

Appeal No: VA23/5/0875

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

COYLES SERVICE STATION

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 1359868 Coyles Service Station, Ballina Road, Belmullet, County Mayo.

B E F O R E

Mr John Stewart – FSCSI, FRICS, MCI Arb

Mr Liam Daly – FSCSI, FRICS

Ms Fiona McLafferty – Solicitor

Deputy Chairperson

Member

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF APRIL, 2025

1. THE APPEAL

1.1 By Notice of Appeal received on 17th October 2023, the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ('NAV') of the above relevant Property was fixed in the sum of €48,600.

1.2 The grounds of appeal set out in the Notice of Appeal are 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 Valuation Act 2001 (as amended) because "*It appears to be that revised valuation was arrived at on the assumption it's fully serviced property (which it is not) and on the assumption that it is in the centre of a large town with a much larger population and passing trade than what we actually have*" and that the valuation does not take into account the increasing costs that have to be borne by the business at the Property.

1.3 In the Notice of Appeal, the Appellant considers that the NAV of the Property ought to have been determined in the sum of €20,000.

2. REVALUATION HISTORY

2.1 On 23rd September 2022 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (as amended) in relation to the Property was sent to the Appellant indicating a valuation of €57,600.

2.2 Being dissatisfied with the valuation proposed, representations were made by the Appellant in relation to the valuation. Following consideration of those representations, the valuation of the Property was amended to €48,600.

2.3 A final Valuation Certificate issued on 15th September 2023 stating a valuation of €48,600.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st February 2022 ('the valuation date').

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on 7th March 2025. At the hearing the Appellant, Mr Gerard Coyle, appeared in person and the Respondent was represented by Ms Claire Callan, MSc in Planning and Development, BSc in Surveying, of Tailte Éireann.

3.2 In accordance with the Rules of the Tribunal, the parties exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having made an affirmation or oath, adopted their précis as their evidence-in-chief in addition to giving oral evidence.

4. ISSUES

4.1 The issue in the appeal is the quantum of the valuation of the Property. The Appellant requests the Tribunal to determine the NAV in the sum of €20,000. The Respondent requests the Tribunal to determine the NAV in the sum of €48,500.

5. FACTS

5.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

5.2 The Property is a service station situated at Ballina Road, Bellmullet, County Mayo.

5.3 The Property comprises a forecourt and a shop. The forecourt has a total of seven pumps, six of which are set on three pump islands under a main canopy, each with unleaded petrol and diesel, and one pump island to the left of the property for larger commercial vehicles. There are four underground tanks at the Property, three with a capacity of 20,000 litres and one with a capacity of 40,000 litres. The shop includes a kitchen and internal seating for customers. The overall floor area is 204.77 sq.m.

6. RELEVANT STATUTORY PROVISIONS

6.1 All references to a section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act 2015.

6.2 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:

"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."

6.3 Section 48(3) of the Act provides the following meaning of '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."

6.4 Section 20(1) of the Act provides:

“A valuation order shall specify one date by reference to which the value of every relevant property, the subject of the valuation mentioned in the order, shall be determined.”

6.5 Section 19(5) of the Act provides:

“The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)

- (a) correctness of value, and*
- (b) equity and uniformity of value between properties on that valuation list,*

and so that (as regards the matters referred to in paragraph (b)) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.”

6.6 Section 37(4) of the Act provides:

“For the avoidance of doubt, neither subsection (1) (a) or (2) (b) (ii) (so far as it relates to section 19(5)) nor section 19(5) shall require the Tribunal to achieve the determination of the value of a property concerned by reference to any particular method of valuation and the Tribunal may arrive at its determination by reference to whatever method of valuation or combination of methods of valuation as the Tribunal, in its discretion, may deem appropriate.”

7. APPELLANT’S CASE

7.1 Mr Coyle submitted that the valuation is incorrect as he considers the valuation was arrived at on the incorrect assumption that the Property is fully serviced and in the centre of a large town with a larger population and greater passing trade. Mr Coyle stated that the Property is located in a remote rural area by the sea, a few miles outside of Belmullet in north Mayo. Mr

Coyle submitted that the Property does not receive any services from the local authority, in that the Property is not connected to sewerage, there are no footpaths and there is no public lighting. Mr Coyle stated that the rates liability was approximately €12,000, but the Property received no services in return. Mr Coyle stated that if an occupier pays rates, they should receive services. Mr Coyle questioned whether other services stations which were valued were comparable in that they may be connected to sewerage, have footpaths and have public lighting. Mr Coyle stated that in recent years he leased the Property to Tedcastle Oils.

