

**Appeal No: VS19/6/0022**

**VALUATION TRIBUNAL  
AN BINSE LUACHÁLA**

**URBAN REGENERATION AND HOUSING ACT, 2015  
AN tACHT UM ATHBHEOCHAN UIRBEACH AGUS TITHE 2015**

**PATRICK HOARE**

**APPELLANT**

**AND**

**LIMERICK COUNTY COUNCIL**

**RESPONDENT**

**In relation to the market valuation of**

Newtown, Castletroy, County Limerick

**B E F O R E**

**HUGH MARKEY - FSCSI, FRICS**

**Deputy Chairperson**

**ALLEN MORGAN - FSCSI, FRICS**

**Member**

**CAROLINE MURPHY - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 4<sup>TH</sup> DAY OF MAY, 2023**

**Appearances:**

**For the Appellant: Thomas J. Crosse FIPAV, REV, MCEI**

**For the Respondent: Patrick Seymour MSCSI, MRICS**

**1.0 THE APPEAL**

1.1 On the 2nd of December, 2019 a copy of the Notice of Valuation issued in accordance with section 12 of the Urban Regeneration and Housing Act, 2015 Act ('the Act') was sent to the Appellant indicating a market value of €1,100,000 in respect of the vacant site situated at Newtown, Castletroy, County Limerick (hereinafter referred to as 'the Vacant Site').

1.2 By Notice of Appeal received on the 23rd of December 2019 the Appellant appealed against the Respondent's determination of value. The grounds of appeal as set out in the Notice of Appeal is that the determination of the valuation of the derelict site is incorrect because:

*"The map which we received from the local authority contains land, some of which is not owned by us. Also, the land in question has no access to public roads and is not serviced."*

1.3 The Appellant considers that the market value of the Vacant Site ought to have been determined in the sum of €430,000.

## **2.0 THE HEARING.**

- 2.1 The appeal proceeded by way of a remote hearing held via the Zoom platform, on the 7<sup>th</sup> September 2022.
- 2.2 In accordance with the Valuation Tribunal (Appeals) Rules 2019 the parties' valuers exchanged their respective valuation reports prior to the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having made an affirmation, adopted their respective valuation reports as their evidence-in-chief, in addition to giving oral evidence.

## **3.0 RELEVANT STATUTORY PROVISIONS**

- 3.1 A planning authority is required by s.12 of the Act to determine as soon as may be, after a vacant site has been entered on the register of vacant sites maintained under s.6 of the Act, and at least once every 3 years thereafter, the market value of the unencumbered fee simple of a vacant site if it was sold on the open market on the date of the determination. In that regard, a planning authority must authorise a person it considers suitably qualified for that purpose to inspect the site and report to it on the site's value.
- 3.2 Under s.3 of the Act the 'market value' of a vacant site is to be construed in accordance with s.12 which requires the market value to be determined:

*"by estimating or causing to be estimated the price which the unencumbered fee simple of such site would fetch if it was sold on the open market on the date of the determination in such manner and in such conditions as might reasonably be calculated to obtain for the vendor the best market price for the site."*

- 3.3 Under s. 14 of the Act the Tribunal may, where it considers it appropriate in all the circumstances, deem that a vacant site has a zero market value, in particular where
- (a) no market exists for the site, or
  - (b) the site is situated on contaminated lands and the estimated costs of remedial works necessary in order to use or develop the site exceed the market value of the site itself.

## **4.0 THE FACTS**

- 4.1 Based on the evidence adduced by the parties, the following facts in respect of the physical condition of the Vacant Site were agreed or proved to the satisfaction of the Tribunal:
- (i) The subject property is an irregular-shaped site comprising 0.848 ha. (2.10 acres) with tapering rectangular-shaped plot configuration, with depth of site reportedly varying from 44-90 metres.
  - (ii) The subject property is located at Newtown, Castletroy, Limerick on local road L1121, also known as the Kilmurray Road, just off the R445 (Old Dublin Road), in Monaleen, Limerick. Castletroy/Monaleen is located on the N7 Limerick-Dublin Road.

