

Appeal No: VA23/5/0524

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

CENTRA

APPELLANT

and

TAILTE EIREANN

RESPONDENT

In relation to the valuation of
Property No. 1343394, Fuel/Depot at Fairgreen, Westport, County Mayo.

B E F O R E

Donal Madigan-MRICS, MSCSI

Deputy Chairperson

Gerard O’Callaghan-MRICS, MSCSI

Member

Mema Byrne-BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF NOVEMBER 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 17th 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 €114,800.

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:

- 1. The subject property's valuation is incorrect owing to its passing rent. The subject property is leased at €3,750 per calendar month (€45,000 per annum), from 2016.*
- 2. As pointed out in the representations, any attempt to arrive at an NAV which significantly departs from the rent is taxation of the goodwill and acumen of the occupiers. This has come to pass as the Commissioner has assessed the subject at €114,800. The Hoban's have run supermarkets/convenience stores in Westport for 30 years and hence are not the standard hypothetical tenant.*
- 3. The subject property features a very tight corner forecourt, with limited fuel potential. Indeed, owing to the occupier's retailing prowess, the shop sales have exceeded fuel in all of the years of their occupation.*
- 4. The conflict can be resolved by estimating the NAV for the subject (and hence all but ignoring the sales), applying the relevant Zone A to the retail and adding the fuel, or by discounting the shop FMT to an expected level (as in VA19/5/0185 etc.)'*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €45,000.

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 €160,000.

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 €114,800.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €114,800.

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 18th day of February 2025. At the hearing the Appellant was represented by Mr. David ES Halpin M.Sc. (Real Estate) Ba. (Mod) of Eamonn Halpin & Co. Ltd. and the Respondent was represented by Anthony Kenneally MSc (Hons) of Tailte Éireann.

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

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

4.2 The property is located on Fairgreen, Westport to the East of the town centre.

4.3 The property is a semi-detached single storey building of modern construction with a separate detached canopy over the fuel pumps. There are 4 fuel pumps located on the property with additional carparking on the property.

4.4 The subject property is fuel service station with ancillary shop, deli counter, office, store and toilet facilities. The fuel service trades under a Top brand and the shop trades under a Centra brand.

4.5 The property is held on a 12-year lease from June 17th, 2016.

4.6 The property is in good condition.

4.7 The Floor areas are agreed as follows;

Level	Description	Area SQ.M
0	Shop	254.32
0	Stores	125.99
	Total	380.31

4.8 The Valuation date is February 1st, 2022.

5. ISSUES

The issue to be determined here is one of Quantum. The Appellant states that the valuation is incorrect.

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. David Halpin of Eamonn Halpin and Co. Ltd set out the case for the Appellant.

7.2 Mr. Halpin began by questioning how the Commissioner could derive a Fair Maintainable Trade using Data from the preceding 3 years to the Valuation Date i.e calendar years 2019 to 2021. The turnover for the years 2020 and 2021 were impacted by the Covid pandemic and thus objectively this information could not be relied upon to adduce Fair Maintainable Trade.

7.3 The Appellant stated that the passing rent on the property is €45,000 per annum from which the property’s NAV should be derived.

7.4 Mr. Halpin stated that the Appellants are fourth generation retailers in the town of Westport and therefore generated a substantial goodwill which would not transfer to another operator trading from the same location. Mr. Halpin further stated that assessing the NAV based on the retail sales of the shop is effectively a tax on the Appellant's goodwill and business acumen.

7.5 The subject property is unusual for a modern fuel filling station as it is in an urban setting and is not located on a national or secondary road. Furthermore, the site is confined and in the Appellant's view, is of limited appeal to national fuel service station operators.

7.6 The Appellant's stated that the subject property is not a normal filling station that derives most of its retail shop sales from motorists using the filling station. The subject property is first and foremost a convenience store and supermarket with an ancillary fuel filling station.

7.7 Mr. Halpin stated that where the Tribunal has heard cases relating to similarly circumstanced properties whereby a shop value is significantly higher than other shops without a filling station element either on an FMT basis and/or where shop sales outstrip fuel sales in value, the Tribunal has altered the Rateable Valuation and provided a list of 10 Valuation Tribunal Cases.