7.2 Mr Coyle submitted that the business is a family run business which he started in 1991, which is struggling to survive with the ever-increasing cost of energy, insurance, continuous increases to the national minimum wage, sourcing and retaining staff and the associated costs with training staff, and the challenges in securing staff to work unsociable hours. Mr Coyle submitted that the cost-of-living crisis has meant that footfall in the shop has decreased significantly as customers shop at larger lower cost stores. He stated that one larger store opened recently in the area and opens late in the evening, which resulted in the Property having to cut back on its opening hours as it is unable to compete with the larger store. Mr Coyle stated that there was also the cost associated with drive-offs on the forecourt, which is rarely recouped by the business. He stated that the business also bore the costs of facilitating visitors to the area, including visitors with campervans who would use the toilet and waste disposal facilities at the Property which necessarily increased the frequency and cost of sewerage cleaning and waste disposal. Mr Coyle stated that the business closed the car-wash as it was not viable to pay a full-day wage when the facility was only used five or six times a day.

7.3 Mr Coyle submitted that the spectacular location of the Property results in additional costs as it is located near the sea which means the canopy, the pumps, the tanks and the lighting need to be replaced regularly because of corrosion by the salt water. Mr Coyle provided photographs of the Property. Mr Coyle submitted that the increase in material costs worldwide means the cost is significant and places further strain on the financial position of the business.

7.4 In cross-examination, Mr Coyle confirmed that he was the owner of the Property. He also confirmed that he was an Estate Agent and a local Councillor.

7.5 In all the circumstances, Mr Coyle submitted that the valuation should be adjusted to a lower and fairer valuation.

8. RESPONDENT'S CASE

8.1 Ms Callan provided statistical details on County Mayo including that it had a population of 137,970 (according to the 2022 Census) and a land area of 5,558 km². She explained that a valuation scheme had been developed for service stations in the rating authority area. She stated that the scheme is underpinned by relevant market data. Details of the scheme are reproduced in Appendix A (N/A to public). She stated that the valuation of a service station is calculated by determining a fair maintainable trade (FMT) for the service station having regard to the actual accounts of the property and the prevailing tone of the list, and then applying a scheme percentage to the FMT. She stated that the valuation scheme was applied to service stations throughout the rating area.

8.2 Ms Callan inspected the Property in February 2025 and took both internal and external photographs, which were included in her précis of evidence. She described the Property as comprising a forecourt and shop and claimed the Property appeared in fair condition throughout. Ms Callan stated that the Property was subject to a lease. She appended copies of lease documents to her précis. This included a Lease between Gerard Coyle (as Landlord) and Tedcastles Oil Product (as Tenant) dated 24th May 2012 for a seven-year term in which the 'minimum rent' was defined as 'the sum of €50,000 per annum'. There was also a Deed of Variation of Lease dated January 2019 which extended the term of the lease to seventeen years and referred to the minimum rent as 'the sum of €55,000 per annum' commencing on the seventh anniversary of the term commencement date and increasing to 'the sum of €60,000 per annum' on the twelfth anniversary of the term commencement date. The term commencement date was May 2012.

8.3 Ms Callan confirmed that the valuation date of the Property was 1st February 2022. The Respondent had proposed a NAV of €57,600 following an analysis of the trading information and comparable properties. Having considered the representations made by the Appellant at the representation stage which put forward an opinion of value of €50,000, the Respondent amended the NAV to €48,600.

8.4 Ms Callan submitted that the valuation of the Property was conducted according to the provisions of the Act. She submitted that the estimate of the NAV is what a hypothetical tenant would pay in rent on the terms set out in section 48 of the Act, which is not necessarily what

any particular tenant is paying. Ms Callan submitted that the actual rent for any individual property may be material in deriving that estimate but is not in itself conclusive of the NAV in the context of section 48 and section 19(5) of the Act. She submitted that the onus of proof rests on the Appellant to show that the determination of the NAV by the Respondent is incorrect and does not achieve equity and uniformity of value between comparable properties on the valuation list. Ms Callan submitted that the Appellant had not discharged the onus of proof. She submitted that the Appellant had not demonstrated that the FMT attributed by the Respondent does not represent the level of trade that could be achieved by a reasonably efficient operator of the business in the Property. She submitted that the valuation scheme, and consequently the percentages applied to the FMT, was not disputed by the Appellant.

8.5 Ms Callan submitted that properties which are ‘similarly circumstanced’ are considered comparable, meaning that the properties share characteristics such as use, size, location and/or construction. She produced three comparisons to demonstrate both correctness of value, and equity and uniformity of value between properties on the valuation list. Details of the three comparisons produced by the Respondent are set out in Appendix B (N/A to public). Her précis of evidence included photographs of the properties and their location, and also provided information on the characteristics of the comparable properties.

