

Appeal No: VA19/5/0546

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

DIRR HILL DEVELOPMENTS LTD

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2009643, Fuel/Depot at 33 Townparks, Wexford, County Wexford.

B E F O R E

Mr Donal Madigan - MRICS, MSCSI

Deputy Chairperson

Mr Liam Daly - MSCSI, MRICS

Member

Mr Ken Enright - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF NOVEMBER 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th day of October, 2019 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 € **98,700**.

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 not a determination that accords with that required to be achieved by section 19 (5) of the Act because: “1. *The estimated NAV of the subject property is not remotely in*

line with the FMT as already provided to the Commissioner. The maximum fuel is 3.2m litres and the maximum shop is €1.3m. These must then be discounted for DCI and low margin shop items.”

1.3 The Appellant considered in the Notice of Appeal that the valuation of the Property ought to have been determined in the sum of € **57,400**.

2. REVALUATION HISTORY

2.1 On the 29th day of March, 2019 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 € **101,200**.

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 € **98,700**.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of € **98,700**.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the **15th day of September, 2017**.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 25th day of August, 2022. 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 Mr Patrick Nolan B.Sc. (Hons.) Property Valuations & Management, MSCSI, MRICS, Dip. Rating of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the

Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts:

4.1 The subject property is located on Clonard Road, on the outskirts of Wexford town, approximately 2.5km west of Wexford town centre.

4.2 The subject property is a service station comprising of a shop and a forecourt. The property has a canopy, under which there are three pump islands. There is a separate uncovered pump island with a single nozzle (kerosene). Air and water services are also provided. There is shared parking (36 spaces) with three other units (pharmacy, butchers and laundrette)

4.3 The floor areas have been agreed between the parties as follows:

Shop	GIA	172.62m ²
Ground Floor Stores	GIA	59.60 m ²
First Floor Stores / Office	GIA	55.63 m ²
Total Area		287.85 m²

5. ISSUES

The sole matter at issue is one of quantum. The Appellant contended for a valuation of € 62,600 amended to € 61,600 at the hearing whilst the Respondent contended for a valuation of € 94,000.

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 basis 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, on behalf of the Appellant, began his evidence explaining that the subject property is located at Clonard, Wexford, Co. Wexford. Mr. Halpin described this area as being a largely residential location in the South West periphery of the town, approximately 2.5 km from the town centre.

7.2 Mr. Halpin discussed what he believed to be the schematic used by the Commissioner in determining valuations for service stations (or, as he called them, filling stations) in counties Cavan, Monaghan, Meath, Wicklow, Wexford and Tipperary. It was his opinion that the Commissioner was utilising this schematic in determining the valuation for the subject property. Mr Halpin said in his précis that he accepted the schematic in regard to fuel throughput, car wash sales and shop turnover but only where the “shop sales” part of the schematic was above 50% of the entire turnover. Where they exceed that, Mr Halpin argued that the property “transitions to a convenience

store/supermarket far more readily comparable with other such properties.” He said that any property “engaged primarily in the sale of grocer or other shop product - i.e where shop sales exceed fuel sales – is not a filling station in the same sense.”

Mr Halpin said that a note in the Commissioner’s schematic referred to properties which have low throughput volumes and high shop sales. The note indicated that where throughput is less than one million litres the percentage applied to the shop sales is reduced and that some such properties might merit special attention.

7.3 Prior to discussing the question of value of the subject property, it was Mr, Halpin’s opinion that it was first necessary to consider the subject property’s value in the context of its own development. To illustrate this point, Mr Halpin introduced the NAVs and other details of the three properties adjacent to the subject and compared the rate per metre squared of those properties with that of the subject. (see Appendix, N/A to public)

Occupier	PN	Retail Size	Retail NAV	Rate/m ² Overall
Appellants	2009643	232.22m ²	€72,500	€312.20
The Saucy Butcher	2193470	61.98m ²	€5,730	€92.44
Haven Pharmacy	2203365	124.56m ²	€12,020	€96.50
Clonard Laundry Services	2203363	74.73m ²	€6,730	€90.05

7.4 Mr. Halpin explained how the subject property is the largest of four shops on the site and the subject’s forecourt provides parking for the adjacent retail units. It was Mr. Halpin’s opinion that the three comparisons illustrate what he described as a “striking” differential on value. Mr. Halpin explained that because the subject is considered on a turnover basis it results in an NAV per square metre of 3.4 times the average of the other shops. It was Mr. Halpin’s view that this differential is completely unsustainable. While Mr. Halpin accepted there could be a premium for the service station shop, the resulting valuations should not however exceed what the valuation would be if the subject had been treated as all Zone A (i.e. €120/m²).