7.8 The Appellants believe that Tribunal cases VA17/5/088 and VA17/5/085 provide the greatest assistance in adducing an NAV for the subject property and included copies of the Judgements as an appendix in their precis.

7.9 The Appellant suggest alternative means of calculating the NAV in order to correct what is in their view, an anomalous NAV. One means is to adjust the FMT margin applied to the shop sales or alternative model is to apply an allowance of 50% to the Commissioner's scheme in order to have an NAV close to the properties open market rental value. The third method is to apply a Zone A rent to the floor area of the shop and value the premises according to the method applied to convenience stores and supermarkets where no fuel pumps are present.

7.10. The Appellant provided 6 comparisons that provide both NAV and rental evidence.

1) NAV and KRT Comp. PN1358227, NAV €18,800

This is a filling station and convenience shop located in Ballinrobe. This property is let on a 20-year lease from October, 2019 for a rent of €41,000 per annum. Whilst similar in size to the subject property, the retail turnover is significantly less than the subject property. In the Appellants view this is evidence of the Appellants skill in operating a retail business where a significantly higher

retail trade is generated from the subject property. A margin of 3% was applied to shop sales before allowances for low margin items. The fuel sales NAV was calculated at €0.0055 per litre.

2) NAV Comp. PN 1361272, NAV €42,500

This is another urban filling station in the town of Claremorris. A margin of 3.5% was applied to shop sales before allowances for low margin items. The fuel sales NAV was calculated at €0.0055 per litre. The NAV here is close to the passing rent on the subject property.

3) NAV Comp. PN 1349150, NAV €18,190

This is another urban filling station on a tight site located in Ballina. No turnover or details margins applied were provided.

4) NAV Comp. PN 216782, NAV €108,600

This is a supermarket located on The Quay, Westport and is operated by the same owners as the subject property. This property was assessed based on the floor area which is the norm for supermarkets and convenience stores without fuel pumps. The retail sales of this property were 50% higher than the subject property, which in the Appellant's view clearly demonstrates the anomalous valuation applied to the subject property.

5) NAV Comp. PN 1342785, NAV €24,300

This is a convenience store situated in the prime retail area of Westport, but has a substantially lower NAV. The Appellant believes that the element of location is overlooked in the Respondents valuation scheme.

6) NAV Comp. PN2209309, NAV €8,050

This is a retail premises situated in close proximity to the subject property where the NAV was assessed according to the retail floor area with a value of €150 per sq.m Zone A applied.

7.11 The Appellant proposes 3 alternative schemes of valuation deemed appropriate to the subject property.

Estm. NAV on 1st February 2022 Basis

Fuel Sales 1,500,000 litres @ 0.0055/L = €8,250
Shop Turnover €1,820,000 @ 2.5% = €45,500
Less Allowance €560,000 @ 1.25% = - €7,000
Less Allowance €70,000 @ 2.5% = - €1,750
Total NAV €45,000

OR

Fuel Sales 1,500,000 litres @ 0.0055/L = €8,250
Shop Turnover €1,300,000 @ 4% = €52,000
Less Allowance €400,000 @ 2% = - €8,000
Less Allowance €50,000 @ 4% = - €2,000
Total NAV €50,250 say €50,200

OR

Retail Zone A 139.69m² @ €150/m² = €20,953
Retail Zone B 100.27m² @ €75/m² = €7,520
Retail Zone C 14.36m² @ €37.50/m² = €539
Stores 125.99m² @ €20/m² = €2,520
+ Off-Licence (15%) = €4,730
Fuel Sales 1,500,000 litres @ 0.0055/L = €8,250
Total NAV €44,512 say €44,500

7.12 The Appellant stated that premises differs substantially from a standard fuel filling station typically located on the side of a busy road and for which the Commissioners valuation scheme is

designed. The subject property has a larger retail space than would be typical for a Fuel Service station and the value of the retail turnover is substantially more than the fuels sales turnover with €2 of sales in the shop for every one litre of fuel sold.

8. RESPONDENT'S CASE

8.1 Mr. Anthony Kenneally of Tailte Éireann set out the case for the Respondent.

8.2 The Respondent began by describing the property in detail and included numerous photos showing the various components of the property.

