

Appeal No: VA23/1/0017

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Seamus McAree

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5027222, Workshop at Mullaghmore West, Ballinode Village, County Monaghan.

B E F O R E

Hugh Markey - FSCSI, FRICS

Barra McCabe - BL, MRICS, MSCSI

Allen Morgan - FSCSI, FRICS

Deputy Chairperson

Deputy Chairperson

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF OCTOBER 2025**

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th day of March, 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 **€3,080**

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: “Business is closed and the building is used for domestic purposes only.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

2. VALUATION HISTORY

2.1 On the 18th day of November, 2022 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) was sent to the Appellant indicating a valuation of €3,080.

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

2.3 A Final Valuation Certificate issued on the 20th day of February, 2023 stating a valuation of €3,080.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2023.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 10th day of October, 2023. At the hearing the Appellant, Mr Seamus McAree appeared in person and was represented by his son, Mr. David McAree who spoke on his behalf. The Respondent was represented by Ms. Kathy Farrelly of the Valuation Office.

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 made an affirmation, adopted their précis as evidence-in-chief in addition to giving oral evidence.

4. FACTS

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

4.2 The property is a single storey light industrial unit extending to 220.48 square metres, situated immediately beside an adjacent light industrial unit, also owned by the Appellant, both of which are on the same site and a short distance from the Appellant's family home.

4.3 It is located in Ballinode village, approximately 6 kilometres from Monaghan Town.

4.4 The property comprises an old industrial workshop formerly used for making furniture / kitchen cabinets as part of the former family business.

4.5 The title is freehold

4.6 The property is currently not let but is used by the Appellant for storage and recreational use.

4.7 The property is currently rated.

4.8 The Appeal was brought on the basis of a Revision application.

5. ISSUES

5.1 Whether the rateable property is capable of beneficial occupation.

5.2 In the alternative whether the property should be valued at €0.

6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.”

7. APPELLANT’S CASE

7.1 Mr McAree said the Appellant is aged 78, and his wife Mairead McAree, aged 69, are both pensioners. The property is on the same site and a short distance from the side entrance of the Appellant’s family home. As it is in such close proximity to the family home, the Appellant’s intention is to retain the property for recreational purposes and domestic use. Mr McAree said it would not be in the interest of the Appellant or his family to have the burden of a new business trading from the property or to rent the property to a third party. Mr McAree contended that the rates being imposed on the Appellant was for a property that was no longer in commercial use, but instead was used for personal and recreational use by the Appellant, which the Appellant felt was unfair. The Appellant suffers from chronic neuropathic pain which he has to deal with and manage daily. The property allows the Appellant to enjoy his hobbies that act as an outlet by distracting him from the constant pain from which he suffers as a result of his neuropathic pain. It acts as a means of therapy and adds to his overall quality of life. The hobbies that he enjoys undertaking in the property include restoring his vintage motorcycles and making simple wooden props and displays for family events, such as a local festival in the town.

7.2 The property comprises a single-storey former light industrial facility located in Ballinode Village in County Monaghan. It had been used for storage of materials and machinery for the Appellant's former family furniture-making business. The property sits adjacent to another old light industrial property, which is also owned by the Appellant and is split by a physical dividing wall. Just off the approach road to the property is located a children's playground, outdoor sports court, XL Ballinode local shop and Big Bite, which is the local take-away and a pub. Access to the property is a mere 10 metres from the door of the family home. As there is only one entrance point to the site in which the property is located, it is an undesirably close distance from the family home, which would become a significant issue if the property was to be leased to a third party. The condition of the property raises safety concerns and the location encroaches on the privacy of the Appellant and his family. In addition, any potential noise pollution from the use of the property by a third party would be problematic for the Appellant due to the fact that he struggles with constant pain during the day, which in turn affects his quality of sleep at night. The entrance / exit to the Appellant's family home and the entire site is shared. It is located immediately off the busy main road junction leading to Monaghan Town, Tydavnet Village via Cappog Road and Scotstown Village, where the village GAA pitches are located. This is an awkward three-way junction where one of the roads goes in an easterly direction via a humpback bridge and a footbridge that causes a blind spot. The other road goes in a westerly direction looking towards a cottage gable and busy car park spaces, which causes a second blind spot at the entrance. Mr McAree said that exiting the site has to be handled with extreme caution as pedestrians of all ages use the footpath running in front of the entrance, to access the local children's playground, outdoor pitches, and the local pub, Big Bite and the shop.

