

**Appeal No: VA17/5/621**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**CENTAL ENGINEERING**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1139247, Industrial Uses at Floor: 0,1, 4A.8A.9A. O'Brien Road Industrial Estate, Rathnapish, Carlow, County Carlow.

**B E F O R E**

**Majella Twomey - BL**

**Deputy Chairperson**

**Pat Riney – FSCSI, FRICS, ACI Arb, FIABCI, PC**

**Member**

**Barra McCabe - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 25<sup>TH</sup> DAY OF JUNE, 2019**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 12<sup>th</sup> 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 €346,000.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- The Valuation of the subject property is excessive and inequitable. The property’s rental value as set by the Commissioner is not in line with its actual and potential rental value. The most recent rent paid on the subject property was €80,000 per annum.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €138,000.

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> 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 €421,000.

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 €346,000.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €346,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> 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 10<sup>th</sup> day of October, 2018. At the hearing the Appellant was represented by Mr David Halpin MSc (Real Estate), BA (Mod) of Eamonn Halpin & Co Ltd 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 subject property is located on O' Brien Road, Carlow, at the intersection of the Dublin Road. It is located opposite the former Braun Factory and is situated in or around 1.5 kilometres from the centre of Carlow town.

4.3 The subject property was completed in 1974 as an automotive factory. It has reinforced concrete frame with single skin side panelling, double skin roof and 8 metre eaves.

4.4 The subject property is held leasehold by Cental Engineering, on a month to month basis. There is no formal lease agreement in place. Cental have been in occupation since 2006.

4.5 The floor areas of the subject property were agreed between the parties as following:-  
Factory – 11,000 sq.m, 1<sup>ST</sup> floor offices – 1,002 sq.m and the store at 590 sq.m.

## **5. ISSUES**

5.1 The main issue between the parties related to quantum. The Appellant claimed that the valuation of the subject property is excessive and inequitable. Furthermore, it was claimed that the property's rental value as set by the Commissioner is not in line with its actual and potential rental value.

5.2 The Appellant contends for an NAV of €11 per sq.m for the entirety of the 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 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. David Halpin gave evidence on behalf of the Appellant. He said that the subject property was a large, old factory on the edge of Carlow town. He said that it was an unusual property due to its large size and he stated that it could not be compared to warehouses which were much smaller in terms of size.

7.2 Mr Halpin said that the while the Appellant is in occupation of the premises that there is, in fact, no passing rent. He said that the Appellant expends in or around €75,000 to €80,000 per annum to keep it in its current state. Post hearing, it was confirmed, in writing, that there was no lease agreement in writing and the Appellant submitted a breakdown of the costs which is expended on the property annually.

7.3 It was stated that the subject is situate opposite the old Braun factory on O’ Brien Road, Carlow. Mr Halpin stated that the property was built in 1974 and was used for the production of car parts. He said that the property is currently in a state of decay and disrepair as rainwater is getting into the building.

7.4 Mr Halpin’s evidence was that the Appellants have been in occupation since 2006. He claimed that the last rent paid was in 2014, at a rate of €80,000 per annum. He said that the Appellant occupies the entirety of the building, but it is not intensively utilised. He said that the Appellant company is currently only paying for the upkeep of the structure. The property is currently used to manufacture storage cabinets and is also used for distribution.

7.5 Mr. Halpin stated that a hypothetical tenant would have to be exceptional as the buildings are user specific. He said that the layout is for a specific use and he said that the Braun factory, across the road, was vacant for 8 years. He said that the Braun factory was double the size of the subject property. Mr Halpin made the point that most regional towns have vacant/ decaying buildings.

7.6 The evidence was that the Appellant is currently paying no rent on an FRI basis.

7.7 The Appellant's case is that there is a dearth of rental information in relation to buildings like the subject property and that the highest rent for industrial buildings in Carlow was €60,000. He said that it was difficult to establish an absolute cut-off point for rental income in relation to a building like this, in the absence of comparisons. Mr. Halpin said that his client had told him that the water tank had been disengaged for over a decade but the V.O disagreed with this.