8.3 The Respondent described how a property's Fair Maintainable Trade (FMT) is assessed and how the Commissioner assessed NAV's due to the significant disruption to trade because of the Covid Pandemic. The Commissioner felt it was prudent to evaluate turnover of a longer period and to also consider trading data compiled after the Valuation date so that a hindsight check could be undertaken before adopting an FMT for the various trading businesses.

8.4 The Respondent stated that no details of fuel volume throughput were provided. The Appellant stated that the fuel sales were operated separately to the shop with the fuel sales going directly to the operator TOP and the retail sales going to the Appellant.

8.5 The estimated FMT of €2,800,000 was derived from the information provided by the Appellant and a margin of 4% was applied before deduction for low margin sales.

8.6 The estimated FMT of fuel sales throughput was estimated at 1,750,000 litres based on the financial turnover provided. No information was provided on the fuel card turnover for which an allowance is normally granted under the Commissioners valuation scheme for fuel service stations.

8.7 The Respondent stated that passing rent is not a reliable basis for calculating the NAV as the lease is not a typical arm's length lease due to the licensing arrangement for fuel sales at the subject property. The Respondent believes that in circumstances, where the operator could buy and sell the fuels at prices they set and retain full ownership of the profit margin generated, would result in a higher rent for the subject property.

8.8 The Respondent also stated that the passing rent did not account for the substantial capital investment made in fitting out the subject property to a high retail standard.

8.9 The Respondent stated that the first 3 comparison properties supplied by the Appellants were all inferior in either size, specification, or trading levels to the subject property. The remaining 3

Appellant's comparisons all relate to non-fuel service station properties and in Respondent's view are not relevant.

8.10 There are 74 fuel service stations on the valuation list for County Mayo and 20 of these have been subject to appeals to the Valuation Tribunal and in the interest of equity and fairness the Commissioner has applied the same scheme of valuation to all fuel service stations based on either actual turnovers where information was provided or alternatively estimated turnover figures where none was provided.

8.11 The Respondent offered 3 NAV comparisons as supporting evidence.

I. NAV Comp. PN 1359477, NAV €119,900.

This is a fuel service station located circa 2km from the subject property which is similar in size and shop turnover to the subject property. Fuels sales throughput is higher than the subject property. A margin of 4% was applied to shop sales before allowances for low margin items. The fuel sales NAV was calculated at €0.0065 per litre.

II. NAV Comp. PN 1362413, NAV €119,200.

This is a fuel service station located in Swinford which is smaller in size but with a similar retail turnover to the subject. Fuels sales throughput is higher than the subject property. A margin of 4% was applied to shop sales before allowances for low margin items. The fuel sales NAV was calculated at €0.0065 per litre.

III. NAV Comp. PN1358410, NAV €115,300.

This is a fuel service station in Ballinrobe which is similar in size and shop FMT to the subject property. Fuels sales throughput is higher than the subject property. A margin of 4% was applied to shop sales before allowances for low margin items. The fuel sales NAV was calculated at €0.0065 per litre.

8.12 The Respondent proposed the following calculation for the NAV.

Description	Units (FMT)	NAV Margin	NAV
Shop Turnover	€2,800,000	4%	€112,000

Allowance for low margin items	€790,000	-2%	- €15,800
Shop turnover allowance	€90,000	-4%	- €3,600
Fuel Throughput in litres	1,750,000	0.006	€10,500
		Total NAV	€103,100

9. SUBMISSIONS

9.1 No legal submissions were made by either party.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the subject property so as to achieve, insofar as is reasonably practical, a valuation that is both correct, uniform 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.

10.2 The Tribunal finds that the passing rent is not a basis for calculating the NAV of the subject property due to;

- I. The turnover and margin for the fuel sales are retained by the Landlord and a modest handling fee is paid to the Appellant. In circumstances where the operator of the service station retained the turnover and operating margin for the fuel sales, a higher rent would likely be achieved.
- II. The passing rent does not account for the value added by the Appellant's extensive fitout and improvements to the premises.

