

Appeal No: VA19/5/0582

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

EAMONN MEDLEY

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1774471, Industrial Uses at Local No/ Map Ref: 16BB Borris, Two-Mile-Borris, Thurles, County Tipperary.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF OCTOBER, 2024**

BEFORE

Kenneth Enright, Solicitor

Ordinary Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of October, 2019 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 €9,000.

1.2 The grounds 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:

“In summary, no commercial activity takes place at the site, planning consent does not permit commercial activity on the site or the site to be open to the public and the property is vintage transport museum solely used for storage of vintage vehicles. I am appealing for the property to be deemed rates exempt.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

2. RE-VALUATION HISTORY

2.1 On the 15th day of March, 2019 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 €6,290.

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 increased to €9,000.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €9,000.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th day of September, 2017.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 The property is situated in Two-Mile-Borris, Co Tipperary, a village about 8 kilometres from Thurles.

4.2 It comprises a steel portal frame with double skin clad wall and roof, with an eaves height of 3 to 5.5 metres and an enclosed concrete yard. The floor area is 360m² and the yard is 492m².

4.3 The property is used for the storage and display of vintage vehicles and transport memorabilia.

4.4 It was purchased by the Appellant and his wife in 2017 and extensively renovated by them in 2018/2019 following their receipt of a Grant of Planning Permission for change of use from commercial retail to domestic storage of vintage vehicles and the construction of an extension for the same purpose.

5. ISSUES

5.1 The Appellant is of the view that the property should be excluded from the Valuation List.

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.”

6.3 Section 13 of the Act states:

13.—The Commissioner shall provide for the determination of the value of all relevant properties (other than relevant properties specified in Schedule 4) in accordance with the provisions of this Act.

6.4 Section 15 of the Act states:

15.— (1) Subject to the following subsections and sections 16 and 59, relevant property shall be rateable.

(2) Subject to sections 16 and 59, relevant property referred to in Schedule 4 shall not be rateable.

6.5 Schedule 4 of the Act lists the types or categories of relevant property which are designated as “not rateable” by Section 15(2). These include the following:

6.—Any domestic premises (but subject to section 59(4) (which provides that apartments are rateable in certain limited circumstances)).

11.—Any art gallery, museum, library, park or monument which is normally open to the general public and which is not established or maintained for the purpose of making a private profit.

6.6 Section 3(1) of the Act defines a “domestic premises” as “any property which consists wholly or partly of premises used as a dwelling and which is neither a mixed premises nor an apart-hotel.”

7. APPELLANT'S CASE

7.1 The Appellant in his précis dated 1 May 2023 stated that he is basing his appeal on three main points.

7.2 Firstly, he referred to a Grant of Planning Permission from Tipperary County Council. He appended to his précis a letter from Tipperary County Council dated 9 October 2018 (Planning Reference 18/600259) granting the permission with the conditions set out in the Notification of Decision made on 4 September 2018.

7.3 The permitted development is described in the grant as follows:

“change of use from commercial retail premises to domestic storage of vintage vehicles and permission to construct an extension to same for storage of large vintage vehicles with all associated site works and internal works at Borris, Two Mile Borris, Thurles, Co, Tipperary.”

7.4 The Appellant referred in particular to Paragraph 2 of Schedule Two of the Grant of Permission which states:

“The extended garage shall be used only for private storages purposes and shall not be used for any residential, commercial or industrial purpose and shall not attract visitors.”

7.5 The Appellant said the premises once operated as an industrial unit but since the issue of the Grant of Planning Permission, the occupier is no longer allowed to carry on any commercial activity or generate revenue. The Appellant stated that he adheres to these conditions and no commercial operations take place at the property and consequently no revenue is generated to “offset rates costs.”

7.6 The Appellant's second ground of appeal is that the property is used solely as “*a museum for the storage of vintage transport and memorabilia and is maintained by a group of volunteers who attend the property on Saturdays for the upkeep of the museum's contents.*” He said that because the planning permission “*does not permit any commercial activity on the site, the museum is open by invitation only, visiting in a private capacity.*” He said that no charge applies to any visitors.

7.7 The Appellant referred to other “*private museums*” which, he said, were exempt from rates. He mentions, in particular, “*the nearby Cormackstown museum*” and the “*Cavan and Leitrim Railway Museum at Dromod in Co. Leitrim*” but he did not bring forward any evidence in regard to these properties or provide any details by way of comparison.

7.8 Thirdly, the Appellant stated that the property is “*across the road*” from his and his wife's dwelling house on which property, he said, the Local Property Tax has been paid.

7.9 In the Appellant's Notice of Appeal to the Tribunal dated 1 May 2023 (appended to his précis) he gave similar reasons as to why the property ought, in his view, to be excluded from the relevant Valuation List. He further set out at paragraph 7 of the Notice of Appeal a history of the property which included the following additional information:

“(a) The property is located in Two-Mile-Borris a small village 8KM from Thurles.

- (b) *The property was originally a retail & wholesale plumbing centre but suffered as a result of the “Celtic Tiger” crash and had been derelict for several years.*
- (c) *The property was a derelict property put up for sale by the banks.*
- (d) *My wife and I purchased the property in September 2017 for the sole intention of storing vintage vehicles. I am a member of the Irish Vintage & Veteran Car Club (member 1638). I am also a member of the Clonoulty-Rossmore Vintage Club and Chairman of the Thurles Lions Club Vintage & Classic Car Show. I have been a collector of vintage vehicles for many years.*
- (e) *Since acquisition, my wife and I have invested in the restoration of the building for the housing of vintage vehicles.”*

The Appellant in his Notice of Appeal went on to outline a history of his communications with Tipperary County Council and the Valuation Office leading up to this appeal.

