

Appeal No: VA23/5/0380

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

EUROSPAR

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 2164326, Fuel/Depot at Main Street, Gortahork, County Donegal.

B E F O R E

Donal Madigan - MRICS, MSCSI

Annamaria Gallivan - FRICS, FSCSI, MPhil SEE

Michelle O'Gorman - BL

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF JULY, 2025**

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 14th day of October, 2023 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 €103,700.
- 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 Valuation is Incorrect

- 1. The subject property's valuation is excessive and inequitable.*
- 2. The subject property should be amalgamated with PN 5020441 and PN 5023582, being all part of the one property.*
- 3. The subject property comprises of the local supermarket serving Gortahork. Additionally, it operates an expert hardware and also retails petrol and diesel.*

4. The petrol and diesel sales are ancillary to the supermarket which drives the business. It is inappropriate to classify the subject as purely a filling station. It is rather a supermarket and hardware with ancillary pumps’

- 1.3 The Appellant considered, in the Notice of Appeal, that the valuation of the Property ought to have been determined in the sum of €63,900.

2. REVALUATION HISTORY

- 2.1 On the 23rd day of September, 2022 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 €175,000.
- 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 of the Property was reduced to €103,700.
- 2.3 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €103,700.
- 2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 1st day of February, 2022.

3. THE HEARING

- 3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 24th day of March, 2025. At the hearing the Appellant was represented by Mr Eamonn S. Halpin B.Sc MSCSI, MRICS of Eamonn Halpin & Co and the Respondent was represented by Mr Anthony Kenneally MSc (Hons) of Tailte Eireann.
- 3.2 In accordance with the Rules of the Tribunal, the parties had 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 taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

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

- 4.1 The service station, operating under the Eurospar/Circle K brand, is located at Main Street, Gortahork, and is categorised as a Fuel/Depot Service Station.
- 4.2 The service station includes a forecourt with fuel pumps, a retail area, and additional facilities such as a deli and car wash.
- 4.3 The property is reported to be in good condition and features a total floor area of 586.29m².
- 4.4 The subject property is held freehold.
- 4.5 The valuation date is set as 1st February 2022

5. ISSUES

- 5.1 The issue in dispute is quantum.
- 5.2 At the hearing the Appellant Valuer contended for a valuation of € 51,600 whilst the Respondent Valuer contended for a valuation € 94,700, reduced from the figure in the Final Valuation Certificate.

6. RELEVANT STATUTORY PROVISIONS:

- 6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

- 6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

- 7.1 Mr Halpin submitted a detailed précis of evidence outlining, inter alia, the location, description, size etc of the Property supplemented by photographs and included a history of the appeal and financial and throughput figures (in Appendices, N/A to public). He supplied an opinion on the valuation and relevant comparables in support thereof. He clarified that other properties on the site were separately assessed, therefore it was appeal no. VA23/5/0380 that was the sole subject of this appeal.
- 7.2 Mr Halpin for the Appellant, argued that the current valuation of €103,700 for the supermarket and pumps was excessive but is correct if no ‘stand back and look’.
- 7.3 Mr Halpin began by describing the subject property as a local supermarket serving Gortahork (population: 375 persons), further described as a rural village on the N56 between Gweedore and Falcarragh. Additionally, operating an expert hardware and also retailing petrol and diesel, not your average filling station. Mr Halpin highlighted the property's primary function as a supermarket, with petrol and diesel sales being ancillary, and compared it to other similar establishments to support the case for a reduced valuation as he believed it inappropriate to classify the subject as purely a filling station. He described it as a ‘supermarket with ancillary pumps’.

7.4 Turnover figures were supplied for years: 2018 to 2022 (in Appendices, N/A to public). Mr Halpin was of the opinion that the figures evidenced the disparity between the Fuel and Shop turnover, in that, the shop would be the main driver of the turnover. It was Mr Halpin's evidence that a Service Station should have a more even distribution of turnover and when the turnover in the shop is so much higher than the fuel, then the shop and fuel should be assessed separately. The shop therefore being comparable to retail space and the fuel separately (Mr Halpin had no difficulty with the manner and amount of the assessment of the fuel).

