

Appeal No: VA23/5/0156

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

CLAR I.C.H. CLG.

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 2168684, Industrial Uses at Unit 4, Clar Business Park, Ballindine Road,
Claremorris, County Mayo.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF APRIL 2026

BEFORE

Caroline Murphy - BL

Member

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 3rd 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 €3,390.
- 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:

‘(e) Other grounds

Clar I.C.H. Clg is a registered charity. CHY14287. CRA 20046187. Clar I.C.H. stores insulation products and carry out the insulation works under the SEAI Fully Funded Energy Upgrade, (previously know as the Warmer Homes Scheme), For qualifying homeowners: Who this is for for qualifying homeowners in receipt of certain welfare benefits:

Fuel Allowance,Job Seekers Allowance for over six months with a child under seven,Working Family Payment,One-Parent Family Payment,Domiciliary Care Allowance,Carers Allowance,Disability Allowance for over six months with a child under seven’

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

2. REVALUATION HISTORY

- 2.1 On the 23rd day of September, 2022 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €3,390.
- 2.2 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €3,390.
- 2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st day of February, 2022.

3. DOCUMENT BASED APPEAL

- 3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. DOCUMENTS

4.1 The Tribunal had before it the following documents:

- (i) Notice of Appeal dated 3rd October 2023.
- (ii) Appellant's statement of evidence dated 18th November 2024.
- (iii) Respondent's précis/statement of evidence dated 13th December 2024.

5. FACTS

5.1 The parties are agreed as to the following facts.

5.2 The Property is located in Clar Business Park, an Industrial / Business Park located off the Ballindine Road, approximately 1km south of Claremorris town centre.

5.3 The Property is a single storey unit, being one of five industrial units developed by local enterprise group, Clar Community Project Clg.

5.4 It comprises a single storey, mid terrace workshop, currently used as storage space. The property features block walls and a double skin clad roof, with a height of 4 meters. It is situated within a section of the renovated Old Bacon Factory on the outskirts of Claremorris town.

5.5 The Property is in good condition.

5.6 The Property measures 113.25m² which has not been disputed by the Appellant.

6. ISSUES

6.1 The issue raised on this Appeal turns on the question whether the Property is entitled to be treated as exempt from rates pursuant to paragraph 16(a) of the List of Properties designated as "Relevant Properties Not Rateable" in Schedule 4 of the Valuation Act 2001

(the Act) as amended. Specifically, to determine that issue the Tribunal must decide whether the Property falls under paragraph 16 Schedule 4 of the Act on the grounds that the building or part is used exclusively for charitable purposes.

7. RELEVANT STATUTORY PROVISIONS:

7.1 The provisions of the Valuation Act 2001 in so far as relevant to this appeal are set out below for ease of reference. All references hereinafter to a particular section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act, 2015.

7.2 Section 15 of the Valuation Act 2001 provides:

(1) Subject to the following subsections and sections 16 and 59, relevant property shall be rateable

(2) Subject to sections 16 and 59, relevant property referred to in Schedule 4 shall not be rateable.

7.3 Schedule 4 of the Valuation Act 2001 sets out what is relevant property not rateable for the purposes of the Act. Paragraph 16 thereof provides:

16.—Any land, building or part of a building which is occupied by a body, being either—

(a) a charitable organisation that uses the land, building or part exclusively for charitable purposes and otherwise than for private profit, or

(b) a body which is not established and the affairs of which are not conducted for the purpose of making a private profit and—

(i) the principal activity of which is the conservation of the natural and built endowments in the State, and (ii) the land, building or part is used exclusively by it for the purpose of that activity and otherwise than for private profit.

8. APPELLANT'S CASE

8.1 In her statement, Ms. Alma Gallagher of the Appellant stated she attaches evidence that the Appellant is a charity and is exempt from rates. She made the following points. The Appellant is a company limited by guarantee and not having a share capital (The board of

directors of Clar I.C.H. serves in a voluntary capacity) and operates as a not-for-profit organisation. Clar. I.C.H. is a registered Charity and Voluntary Housing Association (AHB). Its main objective is to provide housing and associated amenities for individuals in deprived or disadvantaged circumstances, as well as to alleviate poverty and deprivation caused by poor housing conditions, homelessness, or other social and economic challenges. Any surplus generated is reinvested back into the organization for the benefit of the community.