- (iii) The parties identify the subject property as being contained under PRA folio reference KK63939F Co. Limerick.

## 5.0 APPELLANT'S CASE

- 5.1 Mr. Thomas Crosse, valuer, of GVM Auctioneers, representing the Appellant, Mr. P. Hoare, was invited to present his evidence. He confirmed that the date of his valuation, as also stated in his written précis, was 27<sup>th</sup> June 2022. Mr. Crosse also noted that in the Respondent's précis of evidence, two valuation dates were referenced, the first being October 2019, and the second being September 2020. Mr. Crosse advised he had discussed these dates with Mr. Seymour and that the Appellant's arguments are relevant to both dates in relation to the ground conditions which are the same from 2019 to date, density levels and the Appellant's comparable evidence represents that particular time. He said it was a filled site which was confirmed by their Engineer. Mr. Crosse also noted that Mr. Seymour, in his précis, had reduced the Respondent's valuation for the subject site figure from the figure of €1,100,000, as stated in the Notice of Valuation of 2<sup>nd</sup> December 2019, to €830,000. Mr. Crosse also noted the size of the subject site, as stated in the Respondent's précis, was 0.848 ha. (2.10 acres) and this corresponded with his own figure.
- 5.2 Mr. Crosse stated that the subject property is owned by the Hoare family, long established builders, and that to develop the property could take up to 5 years. He stated that as a location for development purposes, it is a strong one and has a high profile. He said the main thrust of his and Mr. Seymour's report/précis was very similar.
- 5.3 Mr. Crosse's evidence to the Tribunal was that he assessed the value of the subject site at his stated valuation date of June 2022 as follows:

**Headline value - 2.1 acres @ €300,000 per acre = €630,000 (rounded.)**

**Reduction factor 1** - (above average development costs of €5,000 per unit, and current density guidelines of 14 units per acre), reducing the per acre headline figure by €70,000 (overall €147,000 - rounded to €150,000) = **€480,000.**

**Reduction factor 2** - He further reduced the figure of €480,000 by €50,000 to reflect possible risks associated with access, planning, increased construction costs and the very prohibitive density requirement;

Net Value of site = **€430,000.**

- 5.4 Mr. Crosse stated that in arriving at his headline valuation figure of €630,000, he was taking as his starting point that a reasonable value of the land would have been in the order of €300,000 per acre, but that he had reduced this figure for the following factors:
- a): that the presence of 'builder's fill' on the site, gave rise to expected higher than normal development costs, (due to unknown ground conditions and consequential provision for piling costs).

b) The small size of the subject site limited its development potential, whereas a larger site such as his Comparison 2 had the benefit of economies of scale and offered greater choice of development options.

c) That there was no planning permission existing for the property, and that its development potential hadn't been established.

5.5 Mr. Crosse referred to his site value property comparators which he said were in close proximity and close enough in time to 2019/2020 - (Included at Appendix A -n/a to public)

**Comparison 1.** Site. Dublin Road, Limerick, 1 acre. Sold €100,000. Q3.2020. Private sale. Price per acre. €100,000

Comments - Commercial zoning. Adjacent to halting site - within 200m. Despite commercial zoning, certain uses not permitted, i.e. shops, medical centres etc.

**Comparison 2.** Site. Newtown, Monaleen, 23 acres. Sold €8.5m, Q1.2019 Savills. Price per acre €370,000

Comments - much larger site, zoned residential, gives quantum value benefit because of size for more sustainable development.

**Comparison 3.** Site, Beechfield Monaleen. 2.62 acres. Sold €650,000. Q4.2019. GVM Auctioneers. Price per acre €248,000.

Comments - Development land. Full PP for 5 houses. Balance of land zoned educational.

**Other:** Mr. Crosse also included three apartment sales in his précis. He did not make any comment on these comparisons at the hearing.

