

Appeal No: VA23/5/0620

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

NA hACHTANNA LUACHÁLA 2001 - 2015
VALUATION ACTS 2001 - 2015

CROWE'S MINISTER'S CROSS LIMITED

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 1693292, Filling Station/Garage at Minister's Cross, Sixmilebridge, County Clare.

B E F R E

Margaret Nerney - SC

Chairperson

Caroline Murphy - BL

Member

Eamonn Maguire - FRICS, FSCSI

Member

DETERMINATION OF THE VALUATION TRIBUNAL

ISSUED ON THE 29TH DAY OF APRIL 2026

1. THE APPEAL

1.1 By Notice of Appeal received on the 15th 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 ("the Property") was fixed in the sum of €46,700.

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 incorrect on the basis that it is not a determination that accords with that required to be achieved by section 19(5) of the Valuation Act 2001, as amended, ("the Act") because:

"1. The subject property's valuation is excessive and inequitable owing to its actual location. The subject property is very much a local station on a regional road with limited passing trade. This is further evidenced

by the decline in both shop and fuel from 2021 to 2022, despite the fact that the Country was locked down for 5 months of 2021.

2. Unusually, the station makes a very good candidate for analysis of goodwill. The station was sold from parent to child in 2019 and an amount of €212,035 entered in respect of the goodwill, amortised over ten years at €21,204 per annum. Applying the formula to the subject property, this implies goodwill of circa. 45%. This can be accommodated within the formula by writing back the shop turnover or by writing back the fuel throughput below 1,000,000 litres and valuing the shop at 2.5%.

3. The occupiers also run PN 1700972 and would not pay more per unit of shop trade for this property versus the subject.”

1.3 The amount the Appellant considered ought to have been determined as being the valuation of the Property was revised from €26,500, as stated in the Notice of Appeal, to €25,500 at the hearing.

2. REVALUATION HISTORY

2.1 On the 19th day of May 2023 a copy of a valuation certificate proposed to be issued under section 24(1) of the Act in relation to the Property was sent to the Appellant indicating a valuation of €70,000.

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 €46,700.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €46,700.

2.4 The date by reference to which the value of the Property 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 via Zoom, on the 8th day of September 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 Mr Oliver Parkinson Assoc SCSi, M.Sc., B.A (hons) Acc. 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 made an affirmation, 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 at Minister's Cross, Sixmilebridge, County Clare. This is a regional road location at the junction of the R471 and L3040, approximately 6km from Shannon and 3 km from Sixmilebridge. The Property is also approximately 1km from Junction 7 of the N18 dual carriageway.

4.3 The Property comprises a service station with shop, store and covered yard/store and two pump islands with 4 pump nozzles per island under an “Inver” branded canopy. This is the only service station in this

townland, the remaining relevant properties at this location are industrial use properties. The Property is the closest service station to Sixmilebridge.

4.4 External public accessed areas are finished in both concrete and hardcore surfaces. The site measures approximately 1 acre.

4.5 The underground tanks comprise 2 x 20,000 litre diesel tanks and 2 x 20,000 litre petrol tanks.

4.6 The floor areas agreed between the Appellant and Respondent are as follows:

Description	Area - Sq.m.
Ground Floor Retail Shop	176.26
Ground Floor Retail Store	20.08
Covered Yard/Store	84.36
Total	280.70

5. ISSUES

The sole issue for Determination by the Tribunal in this appeal is quantum.

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 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 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 for the Appellant stated that the Property is located on a regional road.

7.2 He said that the Respondent has valued the Property in line with its sales in the year of the Valuation Date of 2022, following the representation stage.

7.3 Mr Halpin stated that the NAV was excessive in that it did not take account of goodwill as evidenced by the sale of the Property by parents to their daughter and by reference to the NAV of PN 1700972, a standalone retail unit, in Sixmilebridge, introduced as context.

7.4 Mr Halpin submitted that, ordinarily, appellants must demonstrate goodwill based on the levels applied to comparable properties, essentially a default measure when no better explanation is available. In this case, however, the goodwill is explicitly recorded in the company's accounts, arising from the sale of the business by Tim Crowe to his daughter Flora Crowe. The accounts reflect goodwill of €212,035, amortised over ten years at €21,204 per year, equating to approximately 45% of the current NAV.