7.5 Mr Halpin included a schematic in his précis which he believed was in use in Counties Galway, Clare, Kerry, Donegal and Mayo for the assessment of NAV. The Scheme of Valuation which had been adopted by the Respondent's Valuer, comprised three elements including throughput in litres, shop turnover per annum and car wash turnover (in Appendices, N/A to public). Mr Halpin highlighted the fact that the Valuation List does not contain any FMT information, therefore, the Appellants can only provide list values (NAVs), rather than meaningful breakdowns of the trading data available to the Commissioner. He explained that the Appellants face significant difficulty in interpreting the tone of the list for filling stations, partly as a result of the information which is not available publicly, but in the main is down to the fact that a number of stations in the region are under appeal and/or have estimated valuations. Excluding the subject, Mr Halpin noted a total of six stations in the 45 km stretch of the N56 from Dunglow to Dunfanaghy:

PN	Location	NAV	Basis	Appeal Status
2003790	Falcaragh	€65,000	Estimated	No appeal
2003783	Falcaragh	€10,260	Zone A retail (not formula)	No appeal
2003986	Crolly	€135,000	Estimated	No appeal
2199527 (corrected to : 2004826)	Loughanure	€85,000 (corrected to €25,370)	Estimated	Under appeal
2199527	Dunglow	€59,300	FMT	Under appeal
2003894	Dunfanaghy	€61,800	FMT	No appeal

7.6 It was Mr Halpin's evidence that the Commissioner's valuation of the supermarket and pumps is drawn directly from the turnover to form FMT and that the subject property is not correctly weighed against its comparisons, many of which are supermarkets and convenience stores rather than filling stations. He also argued if any allowance should be given to the occupiers for their business acumen and skill to draw these levels of trade at this location, which he says their case revolves around. Mr Halpin accepted the valuation schematic for the fuel sales but did not accept it for the valuation of shops sales.

7.7 Mr Halpin described the subject property as the supermarket for the local area and larger than any retail property in the immediate vicinity. He explained that the Commissioner has three retail categories for supermarkets:

- Supermarket 1 (200-500m²)
- Supermarket 2 (500-2,500m²)
- Supermarket 3 (2,500m²+))

Mr Halpin explained that there were numerous Tribunal decisions in relation to ‘these properties’ defined as supermarkets (fuel with a retail element). He understood that no individual decision was binding and each were to be ‘taken on their own merits’ but they illustrated some overall themes: Shop valuation is significantly higher than predicted by the comparisons (either FMT or rate per metre) / Shop sales outstrip litre sales of fuel. He produced a table of judgements (in Appendices, N/A to public). It was his summation that when taken together, Tribunals had found in the situation that where retail leads, and produces a valuation by the formula, but which is not in line with the comparisons, then it has a duty to act in the interests of equity and fairness. The Appellants believed that the decisions of greatest assistance were VA17/5/290 (Padraig Carroll) and VA15/5/0996 (Donohoe’s).

It was his conclusion, where the occupiers sell €5.50 grocery for every litre of fuel (in the subject’s case), that the majority of customers shop at the occupiers station without buying fuel. In this sense, he believed, the usual filling station synergy i.e. that the fuel feeds the shop, was broken. He considered the best comparisons to be supermarkets and convenience stores located in the same general area, where the Commissioner appears to have adopted a level of €55/m² on supermarket 2 category and a level of €120/m² Zone A. In the subject’s case, both arrive at a similar base retail value of €29,000-€33,500 (excluding addition for off licence). Whilst this is not binding on its own, it is worth bearing in mind that the Commissioner’s value for the shop is more than 3 times these levels at €103,700.

