

Appeal No. VA05/3/054

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**Pfizer Ireland Pharmaceuticals**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Factory at Lot No. 5Ca, Ringaskiddy, Carrigaline, Cork Lower, County Cork.

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Michael McWey - Valuer**

**Member**

**Brian Larkin - Barrister**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 20TH DAY OF JANUARY, 2006**

By Notice of Appeal dated the 21st day of July, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €12,590.00 on the above described relevant property.

The Grounds of Appeal are as set out in the Notice of Appeal a copy of which is contained at Appendix 1 to this judgment.

1. This appeal has been the subject of a hearing dealing with the preliminary issue set out at paragraph 6(a)(i)1. of the Notice of Appeal namely the alleged non-compliance of the respondent with section 30 of the Valuation Act 2001. Another Division of the Tribunal heard evidence/submissions on this issue on 17<sup>th</sup> October 2005 and issued its written judgment on 3<sup>rd</sup> November 2005.
2. The hearing dealing solely with the matter of quantum was held at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 12<sup>th</sup> of December, 2005. At the hearing the appellant was represented by Mr. Alan McMillan, ASCS, MRICS, MIAVI, a Director of GVA Donal O Buachalla, Property & Rating Consultants. Mr. McMillan's Co-Director Mr. Desmond Killen was in attendance but took no part in the proceedings. Mr. James Devlin, BL, instructed by the Chief State Solicitors Office, appeared on behalf of the respondent the Commissioner of Valuation and expert valuation evidence was given by Mr. Terence Dineen, B. Agr. Sc., a District Valuer with the Valuation Office.

### **3. The Property Concerned**

The property concerned is a large pharmaceutical plant owned and occupied by the Pfizer corporation. The property occupies a 12 hectare (30 acre) site at Ringaskiddy about 20 kilometres southwest of Cork City. Ringaskiddy is a long-established location for the pharmaceutical industry and several well-known international companies have manufacturing facilities in the area.

### **4. The Subject Property**

The subject property, which is one of several in the area occupied by Pfizer, was originally developed by Angus Fine Chemicals in 1986. Before being acquired by Pfizer in 2000 the property was occupied by Hickson Chemicals from 1994-1997 and subsequently by Warner Lambert. Over the years the plant has been subject to ongoing development and enlargement.

### **5. Rating History**

The property was first valued for rating purposes in 1986 and set out below is a brief summary of revisions carried out due to ongoing development activity:

| <b>Valuation Date</b> |                               | <b>Rateable Valuation</b>          |
|-----------------------|-------------------------------|------------------------------------|
| 1986                  | First Assessment              | IR£1,700 (€1,158.55)               |
| 1987-1989             | Subject to revision & appeals | RV as at 1989 IR£2,650 (€3,364.81) |
| 1999/4                | First Appeal Stage            | IR £6,945 (€8,818.33)              |
| 2000/4                | Revision                      | IR £8,287 (€10,522.32)             |
| 2001/4                | First Appeal Stage            | IR £8,833 (€11,218)                |
| 2002                  | First Appeal Stage            | €1,445                             |
| 2003                  | Revision Stage                | €1,600                             |
| 2004                  | Revision                      | €2,590                             |
|                       | (subject of this appeal)      |                                    |

No change was made on foot of an appeal to the Commissioner of Valuation pursuant to Section 30 of the Valuation Act, 2001 and it is against this determination by the Commissioner that the appeal to the Tribunal now lies.

## **6. Appellant's Evidence**

Mr. McMillan having taken the oath adopted his written précis and valuation which had previously been submitted to the Tribunal and copied to the respondent as being his evidence-in-chief.

In evidence Mr. McMillan outlined the details of the ongoing development of the plant over the past twenty years and its most recent rating history. Mr. McMillan said that Mr. Dineen as the revision officer issued a Valuation Certificate (proposed) on the 14<sup>th</sup> of November, 2004 to the effect that the valuation of the property concerned was to be assessed at a rateable valuation of €2,480. Following representations a valuation certificate was issued on the 6<sup>th</sup> of December, 2004 to the effect that the rateable valuation had been assessed at €2,590.

Mr. McMillan said that the increase in valuation was primarily due to an extension to the building known as CB1. This extension, he said, was similar in construction, specification, height and function to the existing buildings CB1 and CB2. These buildings he said were used for manufacturing purposes and were about 18 metres high. Internally floors are provided at different levels and at different locations within the structure to facilitate the manufacturing process. For valuation purposes it was agreed that the

extension be treated as being 3 storeys in configuration although strictly speaking this was not quite the case.