5.6 He stated that from a construction cost perspective, it is a challenging site to develop, requiring piling for foundations, given the presence of significant construction "fill" on the site. He stated that the additional cost per unit of piling (or equivalent floor slab), having consulted and been verbally advised by a quantity surveyor, would work out at a figure of €13,000 per unit of development.

5.7 Mr. Crosse referred to the subject site not currently having direct road access to facilitate putative development. He also referred to what he asserted is a storm water drainage problem.

5.8 In terms of the type of development to which, he suggested the site would be suited, to justify the economics for a commercially viable development, he stated that this would need to take the form of either apartments or duplexes to achieve adequate density of development. He said that in the case of Limerick, the viability of this type of denser residential development was still many years away. He expressed the view that commercially a viable development density would require about 40 units of housing which he said will not physically fit on the site and that as a consequence the site is not economically viable to develop at present.

5.9 Mr Crosse identified the Part 5 contribution requirements for development as a further burden for a developer.

- 5.10 He alluded to issues in the area concerning the availability of water supplies from Irish Water.
- 5.11 He stated that even now there is still market uncertainty as regards the development economics for residential development, and that in his view the market and economics necessary to justify high density development such as apartments, was not yet established in Limerick.
- 5.12 In the context of all of the foregoing, and taking into account his above-mentioned comparables, Mr. Crosse said he considered that his valuation of €430,000 for the subject site was reasonable, which figure he contended was valid for the entirety of the period 2019/2020/2021 and 2022.
- 5.13 He was asked to confirm the valuation date by the Tribunal. He said the date on his report was 27<sup>th</sup> June 2022 but the Respondent's view was that 2019/2020 were the relevant dates. He was asked was it his evidence that the same valuation would apply for 2019 and 2020 and he confirmed this to be the case.
- 5.14 When asked by the Tribunal if he had considered employing a residual valuation method, he said there was no planning on the site, there are guidelines around zoning but he didn't know what one would get on it but he included it in his report that value of apartments in Limerick what they are now and would have been less in 2019 and 2020 and that in his opinion if you did a residual valuation you would get back to a zero or a minus value on the site and that kind of development was not sustainable at the moment and for building houses that's sustainable but density levels are obviously lower.
- 5.15 Under cross-examination, the Respondent's witness, Mr. Seymour of Power Property adverted to Mr. Crosse's comparisons which he believed needed further clarification, posing the following questions:
- 5.16 **Comparison 1: 1 acre site, Dublin Road.** Noting this comparison, Mr. Seymour put it to Mr. Crosse that the presence of a halting site in close proximity (200m) might explain the figure reportedly paid. Mr. Crosse acknowledged that it might have some impact on the sale price but in his view not to any great extent. Responding to a question on land use zoning, he acknowledged that it had a different zoning to the subject site, and which might be a factor, but he stated that regardless of zoning, the site was in the same locality as the subject, and thus in his opinion, representative of prevailing site values in the Limerick area.
- 5.17 **Comparison 2: 23-acre site at Newtown, Monaleen.** Mr. Seymour queried whether the area given by Mr. Crosse was accurate as his information was that the site area was actually 22.8 acres. Mr. Crosse confirmed that his figure of 23 acres was a rounded figure. Mr. Seymour asked Mr. Crosse if it were not the more likely situation that a larger sized site would proportionately have a lesser value per acre than a small one. Mr. Crosse rejected this view, saying that in his opinion the reverse was the case in that larger sites offered greater development options and choices. In short, he said bigger was better. Asked by Mr. Seymour whether he would agree that smaller sites would attract a bigger number of potential purchasers, he disagreed.