7.5 Mr. Halpin said the Tribunal should have regard to the principle of *rebus sic stantibus*. Mr. Halpin provided a Collins dictionary definition of “a filling station” as a premises that sells primarily motor fuel. It was Mr. Halpin’s contention, by this definition, that the subject property is a filling station but with a substantially larger proportion of its trade in the shop than an average operator might expect. It was therefore Mr. Halpin’s belief that the property could be of interest to two types of hypothetical tenant, namely, convenience store operators who are interested in the potential profits generated by shop sales, with limited interest in the fuel, or filling station operators, such as Applegreen, Circle K etc., who would be interested in the potential profits generated by fuel sales, with limited interest in the shop.

7.6 It was Mr. Halpin’s opinion that the subject property’s attractiveness to other potential filling station operators was hampered by the lack of passing trade relative to other locations within the town. Mr Halpin stated that, historically, the subject property had driven fuel sales through substantial discounting on price, something the occupier was able to facilitate as they are a local oil company. Mr Halpin went on to explain that as the multinationals increased their stake in the market locally, trade and fuel began to fall sharply as the subject could no longer compete. Fuel throughput was down almost 14.5% from 2015 to 2017 alone and this trend has continued.

7.7 Mr Halpin introduced four NAV comparables (

PN	Location	Size (Retail/Total)	Number of Petrol Islands	NAV
2009187	Rosslare Road	336m ² //407.02m ²	2	€69,800
2200807	Distillery Road	55m ² //75m ²	4	€43,200
2103261	Trinity Street	N/A	3	€68,000
2118112	Redmond Road	240m ² //312m ²	3	€65,100
5005338	Carcur	68.16m ² //106.56m ²	N/A	€8,370

It was Mr. Halpin’s opinion this illustrated that the hypothetical tenant could have their pick of comparable stations at a maximum of €65,000-€70,000 NAV and would not pay more for the subject property.

7.8 Mr Halpin went on to argue that two previous Valuation Tribunal (VA17/5/151 and VA17/5/085) decisions demonstrate that such adjustments have happened previously. Mr Halpin highlighted that in both decisions, the Valuation Tribunal weighted two stations in Carlow town against the local tone of the list to establish goodwill and discounted accordingly.

7.9 It was Mr. Halpin's opinion that the subject property would be of interest to other operators within the convenience store sector, however only at what he deemed the right price. When considering the hypothetical tenant, Mr. Halpin took the view that operators such as Lidl, Aldi, Dunnes etc, would all dismiss the site due to its small size. Therefore, Mr. Halpin put forward that the hypothetical tenant would be similar in characteristics to the current operator, a one-off operator who would work in the local community to make a profit. Mr. Halpin concluded such a hypothetical tenant would inform their possible rental offer based on existing rental values (NAVs) and turnover of comparable convenience stores/supermarkets. To illustrate the data that might be considered by a hypothetical tenant, Mr. Halpin introduced four NAV comparables).

PN	Location	Size (Retail Area)	Retail NAV
Subject	Clonard	172.62 sq. m	€72,500
2102874	Trinity Street, Wexford	113.05 sq. m	€23,400
2103098	The Faythe	421.58 sq. m	€28,400
2009647	Ferndale Park	242.9 sq. m	€30,000
2104646	Redmond Cove	673.34sq. m	€63,900

It was Mr. Halpin's interpretation of these comparables, that the subject property was in the region of between €25,000-30,000 NAV, and nowhere near the Commissioner's estimate of €72,500 for the retail FMT.

