Appeal No: VA19/5/1897

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

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

McCarren Meats Ltd **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

In relation to the valuation of
Property No. 1558430, Factory (Meat) at Railway Road, Cavan, County Cavan.

B E F O R E
Hugh Markey - FRICS, FSCSI — **Deputy Chairperson**
Caroline Murphy - BL — **Member**
Liam Daly - FSCSI, FRICS — **Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF MARCH, 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 **€341,000.**

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *"The Valuation is excessive, invalid and incorrect in law."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €188,214.

1.4 At the hearing, the Respondent requested that a valuation of €441,000 be entered on the Valuation List representing the NAV for the above relevant Property.

2. REVALUATION HISTORY

2.1 On the 23rd day of April, 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 €341,000.

2.2 A Final Valuation Certificate issued on the 17th day of September, 2019 stating a valuation of €341,000.

2.3 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 5th day of May, 2023. At the hearing the Appellant was represented by Mr Tadhg Donnelly, Chartered Valuation Surveyor of Donnelly & Associates and the Respondent was represented by Mr Oliver Parkinson 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 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;
The property comprises a meat processing plant which has been extensively redeveloped and extended on a piecemeal basis since a facility was first established on the site in the late 1800s. The factory is on two levels as are the associated offices. There is a shop selling produce to the public.

It is used as a production facility including dispatch area, packaging area, boning hall, killing line and lairage.

It is located approximately 1 kilometre from Cavan town centre.

The following floor areas have been agreed:

Level	Use	Area (sq. m.)
0	Cold Room	19.33
0	Factory	5,433.00
0	Kitchen	15.60
0	Loading Bay	91.20
0	Office(s)	311.66
0	Shop	209.05
0	Store	77.94
1	Factory	532.00
1	Office(s)	651.88

5. ISSUES
5.1 The basis of the appeal was the quantum of the valuation but a significant factor in the Appellant's case was the rateability or otherwise of a singeing machine in the Property.

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 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 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. Donnelly, on behalf of the Appellant, outlined how this meat processing plant was located on Railway Road in the town, in a predominantly residential area. He said it was an outdated building and the offices are based in a domestic dwelling.

7.2 He outlined how there are over 68 (sic) industrial buildings described as 'factory' on the Valuation List. He noted that only two had higher assessments. He adduced comparisons from various meat plants in counties Kerry, Limerick, Roscommon, Westmeath and Wexford to support his proposed NAV level asset out in his Précis. In all these cases, the Respondent had valued the factory level at rates varying between €15 and €30 per sq. m. These comparisons are included at Appendix 1 to this judgment (N/A to public). He accepted that these comparisons were outside the rating authority area but suggested that the Respondent's comparison No.3, PN 1990131, which was valued at €30 year per square metre was informative. He said this was also a meat plant situated in a rural location and supported his contention that the appropriate rate to apply to the subject property was €25 per square metre. He differentiated between that comparison and the subject property as being a full processing chicken plant where the product emerged from the facility ready for sale in supermarkets. He suggested that to bring the subject property to the same level would involve the spending of several million euro.

7.3 In support of his appeal, Mr. Donnelly suggested that the facility was located in a rural location with limited parking. He said it had been constructed in the 1930s/1940s was added to in a piece-meal fashion since and is basic in design. He noted the location in the middle of a residential area and this caused issues with smells. He posited that the cost of maintaining environmental standards is far greater than that of the average meat plant given its location in a residential area. He suggested large parts of the factory would be considered very basic in terms of design and specification; the 15,000 gallon water tank is redundant, as are the blood tanks while the yard is used as a circulation space.

7.4 He contended that the Respondent's comparison No. 2 PN1989628 was under appeal and as such was not a valid comparison.

7.5 The witness then considered, at length, the singeing machine. He described its purpose as the removal of hairs from the pigs, being an essential part of the machinery used in the processing. He said the machine scorches the hair from the animals without doing any damage; he suggested it is part of the process and the animal spends seconds in the machine; that it is not a furnace, there is no such thing as a 'pig furnace'. He suggested it did not fall into the categories in Schedule 5 of the Act. He described the singeing machine as being akin to a toaster, that a gas flame shoots out. He went on to suggest that a furnace is a totally different process where material goes in, such as bricks, and are baked for a period of time- the processes are completely different.

7.6 Mr. Donnelly then considered the Respondent's comparisons.
He suggested the first comparison PN 1989407 was not a suitable comparable as it was a chicken processing facility which had never been appealed. He said the process was different to the subject's and as such was not comparable.

7.7 As regards Mr. Parkinson's second comparison, PN 1989628, he said this was under appeal and therefore was not an appropriate comparison. The Respondent subsequently clarified this to be the case, the appeal being lodged three days after the preparation of Mr. Parkinson's précis of evidence. He could not have been aware of the appeal while preparing his evidence.

7.8 In respect of PN 199013, he noted the NAV rate was €30 per square metre; this was a modernised facility in a rural location whereas the subject property is located in the middle of the town.