- 5.18 Mr. Seymour asked Mr. Crosse if he would agree that since there is no planning permission on the site it is hard to evaluate in terms of density or how a scheme would be designed. Mr. Crosse stated that in Limerick the authorities are pushing for density requirements of around 38-39 units per hectare, which must include a residential component of apartments and duplexes to achieve that level of density. Asked if he believed a mixture of uses might be needed to optimise the development density of the site, including apartments, but accepting there might be a sustainability issue with the last-mentioned, Mr. Crosse stated he would agree.
- 5.19 Mr. Seymour questioned Mr. Crosse on the established sale value of this site with an analysed value of €372,000 per acre as to whether he believed this was a good market indicator, Mr. Crosse agreed that it was, but pointed out that in his view it had the additional benefit of being a much larger site, had a number of access points, was next to a secondary school and a park. He also said it was in a better location.
- 5.20 Mr. Seymour asked Mr. Crosse where he would place the relative attributes and value of this larger site, as compared with the subject site, Mr. Crosse replied, albeit saying it was a difficult question to answer with any degree of accuracy, he considered, that overall, in terms of pro rata value, this comparator property, could be about 10% better than the subject site.
- 5.21 **Comparison 3: 2.62 acre site at Beechfield, Monaleen.** - sold for €650,000 in 2019. Asked by Mr. Seymour about the land area of the site under each use zoning, Mr. Crosse said the educational section was 1.66 acres to which he ascribed a value in the order of €175,000 per acre - i.e. €290,000 in total. Mr. Seymour queried if Mr. Crosse had any evidence to validate this figure as being the value of 'Educational' zoned land. Mr. Crosse said he did not know of an instance of 'Educational' zoned land having been sold. When questioned as to the value of the remaining 'Residential' section of the site - i.e. 0.96acre, Mr. Crosse stated he believed it could have represented a value of €400k, which would equate to a price per site of €80,000, given that the development potential of the site had been quantified under the planning permission as 5 housing sites. Mr. Crosse agreed the site was located on the same local distribution road as the subject site which was located about 0.5 to 0.7 kms away but that access into Beechfield Road was off the distributor road.
- 5.22 **The subject site: Appellant's valuation approach.** Mr. Seymour asked Mr. Crosse to explain his valuation assumptions (as set out at 6.3 to 6.4 above) in more detail, particularly in relation to the extent and impact on value of above-average development costs. Mr. Seymour asked Mr. Crosse to clarify how he arrived at a calculation of €5,000 per unit. Mr. Crosse said he had spoken with two builders, when compiling his report as to what the additional costs would be. Joe Ryan also offered an opinion on the same subject and a quantity surveyor he approached has since stated a higher figure of €13,000 per unit. He confirmed that evidence of €13,000 per unit was not contained in his précis or submitted to the Tribunal. When Mr. Seymour suggested that there was "no great science" as regards how the figure of €5,000 was calculated other than a conversation with building contractors as to what it may be, in the absence of having a scheme designed

on the site that someone would need to have when making an assessment as regards construction cost, Mr. Crosse disagreed and said he discussed it with some of his clients, there was a figure mentioned and that it could cost more per unit.

## **6.0 RESPONDENT'S CASE.**

6.1 Mr. Seymour was invited to present his evidence. He stated his evidence was that the subject site was well located in an established urban area in the environs of Limerick city, and that the area was the largest residential suburb in Limerick. He also stated that Limerick University is located close by, as are a large number of multi-national companies.

6.2 He stated that the 2.1-acre site enjoyed double road frontage, including to the main distributor road - the Castletroy Road. He stated that there was no existing planning permission on the site, that it was level in topographic terms, had freehold title but currently had no services on the site. Mr. Seymour referred to his valuation evidence as set out in his précis, referencing in particular his related assumptions and comparative sales evidence. He cited the following sales as his comparators (included at Appendix B - n/a to public)

**Comparison 1** - Site at Castletroy, Limerick. 22.8 acres. Sold region of €8.5m, Q4.2018-€372,807 per acre. Selling agent Savills. He said the sale was completed in the first quarter of 2019 and is in the same year as the date of valuation.

Comments: Development land, 400m from subject property. Level site with regular configuration, Extensive Road frontage. Significantly larger than subject, Mr. Seymour's contention was that a discount for quantum was merited.