7.5 Mr Halpin stated that his approach was to adjust the NAV directly, by say €25,500, and then to apportion this adjustment proportionally, between the fuel and shop turnover to derive his figure for the Fair Maintainable Trade (FMT) calculation.

7.6 Mr Halpin stated that east of the N18 in County Clare, the population centres were more sparsely populated and hence the availability of comparable filling stations was scarce, but he submitted the following NAV Comparisons in his précis (full details are provided in Appendix 1, N/A to public).

7.6.1 Comparison 1, PN 1700972.

Mr. Halpin stated that this comparable, submitted for context, is a retail store in the centre of Sixmilebridge, with an NAV of €18,080 which is valued on the floor area method, utilising the Zoning method for the retail area, which measures 263.30 sq.m.

He stated that the standalone shop, PN 1700972, has exactly the same profit margin as the Property's shop and is trading with 62% more turnover. The comparable has circa 1.5 times the retail floor space of the Property and, in short, if the hypothetical tenant was faced with a scenario that he could pay €46,700 for the Property or €18,080 for PN 1700972, he would choose PN 1700972 every time and discard the petrol pumps. Furthermore, he stated that if the allowance for goodwill is made, the Property will automatically sit much more at ease with PN 1700972.

PN: 1700972		Address: Sixmilebridge, Co. Clare	
Level	Use	Area (m²)	NAV (€)
0	Office(s)	27	€675.00
0	Store	39	€975.00
0	Store	47.25	€945.00
0	Retail Zone A	64.05	€7,686.00
0	Retail Zone B	64.05	€3,843.00
0	Retail Zone C	64.05	€1,921.50
0	Retail Zone Remainder	73.15	€1,097.75
0	Open Store	75.1	€938.75
Total (€)			€18,081.50
NAV:			€18,080.00

7.6.2 Comparison 2, PN 1693419.

Mr Halpin stated that despite being located in a known urban centre, the property had not operated in a decade, the pumps are gone, and it will probably need a revision, underpinning the case made that the business carried on in the Property is the result of hard work and business acumen. The NAV applied to this comparable is almost half that applied to the Property, and equal to the differential between the latter's NAV and its goodwill.

PN:		1693419
Address:		Newmarket On Fergus, Co. Clare
NAV:		€25,000

7.6.3 Comparison 3, PN 1693127.

Mr Halpin submitted that this comparable concerned the only functioning filling station in the town and has a small shop of 13 sq.m. and a large store of 131.2 sq.m., used as a workshop. If the shop was as easy to derive a profit from as the Respondent suggests, the occupiers would have converted their building to a fully retail-driven model. Mr. Halpin submitted that a shop here could only sustain a figure of €150,000 maximum per annum. The appellant has no difficulty accepting that the Property is physically superior to this comparable property, but he submitted that it was distinctly inferior, in terms of location.

PN:	1693127
Address:	Newmarket On Fergus, Co. Clare
NAV:	€24,000

7.6.4 Comparison 4, PN 1444242.

Mr Halpin submitted that, of his three filling station comparables, this property is by far the most comparable to the Property. This comparable was subject to representation, and was a good example of a standard filling station. Although the shop turnover being analysed at €0.50 per litre of fuel, was quite strong, with the standard level being €0.25 to €0.35 and €0.40 on the higher end, there were no other grocery alternatives in Tulla.

Whilst the Respondent focused on differences in population sizes between Tualla and Sixmilebridge, Mr Halpin stated that this was not relevant as the Property was not located in the town of Sixmilebridge, but 3 kilometres from it. He noted that the NAV of the Property is a multiple of 2.65 times that of the NAV of this comparable property.

PN:	1444242
Address:	Tulla, Co. Clare
NAV:	€17,650

7.7 Valuation

Mr Halpin stated that taking the question of goodwill into consideration and the NAV applied to PN 1700972, the Appellant has contended for a proportional allowance, arriving at a valuation of €25,500, derived as follows:

Use	Est FMT	Rate	NAV
Shop Turnover	950,000	2.5%	€23,750
Shop T/O Allowance	130,000	1.25%	-€1,625
Shop T/O Allowance	42,000	2.50%	-€1,050
Throughput (litres)	900,000	0.0050	€4,500
Total NAV			€25,575

7.8 In cross-examination, Mr Parkinson asked Mr Halpin whether there were any other service stations in Sixmilebridge. Mr Halpin replied that there were not and that the Property was, in fact, 3 km southwest of Sixmilebridge but he conceded that it was the closest to the town.

