

Appeal No: VA20/1/0014

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

EFIV Irish Property ICAV

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 1739855, Industrial Uses at Building 7 Liffey Park Business Campus, Barnhall Road, Parsontown, Leixlip, County Kildare.

B E F O R E

Eoin McDermott - FSCSI, FRICS, ACI Arb

Liam Daly - FSCSI, FRICS

Caroline Murphy - BL

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF DECEMBER, 2022**

1. THE APPEAL

1.1 By Notice of Appeal received on the 29th day of January, 2020 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 € 2,892,000.

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 taking into account the specialist nature and design of the property and taking into account the tone of the list. The valuation as assessed is also excessive taking into account the rent currently quoted on the property."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of € 1,250,000.

2. VALUATION HISTORY

2.1 On the 11th day of November, 2019 a copy of a valuation certificate proposed to be issued under section 29 of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €2,892,000.

2.3 A Final Valuation Certificate issued on the 2nd day of January, 2020 stating a valuation of €2,892,000.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 11th day of March, 2022. At the hearing the Appellant was represented by Mr. Martin O’Donnell, BA(Econ) FRICS, FSCSI, Head of Business Rates and Compulsory Purchase in CBRE and the Respondent was represented by Sean Donnellan B.Sc. (Hons) Property Valuation & Management, 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 in Liffey Park Business Campus which is just off the M4, south of Leixlip and east of Celbridge in Co. Kildare.

4.3 The subject property is a four storey mid terrace factory and was built as part of phase two of the development. The ground floor consists of office and production space. There is a lift within this building. The clean room on the 2nd floor level is built to a class of ISO 10,000. Underneath this area is another support floor for the clean room containing all the pipe work associated with the floor (clean room) above. The head height on this floor is 2.25m to 1.8m. The top floor is suspended from the roof and used as a fan deck and houses all the plant associated with the clean room below including, power, data and air conditioning, cabling, production utilities and services. There is a mix of steel and plastic composite flooring as a

walkway throughout the floor. This area contains c.110 air handling units to support the clean room below.

4.4 The floor areas are as follows:

	Floor	M2
Factory	0	14,602.40
Plant Room	1	14,818.30
Clean Room	2	11,949.00
Offices	2	2,633.90
Plant Room	3	14,579.50
Total	-	58,583.10

The property also includes 4 dock levellers (the valuation of which is agreed at €1,000 per dock leveller) and various additional items agreed at €169,723.53.

4.5 The property is freehold.

5. ISSUES

5.1 The sole matter at issue is one of quantum

6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

7. APPELLANT'S CASE

7.1 Mr. Martin O'Donnell, on behalf of the Appellant, explained the subject property is located within Liffey Park Business Campus, on the Barnhall Road, Parsonstown, Leixlip, County Kildare. Liffey Park Business Park is located off Junction 6 on the M4 motorway and is 5 km from Celbridge, 4 km from Leixlip, 23 kms from Dublin City centre and 24 kms from Dublin Airport.

7.2 Mr. O'Donnell identified the property within Liffey Park Business Campus as Building 7. He described Building 7 as an industrial building which forms part of the original Hewlett Packard industrial complex. The building comprises of 28,743.40 square metres (GEA) of factory, stores and office space, extending over a ground and first floors. These areas excluded the plant rooms, which he described as "interstitial floors." It was specifically designed by Hewlett Packard for the production of ink cartridges and the production area is on the first floor with access by two small lifts and a number of staircases. There are stores and a dispatch area on the ground floor and an office block to the south of the building which is separated by the complex link corridor from the factory element of building 7.

7.3 Mr O'Donnell expanded further into the specific variables of the subject property, explaining how the main factory space is on the 1st floor and operates as a clean room. The clean room has a Class 10,000 specification, achieved by recirculating units providing 50 air changes per hour. Mr. O'Donnell had estimated that the clean room consists of an area of 11,949 sq.m.