**Comparison 2** - Site at Raheen, Limerick. Approximately 4 acres. Sold €2.25m; Quarter 1, 2018. Selling agent Tom Crosse GVM.

Comments: Zoned residential. FPP for 40 residential semi-detached units. Mr. Seymour noted that €300,000 had already been expended in site servicing works but with 2/3 of this cost- i.e. €200,000 - being discounted from his analysis due to such works having to be rectified a second time, in other words reducing their net contribution to the site's assessed value by 2/3. He analysed the net site value as being €2,050,000 or €512,500 per acre.

**Comparison 3** - Site at Walkers Road, Annacotty. 6.12 acre site. Sold €1.6m. Q3, 2017. Selling agent Michael O'Connor, O'Connor Murphy Auctioneers. Price per acre €261,438

Comments: Site rezoned to residential under Castletroy Local Area Plan 2019-2025. Planning permission granted for mixed residential development. Extensive road frontage to N8 Dublin to Limerick Road. Smaller lot size to the subject property.

6.3 Under cross examination, Mr. Crosse asked Mr. Seymour if he would confirm that his value of the subject site in his report assumed reasonable ground conditions which he confirmed. Mr. Crosse asked Mr. Seymour whether, in the context of an engineer's report, that the ground conditions of a site were vulnerable, that it would negatively affect its value. Mr. Seymour replied stating that the site's value might be negatively impacted by adverse ground conditions but that this would depend on the circumstances. Mr. Seymour stated that it was his experience that trial holes would need to be opened up across the

site, with the location of trial holes accurately identified. He said he would expect that this type of report would fully record the subsoil conditions and load-bearing capacity of the ground, but that in this instance the engineer's report did not provide same. Mr. Crosse asked whether Mr. Seymour was prepared to take the report, included in the Appellant's précis as read, i.e. that what Mr. Crosse is saying is correct and that the site has issues. Mr. Seymour said that the report/letter was unclear and that it indicated that there might be a probability that the subject site might require some additional substructure support reinforcement/piling. Mr. Seymour added that he noted that the engineer's letter referred to the investigations described by Mr. Crosse were carried out in relation to an adjoining site (where trial boring was done) and involved a much higher and larger building than a typical house (a multi-storey and cinema complex) and was thus not comparable, and of more relevance did not relate to the subject site. That engineering report he said, also alluded to the development on that adjoining site having piled foundations. Mr. Crosse then asked Mr. Seymour whether the subject site reflects a site that has been "filled." Mr. Seymour agreed there was evidence on the site of a certain amount of fill but in the absence of a full geotechnical report that would show documented trial holes he could only go on what he could see on the superficial surface and that it was very hard for him to form a professional judgment on that basis.

- 6.4 Mr. Crosse questioned Mr. Seymour in relation to two of his comparisons, Comparison 1, a 23 acre site sale at Castletroy, analysed at €372,000 per acre, and Comparison 3, a 6.12 acre site sale at Walkers Road, Annacotty, analysed at €261,000 per acre. He asked Mr. Seymour to contextualise these sales relative to his assessment of value of the subject site of €830,000, and particularly if he considered that the value of the subject site would be adversely affected by the problematic ground conditions. Mr. Seymour said that you could have increased costs on the site but the issue he had was that the costs are based upon an opinion, which is not backed up with any detail or science behind it and the secondly, that the valuation date was October 2019.. Mr. Seymour countered Mr. Crosse's assertion on costs and cost adjustments, stating that at that time in the market, residential property values were on the rise, meaning that by the time the houses were commenced on site and then sold, any construction costs inflation (an additional figure of €5,000 per house was cited by Mr Crosse in his précis) would have been offset by higher sale prices.
- 6.5 Mr. Crosse questioned Mr. Seymour on prevailing market values, referencing the time period that the valuation related which he claimed was the years 2019 and 2020, which he said coincided with the start of the Covid-19 period, and he referenced a report by the ESRI which he noted had said the market had suffered a 20% reduction as a result of the impact on the lockdown on sales during the pandemic. Mr. Seymour's answer was that the relevant date was October 2019, at which point the Covid-19 pandemic and any consequential effects of same on the property market had not yet happened. Mr. Seymour said if the valuation date was being amended to September 2020, the pandemic would have had an effect on the property market, but that in the case of the Limerick market this had been positive, with many agents market reports noting an increase in sales prices due to increased demand as people relocated out of Dublin to more regional locations.
- 6.6 Mr. Crosse asked Mr. Seymour if he had any concerns as to the lack of direct access to the subject site creating a problem for development, and secondly whether securing a

