

NAV Comparison 2

Property No.	Occupier	Address		NAV
2117890	Shercock Service Station	Carrickmacross Road Cavan		€31,500
Description	Size M₂	FMT	% to NAV	NAV
Shop Turnover	115.35	€850,000	0.0325	€27,625
Shop Turnover allowance Lotto. cigarettes		-€60,000	0.063	-€978
Throughput in litres		825,000	0.005	€4,125
Car wash		€11,000	0.075	€825
			NAV	€31,597
			NAV	€31,500

Notes: Located in a village in Cavan. This property is smaller than the subject property and additional information was provided at the Representation stage, and the NAV was reduced. Representations were received; an agent did not represent the property, and it was not appealed to the Valuation Tribunal. A sitemap and external photograph was provided.

NAV Comparison 3

Property No.	Occupier	Address		NAV
2198421	Skelly's Service Station	Killyfinla, Ballyjamesduff, Castlerahan, Cavan		€137,000
Description	Size M₂	FMT	%to NAV	NAV
Shop Turnover	428.54	€2,850,000	0.04	€114,000
Shop Turnover allowance Lotto. cigarettes		-€195,000	0.02	-€3,900
Throughput in litres		2,600,000	0.0065	€16,900
Car Wash		€10,000	0.1	€1,000
				€128,000
				€128,000*

Notes: * The reported figure of €137,000 is not represented by the number set provided. This property is larger than the subject located just outside Ballyjamesduff. No representations were received, and it was not appealed to the Valuation Tribunal. A sitemap and external photograph was provided.

NAV Comparison 4

Property No.	Occupier	Address		NAV
1989793	Ciaran Lynch Service Station	Lisduff, Virginia, Castlerahan, Cavan		€32,000
Description	Size M₂	FMT	%to NAV	NAV
Shop Turnover	266.60	€640,000	0.03	€19,200
Throughput in litres		2,000,000	0.065	€13,000
				€32,200
				€32,200

Notes: This property is larger than the subject property and it is located 6km from Virginia. Financial information was provided at the Representation stage, and the NAV was reduced. Representations were received; an agent did not represent the property, and it was not appealed to the Valuation Tribunal. A sitemap and external photograph was provided.

8.13 She concluded her submission by referring to the fact that the onus of proof in appeals before the Valuation Tribunal rests with the Appellant and stated that having investigated all of the particulars of the appeal considered both the grounds and the evidence provided by the Appellant agreed the facts and taking account of these matters, she was of the opinion that the correct NAV for this property was €96,500. She confirmed that no trading data for the subject property was provided and claimed that as a result no evidence was provided to challenge the NAV of the property. She stated the Appellant failed to provide financial data as it was statutorily obliged under Section 45 of the Valuation Act 2001 to 2020 and that this information was requested from all service station type properties. She stated the subject property had been treated the same as all other service stations in Co. Cavan and sought to have the valuation assessment of €96,500 deemed to be correct.

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Cavan County Council.

10.2 It is clear from the evidence provided and well-established practice that the current methodology adopted of Fair Maintainable Trade for Co. Cavan has been accepted by the Service Station operators in the County as 33 out of 42 operators provided financial information and of the 17 operators who appealed to the Tribunal 7 appeals were agreed. It is therefore reasonable to accept that the methodology has widespread acceptance among this group of ratepayers while noting the position adopted by the IPRA which sought to have all commercial buildings valued on

the same basis with as in Northern Ireland or alternatively by adopting the turnover basis for supermarkets and convenience stores. The requirements of statutory information notices served on the various operators including the one in this case per S 45(1) of the Valuation Act 2001-2020 includes a detailed schedule of information and includes inter alia the following

1. *Details of all licences attaching to the property, including details of license for storage of dangerous substances.*

2. *The number and capacity of underground and above ground fuel storage tanks in litres.*

3. *Accounts and trading information for the most recent three years for which figures are available:*

a. Copies of the object or certified accountant clue the detailed profit and loss accounts. Where audited or certified accounts are not available for this particular property management counts will suffice.

b. Breakdown of turnover excluding VAT between the various trading activities, including shop, fuel, car wash, etc. for the three-year. In the accounts.

c. Details are fuel throughput in litres for the three-year period in the accounts.

d. Financial projections to include a breakdown of turnover and fuel throughput (in litres) to cover the next 12-month accounting, where available.

