

**Appeal No: VA17/5/212**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**EDMOND KEARNEY**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2185894, Miscellaneous at Local No/Map ref: 2Aa/2, Ballyknockan, Fennagh, Carlow, County Carlow.

**B E F O R E**

**Rory Lavelle – MA, FRICS, FSCSI, ACI Arb**

**Deputy Chairperson**

**Orla Coyne - Solicitor**

**Member**

**Hugh Markey – FSCSI, FRICS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 25<sup>TH</sup> DAY OF JULY, 2018**

**1. THE APPEAL**

1.1 By Notice of Appeal dated the 6<sup>th</sup> day of 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 €16,980.

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 as in Appendix 1.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,500.

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> day of 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 €16,980.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €16,980.

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> day of 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 15<sup>th</sup> day of March, 2018. At the hearing the Appellant appeared in person and the Respondent was represented by Mr Terry Devlin BSc, SCSI, RICS 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. The property is a purpose built funeral home situated in a rural area in Co. Carlow and is approximately 9km from Bagenalstown. It comprises and is a purpose built funeral home. It has waiting rooms, kitchen, office and stores. Also, there is a first floor in the building but this has not been fitted out and is not immediately capable of occupation and is not being rated.

It is understood the subject property is freehold.

The floor area of the building has been agreed between the parties, 212.32 sq. m. in total for the

Funeral Parlour /Viewing room/office/Kitchen/toilets/ finished storage at 163.85sq m, and unfinished storage 48.47sq. m.

## **5. ISSUES**

5.1 The Appellant Mr. Kearney in his written submission stated that the valuation adopted by the valuation office is too high, he believes the valuation is incorrect in that all three areas - the funeral parlour, storage area and office are valued at the same rate of €80 per sq. metre. Mr. Kearney believes that the correct valuation should be €20 per sq. metre for all areas within the subject 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. Kearney, in his direct evidence, stated that the subject property is situated in a rural area. There would be an average of 24 funerals per year in the funeral home. That one of the

comparables used by the Valuation Office is now closed. Adjacent to the funeral home is a local authority sewage treatment plant and that no other business or residence would take over the subject property because of it being so close to this sewage treatment plant. He further stated that the subject property consists of an entrance hall, two toilets, a viewing room and kitchen. He further stated the store is situated at the back of the subject property. It is physically separated from the main viewing area by a brick wall. It is used for showing coffins to the bereaved families and he also uses same to prepare the coffins. He agreed that the office, although not in use, is fitted out as an office. The areas concerned at 163.85sq. m include the viewing room, the entrance, office, toilet and 48.47 sq. m of unfinished storage at the rear of the premises.

7.2 He also gave evidence that the church near the subject property is a Church of Ireland church and services are held only once a month.. He does not obtain any business from the congregation who attend this church. The adjoining car park is not part of the subject property and belongs to the adjacent pub and shop. He only has a right of way over it to gain access to the subject property. He also contended that the location of the subject is a much more rural area than the comparators used by the Valuation Office. Of the Valuation Office's eight comparators one, a funeral home, is closed down and the others he stated were in more urban /less rural areas than the subject property.

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

8.1 Mr. Devlin in his evidence stated that the valuation of €80 should be affirmed. The subject property was located beside a church and pub; it was in a good location and was a purpose built building. He also believed that there was potential for other uses for the subject property going forward. In relation to his funeral home comparators, he stated that they were all valued at €80 per sq. m.. He accepted that his fourth comparator was now closed and stated that while he portrayed a large range of funeral homes he did accept that the comparators did appear to be in more urban areas than the subject property. He also accepted that all were valued at €80 as the Valuation Office practice was to value funeral homes in this local authority area at €80 per sq. m. and while this was not written in stone, it was more so to have consistency across funeral homes in County Carlow. He also produced two comparators with rental values which were not funeral homes but which he believed could be compared to the subject property. The first rental comparator was a solicitor's office and the second was a building occupied as an office. He accepted that his funeral home comparators were situated in villages, one of them

in particular PN1207446 had a much greater area than the subject property. When asked by Mr Kearney as to whether there was also a furniture workshop area to the rear;, he agreed that there was. He also accepted that the church adjacent to the subject property was a Church of Ireland church and he was not aware that it only had services in it once a month. Neither was he aware that the car park was not part of the funeral home and that it only had a right of way over it to gain access. He believes that the valuation was fair and that it had been valued in line with other funeral homes in County Carlow.

## 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 County Carlow.

9.2 The Tribunal considers that the location of the subject property puts it at a disadvantage to the comparators used by the Respondent because it is in a particularly rural area. It is also noted that the parking around the funeral home is not part of the property but is dependent on a licence to use same granted by the adjacent pub and shop. It is also noted by the Tribunal that the comparators used by the Respondent differed significantly in size to the subject. The unfinished storage area to the rear of the subject premises is used as storage and for the lining and mounting of coffins. For these reasons, the Tribunal believes it appropriate to reduce the rate used for the main parts of the premises to €60 per sq m. and to €20 per sq. m. for the unfinished storage area.

### 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 €10,800

Use	Area (sq. m.)	€/per sq. m.	NAV
Funeral Parlour/ Viewing room/office/ Kitchen/toilets/ finished storage	163.85	€60	€9,831

Unfinished Storage	48.47	€20	€969.4
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Total			€10,800.4
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Say €10,800

And the Tribunal so determines.