potential second access point to the rear, out onto an estate road which serves an established residential development would constitute a risk. Mr. Seymour answered that as regards the potential rear access to the subject site, the legal status of this estate road would have to be verified but expressed his opinion that even if access proved to be a problem, a seasoned developer would be able to identify a workable solution and that as matters stand, there is significant main road frontage, if it was an issue in a planning application.

- 6.7 Mr. Crosse asked Mr. Seymour about apartment development in the Limerick area and if it was financially sustainable for a developer to undertake same. Mr. Seymour said he agreed with the thrust of Mr. Crosse's question, to the extent that there was little evidence of apartment or duplex developments being undertaken in the Limerick market but that an end purchaser might prefer to opt for a house rather than an apartment if there was little difference in price between them. He also said a private purchaser would not usually be financially capable of purchasing a block which would require investment fund involvement, and that Limerick had not seen evidence of this type of funding which he said was predictable given that this type of block development was not yet common in Limerick.
- 6.8 Mr. Crosse asked Mr. Seymour to confirm the details of his second comparator property, the sale of a 4-acre residential site at The Grange, Raheen, which reportedly had planning permission for 40 houses, (or 10 units per acre - i.e. relatively low density), which houses had been subsequently built and sold which Mr. Seymour confirmed these details. He agreed they were all semi-detached houses. Mr. Crosse asked him if he would agree that the Grange site was in a 'strong' location equally if not better to the subject site to which Mr. Seymour agreed it was a good location as was the case with the subject site. He agreed that the site was 'shovel ready.' He agreed that there was value in a percentage of services already provided to the site and that he had noted the figures in the evidence. Mr. Seymour also agreed that the existence of planning permission would have enhanced the value of that site.
- 6.9 Mr. Crosse also referred to his first comparator site sale, a 1-acre site on the Dublin Road, which was stated in Mr. Seymour's précis to be 'sale agreed' at €100,000. Mr. Crosse asked Mr. Seymour if he would agree that a comment in his précis that the site was 'immediately adjacent' to a halting site was not correct (i.e. that it was not 'directly adjoining'). Mr. Seymour said he would agree with this correction. Mr. Crosse also asked Mr. Seymour if he would agree that Grange was the location of a number of thriving business developments, including a shopping centre, a hotel and a block of apartments. Mr. Seymour agreed but only to the extent that those developments were on the opposite side of the road to the 1-acre site and had a more beneficial zoning than the subject site.
- 6.10 The Tribunal asked if this comparator property (1-acre site on the Dublin Road €100,000) was on the comparator property schedules of both parties. Mr. Crosse advised that Mr. Seymour noted the site in his précis and Mr. Seymour did not dispute this. The Tribunal sought clarification on an apparent contradiction in Mr. Crosse's earlier statements that there was no demand for apartments in Limerick, having just stated that an apartment

development was under construction at the Grange location. Mr. Crosse agreed that this apartment block was indeed under construction.

