

**Appeal No. VA17/3/004**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**JOHN HOEY**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In Relation to the Issue of Quantum of Valuation in Respect of:**  
Property No. 5010924, Workshop/Yard, 8b, Newtown, Killinthomas, Edenderry 2, County  
Kildare.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 7<sup>th</sup> DAY OF NOVEMBER, 2018**

BEFORE:

**Barry Smyth - FRICS, FSCSI, MCI Arb**

**Deputy Chairperson**

**Mairead Hughes - Hotelier**

**Member**

**Michael Connellan Jr – Solicitor**

**Member**

By Notice of Appeal received on the 5<sup>th</sup> day of July, 2017 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €26 on the above described relevant property.

The appeal proceeded by way of an oral hearing at the office of the Valuation Tribunal, 3<sup>rd</sup> Floor, Holbrook House, Holles Street, Dublin 22 on the 19th December 2017.

At the hearing the Appellant represented himself and the Respondent was represented by Ms Ciara Mallon, a Valuer in the Valuation Office.

At the hearing, both parties having taken the oath adopted their respective précis as their evidence in chief.

## **THE ISSUE**

Quantum only.

Upon inspection on the 15/6/17, a “material change of circumstances” had occurred ie “the coming into being of a newly erected or newly constructed relevant property or of a relevant property”.

The property was inspected again on the 4/10/17 and the building was deemed rateable under schedule 3 of the Valuation Act 2001.

## **SITUATION/LOCATION**

The property is located in a rural location in Newtown, Rathangan approximately 2km from Rathangan and 24km from Naas, County Kildare. The subject property is located at the rear of a property behind a stable block and is accessed through the display yard at the front and comprises a single steel framed building with concrete and cladding to the roof. The property is not visible from the road and is accessed via a display yard. The building is measured on a Gross External basis and the floor areas were agreed.

## **ACCOMMODATION**

Block Plan furnished to the Tribunal.

Workshop: 274.30 sq.m

Office: 36.49 sq.m

Yard: 400 sq.m

## **TENURE**

The subject property is held on a freehold basis.

## **PLANNING PERMISSION**

Planning permission was granted by An Bord Pleanála in November 1995. The occupier stated that he also had no planning permission for the display yard and entrance, yet all elements were in commercial use and deemed rateable under Schedule 3 of the Valuation Act 2001/Valuation (Amendment) Act 2015

## **APPELLANT’S EVIDENCE**

The Chairperson noted that the Appellant had not collected the precis of evidence from the Valuation Office when the evidence was to be exchanged prior to the hearing.

The occupier stated that he had no planning permission for the planning permission for the entrance, display yard and use of the entire workshop.

The Appellant was furnished with the precis of evidence by Ms Ciara Marron at the commencement of the hearing.

The Appellant argued:

1. The planning permission issue remains relevant.
2. Has made his three staff redundant since the last inspection of the property by the Valuation Office.
3. Does not have a viable business.
4. Does not have access to the main road anymore and cannot sell cars there anymore.
5. There are 22 other similar commercial activities in Rathangan carrying out a similar business to the Appellant but only three are paying commercial rates.
6. Paid commercial rates on a property which he has not operated in since 1999.
7. Does not sell cars/vehicles anymore and requested the case to be “struck off”.
8. Claims not to have an “official” entrance as does not have planning permission for the entrance yet no action has been taken by the County Council to date.

Mr Hoey in his evidence gave **no** comparisons.

Mr Hoey accepted in cross examination by Ms Ciara Marron that there were cars on the forecourt on the day of inspection. Mr Hoey contended there was planning permission for a third of a commercial building but not for the entrance from the main road.

## **RESPONDENTS EVIDENCE**

Ms Marron stated that the properties comprised a workshop to the rear of the property, a stable to the front of the property and a residence to the side.

Ms Marron in her evidence gave **3** comparisons in support of her submission.

This case is a revision not a revaluation and is based on the tone of the list.

### **Comparison 1.**

#### **John Slattery, Allenwood Middle, County Kildare.**

Property No 2175548.

The repair shop is located behind a domestic dwelling, an inferior building to the subject, a former agricultural building of galvanised construction and valued at a lower level per sq.m than subject.

RV: €13

## **Comparison 2.**

### **Cully Motors, Castlesize, Bodenstown, County Kildare.**

Property No 1738577.

The property is located in a rural village of Sallin at the back of a domestic residence. The property comprises a basic concrete shed with 3.3m eaves. Is similar construction type to the subject and valued at a higher level than the subject.

RV: €10.16

## **Comparison 3.**

### **Frank Grimes, Oldmill, Kilteel, County Kildare.**

Property No 2178972.

The property is located outside the rural village of Kill, is inferior construction type to the subject, in poor condition and comprises corrugated iron construction and valued at the same level as the subject.

RV: €20

In summing up, the Appellant argued that he can only use one third of the subject property and that the County Council can stop him operating his business at any stage nor could he rent the property. He contended he attended a public meeting and was assured that he would pay less rates as the rateable values were to decrease.

Ms Marron stated that the property was been used, at the time of inspection as a car repair business with display to the front of the road. The location does not hinder the business and it is been used commercially at present. The Appellant can list the property again, if he so wishes, for revision if a material change of circumstances. It is not unusual to value a property where there may not be planning permission granted for the type of commercial activity and that the Rating legislation (1852) predates the planning permission legislation.

## **FINDINGS**

The Tribunal has carefully considered all the evidence and arguments adduced by the Parties and makes the following findings.

1. The Appellant accepted the entire of the subject property, on inspection and valuation date was being used as a commercial property.
2. The Tribunal must adhere to section 48 of the Valuation Act 2001 and to the tone of the list in the County of Kildare.
3. The Tribunal notes that the Appellant did not give any comparisons in giving his office.
4. The Valuation Tribunal affirm the valuation of the Valuation Office due to the comparisons given by the Valuation Office.

Determines the RV at €26.

And the Tribunal so determines.