

**Appeal No: VA19/5/1351**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**ROBERT WEST PLANT REPAIRS**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2145837, Workshop at Ballinacourty, Aherlow, Tipperary, County Tipperary

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 11<sup>TH</sup> DAY OF OCTOBER, 2024**

**BEFORE**

**Annamaria Gallivan - FRICS, FSCSI, MPhil SEE**

**Tribunal Member**

**1. THE APPEAL**

- 1.1 By Notice of Appeal received on the 10<sup>th</sup> 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 €12,450.
- 1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

*“I cannot justify a 5/6-fold increase and cannot afford this as it will put me out of business.*

*The building is of poor quality, barn type structure. Prone to damp condensation and leaks. I am a one-man operation with no employees in my late fifties and have struggled for the last 5 years due to the downturn in the economy and one more increase of this type will put me out of business."*

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €5,000.

## **2. RE-VALUATION HISTORY**

- 2.1 On the 15<sup>th</sup> 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 €12,450.
- 2.2 Being dissatisfied with the valuation proposed, no representations were made to the valuation manager. The valuation manager did not consider it appropriate to provide for a lower valuation.
- 2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €12,450.
- 2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15<sup>th</sup> 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.
- 3.3 The Appellant, Mr Robert West, submitted a précis of evidence and a response to the

Respondent's précis, and Ms. Claire Callan, Valuer, submitted a précis of evidence on behalf of the Commissioner of Valuation (Valuation Office/Tailte Eireann).

#### **4. FACTS**

From the evidence submitted the parties are agreed as to the following facts relating to this appeal;

- 4.1 The property is a rural industrial unit located in Aherlow, Co Tipperary.
- 4.2 The property is in use as a repair workshop and storage of vehicles, machinery and tools.
- 4.3 The property is in a rural location and is not modern construction.
- 4.4 The Property as identified in the Valuation Certificate is a workshop.

#### **5. ISSUE(S)**

- 5.1 The issue is quantum.

#### **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 The Appellant submitted a précis of evidence to the Tribunal which comprised a written document supplemented by photographs of the Property, Trading and Profit and Loss account for the year ended 30 November 2016, 2017 and 2018.
- 7.2 The Appellant contends that his advanced age has contributed to certain health issues, which has limited his ability to maintain full-time involvement in the business, he therefore only works part time and uses a mobile unit to repair agricultural and forest machinery.
- 7.3 The Appellant argues that his current profit margin is insufficient to support an increase in rates. He incudes account statements 2016, 2017 and 2018 to demonstrate the lack of capacity of the business to pay increased rates. He states that although he has always paid his rates without question, the last increase in rates will close his business.
- 7.4 The Appellant asserts that the area's disadvantaged status results in prolonged periods during which his gate remains closed.
- 7.5 The shed's main function, as described by the Appellant, is as a storage facility for vintage vehicles and other belongings.
- 7.6 The Appellant makes the case that the building is not standard construction, being constructed by himself, from used materials. It is his testament that being a single skin, steel clad construction, the building is prone to condensation and leaks, which he evidenced

with photographs showing water on the internal floors. He maintains that this renders the unit 'no good' for storing perishable goods. He additionally asserts that there are no toilets, water supply, phone or Wi-Fi and that he uses a generator due to inadequate electrical supply to the shed.

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

- 8.1 Ms Claire Callan, for the Respondent submitted a précis that included general information, a photograph of the exterior and market evidence by way of 3 in number, NAV comparisons.
- 8.2 The Respondent described the location as in the Village of Aherlow, Co Tipperary on the R663. 0.3km east of the Tipperary and Limerick Border.
- 8.3 Ms Callan described the unit as a single skin workshop in use for the maintenance and repair of plant machinery equipment with vehicular storage on site in the yard. She witnessed that the property had its own driveway entrance.
- 8.4 The Respondent reported the property to be held freehold.
- 8.5 The Respondent detailed the Revaluation process as using available information to inform a valuation scheme (including directly from occupiers, revenue commissioners data and the commercial lease register). The information in this case was described as a number of items of market information identified as being more aligned with the requirements of the hypothetical letting as described in s.48 of the Valuation Act, 2001 as amended, "Key rental transactions". The scheme was applied to properties sharing similar characteristics, including the subject. It is further clarified that each of these transactions was investigated and analysed in accordance with Tailte Eireann policy and procedures, and regard was had to the individual features of the transactions, relative to the requirements of Section 48. After this starting point, relevant individual considerations in relation to the subject property, may necessitate further adjustments to the subject property's estimate of NAV.