7.9 Mr Parkinson asked Mr Halpin to confirm that the Property was 1 km from Junction 7 on the N18 motorway, which links Limerick to Shannon, to which Mr Halpin replied that it was.

7.10 Mr Parkinson put it to Mr Halpin that whilst he, Mr Halpin, provided turnover figures for comparable PN 1700972, it was valued on a zoning basis and that, by introducing the issue of turnover, he was running the risk of valuing the business, rather than the premises run out of it. Mr Halpin responded that it has no goodwill, it cannot have because it has already been valued by the Respondent on a rate per sq.m., yet the Respondent only looks at the business carried on in filling stations, he cannot look beyond that at the physical property. The NAV of the comparable is fixed as it is on the List, but a hypothetical tenant would look at the turnover of both properties and would pay more for a property that was larger and turning over more money.

7.11 Mr Parkinson enquired whether one might look at profit as opposed to turnover, Mr Halpin replied that the danger with relying on the level of profit is the varying degrees of profit depending on the kind of business one was running.

7.12 He asked Mr Halpin if he would agree that the NAV was assessed on the Relevant Property, not the business. Mr Halpin replied that if you take the businesses turnover, and run it through a formula, the answer can only be derived from the business, unless one makes appropriate adjustments which in this case he would argue, should be downwards, so that the business in the Property is not overvalued. Mr Halpin stated that in the valuation of service stations you are valuing the business.

7.13 In response to Mr Parkinson stating that comparable PN 1700972 did not have petrol pumps and was therefore not comparable to the Property, Mr Halpin stated that if you take the shop element of the Property, it was comparable, they were selling the exact same goods, at the same margin, but the comparable shop in Sixmilebridge had a higher turnover, so that it cannot be said that the shop in the Property is worth more than double that in the subject comparable. Mr Halpin further stated that the hypothetical tenant would not pay more for the shop in the Property.

7.14 Mr Parkinson queried whether in the case of comparison 3, the Appellant was contending for an NAV that was €1,500 more than the NAV of the comparable. Mr Halpin replied that if one were using this comparable alone, at €24,000 he was too low on his valuation of the Property, but that he was attempting

to value it in the round and, in his opinion, this comparable was grossly overvalued based on the physical facts.

7.15 He asked Mr Halpin to confirm the distance of PN 1693127, his comparable 4, in Tulla, to the N18 motorway, to which Mr Halpin replied that it was approximately 25 km.

7.16 Mr Parkinson put it to Mr Halpin that, in devaluing the NAV relating to the property by applying his assessment of goodwill, and given that he accepted the scheme, being the shortened receipts and expenditure method of valuation - goodwill would be an intangible asset, and he therefore queried how it would be discounted into the receipts and expenditure as they would be derived from the sales reports. Mr Halpin replied that €212,000 was not an insignificant sum to attach to a business when effecting a transfer from father to daughter. He further stated that when you factor that accounting goodwill in, together with the fact that the shop is trading above €1 for a litre of fuel, that the occupiers run shops, the only conclusion one can come to is that the occupier is deriving more out of the shop in the Property than an alternative occupier might do.

7.17 Mr Parkinson asked whether there was any mention of goodwill in the Act and Mr Halpin confirmed that there was not.

7.18 Mr Halpin was asked whether he was aware of an NAV valuation on the List where an allowance for goodwill had been applied. He replied that he was not, in the case of his comparables, but that he had assumed that there was a case in the Respondent's comparables, which he would get to in cross-examination of the Respondent's witness.

8. RESPONDENT'S CASE

8.1 Mr Parkinson for the Respondent submitted that the valuation was governed by section 48 and section 19(5) of the Act, which means that, as far as reasonably practicable, correctness of value and equity and uniformity of value between properties on that valuation List must be maintained. He stated that the actual rent for any individual property may be material in deriving that estimate but it is not, in itself, conclusive of *Net Annual Value* (NAV) in the context of section 48 and section 19(5).