8.6 Ms Callan submitted that the valuation of the Property was determined having regard to the accounts provided for the Property, which included amounts for turnover and fuel throughput. Details of the information relied on by the Respondent are set out in Appendix C (N/A to public). The Appellant provided Point of Sale Reports at the appeal stage, which confirmed the amounts for turnover as set out in Appendix C (N/A to public) and provided analysis of the fuel throughput, which is reproduced at Appendix D (N/A to public). Ms Callan stated that no allowance is made for corrosion in valuing service stations. She submitted that such corrosion would be standard given the proximity to the sea and would be known to the hypothetical tenant.

8.7 In cross-examination, Ms Callan confirmed that no allowance for corrosion had been allowed for other service stations. Ms Callan stated that she had no knowledge if her NAV comparisons were connected to the main sewerage system or if other services were provided by the local authority.

8.8 Ms Callan submitted that the Appellant had not proven that the NAV put forward by the Respondent was incorrect. In all the circumstances, Ms Callan submitted that a NAV of €48,500 for the Property is correct, computed as follows:

		FMT	% Scheme	NAV
Shop Turnover		€1,400,000	3.5%	€49,000
<i>Less:</i>	Allowance (Cigarettes and Lottery)	€430,000	(1.75%)	(€7,525)
<i>Less</i>	Allowance (Payzone and Mobile Top Up)	€90,000	(3.5%)	(€3,150)
Fuel Throughput (in Litres)		1,900,000	0.6%	€11,400
<i>Less</i>	Allowance (Fuel Card) (in Litres)	400,000	(0.3%)	(€1,200)
NAV				€48,525
Say				€48,500

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 Mayo County Council.

9.2 Section 35 of the Act provides that the appeal from the Appellant must specify the grounds on which the Appellant considers that the NAV determined by the Respondent is incorrect and the value the Appellant considers the Respondent should have determined as the NAV.

9.3 The NAV of the Property means the rent which the Property might, in its actual state, be reasonably expected to let from year to year on the terms set out in section 48(3) of the Act. The rent is measured on a hypothetical tenancy of the Property and not by reference to the actual occupancy circumstances of the existing operator. The actual turnover generated may have to be adjusted to take account of the extent to which the turnover can be attributed solely to the personal skill, reputation and business acumen of the existing operator. There are different methods of valuation designed to assist in determining the NAV.

9.4 The Property in this appeal was valued by the Respondent based on the fair maintainable trade (FMT) method of valuation. By applying the FMT method, the NAV of a

property is determined by applying a given percentage to the estimated FMT to produce a notional rent that a hypothetical tenant would pay as a yearly rent for the property. The FMT is an estimate of the gross annual receipts from each individual revenue stream generated in the property which a reasonably competent operator could be expected to achieve at the property at the valuation date. In estimating the FMT, the factors to be considered include not only the actual turnover but whether the property is under-trading or over-trading having regard to the facts and circumstances pertaining to the Property. The Tribunal accepts that the method of valuation of utilising turnover and fuel throughput, and estimating FMT, is an appropriate method in the valuation of the Property to ensure both correctness of value, and equity and uniformity of value across comparable properties on the valuation list in the rating authority area.

9.5 The proposed Valuation Certificate issued by the Respondent on 23rd September 2022 attributed a NAV of €57,600 for the Property. Representations were made on behalf of the Appellant in which an opinion of value of €50,000 was put forward. The Valuation Certificate issued by the Respondent on 15th September 2023 determined a NAV of €48,600 for the Property.

9.6 The Tribunal has considered the ‘tone of the list’ NAV comparisons submitted by the Respondent, in addition to the trading information of the Appellant. The Appellant did not provide any relevant market data or details of comparable properties. The Appellant did not challenge the valuation scheme and the percentages applied to the FMT. The valuation scheme was applied to the NAV comparisons produced by the Respondent in line with the scheme details set out in Appendix A (N/A to public).

9.7 The NAV of the Property means the rent which the Property might, in its actual state, be reasonably expected to let from year to year. It is measured on a hypothetical tenancy of the Property and not by reference to the actual occupancy circumstances of the existing operator. The Tribunal finds that the business operated from the Property has a long-established trade and has generated turnover and fuel throughput as set out in Appendix C and D (N/A to public). The percentages applied to the FMT was in accordance with the valuation scheme. According to the lease documents, the Property was let in 2012 for a seven-year term at a rent of €50,000 per annum, with the rent being varied in 2019 to €55,000 per annum. In the circumstances, the

Tribunal is not persuaded by the claim of the Appellant that a hypothetical tenant would only pay notional yearly rent of €20,000.

9.8 Having examined the particulars of the Property and carefully considered the written and oral evidence of the Appellant and the Respondent, the Tribunal is satisfied that the Appellant has not demonstrated that the value of the Property at a net annual value of €48,500 put forward by the Respondent is incorrect and that it does accord with that required to be achieved by section 19(5) of the Act.

DETERMINATION

Accordingly, for the above reasons, the Tribunal allows the appeal in part and amends the net annual value of the Property to €48,500.

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.