7.4 Mr. O'Donnell highlighted what he identified as challenges associated with the configuration of the subject property. The subject property was designed specifically by Hewlett Packard for the production of one of their products. This design resulted in the manufacturing area of this building being based most unusually on the first floor. This design resulted in the access to the first-floor areas been extremely poor via two small lifts and a number of staircases. Mr. O'Donnell was of the opinion that open space is imperative for all modern industrial operations, such space is not available here as there is the inclusion of a significant number of substantial columns at 7m intervals throughout. The combination of such characteristics therefore deemed the subject property as it stands as unlettable and it should be demolished and replaced in order to gain value. Mr. O'Donnell stated that Cushman Wakefield

were appointed as agents to let this property in September 2018 and despite a very buoyant industrial property market since that time they have been unable to find a tenant willing to rent this space. This, Mr. O'Donnell believed substantiated his opinion that the property is unlettable.

7.5 It was Mr. O'Donnell's opinion that given the current characteristics of the factory element of the property it has a zero value. However, Mr. O'Donnell acknowledged that the property has to have a rateable valuation, therefore he submitted to the Tribunal that a nominal value of €31.27 per sq. m. is sufficient for the first floor of the subject property. Mr. O'Donnell proposed the ground floor space, which in his opinion has very poor height clearance at the relevant date, and suffers from a significant dispersal of columns throughout, should be considered as storage space rather than warehouse space.

7.6 Mr. O'Donnell stated the additional items in the valuation consist of a distribution of the value of common areas and plant areas between all the valuations on the complex.

7.7 Mr. O'Donnell introduced two NAV Comparisons:

Comparison 1 - PN 5020134 - Building 8 Liffey Business Campus

Floor	Use	Area sq. m.	Rate per sq. m.	NAV
0	Factory	27,944.40	€70	€1,956,108
1	Office	3,673.50	€70	€257,145
0	Dock Leveller	11	€1,000	€11,000
	Additional items			€228,876
	Total			€2,453,129
			say	€2,453,000

Comparison 2 - PN 5020131 - Building 3 Liffey Business Campus

Floor	Use	Area sq. m.	Rate per sq. m.	NAV
0	Factory	4,009.99	€50	€200,500
1	Factory	2,838.27	€70	€198,679
1	Office	134.60	€70	€9,422
1	Office	134.60	70	€9,422
0	Dock Leveller	14	€1,000	€14,000

	Additional items			
				€57,929
	Total			€489,951
			say	€489,000

7.8 Mr. O'Donnell opined his NAV comparable evidence supported his proposed valuation. Mr. O'Donnell introduced the term "*Interstitial*", this he defined as an industry term been used to describe space which is deemed to be ancillary to the production area. In this instance, Mr. O'Donnell was referring to the space he had identified as the "Plant Room" on floor 2 and floor 3. In Mr. O'Donnell's opinion these spaces had no other uses other than to support the factory and clean room spaces, they had no use in isolation, therefore these "*Interstitial*" areas should not be included in the lettable floor area. It was Mr O'Donnell's opinion that the NAV should be €1,445,000.00 calculated as follows:

<i>Floor</i>	<i>Use</i>	<i>Area sq. m.</i>	<i>Rate psm</i>	<i>NAV</i>
0	Stores	14,602.40	€ 42.50	€620,602
1	Interstitial Floor	14,818.30		
1	Factory	11,949.00		
1	Office	2,633.90		
	Total 1st Floor	14,582.90	€45.00	€656,231
2	Interstitial Floor	14,579.50		
0	Dock Leveller	4	€ 1,000.00	€4,000
	Total Area	29,185.30		
	Less Interstitial Floor			
	Additional Items	29,185.30	€5.60	€163,730
			Total	€ 1,444,562
	Proposed Valuation		Say	€ 1,445,000
	<i>Overall rate per sq.m</i>		49.51	

7.9 Cross Examination of Mr. O'Donnell

Mr Donnellan asked Mr. O'Donnell if he would agree the floor areas were the same as what had been assessed during the Revaluation process. Mr. O'Donnell said he accepted this; however this reflected his clients instructions at that time. Mr. O'Donnell explained that at the time of the Revaluation, his previous client had requested that he consider the NAV in the

context of the overall facility rather than individual aspects. Therefore, this issue was not addressed at that time. Following the sub-division of the building, he was now acting on his current client's instructions to rectify the situation. Mr. Donnellan completed his questioning by stating the Valuation Office had acknowledged the columns on the ground floor by applying a discounted rate of €50 per sq. m.