Mr. McMillan said that in arriving at his opinion of net annual value he had adopted the same valuation methodology as used at earlier revisions: i.e. to assess the valuation of the new accommodation by comparison with established levels of net annual value within the plant and to add or “bolt on” the valuations so determined to the existing valuation. This practice he said was well-established and used on many occasions. In the circumstances, Mr. McMillan said, he could see no good reason as to why this should not be appropriate in this instance. The existing buildings CB1 and CB2 were valued at the 1999 and 2000 revisions at €16 per sq. metre and hence it was only fair and reasonable that the extension be valued at the same rate per square metre as it is virtually identical in all respects to buildings CB1 and CB2.

In evidence Mr. McMillan put forward the following opinion of net annual value:

|                                       |                |
|---------------------------------------|----------------|
|                                       | NAV            |
| 1. OV €1,600                          | €2,320,000     |
| 2. CB1 Extension                      |                |
| 754.46 sq. metres @ €16 per sq. metre | €7,517         |
| 3. Sundries (agreed RV €25)           | <u>€5,000</u>  |
| Net Annual Value                      | €2,412,517     |
| <b>Rateable Valuation @ 0.5%</b>      | <b>€12,063</b> |

Under examination Mr. McMillan agreed that the height of the various floors within the extension varies from two to seven metres in places. He further agreed that the cost of construction was about €3.1 million but contended that this was not of particular relevance in that he had valued the extension at exactly the same rate per sq. metre as that applied to existing buildings CB1 and CB2 which were similar in construction and use. These levels of value he said had been agreed with the Valuation Office at earlier revisions and hence it was not open to Mr. Dineen to alter what was an established level of valuation within the plant.

In relation to Mr. Dineen's comparisons No. 5 and No. 7 Mr. McMillan said that he was aware of the facts in relation to these properties but did not necessarily agree with Mr. Dineen's analysis.

## 7. Respondent's Evidence

Mr. Dineen having taken the oath adopted his written précis and valuation, which had previously been received by the Tribunal and the appellant, as being his evidence-in-chief. In his evidence Mr. Dineen contended for a rateable valuation of €12,590 calculated as set out below.

|   |            |
|---|------------|
| Previous NAV agreed                       | €2,320,000 |
| Small Items 2004 – agreed NAV             | €5,000     |
| Extension to CB1 3/s 906 sq. metres @ €15 | €194,790   |
| NAV                                       | €2,519,790 |
| RV @ 0.5%                                 | €12,598    |

OR

|  |            |
|--|------------|
| <b><u>CB1 Extension</u></b>                              | €          |
| Rateable Spend   | 13,100,000 |
| To 1988 with SCS Construction Cost Index [247.8:122]     | 6,449,554  |
| Allow for integration into CB 1 [10%]                    | (645,000)  |
| Allow for item being a piecemeal addition to plant [10%] | (645,000)  |
| Adjusted Cost/Value                                      | 5,159,000  |
| NAV @ 5 %  | 257,590    |
| RV @ 0.5%  | 1287.95    |

In evidence Mr. Dineen said that in arriving at his valuation of the extension he formed the view that he was not of necessity constrained to value it at the same rate per sq. metre as that applied to the existing buildings CB1 and CB2. His opinion in this regard, he said, was strengthened by virtue of the fact that these buildings had been valued without reference to their cost and that there was evidence of other buildings of a similar nature which had been valued at more realistic levels in recent times. Indeed Mr. Dineen said his valuation of the extension was quite modest having regard to the fact that the construction cost was €13.1 million. Actual building cost he said is the best evidence of

value and could not be ignored in the valuation process. Mr. Dineen referred to his comparisons (see Appendix 2 hereto) and commented that a number of these had been assessed on the contractor's method of valuation or a modified version of it (comparisons No. 6, No. 7 and No. 9, he said, were relevant in this regard).

Under examination Mr. Dineen accepted that there were no other similar type facilities in the County Cork area that had been valued in excess of €15 per sq. metre. He also agreed that the existing buildings CB1 and CB2 were essentially the same in terms of construction and use as the extension but said that this did not mean that the extension should be valued at the same level. In his opinion uniformity was not an end in itself. He had to value the extension having regard to the provisions of the Valuation Act, 2001. Section 49 of the Act, he said, obliged him to have regard to the valuation of other comparable properties in the same rating area. He had done this and bearing in mind the capital costs incurred he had come to the conclusion that the extension should be valued as he had proposed.

## **8. Submission**

Mr. Devlin, BL, in submission said that the property concerned must be valued in accordance with the relevant provisions of the Valuation Act, 2001. Section 49, Mr. Devlin said, was particularly relevant in this regard and this required that the determination "*be made by reference to the values, as appearing on the Valuation List relating to the same rating authority area as the property is situate in, of other properties comparable to that property.*" The key point in this section, Mr. Devlin said, was the reference to other properties and not one singular property. This proposition he said was supported by the findings in the High Court case **IMI v The Commissioner of Valuation**. Mr. Devlin submitted that Mr. Dineen's valuation approach in having regard to other assessments in the County Cork rating area was correct as was his contention that the cost of construction was relevant to the valuation process.