8. RESPONDENT’S CASE

8.1 Ms Malone identified the property on a map and said it is situated in the village of Two-Mile-Borris, Co. Tipperary. She said Two-Mile-Borris is located on the L4202 road at the junction with the Ballyduff Road, close to the N75, 7.6 km from Thurles town centre and 1.6 km from Junction 5 of the M8 motorway.

8.2 Ms Malone in her précis described the subject property as a store constructed of steel portal frame with double skin clad wall and roof, with an eaves height of 3 to 5.5 metres. It has, she said, a large enclosed concrete yard.

8.3 She gave the floor areas as set out below and confirmed these details had been agreed with the Appellant.

	Floor	Area m²
Store	0	360
Yard	0	492

8.4 Ms Malone said the property was originally valued for Revision purposes in 2001 as a showroom. She confirmed that the Appellant purchased the property in 2017 and received the Grant of Planning Permission in 2018. She said the property was extensively renovated and extended in 2018/2019 and is currently used to store the Appellant’s collection of vintage vehicles. She referred to a number of internal and external photographs and said the property is in excellent condition.

8.5 Ms Malone noted that the Appellant was seeking an exemption but that the NAV of €9,000 was not disputed.

8.6 Ms Malone said she had investigated all of the particulars of the appeal and considered the grounds of appeal and the evidence of the Appellant. She expressed the opinion that the property was not “Relevant Property Not Rateable” and could not be considered a museum under the provisions of Paragraph 11, Schedule 4 of the Act. She said the property is not open to the general public and she had not been furnished with information as to whether the occupier is established for the purposes of making a private profit.

8.7 She said the planning permission associated with the property does not render it “not rateable”.

8.8 She confirmed her opinion that the correct NAV was €9,000, arrived at as follows:

Level	Use	Area m ²	NAV (€/m ²)	NAV €
0	STORE	360	22.00	7,920.00
0	YARD (Concrete/tarmac)	492	2.20	1,082.40
TOTAL				9,002.40
			Rateable Valuation	9,000.00

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 Tipperary.

10.2 In order for a property to be deemed Relevant Property Not Rateable and accordingly excluded from the Valuation List, it must, per the provisions of Section 15(2) of the Act come within one of the categories set out in Schedule 4.

10.3 The Appellant (who acknowledges in his précis that he did not instruct an agent in preparing his appeal) does not expressly enumerate which of the categories under which he seeks the exemption but the Tribunal notes his grounds of appeal as set out above.

10.4 The first ground of appeal relates to the Grant of Planning Permission and the Appellant places much emphasis on the restrictions contained within it. However, the Tribunal notes that the Grant of Planning Permission of 9 October 2018 (following on from the Appellant’s initial application for permission of 5 March 2018, as recorded on the Notification of Decision to Grant Permission) post-dates the valuation date of 15 September 2017. Obviously then, at the time of the valuation date, the restrictions on the use of the property did not exist and were not something that needed to be considered in the context of a valuation of the property.

10.5 Even if that were not dispositive of the first ground of appeal, the existence of the planning restrictions and the consequent inability of the Appellant to operate the property on a commercial basis, would not of themselves be sufficient reason to deem the property Relevant Property not Rateable. The Appellant, if he wishes the property to be excluded from the

Valuation List, must be able to show the Tribunal which of the paragraphs in Schedule 4 applies to the property. The Tribunal accepts that the planning restrictions exist and that the Appellant observes them, but none of these circumstances would bring the property within any of the categories set out in Schedule 4.

10.6 An exemption under paragraph 6 of Schedule 4 is not specifically sought by the Appellant but, lest there be any doubt, the Tribunal finds that the property is not a “domestic premises” within the meaning of paragraph 6, taking account of the definition of “domestic premises” in Section 3. Neither the subject property nor any part of it is used as a dwellinghouse, nor is it a “mixed property” as that term is defined in Section 3. The subject property is located across the road from the Appellant’s dwellinghouse, an entirely separate premises. The fact that planning permission permits the use of the subject property as “domestic storage for vintage vehicles” does not make it a “domestic premises” as that term is defined in the Act: the property is obviously not a dwellinghouse and residential occupation is explicitly precluded by the terms of Schedule Two Condition 2 of the Grant of Planning Permission.

10.7 Thus, the Appellant’s first ground of appeal is rejected.

10.8 The Appellant’s second reason for seeking to have the property excluded from the Valuation List is based on his categorisation of the subject property as a “museum.” However, in order for the property to be deemed Relevant Property not Rateable under this heading, as provided for by Schedule 4 paragraph 11, the museum must be “normally open to the general public”. The Appellant states in his précis that “the museum is open by invitation only, visiting in a private capacity.” Similarly, in his Notice of Appeal, he states that the property is a “private museum” and, in view of the planning conditions “cannot be open to the public.” Consequently, the exemption under Schedule 4 paragraph 11 is not available and the Appellant’s second ground of appeal is rejected.

10.9 The third point relied upon by Appellant in his précis (referred to at paragraph 7.8 of this judgment) is that his and his wife’s dwellinghouse is located across the road from the subject property and LPT has been paid on it. This point has already been referred to at paragraph 10.6. It provides no grounds for the subject property to be excluded from the Valuation List.

10.10 The Appellant’s three grounds of appeal have been rejected. He did not identify any other grounds of appeal, nor did he dispute the floor areas or the NAV calculated on foot of them.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent

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.