7.3 Mr McAree submitted that the distance from the property to the road is a mere 11.68 metres. He said there is no proper parking area and in the past when the family business was in operation and trading, delivery trucks were an issue. Damage was caused to the property by vans and lorries that used to deliver supplies to the Appellant's family furniture business. This was due to large 40-foot lorries being unable to manoeuvre around the yard. In the interest of safety, the Appellant and his family do not want any heavy vehicles, including forklifts, accessing either the property, because the property is located in very close proximity to the Appellant's home. The Appellant also has a two-year-old grandson living directly next door and he is concerned about the risk of serious injury to his grandson, to other family members and any visitors, if trucks were to recommence arriving at the property.

7.4 Mr McAree explained that the property is currently used mostly as a hobby space, a storage unit for a pressure washer, sticks and a coal bunker, along with NSU vintage motorcycles that are being restored by the Appellant. The Appellant has a Honda 50 and a scooter that he is currently restoring, which is his passion along with working on other projects from the property that assists the local community. These pursuits act as a distraction from the chronic pain which he constantly suffers from as a result of the industrial accident that occurred many years previously. Other projects include making garden furniture for the family home and the Appellant is a proud founder of Ballinode Tidy Towns in 1980. Séamus McAree still contributes what he can to the community by making props and signage for community events. There are a number of obsolete furniture making machines in the property, which need to be removed and scrapped as they are no longer functioning. Mr McAree contended that most of them are worthless if they were currently put up for sale. They comprise machines from the family furniture making business that were manufactured in the '70s and '80s, all of which spare parts are no longer available.

7.5 The only heat source in the uninsulated property is an old heater that no longer functions due to permanent water damage from the cracked roof directly overhead. There is fluorescent lighting in the property that was installed in the 1980s and the fuse board is old and in need of an upgrade. The roof is made from asbestos and is starting to disintegrate and crack in some areas, which in turn is causing the roof to leak and presents a health hazard. The skylights are made from fibreglass and have moss in them as does the roof. They are not functioning correctly resulting in them becoming discoloured.

7.6 Mr McAree asked the Tribunal to take into account the Appellant's ongoing chronic neuropathic pain where his finger was severed below the knuckle and rendered him unable to run the business afterwards. In addition to his physical impediment, the Appellant also has other physical and mental health issues. The Appellant wants the Tribunal to take into account the evidence and rather than solely evaluating the Property as commercial space, consider that it is used by the Appellant for domestic use for his hobbies and recreation. He said that the property is in a unfavourable and dangerous location and in its current condition, he believes it cannot accommodate a new commercial venture. Furthermore, the Appellant and his wife are two pensioners who do not want the inconvenience of having to rent a substandard building at

this stage in their lives. They simply wish to enjoy their retirement as best they can in the circumstances.

7.7 Under cross examination, Mr McAree confirmed that the Revision request submitted by the Appellant was to subdivide what was one large industrial unit into two separate units, It was the Appellant's intention to use the Property located to the rear for his hobbies and the unit to the side was to be used for storage.

7.8 Mr McAree acknowledged the property had been rented out for storage purposes and that some rates would have to be paid on this property, but that some discount should be applied based on the Appellant's personal circumstances.

7.9 Mr McAree said that there were a few subtle differences between this property and the adjacent property, but that they were largely the same. He said that a local businessman had used the property for storage space. The tenant, PDM Engineering, was paying Monaghan County Council commercial rates in recent years because that company stored metal sheeting in the property. PDM Engineering paid a portion of the rates for the last four to five years. The Appellant had a rent-free agreement with this tenant and PDM Engineering had now acquired their own warehouse and took all materials out of storage from the property before the end of 2023. This property is now also used solely for domestic and recreation use by the Appellant. He said this property is in closer proximity to the family home than the adjacent commercial property, being only eight metres from the door of the Appellant's family home. The property is currently being used for parking the family car and storage of children's toys, tools, bikes, motorbikes, old building materials, household goods and a music space. Mr McAree also has his own self-made campervan in storage in the property also.