7.10 At this stage, Mr. Halpin made reference to the Respondent's précis, specifically referencing the Commissioner's NAV comparables NAV 1 and NAV 2 (PN 2009558 and PN 2203383) (Appendix 4, N/A to public). It was Mr. Halpin's opinion that the turnover figures shown in relation to both these properties substantiated his argument. Mr Nolan objected to the introduction of such evidence on the grounds that Mr. Halpin was using data from properties that he had

previously dismissed as not being comparable to the subject property. Mr. Halpin argued that the Respondent's precis included turnover figures to which he had no previous access and he was of the opinion that these helped solidify his case. The Tribunal accepted Mr. Halpin's argument that he should be afforded the opportunity to utilise the data from the Respondent's precis to establish correctness and truth and which was part of the evidence before the Tribunal in any case

7.11 Mr Halpin continued his evidence by delineating material from both his own and the Respondent's precis. Mr. Halpin referenced details from the Appellant's precis citing NAV Comparison 3 (full details Appendix 1, N/A to public), NAV Comparison 4 (full details Appendix 2, N/A to public) and NAV Comparison 5 (full details Appendix 2, N/A to public) which he deemed to be the most comparable.

NAV Comparison 3	
Occupier	Hugh Boggan Motors Ltd.
Service Station Area incl. ancillary	237.10sqm
Total Relevant Property Area	939.10sqm
Description	Service Station & Motor Showroom
No. of Pumps	3 covered, 2 uncovered
Car Wash	N/A
NAV	€120,000

NAV Comparison 4	
Occupier	ESS Ventures Ltd.
Total Retail Area	181.65sqm
Total Area incl. ancillary	282.58sqm
Description	Service Station & Car Valeting Workshop
No. of Pumps	2 covered
Car Wash	Jet Wash
NAV	€61,500

NAV Comparison 5	
Occupier	Applegreen
Total Retail Retain Area	Not provided in precis
Description	Applegreen, Rosslare Road, Co. Wexford. The property is a service station comprising of a shop and forecourt. Part of the building is separately occupied and assessed under PN 2214362
No. of Pumps	2 covered with one double sided pump on each
Car Wash	Jet Wash
NAV	€21,600

Mr. Halpin commented on the Commissioner's response to his tone of the list comparisons used in the original appeal, NAV Comparison 4 (Appellant's Precis), the Commissioner's commented

“This comparison is situated on the Trinity in Wexford Town. It comprises of a fully automated forecourt and a small shop building. The shop building is significantly smaller than the subject's shop. Maxol have closed the shop. The shop building is old-fashioned service station shop, which does not meet the service requirements and standards of a modern service station shop. It is reasonable to assume that the shop was closed because its trading potential failed to justify the costs incurred in providing the facility.”

Mr Halpin elaborated further on his NAV Comparison 4 .Mr. Halpin stated that the location of that property was notable for a number of reasons: it had a good location on Trinity Street, almost opposite Aldi in the town. The subject property still has a shop but Maxol ceased to operate it and converted the station into a 24 hour fuel operation in 2016. Mr. Halpin therefore contended that this raises the question as to whether or not the Commissioner has assessed the shop and if so, on what basis. It was Mr. Halpin's opinion that Maxol's decision to cease trading in the shop spoke

volumes about the true relationship between the fuel and shop operations. Mr. Halpin drew a further comparison between the property and the subject property. It was Mr. Halpin's opinion that if turnover constituted 75% of the property's value (as contended it does in the case of the subject), it makes no sense whatsoever to close it, as to do so impairs the value of the property. Mr. Halpin concluded, that in reality, properties such as this are proof that the shop does not, and should not, constitute the majority of the value as assessed.

Mr. Nolan asked Mr. Halpin if he was aware that Circle K operate a lot of stores. , Mr. Halpin replied he was aware that Circle K had started to expand into shops. Mr. Halpin agreed with Mr. Nolan that the nearby GAA stadium would benefit the property and Mr. Halpin accepted that the hypothetical tenant would be similar to the existing tenant. Mr. Nolan went on to refer to page 21 of Mr. Halpin's precis, specifically comparable PN 5005338 and page 31, PN 2148429 (context comparable). It was Mr. Nolan's opinion that Mr. Halpin was contradicting himself in some of the evidence he was presenting. He said that in one instance Mr. Halpin argued the property was a filling station and in another he was claiming it was not. Mr. Halpin rejected this assertion.