- 6.11 Mr. Crosse asked Mr. Seymour about factors which he believed would impact on 'quantum', specifically his earlier expressed view that a smaller site would attract a wider pool of potential purchasers than a larger site, creating greater purchaser interest and thus value. Mr. Crosse challenged Mr. Seymour on this assertion, on the basis that he could see no evidence of small size giving a quantum benefit. Mr. Seymour rejected this statement saying that it was his experience in selling small sites that they attracted good buyer interest, if well located. Mr. Seymour stated that looking at his comparator evidence, two of these, the 2.62acre site at Beechfield, Monalee and the 22.8-acre site at Castletroy were the most instructive as an example of a smaller lot size generating a higher 'value per acre' sale price than the larger site. He said that this higher value per acre for smaller sites was also demonstrated in the sale of the 4-acre site in Raheen, albeit he conceded it had the benefit of planning permission and which he noted was only twice the size of the subject site. Mr. Seymour said he rejected Mr. Crosse's contention that there was a quantum bonus in sale prices of larger sized sites, (i.e. 2.1 acre site v 22.8 acre site), and that in his view smaller site sales out-performed larger ones on a per acre basis.
- 6.12 Finally, Mr. Crosse clarified to the Tribunal that an apartment development which was under construction at Grange had benefitted from a 'Croí Cónaithe' support grant, whereas the subject site has no planning permission and thus does not qualify for a grant.
- 6.13 The Tribunal asked Mr. Seymour as to why the alternative residual site valuation method had not been used as a cross-check against the comparative valuation method. Mr. Seymour's response was that he had been instructed by his client, Limerick City and County Council (LCCC) to carry out an assessment of the market value of the site and believed this could be done using the evidence of comparator sites sales. Had he used the residual as a cross-check he said they would also have had to retain additional expertise in the form of an architect and a planner to establish the development potential of the site. He said had it been an instruction from a developer for a valuation he would normally have used the residual method and he said, given the purpose of the valuation, that this was not necessary.
- 6.14 The Tribunal asked Mr. Seymour if he could not just have taken the prescribed permissible density set out in the statutory Local Area Plan and, making whatever assumptions that might be appropriate for the subject site, arrive at a residual site value. Mr. Seymour agreed this had been an option, but said he felt able to critically analyse site sales of lands which were then developed, carry out an analysis based upon the total number of built units, and thus derive a 'per unit' site value. He stated that in the Limerick market a 'per unit' site value is a good gauge.
- 6.15 The Tribunal asked Mr. Seymour about how much was known about the subsoil conditions of the site - i.e. was it 'filled' or not. Mr. Seymour stated that he was not aware of how much fill was present on the site because whilst visually the topography of the site was level, it was heavily vegetated and to be definitive as to the subsoil conditions, it would have required a geotechnical survey to be carried out.

## **Summing up**

- 6.16 Mr. Crosse stated that the Appellant's case was that the value of the site, whilst correlated against the comparisons he had put forward, was also circumscribed by the planning risk, and by adverse /uncertain ground conditions. He stated that in the context of the issues already outlined, his evidence to the Tribunal was that his valuation of €430,000 was fair and reasonable.
- 6.17 Mr. Seymour summarised the case which the Respondents wished to make, being that the market value of the subject property, as of the relevant date of valuation was €829,500, say €830,000, equivalent to €395,000 per acre and that in arriving at that figure, he had taken account of any/all material factors. He stated that in his opinion this figure was fair and reasonable.
- 6.18 At the hearing, there was some uncertainty on the part of the parties as to the date of valuation. In relation to the date, the Tribunal asked Mr. Seymour the specific date in October 2019 but he did not have the specific date to hand just "October 2019". The Tribunal stated that the date of notice of valuation is 2<sup>nd</sup> December 2019 which is set out in the Notice of Appeal lodged by the Appellant on 13<sup>th</sup> December 2019. Mr. Seymour confirmed when the site was initially put on the Register, the site area was incorrect. Subsequently, the Appellant made an observation on the site area, and the site area was adjusted. He thought that the date the site was entered onto the register was 19<sup>th</sup> June 2018. The Tribunal directed the parties to confirm to the Tribunal within 14 days the date of valuation upon which their valuation is based and to confirm their valuation as at that date. The Chairperson noted Mr. Crosse said his view is the same whichever the date as 2019/2020 or 2022 but if there was to be a difference the parties should restate that. The Tribunal asked the parties to then confirm/agree the date and confirm their valuation as submitted is relevant at that date or otherwise. In accordance with these Directions, the Parties noted that the relevant valuation date was 1<sup>st</sup> September 2020 and they did not wish to alter their opinion of value as being €430,000 (Appellant) and €830,000 (Respondent).
- 6.19 The Parties confirmed their agreement that the site area is 2.1 acres.

