

Appeal No: VA23/5/1363

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

DONNELLAN'S CENTRA

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1212959, Fuel/Depot at Lahinch Road, Ennis, County Clare.

B E F O R E

Hugh Markey – FRICS, FSCSI
Frank O’Grady – MA, FRICS, FSCSI
Michelle O’Gorman - BL

Deputy Chairperson
Member
Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF DECEMBER 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th 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 €206,000.

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 implied rental value. The valuation of the subject property implies a rental value of €4,000/week, which has no precedent anywhere in

Clare county for this type of property. This is confirmed by the tone of the list which shows the property to be better than all filling stations in the County and all supermarket 2 properties (despite their vastly superior size).

2. The reason for this is that the sales assessed under the formula cannot be translated into a rent in the open market. The shop sales of the subject are clearly exceptional, especially in a post-covid environment. The property now sells €1.50 grocery for every 1L sold at the pumps. This is not the usual relationship and makes the subject property more comparable with large convenience stores and supermarkets than it was pre-covid.

3. If passing the subject property from Ennis, one must pass at least one other station prior to reaching the subject property. There is a total of 16 stations in Ennis, which is an exceptionally high level of competition for a single town with a population of 22,100 persons.

4. If the hypothetical tenant was faced with an asking rent of €206,000 for the subject property, he would either:

A) Rent an alternative station and grow it to match or outperform the subject's sales by copying their model.

B) Discount the sales on the basis that they were not replicable in equivalent stations and hence negotiate a reduced rent.

5. Following the logic set down in VA17/5/085 - a station which was similarly overtrading in both fuel and shop relative to competitors - a 40% allowance on FMT was required to make relative. The subject's shop sales are substantially more extreme than this example, and hence the appropriate discount in the shop is ca. 50% based on-post covid sales (or ca. 33% based on pre-covid sales).”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €120,300.

2. REVALUATION HISTORY

2.1 On the 15th 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 €206,000

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

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €206,000.

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 19th day of August 2025. At the hearing the Appellant was represented by Mr. David ES Halpin M.Sc. (Real Estate) Ba. (Mod), and the Respondent was represented by Ms Susan Dunlea BSc. (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 made an affirmation, adopted their précis as their 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 the Lahinch Road (N85), 2km northwest of Ennis town centre.

4.3 The subject property comprises a convenience store trading as Centra and a service station operating under the Texaco brand. The site area extends to 0.52 ha (1.28 acres). There are two adjoining properties to the side and rear which are not subject to this appeal.

4.4 The building was constructed c. 1985, is part single and part two storey of concrete block construction and finished to a high standard.

4.5 The shop comprises a ground floor retail area which includes a delicatessen and off-licence. To the rear there are ancillary stores and an office. The first floor is used for stores and additional offices. There are also a small external store and toilet.

4.6 The forecourt has 5 double sided fuel islands under a canopy with 10 pumps for both petrol and diesel. There is car parking to the left of the forecourt for 20 cars and additional parking to the rear of the building

4.7 Trading hours are 7 days per week, 6am – 11pm Monday -Saturday and 7am -11pm on Sunday.

4.8 The areas have been agreed between the parties.

Ground floor	Retail and offices	183.43 sq. m.
First floor	Stores and offices	134.33 sq. m.
External	Store and wc.	<u>40.95 sq. m.</u>
	TOTAL	263.40 sq. m.

4.9 The property is freehold.

4.10 Trading data supplied by the Appellant gave a breakdown of turnover of the shop and fuel sales over the period 2016 – 2021 (Appendix 1, N/A to public).

5. ISSUES

5.1 The matter at issue is one of quantum.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property must 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 considered 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 outlined, inter alia, the location, description, size, accommodation and title of the property which evidence was supplemented by photographs. He provided a history of the appeal to date, including details of turnover, the Respondent’s schematic for valuation of service stations and comments on the retail and fuel market.

7.2 Mr. Halpin stated that there was a fundamental issue concerning the approach to the relevant year of trading, 2022, due to Covid and the effect of travel restrictions and resultant loss of business. He noted that all occupiers were served with S.45 notices in early 2020 and the vast majority did not make returns. He questioned that under S.19 (5) how an approach to FMT (fair maintainable trade) could be equitable and uniform at a time when the market was in flux and the relevant occupiers did not provide all the information requested.

