

Appeal No: VA17/5/730

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

JOHN JOE BYRNE

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2188525, Industrial Uses, Store/ Workshop at Clonyhurke, Hammerlane
Tullamore, County Offaly.

B E F O R E

John Stewart – FSCSI, FRICS, MCI Arb

Deputy Chairperson

Frank Walsh – QFA, APA

Member

Claire Hogan – BL

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF AUGUST, 2018**

1. THE APPEAL

1.1 By Notice of Appeal received on the 13th 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 €16,720.

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 is unfair and inequitable”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €6,000.

2. REVALUATION HISTORY

2.1 On the 3rd day of March, 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 €16,720.

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 7th day of September, 2017 stating a valuation of €16,720.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th 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 27th day of April, 2018. At the hearing the Appellant appeared in person and the Respondent was represented by Orla Lambe BSc (Surveying) 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 agreed floor areas are:

Workshop	648m ²
First floor showroom	108m ²
Mezzanine	87.7m ²
External Stores	63.92
Total	907.62m ²

4.3 The subject property is in the rural town land of Clonyhurke approximately 10 KM west of Portarlinton and 23 KM south-east of Tullamore. The property is set back from the public road.

4.4 The subject property comprises a modern self-contained industrial building containing a workshop, first-floor showroom, a mezzanine area and external stores. The building has concrete floors rendered block and metal deck walls and the showroom and offices are finished with tiled floors, suspended ceilings and integrated lighting. It has a concrete portal frame and a pitched and ridged metal deck roof.

4.5 The property is freehold.

5. ISSUES

5.1 No legal issues arose.

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 The appellant was represented by the occupier Mr JJ Byrne. The appellant adopted his précis of evidence.

7.2 The appellant stated in his opinion as the property is located on a narrow local road between Clonygowan and Garryhinch that it had no profile or passing trade. He described surrounding area as rural agricultural lands with housing and no commercial centre.

7.3 He confirmed the description of the property but stated that since January 2018 it was available to rent on Daft.ie as the business would have to cease trading. He confirmed that the property was functional but that due to the secluded rural location there was little or no demand for the property. He confirmed that the property was not insured. He also confirmed that the property was incomplete particularly the showroom area at ground floor level and the site area which had a gravel/hard-core finish. He confirmed that he has received no enquiries or inspections since January 2018.

7.4 He referred to property number 1514498 which he described as a higher quality modern car sales outlet occupied by Michael Moore which had values for the showroom of €21.60/m² and €18/m² for the workshop and stores and offices. He stated that this property was located on the main road the R423 comprising much better property in a stronger location.

7.5 He also referred to property reference number 2202022 which comprised stores at Clonyquin which had a valuation of €9,900 based on €15/m² as well as property reference 2108714 a workshop at Garryhinch which had a total valuation of €7,040 based on €15/m². Mr Byrne also referred to reference 2208937 a workshop at Garryhinch which was significantly smaller at 173 m² and had a rate of €18/m². His final record comparison referred to reference 1514502 also a workshop at Garryhinch which was based on €15/m².

7.6 In conclusion Mr Byrne sought to have the valuation reduced to €12,737 based on 836.5 m² at €15.00/m² and 64 m² at €3/m². This concluded the appellant's evidence.

7.7 On cross-examination Mr Byrne confirmed that the land comprising the subject property was located to the rear of family land but had a restricted access. He agreed that it effectively was a free site but that it was in a rural location. He also confirmed that the subject property was a modern purpose-built unit but stated that the Michael Moore comparison was better located and was instructed to a higher standard and consequently should have a higher value. He agreed that his comparison reference number 2202022 was an older style industrial unit for which no picture had been provided, and that the unit was used to sell industrial machinery. In relation to his other comparisons, he confirmed that no pictures had been provided and specification was generally poorer however he maintained that the Alan Moore car sales unit was better than the subject property.

8. RESPONDENT'S CASE

8.1 The respondents represented by Ms Orla Lambe and she adopted her précis of evidence.

8.2 Ms Lambe confirmed the subject property is in the rural town land of Clonyhurke 10 KM Portarlington and 23 KM south-east of Tullamore.

8.3 Ms Lambe provided a block plan of the subject property and confirmed the agreed floor areas totalling 907.62 m². The respondent provided a detailed description of the subject property as comprising a modern industrial workshop and showroom unit built to a high standard. It comprised a modern steel portal framed unit with Kingspan roofing, and eaves of 6 m and 2 loading doors. The showrooms and offices had tiled floors suspended ceilings and integrated lighting and the showroom had a glazed exterior frontage. The exterior of the site was finished with hard-core/gravel.

