

**Appeal No: VA17/5/159**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015  
VALUATION ACTS, 2001 - 2015**

**MICHAEL HOSEY**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2207902, Car Park (Surface) at 20-23 Pollerton Road, Carlow, County Carlow.

**B E F O R E**

**Dearbla M. Cunningham –BL**

**Deputy Chairperson**

**Donal Madigan – MRICS, MSCSI**

**Member**

**Eoin McDermott – FSCSI, FRICS, ACI Arb**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 4<sup>TH</sup> DAY OF JULY, 2018**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 4<sup>th</sup> October 2017 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 €14,000.

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:

- “The Valuation of the subject property is excessive and inequitable. The property’s value is not in line with its potential rental value.
- The subject property is a surface car park is a secondary location on the edge of Carlow Town.
- The turnover of the car park is €11,000 per annum of which ca. €3,500 is direct cost. Its NAV value could not exceed €100/space i.e. €3,800 NAV based on a 50:50 landlord:tenant split.
- The assessment of the Commissioner at €350/space is not in line with the potential for business for all car parks in Carlow. The main multi-storey in the town cannot achieve more than €100/space in divisible balance (leaving a maximum of €50/space in rent).”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,800.

## **2. REVALUATION HISTORY**

2.1 On the 25<sup>th</sup> May 2017 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 €15,400.

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 €14,000.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> September 2017 stating a valuation of €14,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> October 2015.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 11<sup>th</sup> June 2018. At the hearing the Appellant was represented by the Mr David ES Halpin MSc (Real Estate), BA (Mod) of Eamonn Halpin & Co Ltd and the Respondent was represented by Mr Terry Devlin BSc, MCSI, MRICS 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**

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The property is located on the corner of Bridge Street and Pollerton Road and comprises a surfaced car park with 40 spaces.

## **5. ISSUES**

5.1 The principal issue is whether the Respondent was correct in applying the rate of €350 per car space. It was noted by the Tribunal that of the three comparisons furnished by the Respondent, two were valued at €300 per space and one, adjacent to the railway station, was valued at €350 per space.

## **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. Halpin described the properties location as being possibly the worst for a car park in Carlow Town. He noted that it was not proximate to any area or facility which would actively require parking, such as a shopping centre, railway station or hospital and stated that the majority of car parks serve specific functions. The subject car park was located in a predominantly residential area and was poorly used.

Mr. Halpin submitted an Accountant’s letter showing turnover and related overheads for the period 2015-2017 – these figures are shown in Appendix 1. Mr. Halpin noted that better records are not available but submitted that a hypothetical tenant would not bid more for the property than they were likely to take in income and argued that the Respondents valuation would leave the hypothetical tenant some €8,000 per annum out of pocket.

Mr. Halpin provided the following table, which he stated shows all the relevant known detail on available parking in Carlow.

<b>Car Park</b>	<b>Spaces</b>	<b>Charge</b>	<b>NAV/Space</b>
The Royal	361	€1/hr (€3/day max.)	€150
Carlow SC	550	€1/hr (€7.60/day max.)	€350
Fairgreen SC	762	Free (max stay 3 hours)	N/A
Shamrock Plaza	c. 60	€1/hr	N/A
Carlow Station	151	€4.50/day (min charge)	€350
Irishmans	58	€3/day (min charge)	€300
Potato Market	c. 100	€1.29/hr	N/A
Town Hall	c. 200	€0.60/hr	N/A
Kennedy St	45	€0.60/hr	€300
On-street	N/A	€1/hr	N/A
Subject	40	€1/hr (€10/week max)	€350

He noted that a significant amount of car parking was not assessed at all, thereby placing his client at a financial disadvantage. He also gave evidence of a parking survey he had carried out.

Finally, Mr. Halpin set out his comparisons as follows, stating that he was not aware of any car park lettings in Carlow.

<b>Car Park</b>	<b>Spaces</b>	<b>NAV/Space</b>	<b>Comments</b>
The Royal	361	€150	Multi storey adjoining apartments, shops, offices
Carlow SC	550	€350	Multi storey adjoining Carlow SC
Fairgreen SC	762	N/A	Surface adjoining Fairgreen SC
Shamrock Plaza	c. 60	N/A	Surface car park adjoin modern development. Close to subject.
Carlow Station	151	€350	Adjoins railway station. For commuters.
Irishmans	58	€300	Adjacent to courthouse
Potato Market	c. 100	N/A	Serves Tullow Street. Very popular.
Town Hall	c. 200	N/A	Serves town hall, main park and residential.
Kennedy St	45	€300	Town centre car park, full almost every day.
On-street	N/A	N/A	Parking enforcement in Carlow is lax.