7.9 The Appellant put forward a number of NER comparison property, two of which are I Carlow (as set out in the appendix hereto). Mr. Halpin firstly referred to his comparator number 1, which is located close to the subject property. He said that this property was sold in 2015 for €1.3 million. The property is currently to let but despite being on the market for three years, no tenants have been secured. Mr. Halpin said that he is of the belief that rental offers of in excess of €7 per sq.m would be considered for the entire of this property. It was stated that the property was sold for 20% of the original asking price and it has now been vacant for 8 years. He said that the figures reflect the type of discounting required to sell or let a property of this size.

7.10 Mr. Halpin also referred to a second comparator at Bagenalstown, Co. Carlow (see appendix). This property has a 9 year lease and was let at €60,000 from January 2014. The NER devalues at €6.53 sq.m. It was stated that the property is around 20 km from the subject, was constructed in a piecemeal fashion and has a similar use to that of the subject property. Mr Halpin again stated that the rent per sq.m reflected the type of discounting required for age and quantum. While Mr Halpin admitted that the property was inferior to the subject property due to location, he said that the rental level achieved is very low due to age and quantum.

7.11 Mr. Halpin also put forward a number of some of the list comparators. The second being a property on Athy Road, Carlow. He described this as a modern purpose built engineering complex, completed circa 2003, with 9 metre eaves. The warehouse is 4868.97 sq.m and the NAV is €20 per sq.m. Mr. Halpin stated that while this property is smaller than the subject, it is significantly superior.

7.12 The Appellant's NAV comparator number 3, is situated at Grangeford, Carlow. This is around 7 km from the centre of Carlow. The warehouse has an area of 6257.77 sq.m and has an NAV of €15 per sq.m. This was constructed in the 80s/90s and the majority of the property is double skin warehousing with 8-10 metre eaves.

7.13 Mr Halpin also put forward a number of some of the list comparators from Kilkenny, Tallaght and Westmeath (as set out in the appendix hereto).

7.14 On cross examination by Mr. Devlin from The Valuation Office Mr. Halpin clarified that there was no written lease and he admitted that this was unusual. He also stated that there was no documentary evidence of a lease in writing. He clarified that the owner of the building was in Germany and that the property was being let on a month to month basis. Mr. Halpin clarified that there was no connection between the parties to this agreement. Mr Halpin was asked for a breakdown of the figures in relation to repairs and maintenance and he was unable to assist the Tribunal in this respect. However, post-hearing, a set of unaudited figures were submitted. Mr. Halpin also reiterated that 2014, was the last time that rent was actually paid. He said that as far as he knew that the owners were not actively seeking a Tenant and are happy to keep the Appellant in the building. When asked by Mr. Devlin if the building was capable of being occupied, Mr Halpin agreed that it was.

7.15 Mr Devlin asked Mr. Halpin how relevant a number of his comparator properties, from Kilkenny, Tallaght and Westmeath actually were and Mr. Halpin said that the properties which he put forward from these areas were old, purpose-built factories with a low value.

7.16 Mr Devlin put it to Mr. Halpin that the subject property was the best location in Carlow town and he agreed that the subject site is very attractive but that the building was the problem.

7.17 Mr Halpin agreed that with Mr. Devlin that the Braun Factory was the most obvious comparison but stated that it does not assist in terms of assessing a hypothetical tenant.

7.18 Post hearing, at the Tribunal's request, Mr Halpin confirmed in writing that there was no formal lease agreement between the owners and the Appellants. He provided instructions from his client which stated that the Appellants had an agreement between the owners and Cental to remain in the property for the consideration of the maintenance and upkeep costs of the building

and grounds and that the Appellant had agreed to enter into a seven year lease when these talks conclude. The instructions which Mr. Halpin had was that it was expected that the consideration would be €40,000 per annum plus the maintenance.