8. RESPONDENT'S CASE

8.1 Mr. Sean Donnellan on behalf of the Respondent gave the following oral evidence.

8.2 Mr. Donnellan explained that the entire facility was assessed under the Revaluation process. The Appellant was now seeking a revision valuation so that the subject property could be assessed differently.

8.3 Mr. Donnellan provided a background to the facility, explaining the subject property is a four-storey mid terrace factory and was built as part of phase two of the development. The ground floor consists of office and production space. There is a lift within this building. The clean room on the 2nd floor level is built to a class of ISO 10,000. Underneath this area is another support floor for the clean room containing all the pipe work associated with the floor (clean room) above. The head height on this floor is 2.25m to 1.8m. The top floor is suspended from the roof and used as a fan deck and houses all the plant associated with the clean room below including, power, data and air conditioning, cabling, production utilities and services. There is a mix of steel and plastic composite flooring as a walkway throughout the floor. This area contains c.110 air handling units to support the clean room below.

8.4 Mr. Donnellan stated that the floor areas including the plant rooms matched the CBRE Measured Report included in his precis. He also said that the unit was jointly inspected with Mr. O'Donnell on the 24th October 2019. Mr. Donnellan explained that he only became aware that Mr. O'Donnell was now seeking to have the plant area's square footage excluded when he received the Appellant's precis of evidence. Prior to the Tribunal hearing, Mr. Donnellan sought clarification from Mr. O'Donnell, but he had not received a response.

8.5 Mr. Donnellan stated that having reviewed the grounds of appeal submitted by the Appellant, it was his opinion the subject property was a high spec industrial property which

has been valued in line with the tone of the list. Mr. Donnellan stated the subject property was suitable for a variety of industrial uses.

8.6 Mr. Donnellan explained the subject property is rateable under Schedule 3 of the Valuation Act, 2001 - 2015. The subject property is capable of beneficial occupation and has been valued appropriately. Mr. Donnellan outlined how the methodology utilised in determining the valuation of the subject property acknowledges the characteristics of the property, therefore the rate been applied is lower than for modern industrial units.

8.7 Mr. Donnellan said he acknowledged Mr. O'Donnell acceptance that the property should be rated, however he was dismissing the nominal rateable valuation been proposed by Mr. O'Donnell. It was Mr. Donnellan's opinion that the valuation submitted was not in line with the NAV derived from the tone of the list.

8.8 Mr. Donnellan explained that equity and uniformity were achieved by the consideration of 'similarly circumstanced' comparables. Mr. Donnellan noted the location and condition of the property and stated that three NAV comparisons were relied upon in arriving at the valuation scheme from which the NAV of the property was derived. These were as follows: -

Comparison 1

Property Number	1739855 (Subject Property)
Occupier	Hewlett Packard Manufacturing Ltd
Address	Lot No. 1C (2BRinawade U/pt3 Barnhall (ED Celbridge) Leixlip, Co Kildare
Total Floor Area	134,271.68 sq.m
NAV	€7,925,000

Description	Size (sq.m)	NAV per sq.m
Ground floor Factory	34,716.84	€70
Ground floor Factory	18,938.45	€50
Ground floor Offices	21,470.41	€70
Ground floor Corridors	2,161.39	€60

First floor Office	6,544.42	€70
Second floor Office	2,768.50	€70
Second floor Clean Room	11,949	€90
Ground floor Plant Room	1,691.02	€60
Ground floor Plant Room	2,146	€50
Ground floor Plant Room	295	€30
Pipe Link Bridge	600.03	€20
First floor Plant Room	1,072.66	€60
First floor Plant Room	750.16	€50
First floor Plant Room	14,583.99	€25
Third floor Plant Room	14,583.81	€25
Dock Levellers	30	€1,000
Additional items	-	€99,815
Total	134,271.68	€7,925,000