4. *Market information:*

a. Copy of tie/solus agreements where applicable.

b. Copy lease/ licence agreements where the property is held on lease/licence.

c. Date of purchase and price paid, or freehold or leasehold interest acquired to the past five years.

d. Details of all franchise, licence, and other arrangements in relation to the operation of the property.

5. *Construction and redevelopment*

a. Details and costs of construction redevelopment works carried out over the past five years.

10.3 The Tribunal is also conscious of the fact that the onus of proof is in the Appellants and that failure to comply with the S45(1) request is an offence, and that under S34 (3) ‘*a person who failed to supply information specified in a notice served under S45(1) ...shall not be permitted to ground or support and appeal to Tribunal by reference to information the person has failed to supply*’.

10.4 The Appellant provided a single page report by O’Hanlon Property addressed to the Appellant which stated are that they were familiar with a filling station in Foxford Co. Mayo comprising 1,500 square feet which was close to the town had a frontage to the N26 Dublin /Ballina Road; a large forecourt and was a noted tourist town/ region. It had been rented at €84,000pa and that accordingly they would suggest an appropriate rent for the subject property was €60,000pa. The Tribunal finds that this evidence was not of assistance as it referred to a filling station in a different county to the subject one; the transaction was not dated, and no lease terms were provided.

10.5 The Appellants reliance on supermarkets and convenience stores which had been valued using a rate per square metre basis has not been accepted by the majority of the petrol station/convenience store operators in Cavan and is consequently of no evidential value to this Tribunal. The Appellant referred to various correspondences between the IPRA (Irish Petrol Retailers Association) and the Valuation office disputing the methodology adopted however no evidence was provided to show that the methodology had been disregarded.

10.6 The Tribunal was surprised that the matrix/template rates which formed the basis for the valuations to be adopted for the various elements to be valued such as the ranges for shop turnover; the various rates for fuel throughput; car wash rates etc was not provided with the Respondent's submission.

10.7 The Respondents stated that *'The NAV of the property in question is determined having regard to the Fair Maintainable Trade (FMT) of comparable properties as no trading information was submitted.'*

The Valuation Certificate stated under 'How was your Valuation Calculated?'

<i>Floor Level</i>	<i>Floor Use</i>	<i>Floor Area M₂</i>	<i>NAV €/M₂</i>	<i>Total NAV €</i>
	<i>Additional items</i>	<i>Units</i>	<i>NAV €/Unit</i>	<i>Total NAV €</i>
	<i>VO Est NAV</i>	<i>1.0</i>	<i>€96,564.00</i>	<i>96,564</i>
<i>Total NAV (Rounded)</i>				<i>€96,500</i>

"The subject property has been treated the same as all other service stations in Co Cavan. Under the provisions of fairness, equity, and transparency to all ratepayers"

This Tribunal finds that the calculation of the Valuation Office Estimate should have been published and at a minimum be made known to the Appellant. The publication, in a spirit of transparency, equity and fairness could encourage other service station operators to comply with the statutory requirements and as the calculations refer to FMT amounts and are not actual trading accounts, or confidential no sensitive information would be disclosed. The lack of this information is likely to lead to more rather than less appeals. The calculation error in NAV comparison 3 may not have occurred if the FMT calculations had been published.

10.8 The Appellants claimed that the Respondents submission despite being dated 9th February 2024 was not submitted until 24th November 2024 following an extension from 26th January 2024. The Tribunal confirmed this to be the case and consequently the submission by the Respondent must be deemed to be out of time. While acknowledging this position the Tribunal found that addressing the Respondents case was instructive, but the Appellants case did not and could not succeed as it did not adhere to the established methodology and the provision of the legally required disclosures.

10.9 The Tribunal is clear that the Appellants have not succeeded in their case as they did not comply with the statutory requirements outlined in detail to them. For Cavan, the methodology for service stations with convenience stores is established and appeals may only be progressed within the confines of the established approach.

DETERMINATION:

Accordingly, for the above reasons, 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.