

Appeal No: VA17/5/537

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

RATHCOFFEY FERTILIZERS

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 2213183, Industrial Uses at 1A/2 Rathcoffey South, Rathcoffey, County Kildare.

B E F O R E

John Stewart – FSCSI, FRICS, MCI Arb

Deputy Chairperson

Frank O'Grady – MA, FSCSI, FRICS, FIABCI

Member

Kenneth Enright - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF FEBRUARY, 2020.

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 €212,000.

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: *"We are of the opinion the level of NAV per sq.m applied to the subject property by the Valuation Office is excessive for the subject property, taking into account the current rent payable on the units."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €56,000.

2. REVALUATION HISTORY

2.1 On the 10th 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 €212,000.

2.2 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €212,000.

2.3 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 13th day of January, 2020. At the hearing the Appellant was represented by Mr. Paul Kelly MSCSI, MRICS, MCI Arb of Mason Owen & Lyons and the Respondent was represented by Mr. John O’Connor 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 situated in the village of Rathcoffey on the southside of the R408, a rural area between Clane and Kilcock, Co. Kildare. The property is located in an industrial complex in a predominantly agricultural area with some residential and limited commercial activity.

4.3 The property comprises an irregular shaped site of approx. 3.835 hectares (9.5 acres) with a detached bulk storage shed, semi - detached bulk storage shed, a portacabin office and a weighbridge. The buildings were formerly used as a grain store and are now used as a fertilizer store.

4.5 The gross external floor areas were agreed between the parties.

Use	M ²
Stores	6,317.70
Canopy	180.90
Portacabin	19.10
Weighbridge	No. 1
Yard	6,000.00

4.6 The property is held under a 10-year lease @ €50,000 pa fixed for 10 years from 12th September 2011. The tenant was granted 9 month's rent free.

5. ISSUES

5.1 The matter at issue is quantum.

5.2 The Appellant claims that the valuation is excessive and unequitable and is seeking a reduction in NAV to €68,000.

5.3 The Respondent states that the NAV €140,800 is fair and reasonable and requests the Tribunal to affirm same in accordance with the Valuation Acts.

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. Paul Kelly for the Appellant adopted his precis as his evidence in chief and described the location and the property stating that the buildings were constructed in the 1950’s and were past the end of their economic life expectancy. He further stated that the nature of the construction and the asbestos sheeted roof would limit the alternative use of the buildings.

7.2 Mr Kelly provided an analysis of the 2011 letting of the subject property as follows:

Use	M ²	€/ M ²	NAV
Stores	6,317.79	€6.57	€41,511.80
Canopy	180.90	€1.00	€180.90
Portacabin	19.10	€3.00	€57.30
Weighbridge	No. 1	€1,500.00	€1,500.00
Yard	6,000	€0.50	€3,000.00
			€46,250.00

He acknowledged that the letting pre-dated the valuation date by approx. 4 years.

7.3 To assist his case he also provided details of the sale of the subject property combined with adjoining premises in October 2016 for €1,050,000. The sale included the adjoining Dairy company premises, a small licensed premises, vacant mill buildings, garages and agricultural lands. His analysis provided a capital value for the stores/sheds of €38 /sq.m. and a capital

value of the weighbridge of €10,000. He discounted the capital value of €38.00/ M² at 20% which provided a proposed rental value of €7.60/ M² for the stores.

7.4 Three additional NAV comparisons were provided in Athy. The first was a farm machinery sales outlet which was revalued as part of the 2019 Kildare Revaluation.

Level	Use	M ²	NAV/ M ²	Total NAV
0	Workshop	729.18	€20.00	€14,583.60
0	Warehouse	720.00	€20.00	€14,400.00
0	Yard	4,650.00	€2.00	€9,300
				€38,200

It was stated that these premises were more modern and in better condition.

The second NAV comparison comprised a DIY and Farm supply premises and was also valued as part of the 2019 Kildare Revaluation.

Level	Use	M ²	NAV/ M ²	Total NAV
0	Office	47.97	€20.00	€959.40
0	Store	1,215.74	€20.00	€24,314.80
0	Shop	239.86	€24.00	€5,756.64
0	Store	62.77	€15.00	€941.55
0	Yard	2,200	€2.00	€4,400
0	Additional			€2,400.00
				€38,700.00

It was stated that these premises were more modern and in better condition.