7.8 The Appellant put forward five NAV comparisons;

1. PN 2003781 & 2003782: Supermarket NAV: €28,000 & €9,210

– The Appellants states that this is the largest shop in Falcaragh and is the main competition for the subject property in combination with the other convenience store in the village (PN 2003840).

2. PN 2200220: Supermarket NAV: €70,600

– The Appellant argues that this property is the smallest of four supermarkets in the town of Dunglow and this town is home to four supermarkets all assessed at €55/m² with no reference to turnover.

3. PN 2206475: Supermarket NAV: €28,700

– The Appellant argues that this property is the largest shop in Dunfanaghy and turnover was not requested or used to value this property.

4. PN 2003783: Service station NAV: €10,260

– The Appellants states that this is the only service station in the area not valued by reference to FMT with the occupiers able to sell convenience goods, despite the presence of the pumps, it is valued on a rate per metre basis.

5. PN 2003894 Service station NAV: €61,800

- The Appellants argue that this is the only station in a 45km stretch which is believed to have been assessed by reference to FMT and is not currently under appeal. The difficulty the appellants have with this station is that there are buildings assessed on a rate per metre basis and hence, the NAV of €61,800 must be stripped of these in order to arrive at the filling station value. The Appellants accept that their station is superior to this one physically.

Mr Halpin concluded that of the six stations, only two were valued by reference to FMT and only one of these is not under appeal. The Appellants accept that they are superior to PN 2003894 physically, (also has garage elements at a unit value per square metre would need to be counted out in order to establish the true filling station value). At this stage, the only comparison that can be relied on with certainty is PN 2003783 which has not been valued on the formula basis and is valued by rate per metre alone. In Gortahork (PN 2003925) is listed as a filling station but hasn't sold fuel since 2004. It is currently being offered for sale by DNG Kelly with no mention of the pumps (being defunct). The site is not licenced to sell fuel either.

7.9 Mr Halpin witnessed that the occupier had been involved in the business nearly 35 years and was the owner for nearly 25 years. Mr Halpin speculates that a turnover formula may potentially be applied by major multiples (Applegreen, Circle K, Maxol etc), but a more appropriate allowance on FMT for the subject's shop, in order to establish a fair rental value, given the subject's fuel sales under 1,000,000 litres and the subject's actual location (in a population area of just 375 persons), the hypothetical tenant could only be a convenience operator who is willing to work closely with the local market. The Appellants do not believe that the supermarket with its pumps could exceed a rental value of €1,000 per week (€52,000/annum). Mr Halpin requested that the NAV be reduced in line with its actual potential rental value and the emerging tone of the list. Taking the fuel as agreed (€3,750) the use of a multiple of 2.5% of shop sales less allowances arriving at an NAV of €51,600 or a rate of €55 PSQM and off licence sales, arriving at NAV of €41,900, applying the allowances proportionally (12.5% half rate and 2.5% full rate), leaves an FMT of €2,100,000. In effect, this is an allowance of 47.5% on the Commissioner's FMT as currently applied.

- 7.10 When cross examined on his evidence, Mr Halpin agreed to a minor change in the shop floor areas. When asked why he thought retail units were comparable to Service Station Shops he said he sees a supermarket not a traditional filling station. He said there should be a 'stand back and look' in relation to the property. When asked if he had a problem with the classification of the property as a Service Station, he said he did not, but if the schematic method of valuation throws up a large figure, then he does have a problem. He argued that the figure for the fuel was agreed, so the shop could be valued separately at €55/PSQM, adding if you total those two figures they should be the same as the proposed NAV and if these figures are different then there is something wrong. When asked if his description of the property as a 'supermarket with pumps' actually existed in the market, he said it did (the driver of the turnover being the shop not the other way round), but not in the Commissioner's mind. When asked to clarify the difference between a supermarket and a 'supermarket with pumps', he agreed that there was a planning issue and that a retailer who wished to open in opposition could use any available retail site, but to open in opposition to a Service Station, required particular planning and licensing. He agreed that Tesco made use of a separate shop to pay for fuel, wholly separate from the convenience store, although they maybe nearby. He agreed that the valuation schematic allowed for higher and lower throughput.