Comparison 2

Property Number	5020134
Occupier	DHL
Address	Building 8 Liffey Park Business
Total Floor Area	134,271.68 sq.m
NAV	€2,453,000

Description	Size (sq.m)	NAV per sq.m
Ground floor Factory	27,944.40	€70
First floor Office	3,673.50	€70
Dock Levellers	11	€1,000
Additional items	-	€228,876
Total	31,617.50	€2,453,000

Comparison 3

Property Number	1739812
Occupier	Retronix
Address	Donaghcumper, Celbridge, Co. Kildare
Total Floor Area	1,739.90sq.m
NAV	€72.700

Description	Size (sq.m)	NAV per sq.m
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Ground floor Factory	725.90	€25
Ground floor Offices	564	€25
Ground floor Clean Room	450	€90
Total	1,739.90	€72,700

Mr. Donnellan asked the Tribunal to confirm the Respondents valuation of €2,892,000, calculated as follows:

Description	Size sq. m.	NAV per sq. m.	NAV
Ground floor Factory	14,602.40	€50	€730,120.00
First floor Plant Room	14,818.30	€25	€370,457.50
Second floor Clean Room	11,949	€90	€1,075,410.00
Second floor Office	2,633.90	€70	€184,373.00
Third floor Plant Room	14,579.50	€25	€364,487.50
Dock Levellers	4	€1,000	€4,000.00
Additional items			€163,729.53
Total			€2,892,577.53

8.9 Mr. Donnellan highlighted that the Appellant's Comparison 1 is a comparison in common and supports the level applied to the subject property. He explained how the ground floor factory space of the subject property is valued at €50 per sq. m and this comparison is valued at €70 per sq.m. He also stated that the Appellant's Comparison 2 is also in the same development and is in line with the levels applied to the subject property. Finally, he noted that the eaves heights of both comparisons are 5 meters and not 7 meters as stated in Mr. O'Donnells precis.

8.10 Cross Examination of Mr. Donnellan

Mr. O'Donnell began his questioning by referring to page 24 of the Respondent's precis of evidence, which described the subject property as a "high spec industrial property". Mr. O'Donnell asked Mr. Donnellan how could a property which is over 20 years old be considered "high spec". Mr Donnellan did not accept the argument been put forward by Mr. O'Donnell.

Mr. O'Donnell expanded further with his questioning, stating that as the letting agents have been unable to secure a tenant for the premises, does this not support his argument that there is little demand for the property. Mr. Donnellan answered no, as there was no evidence to show how much of a "push" the agents had put on the property in an attempt to find a suitable tenant. Mr. O'Donnell responded that the subject property was an outlier as the other parts of the facility had all been let.

Mr. O'Donnell queried Mr. Donnellan's assertion that there was a variety of uses for the subject property, given the amount of columns throughout. Mr. Donnellan did not accept this, it was his opinion that columns are a common feature in industrial properties.

Mr. O'Donnell queried whether the cleanrooms in the comparisons used were the same as that in the subject property. Mr. Donnellan answered he could not clarify this point as he did not have access to such information. Mr. Donnellan explained the Valuation Office had utilised the Contractors Method of Valuation in determining the value of the cleanroom. In response Mr. O'Donnell gave his opinion that the cleanroom in the subject property was of the lowest level, and therefore this should be reflected in the valuation. Mr. Donnellan made no comment on this.

Summing up:

In summing up, Mr. O'Donnell reiterated that the subject property was a unique property and that no comparisons existed outside of the county. He suggested it is accepted generally that there are three industrial rates but the Respondent didn't comment on what they might be and that there has to be a deferential. He said that the valuation had to reflect the layout and configuration of the property and that in the subject property the ground floor had columns at 7m intervals while the main production area was at first floor level.