## **8. RESPONDENT'S CASE**

8.1 Mr Devlin adopted his precis of evidence and said that the subject property is located in a prime industrial area in Carlow town. He said that the information which he had was that the water tanks were in use. He said that he had inspected the property himself.

8.2 The evidence was that the Valuation Office looked at the rental evidence in the Carlow urban area in reaching the valuation for the subject property. He said that it was rare for a building the size of the subject property to come up.

8.3 Mr Devlin said that the rental transactions in Carlow town, for the industrial parks, were between €20-€50 per sq.m He said that these figures were adjusted for the subject property. He said that Carlow town has approximately 42 properties over 1000 sq.m

8.4 Mr. Devlin said that the Braun factory, across the road, was 18,300 sq.m and is a very similar building to the subject property. He said that this had a NAV of €26 per sq.m and that it has not been appealed.

8.5 Mr Devlin went on to refer to his NAV Comparison 2, at Strawhill Industrial Estate, which is also a large industrial unit with a warehouse of 2700.61 sq.m and which is valued at €26 per sq.m. Furthermore, he referred to his NAV Comparison 3 at Strawhill, which has a total floor area of, in or around, 1850 sq.m and has an NAV of €30 per sq.m.

8.6 Evidence was also given that in smaller towns such as Tullow, the NAV drops significantly for industrial buildings and Mr Devlin's NAV Comparison 8, at Tullow, illustrated this, at an NAV of €17.00 per sq.m in circumstances where the warehouse is 9,682.14 sq.m. This was further illustrated by Mr. Devlin's NAV Comparison 10 situate at Ballon, Co .Carlow, where the NAV for a store of 3026 sq.m has a NAV of €17 per sq.m

8.7 Mr Halpin put it to Mr. Devlin that he had only referred to four key rental transaction (see appendix) and Mr Devlin agreed. Mr Devlin agreed that the subject was originally rated at €30

per sq.m but was reduced after representations to €26. Mr Halpin asked Mr Devlin if he could have made any further allowance and Mr Devlin said that it was question of relativity. Mr Halpin put it to Mr. Devlin that he could not point to any particular reason why the figure of €26 was used and Mr Devlin said that it '*was seen as an appropriate value*'. Mr Halpin asked Mr. Devlin if the tone was an emerging one and Mr. Devlin agreed.

8.8 Mr. Halpin put it to Mr. Devlin that in relation to his key rental transactions that they were not comparable as the fourth comparator was 58 times smaller than that of the subject property. Mr. Devlin said that one had to take the rental evidence and use it as best one could. Mr. Halpin put it to Mr. Devlin that the third rental comparator was a 56<sup>th</sup> the size of the subject property and Mr. Devlin accepted this. Mr. Halpin asked Mr. Devlin if he had any factory, which could be of assistance and he said that he did not have that evidence and he agreed that Carlow was different to Kilkenny.

8.9 As there was a conflict in the evidence in relation to the water tank, the Tribunal requested for information in relation to same. As a result, Mr. David Halpin & Mr. Terry Devlin attended on the property, post-hearing, to confirm details in relation to the water tank on Monday 28th January 2019. Following this inspection and further discussion The Valuation Office proposed to amend the valuation applied to the tank from €7,959.05 to €1,000. This was agreed by Mr. Halpin and the Tribunal was notified of same on February 1<sup>st</sup> 2019.

## **9. SUBMISSIONS**

9.1 No legal submissions were made.

## **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 The Valuation Office placed significant weight on its NAV, Comparison number 1, and claimed that it was the most appropriate comparison in terms of location and size. The former Braun factor is located directly across from the subject property. It has a NAV of €26 per sq.m. The Tribunal notes that the warehouse area of the former Braun factory is 18169.79 sq.m. Mr.



Halpin supplied a brochure from Clyde Real Estate which records the total size of the former Braun factory as being even bigger, at 22,700 sq.m.