Mr. Nolan questioned the introduction of previous Tribunal decisions by the Appellant. He asked Mr. Halpin did he accept that such decisions do not necessarily create a precedent. Mr. Halpin accepted this point.

8. RESPONDENT'S CASE

8.1 Mr. Patrick Nolan on behalf of the Respondent gave the following oral evidence.

8.2 Mr. Nolan explained that the subject property is located on Clonard Road, on the outskirts of Wexford town, c. 2.5km west of Wexford town centre. Mr. Nolan described the location as a heavily populated residential area, whilst also being closely located to heavily commercialised areas. The subject property is adjacent to Westpoint Business Hub and access to Whitemill Industrial Estate is just 415 metres to the east of the service station. Chadwick's Wexford Park, the home of Wexford GAA, is situated c. 1km east of the service station. Clonard Road links directly with the N25 Wexford bypass, which in turn links the N11 to Rosslare Harbour.

8.3 Mr. Nolan explained the subject property is a service station comprising of a shop and a forecourt. The service station sells fuel under the Circle K brand. It benefits from a canopy, under which there are three pump islands. Each pump island has one double sided pump, with two nozzles on each side. There is a separate uncovered pump island with a single nozzle (kerosene). Air and water services are also provided. The shop trades under the Costcutter brand and provides off licence, deli and coffee services. The shop area also provides a designated seating area. The property benefits from 36 marked parking spaces, which are also utilised by the adjoining pharmacy (PN 2193365), butchers (PN 2203470) and laundrette (PN 2203363).

8.4 Mr, Nolan went on to explain how he would respond to each of the Appellant's grounds of appeal. Mr. Nolan explained there were six tone of the list comparisons and they would all be examined on an individual basis in the light of their respectivestrengths and weaknesses.

8.5 Mr. Nolan noted the Appellant's contention that where shop sales exceed 50% of total sales, the property transitions to a convenience store/supermarket. Mr Nolan deemed this point irrelevant in the subject case as shop sales for 2015 to 2017 inclusive ranged from 31.5% to 38.6% of total sales.

8.6. It was Mr. Nolan's opinion that the subject property was correctly categorised by the Commissioner as a service station. Therefore, it was correct to compare the subject property to comparable service stations. It was Mr. Nolan's belief that the three further retail units in the subject development referenced by the agent are entirely different to the subject property.

8.7 Mr. Nolan referenced Mr Halpin citing the dictionary definition of a filling station from the Collins Dictionary. Mr. Nolan said the property was categorised as a service station rather than a filling station and said the Collins Dictionary online version defined that term as follows "*...a place that sells things such as petrol, oil, and spare parts. Service stations often sell food, drink, and other goods*". The property he said was not merely a "filling station" but a "service station."

8.8 Mr. Nolan explained the subject property provides a good forecourt with very good parking, along with a substantial shop. It was Mr. Nolan's opinion that the hypothetical tenant of a service

station is a service station operator who aims to maximise the potential of the relevant property as it stands. Mr. Nolan argued that the Appellant had not put forward any evidence to suggest that the hypothetical tenant would differ greatly from the current operator.

8.9 Mr. Nolan noted that the Appellant cited 13 pieces of tone of the list information. Mr. Nolan provided commentary on the comparables (Appendix 4, N/A to public).

8.10 Mr. Nolan noted that the Appellant had cited two Valuation Tribunal decisions (PN 1139189 (VA 17/5/151) and PN 2148429 (VA 17/5/085) in his evidence. Mr. Nolan referenced section 11.6 of the judgement of the Valuation Tribunal for PN 1139189 (VA 17/5/151) which stated :

“In addition to the NAV Comparisons, the Appellant also relied on two prior decisions of the Valuation Tribunal relating to a properties located in Co Limerick and Co Kildare. It is no part of this Tribunal’s task to review the correctness of the decisions of other Tribunals. Those earlier decisions, like all other Tribunal decisions, are based on the evidence before the Tribunal and cannot be binding if different evidence is adduced on another occasion. The duty of the Tribunal in each appeal is to consider the evidence adduced and the arguments advanced and to arrive at a determination in accordance with section 48 of the 2001 Act as amended. The Tribunal strives for consistency in decision-making, but, as a general rule, previous decisions on questions of fact and opinion will not be regarded as evidence of value in later cases. Such decisions do not establish precedents. However, a decision of the Tribunal setting out general guidance on valuation principles may be applied or referred to in subsequent appeals”.