8.2 He submitted that while reliance appears to have been placed on an accounting principle to calculate goodwill, no comparable examples have been provided where a 45% goodwill allowance was applied to similar properties on the List and it is a founding principle before the Tribunal that the onus of proof rests with the Appellant and, in this case, he did not believe the onus had been discharged.

8.3 Commenting on the comparable evidence submitted by Mr Halpin, he submitted the following:

8.3.1 Concerning comparison 1, PN number 1700972, he stated that this comparable is categorised on the List as a retail shop, valued on the zoned method, which is different to the valuation method applied to service stations, and should be disregarded on that basis.

8.3.2 Concerning comparison 2, PN number 1693419, he stated that there was non-compliance at the Revaluation Stage, the NAV was not appealed and the pumps were subsequently removed. The premises now appears to be a furniture repair shop and will need to be revised.

8.3.3 Concerning comparison 3, PN number 1693127, he stated that the shop has no deli, off-licence and provides little retail offering. No trading data was supplied to the Respondent, the NAV was not appealed and the comparison is on the List. He stated that it has a smaller trading area, at 12.96 sq.m., compared to that of the Property. Industrial-type stores of 131.20 sq.m. were also included. The NAV of €24,000 was estimated as no trading data was provided. The Appellant has submitted this comparison to support his

contention for an NAV figure on the Property, at €1,500 greater than the comparison at €24,000. Mr Parkinson submitted that, having used the “stand back and look” approach, in his opinion such an analysis is contrary to Section 19(5) of the Act as it fails to meet uniformity, equity and correctness of value.

8.3.4 Concerning comparison 4, PN number 1444242, the comparable is located within a more rural area. The floor areas, though suspect to the Appellant, were taken from a previous Revision. The local population to the comparable is 697 compared to a population at Sixmilebridge of 2,832 (Census 2022) where the Property is the only service station, these differences being reflected in the NAV derived.

8.4 Mr Parkinson submitted that the Property was valued “relative to the value of other properties comparable to that property on that valuation list in the rating authority area” in accordance with correctness of value, equity and uniformity.

8.5 Mr Parkinson submitted the following NAV comparisons (full details are provided in Appendix 2, N/A to public).

8.5.1 Comparison 1, PN 1693475.

Mr Parkinson stated that the NAV was agreed with the rateable occupier’s agent on appeal, and the scheme was not disputed, nor any goodwill applied. The town of Bunratty has a local population of 288.

PN:	1693475
Address	Bunratty, Co. Clare
Total Floor Area	174.90 sqm
NAV	€52,000

8.5.2 Comparison 2, PN 1444132.

Mr Parkinson stated that this property was in the village of Kilkishin Co. Clare, with a population of 651. The total area of 151sq.m. is broken down as retail shop 109 sq.m. and store of 35 sq.m. He stated that although no trading data was provided, its NAV is still on the Valuation List and it is a good example of a service station in a rural location.

Property Number	1444132
Address	Kilkishin, Co. Clare
Total Floor Area	151 sqm
NAV	€45,000

8.5.3 Comparison 3, PN 2195054.

Mr Parkinson stated that the comparable property was in a superior location to that of the Property, located close to Sky Court Shopping Centre. The property comprises a service station with a Spar Shop which has a deli, coffee machine, retail area, off licence. There are two pump islands with 4 nozzles per island under a “Texaco” branded canopy and a car wash to the left of the shop entrance. Financial data was received and its NAV was agreed with the rateable occupier’s agent at the representation stage, the scheme was not disputed, nor was any goodwill applied.

Property Number	2195054
Address	Shannon, Co. Clare
Total Floor Area	302.34 sqm
NAV	€76,200

8.5.4 Comparison 4, PN 2169411.

Mr Parkinson stated that the floor area of the comparable property comprises a shop of 321.28 sq. m and a store of 146.45 sq. m. Both lease and financial details were provided at the representations stage. The property is subject to a ten-year lease commencing in February 2018, with stepped annual rent of €25,000 for year 1, €35,000 for years 2 and 3, and €52,000 for years 4 and 5.

At the valuation date, the rent for NAV Comparable 4 was €52,000 and the NAV was assessed at €51,200. No appeal has been made to the Valuation Tribunal.

