

Appeal Number: VA17/5/041

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

John Spollen (Glasson) Ltd. t/a Spollen Concrete

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1444703, Industrial Uses, Concrete works, yard, at 20bc, Glasson, Athlone, County Westmeath.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Liam Daly - MSCSI, MRICS

Member

Hugh Markey - FRICS, FSCSI

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF JUNE, 2018.**

1. THE APPEAL

1.1 By Notice of Appeal dated the 28th day of September, 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 €41,900.

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 :

1. *“The Valuation of the subject property is excessive and inequitable. The property’s value as applied by the Commissioner is not in line with its rental value.*
2. *The subject property is a concrete works with related plant. The level applied to the plant is excessive and does not take proper account of its age and depreciated value.*
3. *The buildings on site are extremely basic and only designed to keep the weather off. Greater allowance needs to be made to reflect this”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €27,600.00.

2. REVALUATION HISTORY

2.1 On the 12th day of January, 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 €41,900.

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 €41,900.

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.

4. 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 25th day of January, 2018. At the hearing the Appellant was represented by Mr Eamonn Halpin B.Sc. (Surveying) MRICS MSCSI and the Respondent was represented by Ms Susan Dunlea 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 subject property is located in Glasson Village, to the rear of the local grocery shop (trading as Centra) and Service Station. Glasson is on the N55 which runs from Athlone to Longford. Glasson is approximately 8km north of Athlone Town. Athlone, Co. Westmeath.

4.3 The subject property is a concrete works and batching plant. The floor areas have been agreed.

5. ISSUES

5.1 The floor areas are agreed. The rate per square metre to be applied to the buildings and yard are also agreed between the parties. The matter in dispute is the calculation of the lifespan of the batching plant. This is to be determined by the Valuation Tribunal.

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 Mr Eamonn Halpin. Mr. Halpin put forward that technically there were twelve independent parts to the valuation of this property. The parties had reached agreement on eleven. Therefore, there was only one issue before the Tribunal. This issue concerned the lifespan of the batching plant.

7.2 Mr. Halpin contented that although the issue had an effect on value; it was a technical question rather than one of quantum that was before the Tribunal. To this end, Mr. Halpin was presenting evidence which he believed offered an authority on the matter. Mr. Halpin relied on the Tribunal’s decision in appeal reference VA08/05/188. Mr. Halpin outlined his view that this decision is regarded as the leading authority on batching plant valuation. He made specific reference to the evidence recorded in that hearing of Mr. Tadgh Donnelly (for the appellants) and Mr. Christopher Field (for the respondent).

7.3 Mr. Halpin also outlined correspondence from Mr. Gerard Fogarty which was included in the appendices of the precis of evidence. Mr. Halpin submitted that Mr. Fogarty, a director of C&QEMS (Concrete & Quarry Engineering Manufacturing Services) was, in his opinion, an authority on batching plants. The correspondences stated C&QEMS had installed the concrete plant for the Appellant in 2005. It was their opinion that the expected lifespan of this plant would be 15 to 20 years, if well maintained.

7.4 Mr. Halpin contended that the lifespan of the batching plant should be 20 years. Mr. Halpin was of the opinion the respondents were contradicting their own expert evidence (VA08/05/188) in the sum that they were seeking.

8. RESPONDENT’S CASE

8.1 The Respondent was represented by Ms Susan Dunlea of the Valuation Office. Ms Dunlea gave a brief outline regarding the process undertaken in assessing the valuation of the subject property.

8.2 Ms Dunlea stated the valuation of the buildings and the yard had been agreed with the Appellant. In relation to the plant on the site, the Valuation Office were been guided by Tribunal decision VA08 /0/187 – Kilsaran Concrete whereby the moving parts deductions were set aside. At this time, Ms Dunlea also acknowledged a clerical error made by the Valuation Office in calculating the moving parts allowance applying 35% as opposed to 37% on moving parts as adopted in the Appellant’s valuation.