In summing up, Mr. Donnellan referred to the conclusions set out in his Precis. He said that the subject property had been valued in accordance with the requirements of the Act, that the same rates per sq.m have been applied to the subject property as were in the previous valuation which is one of his comparisons, that the valuation submitted by the Appellant would undervalue the subject property having regard to the tone of the list in the area as outlined by comparisons and

that the Appellant has not provided any evidence to demonstrate that the valuation is incorrect or inequitable.

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 Kildare County Council.

10.2 This is a Revision type appeal where the Tribunal is directed to consider the relative Net Annual Value (“NAV”) of the Property by reference to comparable assessments of NAV from the tone of the Valuation List only by virtue of sec. 49 of The Valuation Act 2001.

10.3 The Tribunal finds that in this appeal, and in all appeals before the Tribunal, the onus of proof rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal’s determination.

10.4 The Appellant highlighted what he identified as challenges associated with the configuration of the subject property. The subject property was designed specifically by Hewlett Packard for the production of one of their products. This design resulted in the manufacturing area of this building being based most unusually on the first floor. In the Appellant’s opinion this meant that the subject property was unlettable. The Appellant believed that this opinion was substantiated by the current letting agents being unable to secure an occupier for the property.

10.5 It was the Appellant’s opinion that given the current characteristics of the factory element of the property it has a zero value. However, the Appellant acknowledged that the property has

to have a rateable valuation, therefore he submitted to the Tribunal that a nominal value of €31.27 per sq. m. is sufficient for the first floor of the subject property. The Appellant considered that the ground floor space, which in his opinion had very poor height clearance at the relevant date, and suffered from a significant dispersal of columns throughout, should be considered as storage space rather than warehouse space. The Appellant was also seeking for the exclusion of the plant room areas from the valuation.

10.6 The Respondent contended that the characteristics of the subject property had been considered when arriving at the NAV. The Respondent highlighted that Comparison 1 was a shared comparison and this supported the level been applied to the property. The Respondent noted how the ground floor factory space of the subject property is valued at €50 per sq. m and Comparison 1 is valued at €70 per sq. m. The Respondent also stated that Comparison 2 of the Appellant, is also part of the same development and is in line with the levels applied to the subject property.

10.7 The Tribunal acknowledges the challenges the number of columns dispersed throughout the ground floor bring to the subject property, however it is the Tribunal's opinion that this has been reflected by the Respondent in applying a rate of €50 per sq. m. as opposed to €70 per sq. m. applied to the comparisons.

10.8 The Tribunal does not accept the Appellant's argument regarding what was referred to as "*Interstitial*" space. While the Tribunal accepts that the characteristics associated with this space does impact on its suitability for a number of uses, it is still functional space, therefore affording some value to the subject property.

10.9 During cross examination, the Respondent explained that the Contractors Method of Valuation had been adopted by the Valuation Office in determining the rate to be applied to the cleanroom. The Tribunal noted that the Respondents précis was silent on this point and that no evidence of any of the calculations used, such as assumed construction costs or applied depreciation allowances, was put forward in evidence. Furthermore, clarity could not be given in terms of the standards of the comparable cleanrooms quoted by the Respondent. The

Tribunal considers that in the absence of any explanation for the calculation of the clean room valuation, or information as to the standard of comparison clean rooms, the rate applied to the cleanroom cannot be sustained and should be reduced from €90 per sq. m. to €70 per sq. m. which is in line with the Second-Floor office valuation.

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 €2,653,000, calculated as follows: -

Description	Size sq. m.	NAV per sq. m.	NAV
Ground floor Factory	14,602.40	€50	€730,120.00
First floor Plant Room	14,818.30	€25	€370,457.50
Second floor Clean Room	11,949.00	€70	€836,430.00
Second floor Office	2,633.90	€70	€184,373.00
Third floor Plant Room	14,579.50	€25	€364,487.50
Dock Levellers	4	€1,000	€4,000.00
Additional items			€163,729.53
Total			€2,653,597.53

RIGHT OF APPEAL:

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal’s determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal’s Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.