Under cross-examination, Mr Halpin agreed that Property no. PN 2199527 should be corrected to PN 2004826 and that the NAV was incorrect, being €25,370 in reality. This property being 21 km from the subject, may be of some interest to the Tribunal. He also agreed that PN2199527 would not be referred to, as it was subject to a note of dissatisfaction.

- 7.11 In summary, Mr Halpin said he had personal knowledge in relation to 10 Valuation Tribunal cases where a filling stations' retail is defined as a supermarket within the retail scheme (in excess of 200m²), and surmised that in all of those cases, the Tribunal decided on the merits of the cases individually but shared a common theme - the Shop NAV being radically different from its rate per metre counterparts and a business model in which fuel is secondary (and often substantially so) to shop sales. In the case of the subject property, the majority of customers are using the property purely as a supermarket and are not buying fuel. Mr Halpin stated that despite there being seven stations (excluding the subject) in the 45km stretch from Dunglow to Dunfanaghy, along the N56, almost all of these were estimated (no FMT) or under appeal or both. Mr Halpin believed the question of an allowance on the shop FMT was his main focus (of 50% to make relative). He stated that he believed, this is within the scope of the Tribunal's decisions to date, and therefore there is nothing particularly novel in such an allowance, it is merely a question of whether or not it is appropriate in this case.

Fuel Sales 750,000 litres @ 0.005/L = €3,750 (AGREED)
Shop Sales (FMT) €2,100,000 @ 2.5% = €52,500
Less Allowance €262,500 @ 1.25% = - €3,281
Less Allowance €52,500 @ 2.5% = - €1,313
Total NAV €51,656 say €51,600

The Appellants hereby contend for an NAV of €51,600 NAV.

8. RESPONDENT'S CASE

- 8.1 Mr Kenneally submitted a detailed précis of evidence outlining, among others, the location, description, size, map and block plan of the Property supplemented by photographs and included a history of the appeal and financial and throughput figures (in Appendices, N/A to public).
- 8.2 Mr Kenneally described the property is situated on Main Street in the village of Gortahork, directly on the N56 road, in the northwest of Co. Donegal.
- 8.3 Mr Kenneally witnessed the property to be a service station operating under Eurospar and Circle K brands. The forecourt area with two in number, double sided fuel islands under the canopy, with a total of four in number pumps (unleaded petrol and diesel, as well as one double sided AdBlue pump). The forecourt is a concrete area with a canopy overhead. He describes the property as benefiting from on-site parking to the right as well as forecourt parking which he believes is ample. There is a self-service jet carwash located to the rear of the car park area.
- 8.4 Mr Kenneally describes the shop as comprising of a ground floor retail area (hot deli, cold store) small office and WC, with a seating area located to the rear of the shop, beside the hot deli area. The property has the benefit of an off-licence, along with self-service coffee machines and an ATM.
- 8.5 Mr Kenneally included a block plan and confirmed that the property was in good condition throughout with floor areas as follows:

Block	Level	Use	Comment	Area (m2)
1	0	Shop	Shop, Office, WC, Store, Seating area	565.89
7	0	Car parking area to the right	25m x 40m	1000
12	0	Cold Store/Store	Cold store	20.4
Total floor area =				586.29