Property Number	2169411
Address	Darragh, Ennis, Co. Clare
Total Floor Area	467.73 sqm
NAV	€51,200

8.6 Mr Parkinson stated the NAV for service stations was estimated as part of the Scheme for County Clare rating authority area, using the shortened receipts and expenditure method to arrive at a fair maintainable trade (FMT). He had included in his précis four comparisons, three of which were agreed at various stages of the Revaluation process and where they were represented by professional rating consultants who did not dispute the revaluation scheme for service stations.

8.7 He believed that this evidence was in accordance with Section 19(5) of the Act, where equity, uniformity and correctness of value was achieved.

8.8 Valuation

Mr Parkinson submitted his opinion of valuation as follows:

Use	Est FMT	Rate	NAV
Shop Turnover	1,300,000	3.5%	€45,500
Shop T/O Allowance	250,000	-1.75%	-€4,375
Shop T/O Allowance	80,000	-3.50%	-€2,800
Throughput (litres)	1,400,000	0.0060	€8,400
Total NAV			€46,725
NAV, Say			€46,700

8.9 In cross examination, Mr Parkinson stated that there was one rental comparison, although not labelled as a KRT, and that was his comparison 4, comparison PN 2169411, located in Darragh, Ennis. Mr Halpin acknowledged that there was never going to be enough rental comparisons of filling stations from which to derive an NAV.

8.10 Concerning his comparison 1, PN 1693475, Mr Halpin asked whether citing the low local population number was misleading, given the draw of the location for tourism. Mr Parkinson replied that he was merely being consistent with the data submitted, but in this case he accepted both the draw of the location and proximity to the motorway. He also accepted that it was located on a primary route into the town and had the only convenience goods offering in that town.

8.11 Whilst accepting that it enjoyed competitive and logistical advantages over the Property, he submitted that the Property also enjoyed the advantage of being the only service station in Sixmilebridge and that it had the advantage of its proximity to the motorway.

8.12 Concerning comparison 2, PN 1444132, Mr Parkinson confirmed that he was unaware that it was the subject of a letting from 1st October 2017 on a 4-year lease, at €24,526. Mr Halpin asked, having introduced this transactional evidence, whether Mr Parkinson wished to stand over his statement that the Property should have a similar value to this comparison. Mr Halpin contended that the NAV on this comparable was estimated as no trading data was submitted, due to the property being vacated prior to the valuation date, and that the only data, being the transactional evidence, was at odds with the NAV derived. Mr Parkinson replied that the comparable has an NAV of €45,000, is on the List, was not appealed and, under the legislation, is therefore deemed to be correct.

8.13 With regard to comparison 3, PN 2195054, Mr Parkinson was asked if it would be fair to suggest that this comparison would have both urban and airport traffic and that this would be an advantage over the Property. He replied that it would be, along with its proximity to Sky Court Shopping Centre, which is reflected in its throughput and the car wash. Mr Parkinson stated that although superior in location and size to the Property and having a higher NAV, in complying with Section 19(5) it was included as it is relevant to other properties on the List.

8.14 He was also asked to confirm that it was located on a national secondary route, from Kilrush to Ennis, and that there were no national or secondary routes in East Clare, an area of 50 square kilometres, which Mr Parkinson did. He did also restate that the Property is located close to the motorway.

8.15 In the case of his comparable 4, PN 2169411, Mr Halpin asked what the actual turnover of the comparable shop was, and what percentage of discount had been applied to arrive at the NAV derived for the comparable property. In reply, Mr Parkinson stated he was not aware of any.

8.16 Mr Halpin, having represented the occupiers in an appeal concerning PN 2169411, said he was able to confirm that the turnover figure, which was provided at representation stage, resulted in the reduction by the Respondent of the FMT for the shop turnover to €1,200,000, a 27.3% reduction. When compared to the turnover ascribed to the property for 2021, the FMT adopted reflected a discount of 55.5%. Mr Halpin asked whether the figure derived for the FMT concerning PN 2169411, by applying a discount of 55.5% to the actual turnover for the years 2020 and 2021, had been done to square off with the actual rent of €52,000 being paid for the property in 2021. Mr Parkinson responded that the actual rent for any individual property may be material in deriving the FMT estimate, but that is not in itself conclusive of *Net Annual Value* (NAV).