## **9. Findings**

The Tribunal has carefully considered all the evidence and argument adduced and finds as follows:

1. The property concerned in this appeal is a large pharmaceutical plant located in Ringaskiddy, County Cork and is one of several such plants in the area owned and operated by the Pfizer corporation.
2. This particular plant has changed hands on a number of occasions since first developed by Angus Fine Chemicals in or about 1986. Since this date the plant has been extended on a number of occasions and has been the subject of revisions almost on an annual basis since 1999.
3. From the evidence tendered a major scheme of redevelopment and extension took place in or about 1998/1999. These works included the complete overhauling and renewal of an existing manufacturing building known as CB1 and the construction of a new manufacturing building known as CB2.
4. The most recent addition which gave rise to the 2004 revision is an extension to the main production building of the plant known as CB1 together with some minor items with an agreed net annual value of €5000 and a rateable valuation of €25.
5. It would appear that the practice adopted with each revision has been to value the most recent extension independently by reference to prevailing levels of value and to add the valuation so determined onto the existing valuation of the entire plant. This was the method adopted by both valuers in this instance.
6. The buildings known as CB1 and CB2 are largely similar in construction, specification and function with a height of 18 metres. Essentially it would appear that the buildings are designed around the manufacturing plant and internally the floors are provided at different levels to enable access to the plant at various stages in the manufacturing process. In relation to the most recent extension it is agreed that it has a footprint area of 302 sq. metres and that it is notionally 3-storey in configuration. Mr. Dineen calculated the area to be 906 sq. metres whilst Mr. McMillan measured the area at 754.46 sq. metres i.e. the total area of the actual floor plates within the structure.
7. Having regard to the nature of the building the Tribunal prefers Mr. Dineen's area for valuation purposes. Mr. McMillan in arriving at his opinion of value for the extension valued the new space at €116 per sq. metre in line with the level of value attributed to existing buildings CB1 and CB2 at the 1999 and 2000 revisions. Mr. McMillan contended that to value the new accommodation at a higher level would be perverse since the 1999 and 2000 revisions effectively established the tone-of-the-list for buildings of this type at this location.

8. Mr. Dineen in his evidence said that he did not feel himself constrained by the existing levels of value attributed to the buildings CB1 and CB2 i.e. €16 per sq. metre as determined at the 1999 and 2000 revisions. These valuations he said had been determined without reference to the capital costs incurred which he contended represented the best evidence of value. In this instance his opinion of net annual value of the extension (i.e. €194,790) was if anything in his view reasonable having regard to the capital costs of €3.1 million. Mr. Dineen said that his opinion of value was well-supported by his comparisons particularly comparison No. 5, i.e. the Hydrogenation Plant at Pfizer Ballybricken also occupied by Pfizer. This valuation which was carried out at the 2003 revision represented the most recent tone in the area and accordingly could not be ignored.
9. The property concerned in this appeal is the entire complex and not just the most recent extension. However, in arriving at their respective opinions of net annual value both of the valuers followed the established practice of valuing the additional accommodation in isolation and then bolting on the valuation so determined to the existing assessment, the only point of divergence being the appropriate rate per sq. metre to be adopted to the new space.
10. Mr. Dineen's approach in looking at prevailing levels established in the area and not just within the plant itself is consistent with Section 49. That said, however, it does not mean that the existing levels applicable to the buildings CB1 and CB2 can or must be disregarded. All evidence of value is relevant but most weight must be given to that comparison or comparisons which most closely resemble the property to be valued in terms of location, nature of construction, design, configuration and use. It is common case that the most recent extension provided at this plant is identical to the existing buildings CB1 and CB2 in all respects. Hence it is fair to say that they are the most relevant comparisons. The Tribunal notes that the valuation attributable to buildings CB1 and CB2 were agreed at first appeal stage at the 1999 and 2000 revisions and hence in the light of the comments of this Tribunal in **Ray Murray v The Commissioner of Valuation (VA96/4/035)** this evidence cannot be lightly set aside. In the circumstances therefore the Tribunal has come to the conclusion that the most recent extension to the building CB1 should be valued at the existing rate per sq. metre used at the 1999 and 2000 revisions when buildings CB1 and CB2 were valued at an agreed rate of €16 per sq. metre. Such a conclusion is consistent with Sections 48 and 49 of the Valuation Act, 2001.

**Determination**

Having regard to the above findings the Tribunal determines the rateable valuation of the property concerned to be €12,150 calculated as set out below.

|                                     |            |
|-------------------------------------|------------|
| Previous Net Annual Value as agreed | €2,320,000 |
| Small Items as agreed               | €5,000     |
| Extension to CB1 – 3 Storeys        |            |
| 906 sq. metres @ €16 per sq. metre  | €105,096   |
| NAV (say)                           | €2,430,000 |
| Rateable Valuation @ 0.5%           | €12,150    |