10.3 The factory area in the subject property is recorded as being 11,000 sq.m., which is significantly less than the size of the Braun Factory, even accepted the area size put forward by The Valuation Office. There is no evidence of a lease in writing, at present, and the objective evidence is that the Appellant has an agreement to pay for the maintenance and repairs. The latest evidence which the Tribunal has, regarding a per annum rent for the subject, is €80,000 in 2014.

10.4 While the Braun Factory is situated in a similar location to the subject property, the Tribunal finds that they are very different properties in terms of size. The Braun factory is almost twice the size of the subject property. The Tribunal notes that, that property was sold for less than 20% of the original asking price and has been vacant for 8 years.

10.5 The Tribunal finds that the comparators put forward by the Appellant from Kilkenny, Westmeath and Tallaght are of little assistance due to the fact that there are in different locations and rating areas, and, therefore, the Tribunal does not place as much weight on these properties as those within the Carlow rating area.

10.6 Similarly, the Tribunal finds that the four key rental transactions put forward by The Valuation Office are of little assistance due to the fact that the floor areas range from as little as 230.91 sq.m to 991.85 sq.m. These areas are vastly different to the floor areas of the subject property and consequently, the Tribunal does not attach as much weight to such properties as those which have similar floor areas.

10.7 Having assessed all of the NAV and NER properties put forward by the parties, the Tribunal finds that the best comparator in terms of location, size and specification is NAV comparator number 8, which was put forward by The Valuation Office. This is situated in Tullow. While Tullow is, in or around 17 KM from the subject property, it is in the same rating area and the property at comparator number 8, is most similar in terms of size, to the subject matter. The warehouse in comparator number 8, is 9682.14 sq.m. The NAV for this property is €17.00 per sq.m. The Tribunal notes that this property is more modern in terms of specification than the subject property.

10.8 The Tribunal finds that the NAV per sq.m in Carlow for warehouse type properties ranges from between €17.00 to €30.00. The Appellant is contending for a NAV of €11. The Tribunal finds that the Braun Factory is not the most suitable comparator as it has a much larger floor area than the subject property and is, therefore, a different type of property in terms of the hypothetical tenant. The evidence from The Valuation Office was that it is rare for a building the size of the subject property to come up, illustrating that the subject property is somewhat unique. The key rental transactions which were put forward by The Valuation Office further illustrate that the subject property is a different type of property to anything else in the environs as the NER property comparisons which were put forward were vastly smaller in terms of floor areas to that of subject, and therefore, not very useful as comparators, for the Tribunal. As previously stated, the comparators put forward, which were outside of the Carlow rating area were also not of assistance to the Tribunal, due to their locations.

10.9 Having weighed and evaluated all of the NER and NAV comparisons before it and having accepted the evidence of The Valuation Office that ‘the tone is emerging’, the Tribunal finds that the most similar property which was put forward, in terms of size and location was the Valuation Office’s NAV comparator Number 8, which is based in Tullow. The Tribunal notes that the NAV per sq.m for this property is €17.

10.10 The Tribunal notes that the property cited at comparator number 8, of The Valuation Office’s precis is a little smaller than the subject property and is a more modern property and, in these circumstances, the Tribunal finds that a further discount should be factored in, to comply with the principles of fairness and equity. Having taken all of the factors into account including the size, location, lack of appropriate NER comparators and the fact that the subject is older than comparator number 8 as cited above, the Tribunal finds that a rate of €14.00 per sq.m should apply to the entirety of the property.

**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 €177,288.

Area	Sq.m	NAV	Total
Factory	11,000	@ €14 per sq.m	€ 154,000
1 <sup>st</sup> Floor Offices	1002	@ €14 per sq.m	€ 14,028
Store	590	@ €14 per sq.m	€ 8260
Water tank	1		€ 1000
Total NAV			€177,288

And so the Tribunal determines.