

**Appeal No: VA17/5/134**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**MCGRATH KITCHENS & BEDROOMS LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2168177, Workshop at Local No/Map Ref: 1/A1, Dalkinstown, Usk, Naas, County Kildare.

**B E F O R E**

**Majella Twomey - BL**

**Deputy Chairperson**

**Rory Hanniffy - BL**

**Member**

**Donal Madigan – MRICS, MSCSI**

**Member**

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

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 4<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 €7,930.

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 is not in line with actual rental values.”*

*“2. The Commissioner’s approach to the subject property is flawed. The subject property is a basic workshop adjoining the occupier’s domestic property. The valuation is €30/m<sup>2</sup> is excessive in view of this”*

*“3. This is further borne out by the valuations applied to comparable property in the vicinity by the Commissioner (€18-25/m<sup>2</sup>).”*

*“4. The workshop is in a rural area and located on a farm. Insufficient allowances have been made for this type of building in its actual location.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €4,760.

## **2. REVALUATION HISTORY**

2.1 On the 10<sup>th</sup> 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 €7930.

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> of September 2017, stating a valuation of €7930.

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 21<sup>st</sup> day of March, 2018. At the hearing the Appellant was represented by the Mr David Halpin M.Sc. (Real Estate) BA (Mod) of Eamonn Halpin & Co. Ltd and the Respondent was represented by Ms Ciara Marron, MIAVI, BSc (Property Valuation & Management) 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 a workshop in an agricultural location on the occupier's own farm in the townland of Dalkinstown, Co. Kildare.

4.3 The access to the subject property is shared with the farm of the occupier's father, which is an adjoining property.

4.4 The subject property is located off a local road, in or around 7 kilometres from Kilcullen and in or around 20 kilometres from Athy.

4.5 The property is a workshop constructed of concrete block, to two metres, single skin side cladding and a single skin roof. It has 4 metre eaves. There is no office in the property and it does not have the benefit of a self-contained yard.

4.6 The agreed floor area is 264.55 Sq.M.

#### **5. ISSUES**

5.1 The main issue between the parties is the valuation level of the valuation per Sq.M.

5.2 The Appellant claims that the subject property is in a rural location which would not be attractive for a hypothetical tenant. The Appellant claims that the type and nature of the building would make it difficult to lease, due to the fact that the subject is situate on a private farm with a shared entrance. The Tribunal must decide upon whether this is a relevant issue to be considered.

5.3 A number of nearby properties with NAVs as low of €18 per Sq.M were put before the Tribunal. These properties, while close, are in within a different electoral boundary and are

valued differently. The Tribunal must assess whether these properties can be used as comparable properties.

5.3 The Appellant contends for a valuation at €18 per Sq.M given the location of the property coupled with actual rental evidence of comparable properties.

## **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 appeared for the Appellant and he contended for a rate of €18 per Sq.M to be applied to the property. He stated, in his evidence, that there were similar properties within 3 kilometres of the subject, which were rated at €18 per Sq.M. He stated that the Valuation Office applied a higher rate to the subject property due to its location and the fact that it fell outside of an arbitrary line drawn by the Valuation Office.

7.2 Mr. Halpin said that the property is situate on the occupier’s own farm and it has a shared access with another farm. He said there were no other properties in the immediate vicinity. He explained that the property was used for making kitchens.

7.3 It was stated that it was unlikely that it would be let out to a tenant due to the fact that it is situate on the occupier's own farm.

7.4 Mr. Halpin put forward a number of market comparisons and tone of the list comparisons.

7.5 Mr. Halpin put forward a rental comparison at number 2 of his comparators. This situate on the Old Dublin Road, Athy, Co. Kildare. He stated that there are nine properties on this site and that the Commissioner of Valuations values the workshops on site at between €18-€20 per Sq.M and he states that this is reinforced by an open market rent at €25.70 per Sq.M. Mr. Halpin said that these properties were purpose built industrial buildings on the Dublin road. He said they are of a similar size to the subject property and that the subject property could not be more valuable than these units.

7.6 A further tone of the list comparison was put forward, called Kilrush Engineering Works, situate at Kilrush, Co. Kildare. This is a complex of older style workshops, similar in type and age to the subject property and they are located around 7 kilometres from the subject. These are also valued at €18 per Sq.M.

7.7 Mr. Appellant put forward another comparison called Switchgear & Control Systems, located at Kilmead, Co. Kildare. He said that this was a small factory operation with a large proportion of office content in the village of Kilmead, located around 12 kilometres from the subject. He contended that it was superior in every respect to the subject but that the Commissioner had valued the factory, offices and stores at €18 per Sq.M.

7.8 A further comparison called Michael Manor Motors at Burtown Big, Co. Kildare was submitted. This is a workshop which is valued by the Commissioner of Valuations at €18 per Sq.M. It has 8 metre eaves and is double the height of the subject. It is 3 kilometres from the Athy exit.

7.9 A comparison called Pallet Box Hire, on the Old Dublin Road, Athy, Kildare, was also submitted. This is a purpose built building around 1 kilometre from Athy. It has a large proportion of office content and a substantial yard. The entire building is valued by the

Commissioner at €18 per Sq.M. Mr. Halpin submitted that the subject property has no concrete yard and no office content.

7.10 Mr. Halpin stated that the Appellant is prejudiced as it has the unfortunate location of being half a kilometre from electoral division number 1 and is rated at €30 per Sq.M as opposed to €18 Sq.M, as a result. He submitted that the subject property is rated differently simply because the Valuation Office stated that the map stops at a certain point and anything outside of that point is valued differently.

7.11 Mr. Halpin contended for a valuation of €18 per Sq.M, based on the comparisons, which would lead to an NAV of €4760.