The third NAV comparison referred to a factory supplying heating tanks and equipment which had also been revalued as part of the Kildare 2019 Revaluation. It was also stated that these premises were more modern and in better condition.

Level	Use	M ²	NAV/ M ²	Total NAV
0	Store	1,919.80	€20.00	€38,396.00
1	Store	281.00	€20.00	€5,620.00
				€44,000

Mr Kelly argued that his primary evidence was the letting from 2011 and the analysis of the subsequent sale. He accepted that the letting predated the valuation date by c. 4 years however he claimed that the rent would have contained a premium to reflect the fixed 10-year term and stated that in his opinion there would have been only modest rental growth from 2011 to 2015. He referred to his analysis of the 2016 sale and argued that his rental value of €7.60/ M² for the stores building was realistic. He concluded by stating that the three NAV comparisons were all smaller, more modern and consequently a discount should be applied to the rate of €20.00/ M² and he concluded his evidence by claiming for an NAV of €68,000.

Use	M ²	€/ M ²	NAV
Stores	6,317.79	€10.00	€63,177.00
Canopy	180.90	€1.00	€180.90
Portacabin	19.10	€5.00	€95.50
Weighbridge	No. 1	€1,500.00	1,500.00
Yard	6,000	€0.50	€3,000
			€67,953.40
			Say €68,000

7.5 Under cross examination Mr. Kelly confirmed that his comparisons were located some distance from the subject premises, that the lease parties were not connected and that he understood that the Dairy company lease is due to expire in 2021.

8. RESPONDENT'S CASE

8.1 Mr. O'Connor for the Respondent adopted his precis as his evidence in chief and confirmed agreement with the location, description and floor areas.

8.2 He stated that the Final Certificate issued in September 2017 had a valuation of €212,000 and that this figure was amended by the Commissioner and he was now contending for a NAV of €140,800.

8.3 To support his case 3 Key Rental Transactions (KRT's) were introduced (details in Appendix 2) which showed various industrial buildings in Kildare at rental levels from €40 /sq.m. to €43.50 /sq.m. The first at Oberstown Business Park Naas referred to a modern

industrial unit with a steel frame and Kingspan cladded walls and roof. It was let for 4 years 9 months from 11/10/2014 at €67,500 pa with an NER of €66,684 pa.

The rent was analysed as follows:

Use	M²	€/ M²	Rent €
Offices	661.92	€42.50	€28,131.60
Warehouse	810.52	€42.50	€34,447.1
Canopy	819.20	€6.37	€5,218.30
Mezz store	71.92	€8.00	€575.36
			€68,372.36

NAV €64,500 was not subject to representations of appeal to the Tribunal.

8.4 The second KRT referred to an industrial building in Kill Co. Kildare which had a steel frame, and single skin cladded walls and roof. It was let for 10 years from 01/10/2014 at €36,000 pa average (based on a stepped rent of €30,000 x 2 and €40,000 x 3) with an NER of €36,000 pa.

The rent was analysed as follows:

Use	M²	€/ M²	Rent €
Offices	241.68	€49.00	€11,842.32
Workshop	481.77	€49.00	€23,606.73
Portacabin	27	€14.00	€378.00
Yard	900	€4.90	€4,410
			€40,237.05

NAV €28,800 was not subject to representations of appeal to the Tribunal.

8.5 The third KRT referred to a modern industrial building in Killeel which had a steel frame, and single skin metal deck walls and roof. It was let for 2 years from 01/08/2015 at €30,000 pa with an NER of €29,328.38 pa.

The rent was analysed as follows:

Use	M²	€/ M²	Rent €
Workshop	652.7	€40.00	€26,108

Mezz offices	168.64	€16.00	€2,698.24
			€28,806.24

NAV €25,200 was not subject to representations of appeal to the Tribunal.

8.6 A further 3 NAV comparisons were introduced (Details in Appendix 3), 2 in the same complex which were valued @ €30 /sq.m. for stores and €3 /sq.m. for open space.

8.7 The first NAV comparison referred to a recent Valuation Tribunal case wherein a large old-style mill building and stores in Sallins was valued at €20.00/ M². A copy of the Judgment was included in the submission.

Use	M ²	€/ M ²	Rent €
Mill buildings & store	2,806.92	€20.00	€56,138.40
Plant silos 3,100T			€20,000
Weighbridge			€1,800
1 st floor & mezz stores	533.27	€0	€0
			€77,938.40
			Say €77,900

Details of two NAV comparisons adjacent to the subject property were also provided. Neither was subject to representations nor appealed to the Tribunal.