7.9 He suggested the property was overrated and overvalued.

7.10 Cross examination of Mr. Donnelly.

On enquiry from Mr. Parkinson as to whether he accepted that the onus of proof lay with the Appellant Mr. Donnelly responded that it "lies with both of us". He accepted that this was a revaluation and that some of the comparisons used by him and the Respondent were at higher rates. When questioned as to why he had not included maps and photographs as per the rules of the Tribunal, he answered that he had given the actual locations, property reference numbers, the appeal dates with some decisions.
When questioned as to why he had not introduced any comparisons from the rating authority area, he responded by saying that meat plants were specialist property and one needed to look further afield for comparisons.
He accepted the comparables adduced had varying valuation dates but suggested that rentals have not increased much since those comparables.
Mr. Parkinson put it to the witness that this was contrary to section 19(5) of the Act; to which Mr. Donnelly responded that he stood by his evidence. He said his comparisons should inform an opinion, when questioned as to why he disregarded evidence from Cavan.

When questioned as to what evidence there was to suggest there would be additional costs in complying with environmental requirements, he answered that the property was located in an urban location and that the buildings were old.
He was further asked as to the evidence to support his assertion that the buildings are of a basic specification as he had not introduced any photographs or evidence to support this assertion nor that the blood and water tanks were redundant. He responded by saying that they had undertaken a joint inspection during which the manager showed them around and told them all of this at the time. Mr. Parkinson said he didn't say that the blood banks were redundant, to which Mr. Donnelly said he did.

7.11 In response to questioning regarding the singeing machine, the witness again outlined the process, saying that it was similar to a toaster - the animal was in the machine for approximately 30 seconds. He denied that Wikipedia, from which Mr. Donnelly had introduced an extract showing a similar type machine, was an unreliable source of information but did not disagree that Wikipedia was capable of being updated by anyone and as such should be disregarded.
Referring to the Appellant's documentation, information regarding furnaces, it was put to him that the primary purpose of a furnace is to provide heat, to which he responded that so does an electric kettle or a car.
It was put to him, that based on his evidence that all furnaces serve the primary purpose of providing heat, the primary purpose of the machine/pig furnace is to provide heat to singe the hair off the pig and improve the carcass, which he said went back to the manager;s letter wherein he described a process and therefore meets the criteria of a furnace. In reply, Mr. Donnelly refused to accept that the singeing machine met the definition of a furnace and said a furnace was a completely different process, material going through a furnace is changed dramatically because it is there for a period of time, here it was singed briefly.

He was asked the source of the installation cost of the singeing machine to which he responded that he had extracted it from the accounts. Mr. Parkinson put it to him that this sheet/ these accounts were not signed or certified or on headed paper compared to the letter prepared by Mr. Harton, merely an Adobe scan to which Mr. Donnelly suggested that they had been prepared by his clients.

Note: On direction from the Tribunal, Mr. Donnelly provided a letter dated 12th May 2023, signed by the General Manager and Financial Controller of the Appellant company which indicated the singeing machine total installation costs between 1st December 2015 and 1st April 2016 of €475,535.11. 30 cent

8. RESPONDENT'S CASE
8.1 Mr. Parkinson outlined the background to the revaluation and its purposes. He noted that 4% of the properties concerning industrial use which have been the subject of the revaluation have been appealed to the Tribunal.

8.2 Having considered the location and nature of the property, he outlined how there had been no representations. He referred to photographs of the subject property. He further outlined the grounds of appeal.

8.3 Mr. Parkinson then considered the basis for the appeal as set out in Mr. Donnelly's Précis. He drew the Tribunal's attention to a letter from the General Manager of the Plant which, inter alia, said *'The machine installed in the kill line is a singer for singing (sic) the pigs. ...There is no*

furnace present in McCarren Meats and no furnacing of product occurs, there is brief scorching of the product on the skin for a number of seconds only".
-He further disputed the Appellant's valuer's contention that "*the cost of keeping the meat factory environmentally friendly is far greater than other meat plants as it's in a residential area",* as supporting evidence had not been adduced.
Neither, he suggested, had any evidence been provided to support the opinion that '*Large amounts of the factory considered very basis in terms of spec. Water tank and blood tanks are redundant. Yard is circulation space'.*

8.4 With regard to the singeing machine, Mr Parkinson had introduced evidence including photographic evidence in his Précis of a company manufacturing what he noted as being described as '*very similar to the pig furnace in the subject property*'. The specification for this stated '*In the final carcass cleaning process, remaining hair and loose skin flakes are burned in a flaming furnace. The Marel Spitfire can be used for the decontamination of the carcass surface, thereby extending the shelf-life of the carcass considerably. By combining modules, the Spitfire is suitable for capacities up to 1,600 pigs per hour…The flaming furnace consists of gas-air mixing columns with burners. These burners are grouped in such a way that the shape of the carcass is monitored, and the singeing effect optimized. The correct gas mixture provides an intense flame with maximum efficiency. The combustion air is supplied by fans. Reflection screens in the machine ensure an intensification of the singeing result. The ignition of each burner column takes place electronically."*
Based on this evidence, he maintained that the pig furnace is rateable plant under Schedule 5, No. 4 of the Valuation Act 2001-2020 and fell to be valued.