7.10 In summary, Mr McAree said that in his view the valuation process focuses too much on the bricks and mortar and a less on the circumstances of the person who owns the property and has to deal with it on the ground. In referencing the legislation, he said that nobody asks the Appellant and his wife, who are an elderly retired couple, what they want for the property or what they could afford. He urged the Tribunal not to evaluate the evidence based entirely on procedure and policy, but also to understand the effect that their decision would have on the Appellant and his wife and family. The Appellant has a chronic neuropathic pain and the Appellant's wife has to assist the Appellant with his condition. The Appellant's wife was

hospitalised in 2011 due to the pressures of running a family business at that point in time. Mr McAree said the Appellant had attended pain clinics in Germany, Switzerland, the North of Ireland and in this jurisdiction, and that he had a simulator placed in his spine in 2020 to ease this. He is on Palexia, which is a type of opioid, that numbs the pain on a particularly bad day. He also said the Appellant had a significant concerns about his ability to pay the commercial rates and that if he rented out the property, this would raise a whole plethora of issues regarding public liability, insurance and the overheads arising from this. He said the Appellant's position was that if the property was not located beside the Appellant's family home that he would sell it. Mr McAree asked the Tribunal to view the property as a men's shed, and a place of therapy and escapism for the Appellant. He said he could not envisage a situation where the Appellant would rent out the property because it is part of the DNA of the family.

7.11 Mr McAree reminded the Tribunal about the number of problems with the structure and location with the subject properties including a crumbling asbestos roof, poor access, a busy traffic junction at the entrance to the site on which the property is located, circulation issues with delivery trucks and lack of parking spaces. Mr McAree said that a lower rate per square metre might makes the cost more affordable for the Appellant. He said following a survey of the roof, it would cost €25,000 to remove the roof, a price that was prohibitive for the Appellant. Mr McAree asked the Tribunal to do the best they could for the Appellant.

8. RESPONDENT'S CASE

8.1 Ms Farrelly summarised parts of the Respondent's précis, covering matters such as the Statement of Truth, the difference between a Revision and a Revaluation, and the fact that the current appeal was of a Revaluation under section 49 of the 2001 Act. She also summarised the property details, which she described as an industrial unit located to the rear of a domestic residence in a reasonable to fair condition. The Respondent referred to the Valuation Act of 2001 and 2020 paragraph 3, schedule 3, paragraph 2(b).

8.2 Ms Farrelly contended that while the property is unoccupied, it is capable of being subject to rateable occupation and should be valued in line with similar properties, with old light industrial units located beside owner's family homes. She said the property is classed as old industrial and valued at €14 per square metre to show uniformity and equity with other similar properties that are currently on the list. In considering the tone of the list, Ms Farrelly proceeded to outline the details of five comparable properties on the list, which she contended

were similarly circumstanced. A summary of all five properties is included at Appendix 1 (N/A to public). The valuation of the first property is under appeal, but the details are that at 189 square metres, it is smaller than both subject properties under appeal and the Respondent values it at €14 per square metre, wherein it is located in the same village as the property. The Respondent's second comparable extends to 172 square metres and comprises a light industrial workshop unit to the rear of a residence at the front. Both the workshop and domestic residence share the same access and this comparable is again valued at €14 per square metre, the same as both properties under appeal. Tone of the list comparable number 3 again comprises a residence with a light industrial workshop located to the rear, valued at €14 per square metre, which is again the same as both properties under appeal. The fourth tone of the list comparison is smaller than the subject property and extends to 115 square metres. Once again it is an old industrial unit located to the rear of a residence with shared access. The fifth tone of the list comparison also comprises of a similar property to the property under appeal with workshops to the rear of the domestic residence. All five of the Respondent's tone of the list comparisons are valued at €14 per square metre.

8.3 Following Ms Farrelly's inspection of the property on 8th of September 2022, it was decided by the Respondent that when the Revision request was submitted, there was a clear physical division and a clear difference in uses between this property and the adjacent old industrial property, also owned by the Appellant. Following subdivision. Ms Farrelly said the property was inspected on the 8th September 2022, and submitted that as per schedule 3, paragraph 2(a) of the Valuation Act 2001 (as amended), the property concerned is occupied and the nature of occupation is such as to constitute a rateable valuation and therefore it is on the valuation list as rateable. Ms Farrelly said that she was of the opinion that the property should be valued in line with other similar properties and that it was valued in line with other light industrial units located beside the residence of the property owner, in the same rating area. The property is classed as old industrial and valued as €14 per square metre.