## **8. FINDINGS AND CONCLUSIONS**

- 8.1 Various dates were put forward by the valuers as the valuation date. Section 12(1) of the 2015 Act requires the planning authority to determine the market value of the vacant site and expressly provides that the market value is to be the estimated price that the unencumbered fee simple would fetch if sold on the open market on the date of the determination. Section 12(4) requires the planning authority to enter the particulars of the determination on the Register together with the date of entry, and to give written notice to the owner, of the valuation placed on the site and to inform the owner of his or her right of appeal under section 13 of the Act. Section 13 gives the owner a right of appeal to the Valuation Tribunal against the determination of value within 28 days after the notice of determination given by the planning authority under section 12(4).

8.2 In his Notice of Appeal dated the 13<sup>th</sup> of December 2019 the Appellant specified the 2<sup>nd</sup> December 2019 as the date of Notice of Valuation /Revised Valuation. The evidence established that the value of the vacant site was determined in October 2019 on the basis of an area of 1.115ha. The Appellant notified the planning authority that the site area is 0.848 ha. The planning authority purported to revise the determination of value on the 1<sup>st</sup> of September 2020.

8.3 The Tribunal is satisfied that the determination of value was made in October 2019 and that the Appellant was notified of that determination by Notice dated the 2<sup>nd</sup> December 2019. The appeal is accordingly against the determination made by the planning authority that the open market value of the vacant site in October 2019 was €1,100,000.

8.4 The Respondent accepted that the vacant site was valued in 2019 on the basis of an incorrect measurement of 1.115ha and put forward a revised valuation of €830,000.

8.5 On this appeal the Tribunal is required to determine the market value of the vacant site in accordance with s.3 of the Act which is to be construed in accordance with s.12 of the Act as of October 2019.

8.6 The Tribunal notes that the subject site is 2.1 acres as agreed by the parties.

8.7 The Tribunal finds that the comparables adduced by the parties were of limited assistance in arriving at a Determination in terms of location and scale. The Tribunal notes that there were two common comparisons. These are i) a site of 23 acres at Castletroy with a sale price in 2019, noted/agreed by both parties, as being €8.5m or €370,000 per acre and ii) a 1-acre site at Dublin Road, close to a halting site, which was sold in 2020 for €100,000. The Tribunal considers that there is insufficient comparability between these two sites with the characteristics of the subject site, and to the specific conditions pertaining to it, to allow much weight to be placed upon them.

8.8 Whilst it was not a ground of appeal, it was argued by the Appellant that the subject suffered from adverse /uncertain ground conditions. Whilst the Appellant submitted a letter from Joe Ryan, engineer, admitted without objection, the Tribunal finds the contents refer to an adjoining site and therefore the letter is of no assistance. The Tribunal finds that neither party advanced expert evidence as to the subsoil conditions in terms of trial boring results, and assessment of load bearing capacity.

8.9 The onus of proof in this case lies with the Appellant, The Tribunal has determined that this onus has not been discharged. None of the evidence adduced by the Appellant satisfies this burden and is not persuasive that the revised valuation is incorrect.

#### **9.0 DETERMINATION:**

Accordingly, the Tribunal partially allows the appeal in having the valuation reduced from €1,100,000 to €830,000 and confirms the Respondent's amended market value of Eight hundred and thirty thousand euro, [€830,000].

## **RIGHT OF APPEAL**

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.