

Appeal No: VA17/5/648

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

SHAMROCK FOOD

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. 401818, Industrial Uses at Robinhood Road, Clondalkin, County Dublin.**

B E F O R E

Dearbhla Cunningham - BL

Deputy Chairperson

Mairead Hughes - Hotelier

Member

Eoin McDermott – FSCSI, FRICS, ACI Arb

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF MARCH, 2019**

1. THE APPEAL

1.1. By Notice of Appeal received on the 12th 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 €19,360.

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 excessive having regard to the valuation of comparable properties on the list.”

“The gross site area is incorrect and no allowance has been made for circulation.”

1.3. The Appellant considers that the valuation of the Property ought to have been determined in the sum of €1,856.

2. REVALUATION HISTORY

- 2.1. On the 13th day of April, 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 €19,360.
- 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 it 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 €19,360.
- 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 the 7th day of June and the 24th day of July, 2018. At the hearing the Appellant was represented by the Mr Michael Doyle MRICS, MSCSI of Bagnall Doyle MacMahon and the Respondent was represented by Ms Orla Lambe 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 on the south side of Robinhood Road, a predominantly industrial location east of the Red Cow interchange of the M50. The property comprises an irregularly U shaped yard which is fitted around a derelict house. The derelict house does not

form part of this appeal. The yard has a hardcore surface and is bounded to the front by a concrete wall with a single metal access gate and to the sides and rear by knife edge fencing.

4.3 The areas are agreed as follows: -

Use	M2
Yard	580

5. ISSUES

The issue that arises in this appeal is the quantum of value of the subject property.

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 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. INITIAL HEARING - APPELLANT’S CASE

7.1 Mr. Doyle, on behalf of the Appellant, opened his evidence by describing the location and layout of the property, using photographs contained in his précis. He noted that the property had little profile and that its irregular shape resulted in a diminution of the usable area. He also stated that the property had been vacant for a number of years.

7.2 Mr. Doyle noted the lack of comparable lettings but put forward four properties available for rent at the valuation date as follows

No.	Property	Use	Area M2	Quoting rent	Quoting rent/M2	Comments
1	Brownsbarn, Naas Rd	Yard	5,009.00	€75,000	€14.97	Excellent profile
2	Commons Rd Lr.,Kingswood	Yard	1,538.00	€18,500	€12.03	Excellent profile
3	Red Cow Naas Rd.	Yard	5,261.00	€18,000	€3.42	Monthly rent advertised.
4	3 Clondalkin Business Centre	Yard	2,023.00	€12,000	€5.93	

7.3 Mr. Doyle put forward five Tone of the List comparisons as follows

No.	Property	Use	Area	NAV M2	NAV	Total
1	Unit 15, Clondalkin Business Centre	Yard (Concrete/Tarmac)	2,000	€10.00	€20,000	€20,000
2	Ballymount Rd Lr. Walkinstown	Office(s) Warehouse Portacabin Yard (Concrete/Tarmac)	92.65 381.55 63.80 3,311.50	€50.00 €50.00 €20.00 €5.00	€4,632.50 €19,077.50 €1,276.00 <u>€16,557.50</u>	€41,500
3	Greenhills Rd Walkinstown	Store Yard (Hardcore)	258.84 1,000.00	€30.00 €4.00	€7,765.20 €4,000.00	€11,760
4	3 Clondalkin IE Crag Avenue Clondalkin	Yard (Hardcore) Warehouse Portacabin Canopy	1,344.00 870.84 25.25 28.48	€1.50 €30.00 €12.00 €4.50	€2,016.00 €26,125.20 €303.00 <u>€128.16</u>	€28500
5	Oakfield IE Clondlakin	Yard (Hardcore) Store Warehouse Store	3,907.00 876.00 2,039.79 292.79	€1.50 €6.00 €30.00 €30.00	€5,860.50 €5,256.00 €61,193.70 €8,783.70	

Store	122.00	€30.00	€3,660.00	
Canopy	422.00	€4.50	€1,899.00	
Steel Container	30.00	€6.00	€180.00	
Offices	168.31	€30.00	<u>€5,049.30</u>	€91,800

He noted that that the Respondents valuation implied a rent per acre of €80,000 per annum as at the valuation date, which he argued was not the case. He further noted that the quoting rents he had provided suggested rents of between €3.42/M2 and €5.93/M2 and argued that as these were quoting rents a tenant would expect to do better in negotiation. He further noted the range of values applied to yards by the Respondents and the different NAVs between concrete/tarmac surfaced yards and hardcore surfaced yards. He suggested that an appropriate rate to apply was €4/M2 to a reduced site area of 464 Sq. M. to allow for circulation (i.e. a 20% reduction).