- 8.6 Mr Kenneally explained that the valuation of Service Stations are made on a direct rental basis suitably adjusted. The Respondent's scheme - 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 (FMT). Mr Kenneally explained that specific properties are

assessed in relation to FMT which is calculated by reference to three years' audited accounts prior to the valuation date. Due to significant disruptions caused by Covid-19 it was considered practical to examine longer periods of trade as hypothetical parties would be aware that both the 2020 and 2021 trading figures would be impacted. Actual accounts of the subject property are a starting point. 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 with substantial convenience stores attached. Trade figures at the valuation date may not always represent an accurate and maintainable level of FMT. Hypothetical parties might use data from 2019 or earlier, which were unaffected by the pandemic, as a basis for negotiations and FMT assessments. Figures from 2020 and 2021 should be carefully considered. Reviewing the accounts from 2022 and 2023 thoroughly is advisable to understand the pandemic's impact on properties before determining an FMT. Despite trade in 2022 mostly occurring after the valuation date, the uncertainty of Covid-19 likely still had influence the hypothetical parties at that time. Applying the hindsight principle acknowledges Covid-19 impacted trade, ensuring more accurate FMT for properties significantly affected by the pandemic. An established method of valuation for service stations exists where rental values are linked to the trading potential and profitability of a service station. The service station valuation scheme has been applied where the trading data was supplied. In the cases of where trading data was not supplied an Estimated NAV was used to determine the NAV at the valuation date. Mr Kenneally evidenced that the scheme and valuation methodology had been applied in all rating authority areas revalued to date and has been accepted by various valuation agents and is largely unchallenged.

8.7 Mr Kenneally pointed to Mr Halpin's use of retail properties, which in his opinion were not comparable, as the subject is a Service Station a completely different category of property. He therefore stated they were not comparable, not Service Stations. He stated that the Appellants comparison number 4, appears to be incorrectly categorised as a retail unit with pumps and this is already in the process of listing for revision (as far as he was aware). In relation to comparison 5, the floor area and level of trade is not comparable to the subject, but does show the scheme works.

8.8 Mr Kenneally put forward three tone of the list comparisons:

	Property No.	Address	Category / Use	SQM	NAV
1	2004778	Bankin Lane, Newtowncunningham, Co. Donegal, F93T3PC	Fuel / Depot – Service Station	1416.47	€232,000
2	2005881	Newtowncunningham, Lifford, Co. Donegal	Fuel / Depot – Service Station	268.84	€78,100
3	1207251	Convoy, Drumkeen, Stranorlar, Co. Donegal	Fuel / Depot – Service Station	531.1	€101,000

In his opinion these NAV figures (breakdowns in Appendices, N/A to public) display that the schematic has succeeded.

- 8.9 Mr Kenneally was of the opinion, that that the onus of proof lies with the Appellant and put forward Valuation Tribunal judgements VA00/2/032, VA07/3/054 and VA09/1/018 as evidence.
- 8.10 Mr Kenneally produced a table of figures supplied by the Appellant's at representation stage. 5 years point of sales reports for years 2018 to 2022 (noting that no SS1 form was completed and signed by a Chartered Accountant). A summary of headline figures supplied for each year is reproduced in the Appendices (N/A to public). At representation stage after provision of trading figures (summary of shop turnover and fuel) reproduced in Appendices (N/A to public). After Representations the NAV (which was originally €175,000), was reduced to €103,700 at Final Certification stage.
- 8.11 Mr Kenneally clarified the method of valuation as an estimation of Fair Maintainable Trade (FMT) of €4,000,000 for Shop Turnover (derived from the financial information provided by Mr Halpin) @ 2.5% and estimated Fair Maintainable Trade (FMT) of 750,000 litres for Throughput (from the financial information provided) @ 0.0050 as outlined in the valuation scheme. Allowances pertaining to low margin items and fuel card sales were not granted as they were not presented at the representation stage.
- 8.12 Mr Kenneally stated that the Appellant had requested for an allowance to be given to the FMT of the total shop turnover due to type and nature of the property, which when taken into consideration and adjusted (for low margin items) his opinion of a correct fair and equitable NAV to be €94,700.