7.3 Mr. Halpin stated that the Respondent had assessed the subject property as the most valuable filling station in County Clare, implying it is better than the other 15 service stations located around Ennis. He stressed the relativity of values of filling stations and convenience stores/supermarkets, especially where the shop has a greater turnover, approximately 50% higher than that of fuel. He opined that the high turnover was due to the occupier’s retail acumen and longstanding family goodwill built up over the previous 40 years.

7.4 To support his position, Mr. Halpin provided details on the 15 other service stations in the Ennis area (Appendix 2, N/A to public). The chart shows the NAV range of €14,020 - €206,000, with the subject the highest and almost twice that of the nearest competitor.

7.5 He suggested that the valuation of service stations could be broken down into 3 categories:

(a) Properties with buildings larger than 250 sq. m. which may or may not have additional uses such as garage, car showrooms.

(b) Typical arterial route stations 150 – 250 sq. m. which are valued at €50,000 - €75,000 NAV.

(c) Properties with limited or no retail element, which may also feature automatic pumps.

He stated that category (b) is the most comparable with the subject.

7.6 Mr. Halpin provided details of 18 properties as comparisons, the full details are included at Appendix 3 to this judgment (N/A to public). These are briefly:

1. PN 1213202 Lahinch Road, Ennis, Co. Clare.

Buildings 346 sq. m. NAV €87,100

Closest station to the subject, nearer to Ennis. All westbound traffic must pass this property to reach the subject.

2. PN 5024190 Ring Road, Ennis, Co. Clare.

Buildings 572 sq. m. NAV €105,800

Modern building, superior to subject, full frontage to Ennis Ring Road at Clarecastle roundabout.

3. PN 1213027 Kilrush Road, Ennis, Co. Clare.

Buildings 559 sq. m. NAV €135,000

Large property with substantial shop, car showrooms and forecourt.

4. PN 2189359 Quin Road, Ennis, Co. Clare.

Buildings 200.37 sq. m. NAV €52,300

Typical arterial route station.

NAV Breakdown

Shop t/o €1,150,000 @ 3.5% = €40,500

Less Allowances €40,000 @ 3.5% = €1,400

Less Allowances €430,000 @ 1.75% = - €7,525

Fuel throughput 3,000,000 L @ 0.007/L = €21,000
NAV €52,300.

7.7 He adduced two further comparisons as examples of adjoining but separate convenience stores and forecourts.

(1) PN 1212030 Gort Road, Ennis, Co. Clare. NAV €14,020

Automatic station fronting a neighbourhood centre, adjacent to a large Centra supermarket.

(2) PN 2200507 Gort Road, Ennis, Co. Clare. NAV €84,000

Buildings 700 sq. m.

7.8 While Mr. Halpin accepted that the scheme of valuation as operated by the Respondent (Appendix 4, N/A to public) was a method used to derive rental values, he contested the accuracy of some of the information that underlined the scheme. He suggested that this case clearly shows that fuel throughput and retail sales, as a basis for NAV, do not allow for goodwill and business acumen of the occupier and could lead to an element of double taxation on the property.

7.9 Mr. Halpin contended for a reduction in the NAV and sought a revised valuation of €104,000 to provide for equity and uniformity. This is as set out below:

Estimated NAV as of 1 February 2022

- Fuel Sales: $3,900,000\text{L} \times €0.007 = €27,300$
Less: $350,000\text{L} \times €0.0035 = -€1,225$
- Shop Turnover: $€3,600,000 \times 2.5\% = €90,000$
Less: $€100,000 \times 2.5\% = -€2,500$
Less $€770,000 \times 1.25\% = \underline{-€9,625}$

Total NAV: €104,000

8. RESPONDENT'S CASE

8.1 Ms. Dunlea provided details of the location, description, condition and title in addition to a commentary on the grounds of appeal, her opinion of the NAV and supporting comparables which were supplemented by maps and photographs. She attached the relevant Valuation Certificate, the statutory basis for estimating the NAV.

8.2 Ms. Dunlea, in response to the appeal, stated that the valuation of service stations is made on a direct rental basis, suitably adjusted. Rents are devalued for analysis purposes to a price per thousand litres of maintainable throughput. Analysis is also carried out on turnover achieved from shop and carwash elements of trade with regard being had to FMT. When assessing FMT on service stations, the norm is to have regard to 3 years accounts.

8.3 The subject property was valued as part of Reval 23. Under the scheme, the shop FMT of the subject is valued @ 4% of FMT with appropriate allowances for low margins items. The fuel throughput is valued @ €0.0075 per litre (€7.50/1000L) with an appropriate allowance for low margin fuel card throughput.