8.6 For the Industrial sector, post the analysis of all available rental evidence, a rate of €20. PSQM was deduced to apply to the subject and other properties of similar size, finish and location. The Appellant seeks an NAV of €5,000. This would equate to €8.50 per square metre. The Respondent confirms that there are no industrial properties within Tipperary County Council valued at such a level.

8.7 As there were no representations made the Final Valuation Certificate was issued unchanged at €12,450.

8.8 The Respondent included the following NAV comparisons:

**Comp 1 PN2094528**

Denis O'Connor,  
Cloonbeg, Co Tipperary

Floor level	Use	Area (Sqm)	Rate (psqm)	Total NAV
0	Store	272.80	20.00	€ 5,456.00
	Yard			€ 1,800.00
			Total:	€ 7,250.00

Located 1 km to subject.

**Comp 2 PN2179089**

Michael Butler,  
Lattin, Co Tipperary

Floor level	Use	Area (Sqm)	Rate (psqm)	Total NAV
0	Workshop	626.60	20.00	€ 12,531.00
	Yard			€ 7,520.00
			Total:	€ 20,000.00

Located 14 km to subject.

**Comp 3 PN2007093**

Kilmoss Ltd,

### Cahir, Co Tipperary

Floor level	Use	Area (Sqm)	Rate (psqm)	Total NAV
0	Workshop	525.91	20.00	€ 10,518.00
0	Stores	142.32	10.00	€1,423.00
0	Portacabin	143.16	8.00	€ 1,145.00
0	Yard			€ 3,000.00
	Plant			€ 2,221.00
			Total:	€ 18,300.00

Located 16 km to subject.

8.9 The Respondent contents for the following NAV.

Floor Level	Use	Area (sqm)	Rate (psqm)	Total NAV
0	Workshop	592.90	20.00	€ 11,858.00
0	Yard			€ 600.00
	<b>Total NAV</b>			<b>€ 12,450</b>

## 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 County Council.

10.2 In rating appeals brought by lay Appellants (ratepayers who are not professionally represented) the role of the Tribunal and its scope of power may be unclear. The jurisdiction of the Tribunal is independent and is solely concerned with the correct and equitable

determination of the valuation. The basis of the valuation is the net annual value of the property having regard only to other comparable net annual values and with regard to the physical circumstances prevailing at the date of the Valuation Certificate.

- 10.3 The process for an Appellant in dealing with their appeal is provided for on the Valuation Tribunal website, along with the relevant rules applicable. These Rules provide guidance on all aspects of the process, and outline what is usually expected to be comprised in a summary of evidence, that is to be submitted to the Tribunal for consideration. Previous judgments of the Tribunal are listed on the website.
- 10.4 Accordingly, in this Determination, the Tribunal has examined and reviewed the evidence put forward by the Appellant to ascertain if this persuades, on valuation grounds, that the NAV proposed by the Respondent is to be changed, because the onus in rating appeals rests with the Appellant to prove their case.
- 10.5 From the evidence provided it appears the subject property is in use as a workshop.
- 10.6 The Tribunal notes the calculation by the Appellant, to derive a valuation of € 8.50 PSQM (including the yard). This is unsupported by reference to the NAV comparables available to the Tribunal. The Appellant makes reference to his level of turnover/profit, but that methodology would not be utilised in a 'hypothetical letting' as a guide, because industrial units are analysed on a rate per square metre, and calculating a level of value from that, to derive a tone of the list level of values. The Appellant cites the area as a disadvantaged location as a factor to depress the rental value, but on review of the Respondent Valuer's comparables, it is believed that these broadly reflect other remote rural locations in the County. Similarly, the lack of facilities are not wholly unique features to this property and should be accommodated in the chosen rate per square metre, to be applied in the valuation.
- 10.7 The rate of €20.00 PSQM adequately reflects, in the view of the Tribunal, a small rural enterprise of the nature of the subject Property, its remote location, the other characteristics



of the Property including type of structure, use, age and lack of services in light of the three in number NAV comparisons provided by the Respondent.

10.8 Therefore, the Tribunal cannot find any reasons to dispute the valuation made by the Respondent, having considered, in detail, the grounds of appeal and all the evidence submitted by the Respondent Valuer indicating equity and uniformity of her approach from the unit value rates adopted for comparable properties. The Property has been correctly assessed in the opinion of the Tribunal.

**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.