Arrived at on the following basis:

Description	Units (FMT)	NAV per unit	NAV
Shop Turnover	€4,000,000	2.5%	€100,000
Shop Turnover Allowance (low margin cigs/lotto)	€500,000	-1.25%	-€6,250
Shop Turnover Allowance (low margin Payzone)	€130,000	-2.5%	-€3,250
Throughput (in litres)	800,000	0.0050	€4,000
Throughput Allowance (Fuel card) (in litres)	50,000	-0.00250	-€125
Carwash Turnover	€7,500	0.05	€375
		Total NAV	€94,750
		Rounded NAV	€94,700

- 8.13 During cross examination he said that that the definition of a Service Station has evolved and no longer can be defined as a business that ‘primarily sells fuel’. He reiterated that retail units were not comparable to Service Stations. When asked why there was no market evidence (Key Rental Transactions/ KRT), he said he hadn’t used them, he had availed of the scheme. When it was pointed out that the scheme had been adjusted in relation to other properties to fit into it, he agreed that had taken place, and said that those reductions were also given in relation to the subject. He confirmed the car wash was valued at a low level. When asked in relation to his comparison no 3, he confirmed that the property number was incorrect, but all other details were correct (corrected to PN1207251).
- 8.14 In summing up Mr Kenneally said he believed it was fundamentally unfair and inequitable to allow a further allowance on top of the existing allowance already applied. The Appellant was looking for a further 50% allowance to be given to the FMT of the total shop turnover due to type and nature of the property. Further trading information submitted by the Appellant show that the estimated FMT for the shop turnover should remain at €4,000,000 and that the estimated FMT on fuel throughput should be increased from 750,000 litres to 800,000 litres and the appropriate percentages be reapplied. The assessed FMT of total shop turnover is valued at 2.5% as opposed to 4%, due to the fuel throughput FMT of the subject property being assessed below one million litres, therefore this type of property is already reflected. Mr Kenneally stated examination of the evidence supplied and the tone of the list in his opinion, lead to the valuation of the subject service station to be amended from €103,700 to €94,700. He requested that the valuation of €94,700 be entered in the Valuation List as representing the Net Annual Value for the subject property in accordance with Section 48 of the Act, and the requirements of Section 19(5).

9. SUBMISSIONS

- 9.1 No legal submissions were made.

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 Donegal County Council.
- 10.2 The Tribunal finds that the main issue in contention was the classification of the property as a Service Station. The Appellant was of the opinion that once the shop turnover exceeds the fuel then it is no longer a Service Station but rather a ‘Shop with Pumps’, with the shop being more comparable to other retail units in the area and assessed on a Zoned Retail Basis or an Overall Retail basis P/SQM or the schematic should be adjusted in order to ensure equity and fairness.
- 10.3 The Tribunal takes account of the Respondent’s evidence, that the subject property is a Service Station not a ‘Shop with pumps’ and that Service Stations are a specialised area of the property market valued using specific methods, so as to reflect the market. It is a well-

established principle that the Appellant in each Appeal must satisfy the Tribunal of their case and the onus of proof rests with the Appellant in that regard. The Appellant contends that the Respondent's valuation approach is flawed and lacks flexibility to address the appeal's issues. They assert that the property is more a convenience store with petrol pumps rather than a petrol filling station. Additionally, the Appellant argued that the Respondent's assessed NAV erroneously incorporates 50% of the occupier's goodwill.

The Tribunal notes that commercial rates in Ireland represent a significant annual financial obligation for businesses, including service stations. The NAV is essentially an estimation of the annual rental income that a property could reasonably be expected to generate in the market at a specific valuation date. The most common approach involves a direct comparison with the annual rental values of other similar properties situated in the same area, for specialised property types such as service stations, the valuation process may also take into account trading data and turnover figures associated with the specific business (not solely based on the physical attributes of the property but also incorporate aspects of its operational performance as a business). For specialised properties where direct rental comparisons might be limited, the income approach, incorporating trading data, becomes a more relevant tool. Service stations offering additional revenue streams through convenience stores or car wash services may consequently have a higher NAV due to their enhanced potential for generating income, and ability to attract higher rent.