10.3 Both parties agree that the Respondents scheme of valuation is appropriate for assessing the NAV for the fuel sales. The Applicant could only provide the monetary turnover figures for fuel sales as the data for sales in litres was unavailable. The Applicant proposes that the fuel sales are assessed at 1.5 million litres with no allowance for fuelcard sales. The Respondent has proposed fuel sales of 1,750,000 million litres with again no allowance for fuelcards. Based on the information provided, the Tribunal believes that the Applicant's figure of 1.5 million litres is more accurate and applying a margin of €6 per 1000 litres derives an NAV of €9,000 for fuel sales.

10.4 The main point to be considered by the Tribunal is whether the Respondent's scheme of valuation delivers an NAV that is fair and equitable. For properties that are classified by the Commissioner of Valuation as service stations/filling stations, the Commissioner employs the use of a tabulated scheme of valuation, in essence a shortened form of the Receipts and Expenditure Method by reference to the trading/earning capacity of the property, where estimates are made for each component of trade (or streams of income) by applying a rate (%) to the estimated Fair Maintainable Trade (i.e. the FMT) that a hypothetical Tenant would expect to achieve at the valuation date from which to derive the Net Annual Value (NAV). (See Appendix 1 for outline of scheme supplied by the Appellant, N/A to public). This scheme assigns varying unit values, dependent on volume/turnover level to each component income generating element of a service station, be that fuel throughput, retail FMT etc from which to derive an NAV.

10.5 The difference here between the two Surveyors in assessing the NAV derived from the shop is significant. The Applicant provided trading data for years 2018 to 2021 inclusive. See Appendix 2 for excerpt from Appellants precis outlining turnover figures (N/A to public). The Respondent has proposed that the shop turnover is assessed at €2,800,000 with an adjustment for low margin sales of €790,000. The margins applied are 4% for shop turnover and 2% for low margin items. This equates to an NAV of €92,600 for the FMT of the shop.

10.6 After adjustment for goodwill the Appellant is proposing an alternative scheme based on a shop FMT of €1,300,000 with deductions of €400,000 for low margin items at 50% margin reduction and €50,000 for services at 100% margin reduction which equates to an NAV of €42,000 for the shop turnover.

10.7 Mr.Halpin stated that the shop turnover for the subject property is significantly influenced by the goodwill generated over many years by the Appellant's and that the shop turnover is outsized relative to fuel sales when compared to typical service stations located on primary roads. The Tribunal, having evaluated the turnover figures for the 3 NAV comparison properties supplied by the Respondent agrees with this theory.

10.8 The three NAV comparisons provided by the Respondent are all for larger fuel service stations, all of which have 8 fuel pumps in comparison to 4 fuel pumps for the subject property. Applying a ratio of shop turnover to fuel throughput based on the information provided, the ratio of shop turnover to fuel sales throughput in litres for the 3 NAV comparisons are 1.23 for NAV 1, 1.07 for NAV 2 and 1.03 for NAV 3. In contrast, assuming a fuel throughput of 1.5 million litres the ratio of shop turnover to fuel sales for the subject property is 1.73. The Tribunal believes that the shop is trading at a higher level when compared to typical fuel service stations. The Tribunal attribute this enhanced shop turnover to goodwill of the Appellants and the urban nature of the location and conclude that an adjustment to the FMT is necessary.

10.9 In the interests of equity and fairness the Tribunal believe that the shop turnover should be reduced to bring it in line with the ratio of 1.23 for shop sales to fuel throughput for the Respondent's NAV comparison 1 which is also located in Westport. Taking the average turnover of the 4 years, 2018 to 2021 inclusive, the Tribunal is proposing the following calculation of NAV.

Average Turnover before adjustment.

Shop Turnover	Low Margin	Services
€2,593,753	€726,636	€94,438

Adjusting turnover whereby the ratio of shop turnover to fuel sales is reduced from 1.73 to 1.23 as above gives a shop an adjusted FMT (excluding exceptional goodwill) as calculated below.

Shop Turnover	Low Margin	Services
€1,844,143	€516,626	€67,144

Calculating the NAV according to Tailté Eireann scheme of Valuation

Applying a FMT margin of 3.75% to €1,844,143	= €69,155
Less €516,626 @ 50% reduction	= €9,687
Less €67,144 @ 100%	= <u>€2,518</u>
Total Shop	€56,950
Plus NAV of €9000 for fuel sales	= €65,950
Say	€66,000

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 €66,000.

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.