

Appeal No: VA17/5/302

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

CARRICK ON SHANNON TOOL HIRE

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 2197013, Retail (Warehouse) at 1ABC, 2Aa, 9a/Unit 6A Westgate Business Park,
Carrick on Shannon, County Roscommon.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF FEBRUARY, 2019

BEFORE

Donal Madigan – MRICS, MSCSI

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 €23,200.

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 *See attached

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €2,700.

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 €34,800.

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 of the Property was reduced to €23,200

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017, stating a valuation of €23,200.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30th day of October, 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 The parties are agreed as to the following facts:

(a) The property is a retail warehouse, being a single storey building located in Westgate Retail Park, Boyle Road, Carrick-on-Shannon.

(b) The property comprises a retail warehouse of 518.78m² and a yard of 420.00m²

(c) The property is understood to be owner occupied.

5. ISSUES

5.1 This appeal is concerned, principally, with the quantum of the valuation, the question of floor areas now having been addressed by the Respondent in their submission to the Tribunal, but see below in Section 7 for the details of issues raised by the Appellant in general.

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 contends for a valuation of € 2,700 as set out on the Appeal form lodged with the Tribunal.

7.2 In an accompanying letter with his appeal, the Appellant submits that the proposed valuation figure of € 23,200 is rejected and that the business is unable to pay rates based on this figure.

7.3 The Appellant submits in his appeal, inter alia, that:

(a) the business only uses a portion of the space;

- (b) the business is only turning over € 180,000 and breaking even;
- (c) the business can only afford to pay what they were paying previously, and
- (d) it is a very small business and unable to pay due to small turnover.

7.4 In a subsequent letter to the Tribunal dated 16th April, 2018 the Appellant clarifies the floor areas as 5,865 sq.ft. [metric equivalent 544.88m²] and yard as 4,800 sq.ft. [metric equivalent 445.94m²] and confirms that the premises are working at half capacity with approximately 3,000 sq.ft. [metric equivalent 278.70m²] not used at all.

8. RESPONDENT'S CASE

8.1 For the Respondent, M/s Ciara Hayes of the Valuation Office, contended for a valuation of € 22,400 in her precis of written evidence submitted to the Tribunal.

This is calculated as follows:

Retail Warehouse	518.78m ² @ € 40.00 per m ²	= € 20,751.20
Yard	420.00m ² @ € 4.00 per m ²	= € 1,680.00
	Total:	22,431.20 say, € 22,400.

8.2 This figure is less than that previously put forward in the Valuation Certificate (€ 23,200) and the reason for this is that the area of the yard has been reduced from 613m² to 420m². The consequent reduction in value (Net Annual Value) for this portion of the property is reduced from € 2,452 to € 1,680, a reduction of € 772 before the effect of rounding this down further on the overall figure to € 22,400.

8.3 As the figures adopted by the Respondent Valuer for the building and yard are less than those submitted by the Appellant, this point appears to have been fully addressed by M/s Hayes for the Valuation Office.

8.4 The Respondent put forward the comparable properties listed in Section B of the Appendix in support of her valuation. All of these are located on Westgate Retail Park.

8.5 The Respondent submitted a text narrative on the property and the comparables plus location plan, photographs and a block plan of the property.

9. SUBMISSIONS

9.1 There were no legal submissions 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 Roscommon County Council.

10.2 As stated at 8.3 above, the Appellant's concern over the measured floor areas has now been addressed by the Valuation Office.

10.3 The Appellant raises questions of affordability which are more concerned with the overall rates bill rather than the valuation and, in this regard, the Tribunal can only deal with the quantum of the valuation. The Tribunal must confine itself to a determination of the Net Annual Value as defined in section 6 above and the fairness of this valuation relative to comparable properties in the Valuation List.

10.4 The Appellant also contends that some 3,000 sq.ft. (278.70m²) is not in use by the business. No evidence has been put forward to show why this area should not be valued in the normal way and the photographs submitted by the Respondent Valuer do not indicate any reason for leaving this area out of account in the calculation of the valuation. The fact that an area may not be in active use, is, of itself, no reason to ignore it.

10.5 The Respondent has cited seven comparable properties in support of the valuation level adopted of € 40.00 per m² for the building and all these are in the vicinity of the subject property.

10.6 Therefore, in the absence of rental evidence or NAV comparable properties indicating a differing level to that proposed by the Respondent, the Tribunal finds that the subject property has been fairly assessed on this occasion.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the revised figure put forward by the Respondent of €22,400.

And the Tribunal so determines.