8.4 Ms Lambe confirmed that the Commissioner had relied on 3 items of market information to inform the estimate of NAV. She confirmed that each transaction was investigated and analysed in accordance with the valuation office policy which resulted in a net effective rent – NER in each case. Key rental transaction 1 referred to premises in Portarlington Industrial Estate which comprised a modern industrial unit on the outskirts of

Portarlington. The transaction referred to a unit of 247.23 m² let for 2 years and 11 months from the 1st January 2016 at €7,200 PA=NER €6,984/pa= €28.00/m². The NAV was confirmed at €25/m².

8.5 Key rental transaction 2 referred to a modern industrial unit in Carraig Mor Industrial Estate which was let for 2 years 1 January 2016 at €24,000 per annum. Flory was 931 m² and the NER was €25.77/m². The NAV was confirmed at €20 per square metre.

8.6 Key rental transaction 3 related to modern industrial unit in Edenderry Business Campus which extended to 402.85 m² and had been let from 1 August 2014 for 3 years at €10,749 – NER €10,800 which provided and any or per square metre of €26.80. The NAV was confirmed at €20/m² for the main areas and €8/m² for the mezzanine.

8.7 Ms Lambe confirmed that none of the comparisons were subject to appeal to the Valuation Tribunal and as the comparisons are located in industrial estates while the subject property is not, the level has been reduced from €20-€18.

8.8 The Respondents provided 3 NAV comparisons. The 1st referred to Brian Walsh Car Sales in a rural location at Tullamore which has a floor area 560.48 m² and NAV with a workshop of €18/m², €21.60/m² in the showroom €1.80/m² for the car sales yard. The 2nd NAV comparison referred to Thomas Shaw Farm Machinery at Birr Tullamore County Offaly which is located approximately 6.5 KM from Birr. This premises which was described as comprising a good standard extended to 983.92 m² workshop was analysed at NAV €18/m² the showroom at NAV €21.60/ m² and a machinery sales yard at €1.80/ m². The 3rd and final NAV comparison referred to Molly Moulding Silverbrook, a rural location outside Tullamore and had similar rates to the above premises.

8.9 Based on the key rental transactions and NAV comparisons Ms Lambe confirmed that in her opinion the valuation should be confirmed at €15,460-calculated on the agreed floor areas. She confirmed that the time of inspection the entire property was occupied by JJ Byrne Cabinet Makers Ltd and that the property had been valued in a rape square metre. She also stated that the property has been valued by reference to other similar properties appearing in the valuation list for County Offaly and that the accounts information provided by the appellant were not relevant when determining valuation. Ms Lambe also disregarded rental information

provided in relation to the subject property as it was not regarded as an arm's-length transaction.

8.10 When queried in relation to how €21.60 and €18 were extracted from the rental evidence, Ms Lambe confirmed that valuation was not an exact science however in her professional opinion the valuation determined for the subject property was correct.

8.11 Both parties provided short summaries and requested that the Valuation Tribunal would find in their favour.

9. LEGAL SUBMISSIONS

9.1 No legal submissions were provided.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the Property 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 Offaly County Council.

10.2 The Tribunal having considered all the evidence, both written and oral presented before it is arrived at the following conclusions;

10.3 That the floor areas of the subject property were agreed at

Workshop	648m ²
First floor showroom	108m ²
Mezzanine	87.7m ²
External Stores	63.92
Total	907.62m ²

and consequently, the valuation of €16,720 was adjusted by agreement to €15,460 by reference to the agreed floor areas.

10.4 The subject property was situated in a very rural location and setback from a minor unnamed road. That is has less prominence to the other comparisons adduced.

10.5 The Tribunal did not accept that the key rental transactions were directly comparable to the subject property as they were in established industrial estates whereas the subject property was in an isolated rural location. While the respondent has made some allowance for this difference the Tribunal has determined that a sufficient discount has not been applied.

10.6 The Tribunal noted that the property 151 4498 Michael Moore Car Sales comprised a property that is better located on the R 423 and was finished to a higher specification.

10.7 The Tribunal has made an allowance for the incomplete nature of the subject property including the unfinished yard and the area below the 1st floor showroom.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate at €16,720 (but amended following agreement of the floor areas to €15,460) to €13,850.

Workshop	648m ²	@	€16.00	€10,360
First floor showroom	108m ²	@	€20.00	€2,160
Mezzanine	87.7m ²	@	€3.60	€315.72
External Stores	63.92	@	€16.00	€1,022.72
Total				€13,858.44

Say € 13,850

And the Tribunal so determines.