8.8 The second NAV comparison was in Rathcoffey.

Use	M ²	€/ M ²	Rent €
Offices	430.03	€30.00	€12,900.90
Canteen	37.00	€30.00	€1,110.00
Garage	45.00	€30.00	€1,350.00
Store	3,940.40	€30.00	€118,212.00
Canopy	68.00	€4.50	€306.00
			133,878.90
			Say €133,800

8.9 The third comparison was in Rathcoffey adjacent to the subject premises.

Use	M ²	€/ M ²	Rent €
Offices	60.14	€30.00	€1,804.20
Weighbridge			€1,900
Store	2,117.97	€30.00	€63,539.10
Yard	4,000.00	€3.00	€12,000
			€79,243.30
			Say €79,200

8.10 Mr O'Connor concluded his direct evidence and requested that the Valuation of €212,000 determined at Valuation Stage should be amended to €140,800 to reflect the correct areas and the recent decision of the Valuation Tribunal.

Use	M ²	€/ M ²	NAV
Stores	6,317.79	€20.00	€126,354
Canopy	180.90	€3.00	€542.70
Portacabin	19.10	€8.00	€152.80
Weighbridge	No. 1	€1,800.00	1,800.00
Yard	6,000	€2.00	€12,000
			€140,849.50
			Say €140,800

8.11 Under cross examination Mr. O'Connor confirmed that the KRTs he had introduced referred to more modern industrial buildings with office content and were smaller than the subject property. He stated that the adjoining building and the Valuation Tribunal's decision offered the best comparable evidence. He acknowledged the property referred to in the recent Valuation Tribunal case referred to by him included some metal deck sheeting but also corrugated asbestos and that his second NAV had a greater height but the same eaves height as the subject property.

8.12 Both parties provided brief summaries. The appellants requested that the Tribunal should reduce the NAV to €68,000 whereas the Respondents requested that the Tribunal should amend the initial valuation of €212,000 and confirm the NAV at €140,800.

9. SUBMISSIONS

9.1 There were no legal submissions.

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 County Kildare.

10.2 The Tribunal has examined the particulars of the property and considered the written and oral evidence adduced by Mr. Kelly for the Appellant who contended for a revised valuation of €68,000 and Mr. O'Connor on behalf of the Respondent who sought confirmation of €140,800 as NAV.

10.3 The subject property comprises a former Flour Mill which is now used as a fertilizer store, together with a portacabin, weighbridge and large yard. Both parties agree on the relevant floor areas and particulars and have commented on the lack of suitable market rental evidence for similar properties.

10.4 The Tribunal found that the 3 KMTs provided by the Respondent were of little assistance and it noted the dated rental evidence from the Appellant. It considered the detailed analysis of the sale of the entire complex but it did not consider this assessment was of particular assistance. It noted the NAV comparable evidence supplied for both adjoining properties which were not subject to representations or appeals to the Valuation Tribunal.

10.5 The Tribunal has determined that the most relevant comparison was the recent Valuation Tribunal decision of a similar property which valued the stores at €20 / M² as argued by the Respondent's.

10.6 It also noted that the Appellant did not provide any contemporary comparable evidence in relation to the open space/yard and he had argued for a nominal value of €0.50 /sq.m. (€3,000). He did refer to a rate of €0.50/ M² in his 2011 rental analysis of the subject property from 2011 but his evidence from his NAV comparisons acknowledged that a rate of €2.00/ M² was established for yard accommodation.

10.7 The Tribunal also noted that the value of the weighbridge was not contested, and no comparisons were provided.

10.8 The Tribunal therefore finds that the NAV based on the corrected areas is as follows:

Use	M²	€/ M²	NAV
Stores	6,317.79	€20.00	€126,354
Canopy	180.90	€3.00	€542.70
Portacabin	19.10	€8.00	€152.80
Weighbridge	No. 1	€1,800.00	1,800.00
Yard	6,000	€2.00	€12,000
			€140,849.50
			Say €140,800

DETERMINATION:

Accordingly, for the above reasons, the Tribunal amends the Valuation determined at the Initial Valuation Stage, disallows the appeal and confirms the valuation of the Property at €140,800.

And the Tribunal so determines.