- 8.2 The Appellant submits its annual returns to the Charities Regulator and Approved Housing Bodies Regulator Authority annually.
- 8.3 The Appellant included the following documents: Certificate of Incorporation, Memorandum and Articles of Association and letter from Revenue dated 05.01.2015 confirming charitable exemption granted in accordance with the provisions of Section 207 of the Taxes Consolidation Act, 1997.
- 8.4 The Appellant's objects are set out in its Memorandum of Association as expressed in Article 2 "(a) and (b)" are:
 - (a) To carry on for the benefit of the community the provision of housing and associated amenities for persons in deprived or necessitous circumstances
 - (b) To provide for the relief of poverty and deprivation caused by poor housing conditions and homelessness or other social and economic circumstances.

9. RESPONDENT'S CASE

- 9.1 In the Respondent's précis, Ms. Fidelma Malone responds to the Appellant's evidence, making the following points. The Property was inspected on 19th November 2024. The Property consists of a workshop / store used to store insulation products. The Property is not considered to fall under paragraph 16 Schedule 4 of the Valuation Act, 2001 to 2020 on the grounds that the building or part is not used exclusively for charitable purposes. The Appellant has not included any comparable evidence and has not disputed the levels

applied to the floor areas. Counsel has been retained for the Chief Operations Officer, Valuation to advance legal submissions.

- 9.2 In her precis, Ms. Malone states the following. The Net Annual Value is established in accordance with section 48(1) and (3) and section 19 (5) of the Valuation (Amendment) Act 2015. The subject is 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. Ms. Malone states that the correct NAV for this property is €3,390. The valuation is arrived at on the following basis:

Use	Floor Area (Sq.M)	NAV per Sq.M	
Workshop	113.25	€30 NAV	Total NAV €3,397.50
			€3,397.50 NAV, Say €3,390.00

The Respondent included photographs of the internal external view of the Property.

- 9.3 In the Respondent’s summing up, Ms. Malone states that the Property consists of a workshop / store used to store insulation products. The Property is not considered relevant property not rateable under paragraph 16 Schedule 4 of the Valuation Act, 2001 to 2020 on the grounds that the building or part is not used exclusively for charitable purposes.

10. SUBMISSIONS

- 10.1 In her précis, Ms Malone advised that Counsel had been retained for the Chief Operations Officer, Valuation to advance legal submissions however no legal submissions were filed.

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, 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 Mayo County Council.

11.2 The Notice of Appeal states that the Appellant stores insulation products and carries out the insulation works under the SEAI Fully Funded Energy Upgrade, (previously known as the Warmer Homes Scheme). It further states that this is for qualifying homeowners in receipt of certain welfare benefits: Fuel Allowance, Job Seekers Allowance for over six months with a child under seven, Working Family Payment, One-Parent Family Payment, Domiciliary Care Allowance, Carers Allowance, Disability Allowance for over six months with a child under seven.

In that regard, the Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

11.3 Schedule 4 of the Act sets out relevant property not rateable. In particular to the Property paragraph 16 (a) is the most relevant 16- *“Any land ,building or part of a building which is occupied by a body, (a) a charitable organisation that uses the land, building or part exclusively for charitable purposes and otherwise than for profit,”*

11.4 It is the Appellant’s case that it is a company limited by guarantee and not having a share capital (The board of directors of the Appellant serves in a voluntary capacity) and operates as a not-for-profit organisation. The Appellant is a registered Charity and Voluntary Housing Association (AHB). Its main objective is to provide housing and associated amenities for individuals in deprived or disadvantaged circumstances, as well as to alleviate poverty and deprivation caused by poor housing conditions, homelessness, or other social and economic challenges. Any surplus generated is reinvested back into the organization for the benefit of the community. The Appellant submits its annual returns to the Charities Regulator and Approved Housing Bodies Regulator Authority annually.