7.4 The Appellant sought an NAV of €1,856 made up as follows: -

Use	Area	NAV/M2	NAV
Yard Gross Area	560.00		
Deduct for circulation	20%		
Revised Area	464.00	€4.00	€1,856

7.5 In response to cross-examination by the Respondent, Mr. Doyle accepted that the subject was located close to the M50, that his Tone of the List comparisons 1, 4 and 5 were all in Clondalkin, and that his Tone of the List comparisons 2 and 3 were closer in Walkinstown. He disagreed with the Respondents assertion that the comparisons were not comparable due to the different locations and argued they were all close to the M50. He also agreed that that his quoting rents were not transactions but argued that they were reflective of the market at the valuation date. There was a brief discussion about the configuration with Mr. Doyle pointing out that he could not comment on the Respondents approach to valuing other properties without seeing the files.

7.6 In response to a query from the Tribunal, Mr. Doyle advised that he understood that his quoting comparison 4 had subsequently let on similar terms to those quoted but did not have any further details.

8. INITIAL HEARING - RESPONDENT'S CASE

8.1 Ms. Lambe, on behalf of the Respondent, gave evidence on the location and layout of the property, using photographs contained in her précis. She described the property as a self-contained industrial hardcore yard with profile to Robinhood Road.

8.2 Ms. Lambe put forward three Key Rental Transactions (**KRT**) as shown in Appendix 1.

8.3 Ms. Lambe put forward four Tone of the List comparisons as follows

No.	Property	Use	Area	NAV M2	NAV
1	6 St Bridgids Cottages, Clondalkin	Yard (hardcore)	320.00	€20.00	€6,400
2	10 Green Isle Business Park Clondalkin	Yard (hardcore)	278.64	€20.00	€5,572.80
		Steel containers	351.36	€12.00	€4,216.32
3	13 Ballymount Cottages, Clondalkin	Yard (hardcore)	515.80	€20.00	€10,316.00
		Steel containers	14.40	€11.00	€158.40
		Store	28.80	€55.00	€1,584.00
4	15 Ballymount Cottages, Clondalkin	Yard (hardcore)	517.60	€20.00	€10,352.00
		Steel containers	98.40	€11.00	€1,082.40

8.4 The Respondent requested the Tribunal to affirm the NAV of €11,600, made up as follows:

Use	Area	NAV/M2	NAV
Yard (Hardcore)	560.00	€20.00	€11,200
Say			€11,200

8.5 In response to cross-examination by the Appellant, Ms. Lambe accepted that KRT 1 was a car sales yard with external frontage on a busy road. She said that she made allowances for the difference between KRT 1 and the subject. She accepted that KRT 2 was also a car sales yard but was not aware that it was now vacant. When questioned as to whether this meant that the rent was not sustainable she noted that she could not comment on speculation. She did accept that KRT 2 was a high-profile yard in a busy location. In relation to KRT 3, Ms. Lambe was unable to identify the property on the satellite photograph she had handed into the Tribunal.

In response to further queries from the Appellant, Ms. Lambe accepted that the Tone of the List was still emerging but stressed that her Tone of the List comparisons had all been accepted

by the occupiers. Mr. Doyle queried, in relation to Comparison 1, whether the photograph shown in the Respondents evidence appeared to show a steel roof where the yard was meant to be positioned. Ms. Lambe agreed that this appeared to be the case. Mr. Doyle queried whether this meant that the reason that the occupiers had accepted the Respondents figure was that the figure should have been higher. Ms. Lambe pointed to S. 63 of the Act.