8.4 Under cross examination, Ms Farrelly said that she was unaware whether any of the Respondent's comparisons were rented out to a third party and that none of those properties had been inspected by her, but that they were all on the valuation list. She said that all five of the Respondent's NAV comparisons were light industrial warehouses located adjacent to, on the same site and were linked to the adjoining residences, similar to the subject property. Ms Farrelly did not see a significant issue with access to the property nor the fact that there was a

footpath running across the entrance. She said footpaths were a common feature to deal with at any property and she drew attention to a similar circumstanced property at the Respondent's first comparison. After Mr McAree outlined a number of subtle changes to the site layout and access to the subject properties, Ms Farrelly said she did not believe there was an issue with access because the immediately adjacent unit was rented by a local builder who was storing materials in the property. She did acknowledge that the Respondent's second comparison property, which was a garage, may have had more circulation space than the Appellant's, but that property was also linked to and adjacent to the family house, similar to the Appellants. Ms Farrelly said that while the Respondent's comparison 5 may also have had more parking and external circulation space, the comparison property was similarly circumstanced to the Appellant's property in terms of proximity and adjacency to the family house. Ms Farrelly also said that the Appellant's property also benefitted from parking in front of the family house.

8.5 In response to queries on the specification of the subject properties and that of the Respondent's comparison properties, Ms Farrelly said all were classed as old industrial and that this categorisation implicitly took into account that there may be some asbestos in the construction of the property and that they may have a corrugated roof. She said she did not know whether a property close by with a tin roof would rent any easier than either of the subject properties that contained asbestos. Where all the Respondent's comparisons had a smaller floor area than the Appellant's properties, Ms Farrelly said that the rate value changes to those properties from 0 to 100 square metres would be valued differently to those from 200 to 1,000 square metres, but that all the comparable properties fell into the same category, in terms of size, as the Appellant's properties.

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 County Monaghan.

10.2 As a preliminary but significant finding from the point of view of the Appellant, the Tribunal finds that there seemed to be a significant amount of confusion on the part of the Appellant about the role and powers of the Tribunal on an appeal. In this regard, the scope of the decisions that can be made by the Tribunal can be found at section 37 of the Valuation Act 2001 as amended. Outside the powers enunciated at section 37 of the 2001 Act, the Tribunal does not have a legal basis to decide on matters relating to the ability of a rate payer to pay rates or any matter other than the valuation of a commercial property for the purposes of assessing the rateable value of a property, pursuant to sections 19 or 28 of the 2001 Act.

10.3 The Tribunal has some sympathy for the personal circumstances of the Appellant and his family, but finds that while much detail on the unfortunate personal circumstances of the Appellant and his wife were submitted, the Appellant failed to make any submissions or legal arguments as to the legal basis on which the Tribunal should find that the property is incapable of beneficial occupation. The Tribunal also finds the factual evidence of both parties supports the contention that the property is capable of beneficial occupation, notwithstanding the Appellant uses it for his own recreational use and chooses not to rent out the property. As such, the Tribunal finds that the property is capable of beneficial occupation.

10.4 The Tribunal finds that the Appellant, in contrast to the Respondent, provided no evidence of NAV comparisons to support the contention that the NAV of the subject Property should be set at €0. In addition, in the absence of any challenge to NAV comparisons submitted by the Respondent, the Tribunal must rely on the Respondent's NAV comparisons as the only evidence submitted by either party when making its findings.

10.5 While the Appellant's lack of knowledge in respect of rates payable is unfortunate, this does not form a basis on which the Tribunal can reduce the NAV of the property, without some evidence that the Respondent may have valued the property incorrectly. The onus of proof is on the Appellant to prove to the Tribunal that a property should not be on the list or is overvalued by the Respondent, something which the Appellant did not do.

10.6 After giving due consideration to the fact that the Tribunal cannot adjudicate on a number of matters raised by the Appellant in his appeal, in addition to the omission of market or NAV evidence submitted by the Appellant, and in the absence of any cogent argument as to why the

NAV of the Property should be reduced, the Tribunal is unable to allow the appeal or to reduce the NAV of the subject property.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent that the correct NAV to be applied is €3,080.

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.