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

8.1 Ms. Marron appeared for The Valuation Office. She described the subject property as an industrial unit on the edge of a family farm. She said there were two entrances. She stated that a hypothetical tenant could use the other entrance. Ms. Marron stated that while there was no yard going with the subject property that there was a large circulation area, which was not sectioned off at present.

8.2 Ms. Marron said that the subject property happened to be in Naas, whereas Mr. Halpin's comparators are in different areas, mostly Athy.

8.3 Ms. Marron, upon being asked by the Tribunal, how there was such disparity between Naas and Athy and whether there were two tones, accepted this. Ms. Marron stated that the properties at €18 per Sq.M, are close but are in a different electoral area. Ms. Marron stated that she believed that the NAVs for the properties, which were valued at €18 per Sq.M, should be higher. She said that the figure of €18 appeared to have been arrived at by reference to rental transactions.

8.4 Ms. Marron put forward a number of rental comparators and tone of the list comparators. In terms of NAV comparators, she submitted a property called Casey Crane Services, Old Kilcullen Road, Co. Kildare. This has an NAV of €30 per Sq.M. It is 3.6 kilometres from the property. It was described as a hay barn type structure with a yard. No

further detail was given about this property apart from the fact that the yard was also valued in the property.

8.5 A further NAV comparator called Tony McGlynn, Brownstown Village, Co. Kildare, was put forward. This is 9.5 KM from the subject. It is a steel frame construction and is also rated at €30 per Sq.M. The yard is also valued in this property and it is single skin. No further information was submitted in respect of this property.

8.6 A NAV comparator called Kevin O' Rourke, Broadleas Commons, Ballymore Eustace, Co. Kildare was also submitted. This is a basic barn type structure with an NAV of €30 per Sq.M. It is located 28 kilometres from the subject.

8.7 A number of key rental transactions were also put forward by Ms. Marron. Key rental transaction 1 is an industrial unit in an industrial estate in Kilcullen. It has a 9 month lease with a rent per annum at €10,836.36 and an NER @ €48.55.

8.8 There is a further key rental transaction which is 22 km from the subject property and is listed at number 2 of Ms. Marron's key rental transactions. It is an old farm building and has an NER of €32.per Sq.M. There is a further key rental transaction (no.3), which is 27.3 km from the subject. It is a large industrial type unit with a three year lease from July 1<sup>st</sup> 2016, and it has an NER of €35 per Sq.M. The last two key rental transactions (no.4 &5) are 30 km from the subject and are large industrial units in industrial estates. They both have an NER of € 28 per Sq.M.

8.9 Ms. Marron states that there are 62 other properties valued at the higher level near Kilcullen and that the valuation should be affirmed.

## **9. SUBMISSIONS**

9.1 No legal submissions were made in this case.

## **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 Kildare.

10.2 Having heard the evidence of both parties, it is clear to the Tribunal that the Appellant is in an unfortunate position as it is located just outside of a basket of properties which have been valued at a lower level, due to an electoral boundary. In the circumstances, the Tribunal had to assess whether the Appellant had proved his case by producing comparable properties, which would lead it to reduce the valuation.

10.3 In relation to the location of the property and the fact that it has an NAV of €30 per Sq.M as opposed to €18 per Sq.M, the subject property appears to have been up-valued by being in a different electoral division to other neighbouring properties and when that exact point was explored at the hearing the Valuation Office representative did not disagree, in fairness to her honesty and candour.

10.4 Notwithstanding this, the Tribunal must assess the Appellant's claim in the context of comparable properties. When making this assessment geographical location along with the structure and type of the subject property is taken into account in the context of the comparisons.

10.5 The Tribunal finds that the key rental transactions put forward by the Respondent are not relevant as they are either geographically too far from the subject property or are industrial units within industrial estates. All but one, are more than 22 km from the subject property and the one which is not (key rental transaction 1), is an industrial unit in an industrial estate. The Tribunal finds that these properties cannot be compared to an old farm building on a family farm.

10.6 In terms of tone of the list properties, the Tribunal finds that the Appellant's comparator number 4 to be of the most assistance. Comparator 4 is a complex of older style workshops broadly similar to the subject in type, structure and age and is located 7 km from the subject property. It is rated at €18 per Sq.M.

10.7 The Tribunal finds the Respondents NAV comparator number 2, to be helpful in the sense that it can be distinguished from the subject. This is also barn type property of steel frame

construction. However, there is a large adjoining yard and it is 9.5 km from the subject. The Tribunal finds that this property is superior to the subject in that it has an adjoining yard. The Tribunal finds that the same can be said for the Respondent's NAV comparison 1, situate at Old Kilcullen, Co. Kildare. The Respondent submitted another comparison at number 4 of her NAV comparisons which, from the photograph, appears to be similar to the subject property and has an NAV of €30 per Sq.M. However, this property is 28 km from the subject property and the Respondent was unable to give the Tribunal any further information in relation to this property. In the circumstances, the Tribunal discounts it as being a relevant comparable.

10.8 The Tribunal notes that the subject property is an old property located on a family farm and not on an industrial estate, as is the case with a number of the Respondent's comparisons. It is a basic structure with 4 metre eaves and single cladding. It does not have the benefit of offices or a yard. It has a single skin roof.

10.9 Having weighed and evaluated the evidence put forward by the Appellant and the Respondent and taking into account the age, location and type of structure involved, coupled with the evidence that there were a number of other comparable properties within a shorter distance to the Appellant's property than many of the Respondent's comparators with a lower NAV per Sq.M, the Tribunal finds that the NAV of the subject property should be reduced accordingly.

**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 €20 per Sq.M.

Area

264.55 m<sup>2</sup> @ €20 = €5291 say, € 5,290.

And so the Tribunal determines.