8.6 Given the uncertainty expressed by both parties regarding various elements of the evidence heard to the point, the Tribunal adjourned the hearing and requested that both parties inspect the subject property and the comparisons presented and provide photographic evidence to support their arguments. Both sides were invited to revisit their valuations if appropriate. The Appellant was also requested to ascertain the correct lease information in relation to his quoting comparison 4. The parties agreed to this.

9 SUBSEQUENT HEARING - APPELLANT'S CASE

9.1 Mr. Doyle, on behalf of the Appellant, provided additional information to the Tribunal. He confirmed that the property in Clondalkin Business Centre had let on a 10-year lease from September 2017 at an annual rent of €12,000, equating to €5.93/M². He described the property as being located 2.5km (as the crow flies) from the subject and having a tarmac surface, which would be superior to the hardcore surface of the subject. He confirmed that the Red Cow comparison was located 0.69km (as the crow flies) from the subject with a hardcore surface. The agents were unable to let the property and it has been withdrawn from the market. It remains vacant. Further information was provided on the Tone of the List Comparisons. Mr. Doyle did not wish to amend his valuation.

9.2 In response to further cross-examination by the Respondent, Mr. Doyle accepted that both his market comparisons were larger than the subject but did not accept that they were not directly comparable. He agreed that there was no transaction on the Red Cow property but again reiterated that it was reflective of the market. He accepted that his other comparisons were classified as industrial properties on the Valuation List and not as stand-alone yards.

9.3 In response to a query from the Tribunal, Mr. Doyle confirmed that there were no buildings on the two market comparisons provided, but that there were buildings on the NAV comparisons provided. He also expressed the view that the small size of the property

exacerbated the configuration issue, and that this underpinned his claim for a 20% circulation area.

10. SUBSEQUENT HEARING - RESPONDENT'S CASE

10.1 The Respondent decided not to submit any additional material to the Tribunal. An email was submitted to the Tribunal stating

“I wish to advise that it has been the long-standing practice of the Tribunal not to require inspections of comparison properties. The valuation of such properties as appearing on the list are deemed to be correct in their own right in accordance with section 63 of the Valuation Act 2001, until altered in accordance with the Act. Also, the powers of entry conferred by section 47 are, in the first instance, limited to the subject property (section 47(1)(a)) and subsection (1)(b) appears to confer power of entry on any other property only where it is necessary in order to enter on the subject property or to survey or carry out a valuation of the subject property. Also, the powers conferred by section 47 are confined to persons carrying out functions under the Act and do not extend to parties such as the appellant and its agent.”

11 SUBMISSIONS

11.1 There were no legal submissions

12. FINDINGS AND CONCLUSIONS

12.1 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 South Dublin County Council.

12.2 The issue that arises in this appeal is the quantum of value of the subject property.

12.3 The main issue in this case is rate per M2 to be applied to the property. The Tribunal attaches significant weight to the letting of the property at Clondalkin Business Centre. This was let on a 10-year lease from September 2017 and equates to €5.93/M2. The Appellant notes that the property is a tarmac yard and is therefore superior to the subject. The Appellant also argues that the letting took place in 2017 in a rising market and that this should be reflected in the valuation. The Respondent has argued that the property is significantly larger than the subject and that quantum should apply. The Respondent also argues that the subject has a better

location than the subject. The Tribunal notes that the Respondent made no allowance for quantum in analysing its comparisons, nor did its comparisons show any difference in values between Clondalkin and the subject. The Tribunal finds that the rental value of a hardcore surfaced yard in the general area as at the valuation date was €6/M2

12.4 The Tribunal notes that the subject property is a stand-alone yard, while many of the comparisons put forward by both sides have yards that are held in conjunction with buildings or containers. The Tribunal does not attach significant weight to these comparisons.

12.5 The Tribunal notes the views of the Appellant in relation to the configuration of the subject property. It notes that no evidence was given in relation to configuration of other sites and no valuation rationale was put forward for the 20% reduction over and above the normal circulation requirements of other properties. The tribunal finds that no allowance should be made in this regard.

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 €3,480.

Use	Area	NAV/M2	NAV
Yard (Hardcore)	560.00	€6.00	€3,480
Say			€3,480

And the Tribunal so determines.