It was therefore Mr. Nolan’s contention that these previous judgements did not form a precedent.

8.11 Mr. Nolan went on to argue that while the Appellant had produced thirteen items of comparable evidence, only seven of these were service stations. It was Mr. Nolan’s opinion that the Appellant had failed to consider a number of other comparable service stations which formed part of Mr Nolan’s evidence. Mr. Nolan argued that the Appellant had not put forward any evidence to show that any of the income generated by the subject property was as a result of goodwill not achievable by any other operator.

8.12 Mr. Nolan introduced seven NAV comparisons (Appendix 10, N/A to public). Mr Nolan outlined the various FMT of comparisons and how they aligned with the proposed FMT and NAV for the subject property. Mr. Nolan concluded with the statement that he had investigated all the particulars of the appeal, considered both the grounds and the evidence of the Appellant, and that all matters of fact were agreed. Mr. Nolan explained that taking all of the foregoing into account, it was his opinion that the correct NAV for this property is €94,000.

Mr. Halpin asked if the Commissioner believed the subject property was the second-best filling station in the town and whether the valuation suitably encapsulated the subject property? Mr. Nolan answered that it did.. Mr Nolan explained how the subject property benefited from residential trade, commercial trade and commuter trade. It was Mr. Nolan's opinion that very few of the comparables had the benefit of all three sales generators.

Mr. Halpin highlighted that Applegreen, Rosslare Road, Wexford PN 2009187) and Top Oil Doyle's Service Station, Redmond Road, Wexford (PN 2118112) were common comparables to both the Appellant and Respondent. Mr. Halpin noted however that, while both had similar fuel sales to the subject, they had much lower shop sales. Mr. Nolan acknowledged this and explained that neither of these comparables enjoyed the locational benefit of the subject property with its residential, commercial & commuter sales generators)

Mr. Halpin went on to argue that the subject was been penalised for having fuel pumps in comparison to the nearby Londis store. Mr. Nolan did not accept this argument, it was Mr. Nolan's opinion that the subject property was a service station, not a standalone retail property.

9. SUBMISSIONS

9.1 There were no legal submission.

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, equitable and uniform 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 Wexford County Council.

10.2 It was the Appellant's opinion, that the Commissioner had misinterpreted the characteristics and sales potential of the subject property's location, thus impacting the proposed NAV. Central to the Appellant's argument was that the Commissioner had erred in how the subject property was categorised for valuation purposes. It was the Appellant's contention, that the subject property did not satisfy the the dictionary definition of a a filling station. The property is not, however, categorised as a "filling station" but as a "service station". A service station, as the dictionary definition referred to by Mr Nolan makes clear (not that the Tribunal sees much need to resort to a dictionary) provides its customers with something more than fuel. The Tribunal notes the photographs of the property showing a Costcutter shop from which there projects a canopy with the Circle K logo emblazoned upon it. Beneath the canopy are petrol islands and pumps. This is the standard service station set-up seen throughout the country. Customers park outside, at a fuel pump if they want to purchase fuel or elsewhere on the premises if they do not; they then enter the shop to pay for their fuel and/or purchase other items. It is common case that the shop portion and the fuel portion are occupied by the same entity, the Appellant. It is reasonable for the Respondent to value the property as a service station – that, after all is what it is – and, in doing so, to apply to it similar criteria to those it uses to value other service stations. The subject property, like all service stations, has an advantage over standalone shops by virtue of the fuel it sells; collaterally, it has an advantage over mere filling stations (few, if any, of which still exist – certainly none were produced in evidence) by virtue of the fact it offers customers the benefits of a shop. Mr Halpin urges the Tribunal to treat the property differently from other service stations because the shop sales breach a threshold percentage of the total turnover whereby, in his view, the property "transitions to a convenience store/supermarket" and so it should be compared to such premises. Mr Halpin in his précis sets that threshold at 50%. As Mr Nolan noted in his evidence, the shop sales of the subject property for 2017 (the year of the valuation date) do not in fact breach Mr Halpin's threshold - they are only 38.6% of the turnover - but, one way or another, the property is a service station, not a standalone shop and, while all material factors need to be taken into account, the property should be valued as a service station and compared with other service stations on the same list in order to achieve equity and uniformity.