Mr Halpin suggest that the car park should be valued on a receipts and expenditure basis, which would give a valuation of €4,320, or €108 per space.

7.2 In response to questions from the Respondent, Mr. Halpin confirmed that he was not aware of the rental comparison cited by the Respondent. He confirmed that he was aware of NAVs of €500 per car space applied to Shamrock Plaza but noted that these were tied to office lettings and not comparable. He agreed that customers generally considered surface car parking to be preferable to multi storey car parking. He accepted that his occupancy survey was not a detailed one but said that it represented a snapshot in time.

7.3 In response to a query from the Tribunal, Mr. Halpin was unable to confirm why receipts in 2016 were lower than 2015 and 2017, but felt it might be due to the loss of long-term customers.

## **8. RESPONDENT'S CASE**

8.1 Mr. Devlin gave evidence that the property was located just beyond the main thoroughfare of Carlow Town. He provided rental evidence of a car park letting (see Appendix 2) at €324 per space, which he stated backed up his figures. He gave his opinion that many customers would prefer to use a car park where they were sure of getting a space rather than take a chance of driving down the Main Street only to find their desired car park was full. Evidence was also given of NAV comparisons in the List as follows – Mr. Devlin noted that he had confined his evidence to surface car parks only.

<b>Car Park</b>	<b>Spaces</b>	<b>NAV/Space</b>	<b>Comments</b>
Kennedy St	45	€300	Town centre car park, full almost every day.
Irishmans	58	€300	Adjacent to courthouse
Carlow Station	151	€350	Adjoins railway station. For commuters.

8.2 In response to queries from the Appellant, Mr. Devlin confirmed that the rental evidence referred to was a licence in respect of 5 spaces, not a lease. He confirmed that he had not seen any document. He also confirmed that the licensee was a business customer with offices nearby, that the spaces were not marked and that the spaces did not appear on the valuation list. When asked why the Royal letting was at €150 per space, he said that it had never worked as a car park and that 8 floors have been blocked off.

8.3 In response to queries from the Tribunal, Mr. Devlin could not explain why the subject property was valued at €350 per space while his first two comparisons were valued at €300 per space and accepted that €300 per space was not unreasonable for the property.

## **9. SUBMISSIONS**

9.1 There were no legal submissions.

## **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 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 Carlow County Council.

10.2 The main question that the Tribunal has to consider is whether the Respondent was correct in applying the rate of €350 per car space.

10.3 The Tribunal accepts the Appellants basic argument that for a public car park to succeed, it must be located in an area where people wish to park. The Appellant points out that there is no natural draw for the subject location and the Tribunal accepts this point. In this regard the Tribunal notes the photographic evidence provided by both sides shows the car park to be substantially empty at the time of both inspections. The Tribunal also notes the substantial free parking facility located nearby at Fairgreen Shopping Centre.

10.4 The Appellant has put forward an accountant's letter giving purported income and expenditure for the subject property, which has been used as the basis of the Appellants valuation, on the grounds that a hypothetical tenant will not pay more for the property than he is likely to receive in income from it. The Tribunal observes that the evidence tendered by the Appellant of the financial position of the subject property was insufficient and thus the Tribunal did not rely on this in arriving at its determination.

10.4 The Tribunal does not accept that a licence in respect of 5 unmarked car spaces gives a sufficient basis to value a public car park in the same town and therefore attaches no weight to the Respondents rental evidence.

10.5 The Tribunal considers that the isolated nature of the car park merits a lower rate per space than other surface car parks in the area and has therefore applied a rate of €250 per car space.

### **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 €10,000, representing 40 car parking spaces at €250 per space.

### Appendix 1 – Accountants figures

	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>Turnover</b>	€11,500	€7,300	€11,000
<b>Related Overheads</b>	€4,600	€6,800	€5,100

### Appendix 2 - Rental comparisons

#### Respondent

<b>Property</b>	<b>Lease Date</b>	<b>No. of spaces</b>	<b>Rent per space</b>	<b>Comments</b>
Methodist Church, Athy Road, Carlow	Year to year	5	€324	Annual licence, similarly circumstanced to subject.