8.4 Ms. Dunlea summarised the grounds in the Notice of Appeal.

(1) The valuation is incorrect owing to its implied rental value of €4,000 per week.

(2) The ratio of shop turnover to fuel throughput is unusual, claiming shop sales 75% Vs 25% fuel.

(3) Travelling from Ennis, one must pass at least one other service station prior to reaching the subject.

(4) There are 16 service stations in Ennis which the Appellant considers high for a town the size of Ennis.

(5) The Appellant asserts that, given an asking rent of €206,000 pax., a hypothetical tenant would be presented with two possible options:

(a) rent an alternative station and grow the business or

(b) discount the sale on the basis that they are not replicable in equivalent stations and hence negotiate a reduced rent.

(6) The Appellant referenced Valuation Tribunal judgment in VA 17/5/085 where a 40% allowance was applied to each income stream by the Tribunal. The Appellant is contending for a 50% allowance.

8.5 Ms. Dunlea commented on the comparisons put forward as follows:

1. PN 1213202 (Appellant's Comp 1.) NAV €87,100

Located close to the subject, the shop inclusive of stores extends to 242 sq. m. (38.7%). There are 4 pump islands with 16 nozzles. Site is shared with a residential property.

Inferior forecourt and parking.

Compliant property, with trading information submitted.

Agreed NAV, scheme applied.

2. PN 5024190 (Appellant's Comp 2.) NAV €105,800

Located approx. 6 km north of the subject, retail extends to 355 sq. m. The forecourt has 4 pump islands with 32 nozzles.

Non-compliant property, but at Tribunal stage, VA 23/5/0568 agreement was reached, and the NAV was reduced from €175,800 to €105,800.

Scheme applied.

3. PN 1213027 (Appellants Comp 3.) NAV €135,000

Located approx. 20 km east of the subject, near the village of Tulla. Total floor area 1,198 sq. m. retail 97 sq. m. (15%), car showrooms 1,101 sq. m. Forecourt has 4 pump islands with 16 nozzles.

Non-compliant property. Estimated NAV on service station and a rate per sq. metre on remainder.

4. PN 2189359 (Appellants Comp 4.) NAV €52,300

Located approx. 5 km from subject, retail extends to 163 sq. m., the forecourt has 3 pump islands with a total of 12 nozzles.

Compliant property, with trading information submitted.

Scheme applied. NAV agreed.

8.6 There were 10 comparisons available where trading information was supplied, 3 were agreed at Tribunal appeal stage. The service station scheme has been applied to all the properties.

8.7 Ms. Dunlea relied on 4 NAV comparisons in support of her opinion of the NAV. These are included at Appendix 5 to this judgment (N/A to public).

NAV 1. PN 5024190 Clare Road, Ennis, Co. Clare. NAV €105,800
(Appellant's Comp 4.)

NAV 2. PN 1211469 Clare Road, Ennis, Co. Clare. NAV €68,800

Located approx. 5 km southeast of the subject.

Total area 163.75 sq. m. 3 pump islands with 12 nozzles.

Non-compliant property. Representations were received and data provided.

Scheme applied.

NAV

Fuel	€26,010	38%
Shop	€29,313	43%
Car Wash	<u>€13,500</u>	20%
Total NAV	€68,800.	

NAV 3. PN 1211458 Clonard More, Ennis, Co. Clare. NAV €82,700

Located approx. 4 km southeast of the subject within the town of Ennis.

Total area 343 sq. m. Ground floor 175 sq. m. First floor 168 sq. m.
3 pump islands with 12 nozzles

Compliant property. Trading information submitted.

Scheme applied.

NAV

Fuel	€34,800	42%
Shop	€40,425	49%
Car Wash	<u>€7,500</u>	9%
Total NAV	€82,700.	

NAV 4. PN 1213202 Lahinch Road, Ennis, Co. Clare. NAV €82,700

(Appellant's Comp 1.)

Compliant Property. Trading information submitted.

Scheme applied.

NAV

Fuel	€13,122	15%
Shop	<u>€59,034</u>	68%
Total NAV	€87,700	

8.8 Ms. Dunlea concluded by stating that the scheme is effective and in operation and that taking the foregoing into account it was her opinion that the NAV of €206,000 is fair and reasonable.

Respondent's Valuation

Shop T/o	€5,000,000	@ 4%	=	€200,000
Less allowances	€1,030,000	@ 2%	=	- €20,600
Less allowances	€ 90,000	@ 4%	=	-€3,600
Fuel throughput	4,345,000L	@ 0.0075	=	€32,437
Less allowances	375,000L	@ 0.038	=	<u>-€1,425</u>
NAV	€206,000			

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 Clare County Council.