11.5 The Respondent’s position is that the Property is not considered to fall under paragraph 16 Schedule 4 of the Valuation Act, 2001 to 2020 on the grounds that the building or part is not used exclusively for charitable purposes.

- 11.6 The Property is exempt if the following conditions are satisfied: a. It is occupied by a charitable organisation and b. It is used for charitable purposes and otherwise than for private profit.
- 11.7 The Tribunal must determine whether the Property is used exclusively for charitable purposes and otherwise than for private profit (whether it is exclusively so used).
- 11.8 The Tribunal accepts that the Appellant is a registered charity and accordingly a charitable organisation within the meaning of section 3 of the 2001 Act.
- 11.9 The issue for determination is whether the property is used exclusively for charitable purposes and otherwise than for private profit (whether it is exclusively so used).
- 11.10 The Appellant's objects stated in its Memorandum of Association at Article 2 "(a) and (b)" are; 2. (a) To carry on for the benefit of the community the provision of housing and associated amenities for persons in deprived or necessitous circumstances (b) To provide for the relief of poverty and deprivation caused by poor housing conditions and homelessness or other social and economic circumstances. The Tribunal accepts the Appellant's objects stated in its Memorandum of Association at Article 2 "(a) and (b)" are charitable purposes for purposes beneficial to the community and or the relief of poverty.
- 11.11 The Property is used for the sole purpose of storing insulation products.
- 11.12 The Tribunal accepts that the Appeal is a not-for-profit organisation and no private profit is made, which was not specifically challenged by the Respondent.
- 11.13 In respect of the main objects of the Appellant and considering whether there is a correlation between these objects and the purpose for which the Property is being used, the Tribunal accepts that there is a correlation.
- 11.14 In the Tribunal's view, the purpose of storing insulation products can be regarded as connected to the carrying out of the Appellant's charitable purpose for the benefit of the

community and the provision of housing and associated amenities for persons in deprived and necessitous circumstances.

- 11.15 The onus is on the Appellant to satisfy the Tribunal that the Property satisfies the requirement imposed by Paragraph 16 (a) Schedule 4 of the Act. The Tribunal is satisfied and persuaded by the Appellant that the property is exempt as it has succeeded in the conditions as set out in Paragraph 16 (a) Schedule 4 of the Act.
- 11.16 In accordance with *Nangle Nurseries v. Commissioner for Valuation* (2003 IEHC 73) the exemption provisions of the Act are to be interpreted strictly as against the Appellant. In this case, the Appellant has provided an argument that the storing insulation products is a charitable purpose and would be regarded as to fall under the objects of the Appellant for which it was established it being ancillary or incidental to the charitable purposes as stated in 2 (a) and (b) of the Appellant's Memorandum of Association. The Tribunal considers that it is not just the nature of the activity carried on in the Property but also the purpose or reason the Appellant is engaging in that use that needs to be considered. In this case, the Tribunal considers that the purpose of storing insulation products is connected or supports the provision of insulation works carried out by the Appellant under the SEAI Fully Funded Energy Upgrade for qualifying homeowners in receipt of certain welfare benefits. The purpose is sufficiently close to the Articles of Association and the objects of the organisation and is charitable.
- 11.17 The Tribunal construes the use of storing the insulation products aligned with the charitable purposes of the Appellant as set out in the objects of the Appellant Company, namely (a) "for the benefit of the community and the provision of housing and associated amenities for persons in deprived and necessitous circumstances" or (b) to provide for the relief of poverty and deprivation caused by poor housing conditions and homelessness or other social and economic circumstances. Further, at G. of the Memorandum of Articles of the Appellant state that the Appellant has powers, "To do all such thing as are incidental or conducive to the above main objects." and the Tribunal considers the storing of insulation products for persons in deprived and necessitous circumstances in need to do that.

11.18 The property therefore is being used exclusively for charitable purposes.

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 €0.

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.