9. Summing Up

9.1 In summing up, Mr Halpin stated that, from the outset the Appellant has been unable to understand how the Property, with a lower turnover than the shop PN 1700972 located in Sixmilebridge, could have a higher NAV. Attempting to attract a hypothetical tenant at anything greater than €18,080 per annum is going to be a challenge based on turnover. Whilst the Property is situated a kilometre from the motorway, Mr Halpin submits that if you were driving to Ennis or Limerick from Sixmilebridge you would not pass the Property, and there are five roads leaving the town.

9.2 Mr Halpin conceded that whilst he focused on comparable evidence in East Clare, he should have used the comparison PN 2169411, in West Clare, as the rent demonstrates an average annual rent of under €40,000, it is located on a national secondary route, with a higher fuel throughput and a higher and better fitted out shop.

9.3 Mr Halpin submits that if one can rent PN 2169411 at an average of €35,700, get it on the List at €51,500 then, in order to arrive at the FMT in the year in question, one has to discount the actual turnover by 55.5%. The Respondent has said that there is no evidence to discount the FMT but, according to Mr Halpin, it is right there. If the Respondent accepted the rent as it was with the turnover as it was, he would have to change the formula itself, because it would not have aligned. As a result, according to Mr Halpin, the Respondent changed the FMT in order to make the formula line up with it and this, despite the evidence of the turnover still rising.

9.4 Mr Parkinson, in summing up, submitted that this is a Revaluation Appeal, conducted under the provisions of the Act as amended the Net Annual Value, namely under section 48, and as required by section 19(5). The NAV for service stations is estimated as part of a scheme for Clare County Council rating authority area.

9.5 He included four comparisons in his précis of evidence, three of which were agreed, following representations by professional rating consultants, at various stages of the Revaluation process, and where they did not dispute the valuation scheme for service stations. The remaining comparison was non-compliant but appears to be the same occupier as, or a connected occupier to, that of the Property.

9.6 Mr Parkinson believed that his evidence satisfied the requirements of section 19(5) of the Act, where equity, uniformity, and correctness of value is achieved.

9.7 Mr Parkinson requested that the Tribunal affirm the valuation of the Property appearing on the relevant valuation list as representing its Net Annual Value in accordance with section 48 of the Act.

10. LEGAL SUBMISSIONS

10.1 There were no legal submissions.

11. FINDINGS AND CONCLUSIONS

11.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practicable, (i) correctness of value, and (ii) equity and uniformity of value relative to other comparable properties on the valuation list in the rating authority area of Clare County Council.

11.2 In this appeal, the Appellant sought to have the NAV of the Property, contended by the Respondent to be €46,700, reduced to €25,500.

11.3 The Tribunal has reviewed in full all the evidence submitted by the parties to this Appeal.

11.4 The Appellant's principal contention is that the NAV is excessive having regard to (i) the Property's location on a regional road with limited passing trade, (ii) the existence of accounting goodwill arising from the intra-family transfer of the business, and (iii) comparisons with both a standalone retail unit (PN 1700972) and other service stations which, it is submitted, indicate a lower level of value.

11.5 From the evidence, the Tribunal accepts that the Property, while not located within a town centre, benefits from its proximity to the N18 and from being the closest service station to Sixmilebridge. The Tribunal is satisfied that these locational attributes distinguish it from more rural comparables relied upon by the Appellant and support a level of trading potential.

11.6 While the Tribunal acknowledges from the evidence that goodwill was recorded in the business accounts of the Appellant following the transfer of the business from a father to a daughter, the Tribunal finds no evidence was adduced to demonstrate that such goodwill forms part of, or is reflected in, the statutory basis of valuation under the Act.

11.7 The valuation exercise required under Section 48 of the Act concerns the rent at which the Property might reasonably be expected to let from year to year. Goodwill, as an intangible attribute of the business, is not separately rateable. Rather, insofar as it is relevant, it is reflected in the level of trade carried on at the Property and thus in the assessment of Fair Maintainable Trade.

11.8 The Tribunal further finds that the comparison advanced by the Appellant, PN 1700972, a standalone retail unit, is of limited assistance. That property is not similarly circumstanced and is valued on a zoning basis appropriate to retail premises and does not include the fuel element which is integral to the valuation of a service station. The Tribunal accepts the Respondent's submission that such a comparison does not provide a reliable guide to the NAV of the Property, which is valued using the shortened receipts and expenditure method.

