

Appeal No: VA17/5/468

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

DECLAN & DERMOT KEHOE

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2197681, Office at Local No/Map Ref: 2Aa2B/unit 1, Staplestown, Ballinacarrig, Carlow, County Carlow.

B E F O R E

Majella Twomey - BL

Deputy Chairperson

Donal Madigan - MRICS MSCSI

Member

Raymond J. Finlay - FIPAV MMII ACI Arb TRV PC

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF JUNE, 2019.**

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th 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 €8,590.

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 :

“at the time of the valuation date 30/10/2015 this property was vacant for a long period of time prior to this date. We had it on the market for Gross rent per annum of €6,000.00 with little or no interest. Since then the economy recovered a little and we managed to rent the property.

The Current Gross rent per annum is €7,200.00 (This Tenancy Start Date was: 09/06/2016) this tenancy is due to elapse on 09/10/2017. Comparable properties of this type are difficult to find.....

The subject property is located 3.3km from Carlow Town Centre and is located within Wexford Road Business Park, Carlow. No “footfall” exist compared to town centre office location.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,139.92.

2. REVALUATION HISTORY

2.1 On the 11th day of May, 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 €8,590.

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 €8,590.

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 27th day of March, 2019. At the hearing the Appellant appeared in person and the Respondent was represented by Mr Terry Devlin BSc MSCSI MRICS 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 area was agreed at 74.76 sq.m.

4.3 The property is the ground floor of a converted Industrial Unit on two levels, now an office suite, within a small orbital commercial estate c 3.3 Km from Carlow Town.

4.4 The property is currently vacant and had been on the market for €6,000.

5. ISSUES

The sole issue which the Tribunal is to determine is that of Quantum.

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, Mr. Declan Kehoe, appeared in person, without representation and gave evidence under oath. His evidence was that the current valuation is too high due to the location

of his property which is situate in or around 3.3 km outside of the town. Furthermore, the subject property has not been let since October 2017, despite being on the market.

7.2 The Appellant gave evidence that, although the property is located along a main road, this road had no footpath leading from Carlow town, thus requiring vehicle access as local public transport is poor.

7.3 The Appellant's evidence was that this is not the case relating to the majority of comparisons, which he put forward.

7.4 The Appellant stated that a number of the Respondent's comparisons were not fair comparisons as they were first generation space and were not converted, as the subject was.

7.5 The Appellant highlighted a number of first floor offices in the town centre and ground floor, first generation, offices in outlying buildings.

7.6 On the Appellant's Precis of Evidence, the Appellant referred to properties at Green Lane Carlow, Whites Pharmacy, Fresh Bites (First Floor), Power Physiotherapy, Abbey Murphy, Clarke Jeffers Solicitors, Fresh Start retail, Venus Hair, O Flaherty Brown Solicitors, and Philip Vint Solicitors among others.

7.7 The Appellant referred the Tribunal to an office within a house (property number 2184619), which he said is close to all links, transports and shops. He said the property has an NAV of €100 per sq.m for ground floor and €70 per sq.m for the first floor.

7.8 The Appellant referred the Tribunal to another property situate in the town centre (property no. 1136989), which is also an office within a house and which is valued at a NAV of €100 per sq.m for the ground floor.

7.9 The Tribunal was also directed to a property in the centre of town (property no. 11375244) which has a first floor NAV of €70 per s.qm, along with a property occupied by Philip Vint , Solicitors , (property number 1137291) also in the town centre, and having a first floor NAV of €70 per sq.m.

7.10 The Appellant provided a number of other properties situate in the centre of town, which have a first floor NAV of € 60-€70 per sq.m, including properties occupied by Carlow Gadget Repair and Getfit Nutrition (property no.s 1138161 and 2178092).

7.11 The Appellant gave evidence relating to ‘The Gateway’ office block, (property number 1207421) which has a ground floor NAV of €100 per sq.m and a first floor NAV of €70. He said that the subject property is further away from town and that the comparator has an on-site reception area and printing facilities. He said that ‘The Gateway’ is a new business park.

7.12 The Appellant said that there are no footpaths leading to the business park of the subject property.

7.13 The Appellant said that the property has been vacant for 2.5 to 3 years.

7.14 At the hearing, the Appellant contended for a valuation of € 7,476 which he calculated as follows:

Office 74.76 sq.m @ € 100.00 per sq.m.

8. RESPONDENT’S CASE

8.1 Mr. Devlin, for the Respondent expressed the view that the properties unit value rate had already been reduced from €115 to €110 per sq.m.(€ 8,590 to € 8,220 in his submission at the hearing).

8.2 He accepted that direct rental evidence was hard to come by. Mr. Devlin indicated a number of comparables such as Carlow Enterprise Centre and Enterprise Lane which were ‘state of the art’ office offerings which could be described as limited comparables.