8.5 He suggested that the Tribunal should disregard Mr. Donnelly's comparisons as they lay outside the rating authority area.

8.6 Mr. Parkinson then outlined the bases on which the Respondent had arrived at its scheme of valuation based on three key rental transactions - these are included in Appendix 2 to this judgment (N/A to public).

8.7 He further outlined the NAV comparables which he had relied upon. These are included at Appendix 3 to this judgment (N/A to public). His first comparison PN 1989407 is, he said, a similar facility located in Shercock. He noted that the construction was similar as the subject property and it is in use as a chicken production facility. It has been valued at €40 per square meter, there have been no representations made or appeal.

8.8 Mr. Parkinson's third NAV comparison PN 1990131 is an offal rendering facility which is similar in construction to the subject property; is valued on an overall basis at €30 per square meter. He noted that the subject property had been valued at €40 per square meter to reflect the fit out.

8.9 His NAV comparison No. 4 PN 1990245 is a large dairy production complex which has been valued on an overall basis of €30 per square metre, whereas the subject property had been valued at €40 per square metre to take into account the fit out. He noted this was twice the size of the subject property.

8.10 Cross examination of Mr. Parkinson. On questioning from Mr. Donnelly as regards his NAV comparison No.2 PN 1989682 and whether he was aware that this property was under appeal to the Tribunal. The witness confirmed that he was unaware; that his evidence had been prepared seven days in advance of the Hearing. He responded by saying that he did not accept

the figures for the singeing machine as they were not certified or on headed paper, he had relied on a statement made by an employee of the Appellant made at the time of his inspection and who had referred to the plant as a “furnace” as he termed it cost €2 million secondhand approximately 7 years earlier.
He responded to a query regarding his third NAV comparison PN 1990131 by saying that based on the photograph included, that the subject property would command a rate of €40 per square metre.
Mr. Donnelly asked the witness whether he would consider comparisons from outside of the rating authority area, to which Mr. Parkinson responded that he would do so but only where the properties were unique, such as motorways.

8.11 In summing up the Appellant’s case, Mr. Donnelly reiterated that the subject property is an old meat plant situated in the middle of a town with the rateable valuation as set out above. He maintained that the singeing machine was not rateable. He further contended that the Respondent’s NAV Comparison No. 3, PN 1990131 which was valued at a rate of €30 per square metre was both far superior and better located than the subject property.

8.12. In summing up the Respondent’s case, Mr. Parkinson reiterated that the appeal had to be heard in the context of s. 19(5) of the Act and noted the Appellant’s representative had not introduced any comparisons from the same rating authority area. He suggested his NAV Comparison No. 1 was very similar to the subject property and was not in basic condition as asserted by Mr. Donnelly.
He accepted that his NAV comparison No. 2 was under appeal - on direction from the Tribunal, he confirmed later that the appeal had been lodged some days after he had prepared his Précis of evidence.
He noted that the Respondent’s valuation in the case of his Comparison No. 3 had been affirmed by another Division of the Valuation Tribunal – Ref. 19/5/0794.
With regard to his Comparison No. 4, he noted how there had been no representations or appeal; this was a superior property valued at €30 per square metre.

9. FINDINGS AND CONCLUSIONS
9.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Cavan County Council.

9.2 There are two distinct aspects to this appeal. The first relates to the rateability of the singeing machine and the second is the rate per square metre applied by the Respondent to the various elements of the subject property.

9.3 The Singeing Machine. The Tribunal received oral and written evidence of the nature of this machine. It is persuaded by the evidence of the Respondent, that a furnace’s primary purpose is to provide heat and that the machine’s primary purpose provides heat to singe the hair off the pig and improve the carcass, which was not denied by the Appellant, albeit it is done for a short time, and, is similar to the photographic evidence of a pig furnace relied upon by the Respondent, which was not challenged by the Appellant. Accordingly, the Tribunal finds that it is rateable plant, namely a furnace, in accordance with Schedule 5, No. 4 of the Act and, as such, falls to be valued. Mr. Donnelly, apart from submitting the costs of installation to the

Appellant of the singeing machine, did not submit an alternative valuation to that proposed by the Respondent.

9.4 Despite the Appellant's assertion that the onus of proving that's the valuation placed on the subject property by the Respondent is incorrect, lies with both parties, it is well established that the onus lies with the Appellant. The Tribunal finds that this burden of proof has not been discharged by Mr. Donnelly. All of the comparisons adduced by him are located outside of the rating authority area and as such do not comply with the requirements of s. 49 (1) of the Act which requires *'...that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situated in, of other properties comparable to that property'*.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and increases the valuation of the Property as stated in the valuation certificate to €441,000.

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 <u>and</u> 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.