10.2 The Tribunal has examined the particulars of this case and considered the totality of the written and oral evidence adduced by Mr. Halpin for the Appellant, seeking a reduction in the NAV and Ms. Dunlea for the Respondent who sought an NAV of €206,000 as fair and reasonable in accordance with the Valuation Acts.

10.3 The schematic in use operates based on volume, in that the higher the turnover of business, the more profitable it is and the higher the rent achievable. This is the objective element.

Within each profit centre, the valuer must identify what the Fair Maintainable Trade (FMT) is, and what a hypothetical tenant would expect as being achievable.

The scheme is functioning and acceptable to both parties, except where the retail sales are greater than the fuel throughput. The Appellant is of the view that where the retail sales are more than 50% of turnover the use of the premises transitions to a convenience store or supermarket and therefore allowances must be made to the scheme.

10.4. The most relevant comparisons, Nos 1 and 2, are similar properties and yet the NAV is assessed at approx. 40% of the subject. This is because of the FMT, as assessed by the Respondent, is closely aligned to the existing occupier of over 40 years and not the hypothetical tenant. The level of turnover is not replicated elsewhere in Ennis, and the Tribunal does not accept the Respondent's position that this results entirely from the quality of the location and access.

10.5. The Tribunal notes that the Respondent has placed significant reliance on the actual turnover in assessing the FMT. The business of an existing occupier does not universally transfer to a hypothetical tenant as allowances must be made for the occupier's existing goodwill and business acumen.

10.6. While the Tribunal accepts this schematic is an appropriate valuation method for use in the subject property it considers that the subjective element of the valuation, (the FMT) as assessed by the Respondent to be substantially overstated in this case.

10.7 There are several Tribunal cases, including VA 17/6/085, where the scheme was found to be flawed, particularly where retail sales exceed 50% of turnover and where the scheme was adjusted to ensure equity and fairness. The arguments advanced include the retail areas being valued on a rate/m² or zoned. The lack or unavailability of rental information on service stations from both parties was noted.

10.8 The Tribunal finds that there is merit in the Appellant's contention that there is a risk of error where the convenience store element of the business is significantly greater than the fuel through put. This is best illustrated by the Appellant's Comparison No. 15. This is an automatic PFS situated alongside a separately valued convenience store of 700sq. m. with an ancillary first floor. The combined NAV of these two properties is less than €100,000. This begs the question as to how the Respondent would have approached the subject had the pumps and shop been in separate ownership. Further, it is in stark contrast to the level proposed for the subject by the Respondent.

10.9 The strict application of the scheme may have resulted in uniformity, but it did not bring equity which can only be achieved by the application of an end allowance.

10.10. Having regard to the totality of the written and oral evidence in this appeal, the Tribunal finds that the Appellant has proved the case that the valuation is flawed. The Tribunal considers that this matter is best and most fairly dealt with by adhering to the principles outlined in the Respondent's valuation schematic. However, in this case, a proviso regarding turnover should be applied where appropriate. This approach will ensure a correct and equitable valuation that aligns with other comparable properties on the Valuation List and fairly reflects the risk to a hypothetical tenant.

10.11 It is well settled that the burden of proof in an appeal lies with the appellant - 'VA. 00.2.032 Proudlane Ltd Vs Commissioner of Valuation'. The Tribunal finds that the Appellant has met this burden of proving that the Respondent's NAV is incorrect. The Tribunal finds that the Appellant's valuer has satisfied the burden of proof insofar as providing sufficient evidence to demonstrate that the Respondent's valuation is incorrect.

10.12 The Tribunal finds, that in order to achieve equity and fairness, an adjustment to the shop FMT is required and adopts 40% as being appropriate and that the valuation should be corrected with the imposition of the correct NAV as set out below:

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 €136,400.

Valuation

Fuel	4,325,000 L	@ 0.0075 =	€32,437.50	
Less allowances	375,000 L	@ 0.0038 =	<u>-(€1,425.00)</u>	
				€31,012.50
Shop	€5,000,000	@ 4% =	€200,000	
Less allowances	€1,030,000	@ 2% =	(€20,600)	
Less allowances	€90,000	@ 4% =	<u>(€3,600)</u>	
				€175,800.00
				<u>€206,812.50</u>
Less end allowance - 40% of adjusted shop t/o			<u>(€70,320)</u>	
		Total	€136,492.50	
				NAV €136,400.

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.