8.3 The Respondent used, for comparison, in his Precis of Evidence; Shamrock Plaza, Brown St.Carlow,Equity House Carlow,Rathnash Carlow,Deerpark Business Centre, Hanover Rd,Carlow,10 Dublin St.Carlow and Straw hall Carlow, inter alia.

8.4 Mr. Devlin put forward a number of Key Rental Transaction comparators, albeit he said that rental information was limited.

8.5 Mr. Devlin referred the Tribunal to his KRT 1, which is a 1st floor unit situate in Shamrock Plaza, Tullow Street, Carlow. The NER for this property on the 30th October 2015 was €120.00 per sq.m, the property having an area of 166.66 sq.m

8.6 The second KRT, (property number 2203844) which the Respondent offered to the Tribunal was another property located in Shamrock Plaza, Tullow Street, Carlow. The total floor area is 286 sq.m and the NER per sq.m is €96, with a rent per annum of €32,800 at the 30th October 2015. However, this valuation has been appealed to the Valuation Tribunal.(VA/17/5/084)

8.7 The third KRT, (property number 2197465) which Mr. Devlin supplied was a first floor office on Brown St., Carlow. This property is subject to a lease which commenced on the 22nd of August 2016, with a rent of €11,000 per annum. The area of the property is 68.75 sq.m and the NER (ground floor) is €151.00 per sq.m.

8.8 In terms of NAV comparisons, the Respondent directed the Tribunal to Carlow Enterprise Centre, which has a number of ground floor and first floor offices, all having a NAV of €110.00 per sq.m. He said that as there is a lift in the building. Mr Devlin also directed the Tribunal to a unit at Equity House, Pollerton Little, Carlow, (property number 2198401) which has a NAV of €75 per sq.m for a first floor unit. He said that in his view, the best comparators were this property and the units in The Carlow Enterprise Centre.

8.9 On cross examination, it was put to Mr. Devlin that the subject property is not within walking distance to town and does not have the same type of facilities as some of the properties which he put forward. Mr. Devlin said that The Enterprise Centre was slightly at the edge of town.

8.10 At the hearing, the Respondent contended for a valuation of € 8,220 which he calculated as follows:

Office 74.76m² @ € 110.00 per square metre

9. SUBMISSIONS

9.1 No legal submissions were received.

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 Carlow County Council..

10.2 Having weighed and evaluated the evidence before it, the Tribunal finds the location of the subject property distinguishes it from many of the other comparators put forward by the Respondent, which are located in the town centre or on the edge of the town. The uncontradicted evidence was that the subject property is located 3.3 kms outside of the town, without any direct access to it by way of public transport or by way of a footpath.

10.3 Furthermore, one of the Respondent's main comparators is Carlow Enterprise Board, which has 18 units, all of which are occupied except one. The NAV for all units is €110 per sq.m. The Tribunal finds that this comparator is in a superior location to the subject property as it is closer to town. Furthermore, it is a more modern building than the subject property and it has a lift. This is not the case with the subject property, which does not have the same specification as Carlow Enterprise Board and has had a difficult history in terms of letting, unlike the Enterprise Board property, which is almost fully occupied. The subject property is a converted warehouse, unlike the Carlow Enterprise board, which is purpose-built office accommodation. Furthermore, the subject property is dependent on private transport access, unlike the Carlow Enterprise Board which is centrally located.

10.4 The Appellant put forward a number of comparators, which were located in the town centre, which is a superior location to the subject, all of which had a NAV of €100 per sq.m for ground floor and € 60-70 per sq.metre for first floor. In this respect, the Tribunal refers to property no. 1136989 (small floor area) and property no.2184619. The Tribunal also refers to the comparator at 'The Gateway', which has a NAV of €100 per sq.m. The Tribunal notes that this property is closer to town than the subject and is located in a new business park.

10.5 The Respondent gave direct evidence that it was difficult to come by rental evidence in respect of this case. The Tribunal finds that the KRT comparators put forward are not direct comparisons as they are all located in the centre of town and/or much closer to the town centre, than the subject property.

10.6 The Tribunal has also taken into account the history of letting of part of the subject property during 2016, and subsequently, the difficulty in finding a second tenant, despite the fact that it has been advertised at a very fair rent of €6,000 per annum.

10.7 Ultimately, the Tribunal finds that due to a limited amount of fair, direct KRT comparisons, the history of the property's commercial letting and particularly the location, condition, access and demand, that the correct NAV for the ground floor of the subject property to be €100 per sq.m

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 €100 per sq.m for the ground floor.

Area	Sq.m	NAV	Total
Ground floor	74.76 sq.m	€100	€7,476

And so the Tribunal determines