10.3 Having rejected the Appellant's argument on the categorization of the subject property in valuation terms, such a rejection is therefore reflected in the Tribunal's consideration of the Appellant's comparable evidence. The Appellant introduced three NAV comparables (The Saucy Butcher PN 2193470, Haven Pharmacy PN 2203365, and Clonard Laundry Services PN 2203363), all of which are adjacent to the subject and compared the rate per metre squared of those properties with that of the subject. The Appellant explained that in his opinion, the methodology of applying a turnover basis for the subject, while utilising a zoning basis for the other three units in the same development, had created anomaly. This, the Appellant stated resulted in a subject's NAV per square metre, been 3.4 times higher than the other units. It was the Tribunal opinion, while the three NAV comparables are ancillary to the subject property, the properties are characteristically different. It was the Tribunal's opinion that the subject property is a service station, not a conventional retail unit, therefore it is not inconceivable that they would be rated differently.

10.4 During the course of his delivery, the Appellant, introduced a further ten comparables, to which he supplemented this evidence by delineating between his own and the Respondent's precis. While the Tribunal accepts that property will always be heterogeneous by its very nature, in this incident, however, it was the Tribunal's opinion, the Appellant had been particularly strategic in the material selection. It was the Tribunal's opinion that this was illustrated by the Appellant's decision to disregard many of the comparable used by the Respondent (Appendix 5, N/A to public) in formulating an opinion as to the appropriate value for the subject property. In applying such an approach, the Tribunal was of the opinion this resulted in the Appellant introducing a number of comparables whose characteristics differed from those of the subject to the extent that they did not provide much assistance to the Tribunal in its deliberations on value

10.5 Applegreen (PN 2009187) is considerably smaller than the subject and is reliant on differing sales generators. The Respondent's precis notes that Applegreen's retail space was 55% smaller and its catchment was predominantly non-residential. While fuel sales were similar to the subject, the shop turnover was significantly less (65%).

10.6 Nor did the Tribunal consider that Tesco Extra (PN 2200807) was of particular assistance as a comparison. That in that it was a small filling station, adjacent to a large multinational operated supermarket.

10.7 Similarly, the Maxol Auto 24 (PN 2103261), was considerably smaller than the subject (to the extent that that it would not, according to the Respondent, meet the service requirements and standards of a modern service station shop), and had automated forecourt.

10.8 It is the Tribunal's opinion that Top Oil (PN 2118112) was not a good comparison in support of the Appellant's case because its trading potential was hampered by the restrictive nature of the road network (one-way system) surrounding it and the lack of nearby residential population.

10.9 While the Appellant included Kubez Hair & Beauty (PN 5005338) as a filling/service station, the Tribunal notes the contradiction highlighted by the Respondent, whereby at another appeal (PN 2009634), the Appellant stated the property was not a filling/service station.

10.10 The Appellant identified Centra Whitemills (PN 2104768) as a supermarket but the Tribunal notes that the property is included on the valuation list as a service station.

10.11 As stated earlier, the Tribunal agreed with Respondent that the subject property is a service station, therefore the inclusion of non-service station properties such as Centra (PN 2102874), 178 The Faythe (PN 2103098), Coolcotts Shopping Centre (PN 2009647), and Iceland (PN 2104646), provided no meaningful contribution to the Tribunal's deliberations.

10.12 It is a long established principle that the burden of proof in appeals before the Tribunal lies with the Appellant who must show why the subject should, given its attributes, so proven, and taking into account relevant and appropriate comparisons, be valued lower than the value set by

the Respondent. The Tribunal is of the view that the Appellant has not discharged that burden of proof and has accordingly not persuaded the Tribunal that the Respondent was incorrect in his assessment.

DETERMINATION:

The Tribunal therefore disallows the appeal and confirms the decision of the Respondent.

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.