- 10.4 The key issue in this appeal is determining the rent a hypothetical tenant would pay for the Property under section 48 of the 2001 Act, as amended. This rent is based on the Property's rental value on a hypothetical yearly tenancy and not on the actual occupier's business, financial means, or current rent paid. Finding a property with a rent that fully meets statutory terms is uncommon, and some rents offer little evidential value because they aren't 'market' rents or don't conform. When actual rents are unhelpful or market rental values aren't available, property value must be assessed through comparable NAVs. The Tribunal considered various criteria that would influence a hypothetical tenant's assessment of the property's value.
- 10.5 The Tribunal notes that the Appellant accepts the schematic as applied to Fuel Throughput, (which has been agreed) but not as regards shop turnover. The Appellant believes that Stations where shop turnover exceeds sales of fuel, should be considered on a Zoned Retail Basis or an Overall Retail basis P/SQM or the schematic should be adjusted in order to ensure equity and fairness.

The Tribunal finds that the size of the convenience store/retail space has a potential impact on turnover and NAV, however, a tiered system where higher sales volumes lead to a proportionally higher valuation for rates/schematic may not, in all instances, reflect the market. The schematic should be based on relevant data and the valuer should assure that the figures produced are an accurate means of assessing the property's potential rental income. The Appellant has argued that the valuation approach adopted by the Respondent is imperfect, that the valuation schematic is not sufficiently flexible to deal with issues arising, and that the subject property is effectively a convenience store with petrol pumps attached as opposed to a service station. In all appeals before the Tribunal, the onus of

proof rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination. The Tribunal finds that the zoned method evidence put before it by the Appellant was not compelling and did not reflect the market.

- 10.6 The Tribunal notes that the Appellant, produced five in number, NAV Comparisons and also relied on two prior decisions of the Valuation Tribunal. This Tribunal is not constituted to review the correctness of decisions of other Tribunals - that falls outside the ambit of this Tribunal's function. Prior decisions, being based on the evidence then adduced, are not binding in the context of different evidence being presented subsequently. The Tribunal strives for consistency in its determinations, however, as a general rule, findings of fact and expressions of opinion contained in prior decisions of the Tribunal are not to be accorded evidential weight in subsequent proceedings and do not establish precedent in this regard. Notwithstanding the foregoing, a decision of the Tribunal articulating general principles concerning valuation may be applied or referred to, in subsequent appeals. The Tribunal's duty in each appeal is to consider the evidence and arguments before it and to determine the matter in accordance with section 48 of the 2001 Act, as amended.
- 10.7 In rating appeals the burden is on the Appellant to show the valuation of the property which is under appeal is incorrect and as provided in Section 35(a)(i) of the Valuation Act, 2001. The Tribunal finds that the Appellant has not met this provision of the Act.
- 10.8 The Tribunal finds that the property is a Service Station in a small rural village which serves as the local convenience store and fuel station. The subject property conforms to the asset class of Service Station and Shop. The Tribunal also notes that the Respondent's schematic has been generally accepted in other counties as a suitable method of valuation of this type of asset class. The Tribunal finds that the schematic in this instance reflects the market, after the adjustments for low margin items, and (post those corrections) is judged the correct NAV.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to **€ 94,700**.

Shop Turnover	€4,000,000 @ 2.5%	€100,000
Allowance (low margin cigs/lotto)	€500,000 @ 1.25%	-€ 6,250
Allowance (low margin Payzone)	€130,000 @ -2.5%	-€ 3,250
Throughput (in litres)	800,000 @ 0.0050	€ 4,000
Allowance (Fuel card) (in litres)	50,000 @ -0.00250	-€125
Carwash Turnover	€7,500 @ 0.05	€375
	Total NAV	€94,750
	Rounded NAV	€94,700

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.