11.9 In relation to the Appellant's service station comparables, the Tribunal finds that in the case of PN 1693419, the petrol pumps have been removed and both parties conclude that it is in need of revision. Accordingly, the Tribunal attaches no weight to it.

11.10 In the case of PN 1693127, the Tribunal finds that this service station incorporates a substantially smaller retail shop, that no trading data was submitted and, whilst the Appellant contended that it was grossly overvalued, the Tribunal finds that it is on the List and is therefore deemed to be correct under the Act.

11.11 While the Appellant's comparables provide some context, the Tribunal does not consider that they establish that the valuation of the Property is excessive to the degree contended.

11.12 The Respondent has relied upon a number of service station comparables on the valuation list, several of which were agreed at representation or appeal stage and in respect of which the valuation methodology was not disputed. The Tribunal is satisfied that these comparables demonstrate a level of consistency in the application of the valuation scheme for service stations within the rating authority area.

11.13 The Tribunal finds from the Appellant's submission, arising from the cross-examination of Mr Parkinson, in relation to PN 2169411, that the level of FMT adopted for shop turnover was significantly below the actual trading figures for the relevant period. The Tribunal finds from the evidence that FMT may differ from actual turnover where the latter is not considered sustainable or reflective of the level of trade a hypothetical tenant might reasonably achieve and that such adjustments may arise in practice in

order to reflect sustainable levels of trade. Nonetheless, the scale of the divergence in this instance, deriving a valuation closer to the passing rent of €52,000, as paid on the comparable property at the valuation date, indicates that a large degree of judgment is exercised in arriving at the appropriate level of FMT.

11.14 Indeed the Tribunal questions in the case of PN 2169411, where a yearly staggered rent has been agreed, whether the Respondent's approach of adopting the annual rent paid in the relevant valuation year, is a true indicator of the market rent for the property in that year, as opposed to a valuer deriving an average annual rent for the property across the 5 year term that might better reflect the reality of the rental cost to the tenant, as advanced by the Appellant.

11.15 In those circumstances the Tribunal considers that this comparable is of reduced weight as a precise indicator of value, and that the evidence overall demonstrates some variability in the application of the scheme. The Tribunal finds that, having due regard to the evidence concerning the location and characteristics of the Property, the evidence of variability in the application of Fair Maintainable Trade and the range of NAV levels disclosed by the comparable evidence, it is not satisfied that the valuation of €46,700 fully reflects the requirement for correctness of value, and equity and uniformity of value under section 19(5) of the Act.

11.16 At the same time, the Tribunal is not persuaded that the substantially lower valuation contended for by the Appellant is justified on the evidence.

11.17 In the case of comparison PN 2169411, the ratio of fuel throughput adopted to shop turnover, is 0.48, compared to 0.81 in the case of PN 2195054 and 1, in the case of comparison PN 1693475, the latter located in a village centre, with no alternative retail offering. The Tribunal finds from this evidence that the retail turnover figure adopted for FMT is high in ratio terms, to the FMT adopted for the fuel throughput of the Property, and that an appropriate ratio to adopt is 0.79, reflecting both the fact that the Property is not located in a village or town centre, but does have some locational advantages being close to Junction 7 on the N18 motorway, and the fact that it is the nearest service station to Sixmilebridge.

11.18 The Tribunal also notes that the Respondent in his valuation of NAV for fuel throughput, by adopting an FMT of €1,400,000, utilised the figure of €6 per 1,000 litres, as opposed to the appropriate figure of €5.50 for the throughput band of 1,000,000 to 1,499,999 litres, according to evidence of the scheme as submitted by the Appellant in his précis, and not challenged by the Respondent.

11.19 Based on the evidence before it, the Tribunal considers that a moderate adjustment to the NAV is appropriate resulting in an NAV of €40,100.

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 €40,100.

Use	Est FMT	Rate	NAV
Shop Turnover	1,100,000	3.5%	€38,500
Shop T/O Allowance	211,538	1.75%	-€3,701.92
Shop T/O Allowance	67,692	3.50%	-2,369.23
Throughput (litres)	1,400,000	0.0055	€7,700
Total NAV			€40,130.95
NAV, say			€40,100

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.