8.3 Ms. Dunlea outlined there were six properties with batching plants valued in Westmeath County Council Local Authority Area. Four of these properties were subject to representation to the Commissioner of Valuation. The subject property is one of four which is under appeal to the Valuation Tribunal.

8.4 Ms. Dunlea stated that research was conducted by the Valuation Office in relation to batching plants. From this research, the Valuation Office put the cost of a batching plant at €800,000.00. All batching plants were then depreciated over a 40 year lifespan. A 40 year lifespan was then applied to all batching plants in Westmeath and to all other counties valued under the 2017 Revaluation.

8.5 Ms. Dunlea contended that the Appellant was not disadvantaged in anyway by the application of the 40 year lifespan to the batching plant as the same basis of depreciation had been applied to the occupiers of similar plants in this rating area in accordance with S.19 5 Valuation (Amendment) Act 2015.

In response to questions from the Tribunal and from the Appellant's valuer, Ms Dunlea confirmed that the Valuation Office had not taken expert advice on the matter of the working lifespan of batching plants nor had they met with the Irish Mining and Quarry Society to discuss the matter. She suggested that all of the 50 plants valued across 9 counties had a working life of 40 years

9. SUBMISSIONS

9.1 There were no additional submissions made

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 Westmeath County Council

10.2 Both the Appellant and the Respondent presented evidence which they deemed to be guided by the Tribunal's judgement VA08/05/188 – Kilsaran Concrete. The interpretation of same however varied somewhat between parties.

10.3 This Tribunal is not bound to follow the decision of another Division of the Tribunal. However, in the interest of comity and to avoid inconsistencies in decision making, the Tribunal will normally follow prior decisions where the properties are similarly comparable and the relevant circumstances are substantially the same. In this circumstance, the Tribunal is acknowledging the finding of the Tribunal's judgement VA08/05/188

10.4 The dispute centred on the lifespan of the batching plant. The Tribunal found the evidence presented to justify the Appellant's methodology in ascertaining lifespan of a batching plant was insufficient.

10.5 The Tribunal found that although the Respondent put forward that they were guided by the Tribunal's judgement VA08/05/188, there was no mention of a 40 year lifespan in this decision

10.6 The Tribunal found the research conducted by the Respondent in establishing the lifespan of a batching plant was inadequate. Although the Respondent has sought Expert Opinion when compiling evidence in the case of VA 08/05/188, it was not sought in this instance. The approach taken by the Valuation Office was outlined during the course of Ms. Dunlea's evidence. It was explained that a number of Valuation Surveyors from the Valuation Offices visited approximately 50 sites with batching plants. On return from these site visits, the data gathered was compared and a figure of a 40 year lifespan was established. There was no Expert Opinion or Industry Knowledge sought on the appropriateness of this figure. From the evidence presented, the Tribunal is of the opinion that, this was a flawed research approach to such a significant component. The Respondent should have acknowledged their shortcomings in estimating a matter of such a technical nature. The Tribunal therefore finds there was insufficient evidence presented to justify a 40 year lifespan.

10.7 Based on the evidence presented, the Tribunal finds the lifespan of this batching plant to be 20 years.

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 €27,600.00.

Buildings Valuation (Agreed by the parties) *€11,037.00*

Plant Valuation

Generator (Agreed by the parties) *€825.00*

Weighbridge (Agreed by the parties) *€1,900.00*

Batching Plant

Replacement Cost	<i>€800,000.00 (Agreed between parties)</i>
Less Moving Parts (37%)	<i>€504,000.00</i>
Plus Fees 10%	<i>€554,400.00</i>
Less Depreciation – 50% (reflecting 10 years elapsed of 20 year lifespan)	<i>€277,200.00</i>
Plus Site	<i>€278,4080.00</i>
NAV @ 5%	<i>€13920</i>

Total €27,686, say €27,600.

And the Tribunal so determines.