

Appeal No. VA11/5/066

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Pavillion Consortium

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2151094, Car Park (Retail) at The Pavillion, Marine Road, Dun Laoghaire, County Dublin.

B E F O R E

Fred Devlin - FSCSI, FRICS

Deputy Chairperson

Brian Larkin - Barrister

Deputy Chairperson

Frank O'Donnell - FRICS, B Agr Sc, MIREF

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 9TH DAY OF JANUARY, 2012

By Notice of Appeal dated the 11th day of July, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €28,000 on the above described relevant property.

The grounds of Appeal as set out in the Notice of Appeal are:

"The valuation is excessive and there is no relevant market evidence to support same. The subject does not have the benefit of an adjoining shopping centre unlike car parks it has been compared to."

The appeal was held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 29th day of November 2011. At the hearing the appellant was represented by Ms. Siobhan Murphy, BSc (Surv) MSCSI, MRICS, a senior surveyor with GVA Donal O Buachalla. Ms. Fiona Mullins, a valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

Prior to the commencement of the oral hearing and in compliance with the rules of the Tribunal the expert witnesses acting for the parties forwarded to the Tribunal and exchanged a précis of the evidence and valuation they proposed to adduce at the oral hearing. From the evidence so tendered and additional information introduced into evidence under oath at the oral hearing the following facts material to the appeal were agreed or are so found.

The Property Concerned

The property concerned, which is the subject of this appeal, is a multi-storey car park forming part of the Pavillion Development which is located at the junction of Marine Road and Queens Road, opposite the Town Hall in the centre of Dun Laoghaire. The subject car park, which is located directly across from the sea front and ferry terminal, is accessed from Queens Road. The Pavillion Development is a mixed-use scheme and contains the Pavillion Theatre, several restaurants/coffee shops, retail outlets, bar and an apartment block. Access to the car park which provides spaces at three levels, one underground and two over ground, is from Queens Road. Pedestrian access is from Marine Road and Queens Road where pay stations are located.

In total 304 car spaces are provided and located at three levels as follows:

Street Level 54 spaces

Lower Level 125

Upper Level 125

The car park which is occupied by Park Rite Limited under a lease arrangement is open for business on a 7 day a week basis as follows Monday to Wednesday 07:00 – 22:20, Thursday 07:00 – 23:00, Friday 07:00 – 24:00, Saturday 07:00 to 23:00 and Sunday 10:00 – 22:30.

The standard hourly rate is €2.40 up to 5 hours and free thereafter up to 24 hours. Park Rite also offer special evening, overnight and weekend rates and parking is also available on a three day or weekly basis.

Tenure

The car park is occupied by Park Rite Limited under the terms and conditions of a lease dated the 1st of April 1999 for a term of 20 years and 3 months from the 29th of January 1998 subject to an initial yearly rent of €571,000 for the first 10 years of the term. In accordance with the rent review provisions of the lease the initial rent fell to be reviewed to the greater of £350,000 (€444,152) or the then open market rent. In the event the rent from March 2009 to March 2012 was fixed at €444,152 per annum. The property concerned was the subject of an appeal to this Tribunal in 2001 (**VA01/2/015 – Pavilion Partnership**) at which time the Tribunal in its judgment said that the lease under which the property is occupied was “*in the nature of a financing arrangement and not representative of an arms length market rent agreed between the parties.*” The Tribunal’s opinion in this regard has not altered.

In their evidence the valuers agreed that in addition to pay and display on-street car parking, there are three other multi-storey and fee paying car parks in Dun Laoghaire, namely Dun Laoghaire Shopping Centre car park, Bloomfields Shopping Centre car park and the IMC car park. There is also a multi-storey car park at the Marine Hotel but it would appear that this has been valued as part of the hotel and has not been accorded a separate valuation. In addition to the above there is also car parking at the ferry port located directly opposite to the property concerned.

Rating History

The property concerned was valued as part of the revaluation of all relevant property in the Dun Laoghaire-Rathdown Rating Authority area carried out in accordance with Section 19 of the Valuation Act 2001. In accordance with Section 20 of the Act the specified date by which the value of each relevant property is to be determined is the 30th September 2005.

On the 15th June 2010 a Valuation Certificate (proposed) was issued to the effect that it was proposed to value the property concerned in the sum of €28,000. No representations were made in relation to this proposed valuation and in due course the value of the property concerned was entered on the valuation list at €28,000. Following an appeal to the

Commissioner of Valuation made under Section 30 of the Act, the Commissioner of Valuation affirmed the valuation of €228,000 and it is against this decision by the Commissioner that the appeal to this Tribunal lies.

Appellant's Evidence

Ms. Murphy, having taken the oath, adopted her written précis of evidence and valuation which had previously been received by the Tribunal and the appellant as being her evidence-in-chief. In evidence Ms. Murphy contended that the Net Annual Value of the subject property in accordance with statutory provisions contained in Section 48 of the Act was €182,000 calculated as set out below:

Car Parking: 304 spaces @ €600 per space = €182,400

NAV €182,400

In support of her opinion of Net Annual Value Ms. Murphy introduced five comparisons details of which are set out in Appendix 1 to this judgment. In particular, Ms. Murphy drew the Tribunal's attention to the valuation of the car park at Bloomfields Shopping Centre which had been determined on the basis of €675 per space. Ms. Murphy said that when the valuation of the subject car park was determined by this Tribunal in April 2002 (**VA01/2/015 – Pavilion Partnership**) the Tribunal attached considerable weight to the then valuation of Bloomfields car park (€300 per space) and valued the property concerned at €270 per space, i.e. 10% lower. In her opinion this relativity should be maintained at revaluation since there was no change in the car parking market between 2002 and 2010 when the revaluation was completed. Ms. Murphy also contended that the three other fee-paying multi-storey car parks in Dun Laoghaire were better located than the property concerned by virtue of the fact that they form part of large-scale commercial developments which gave rise to a demand for car parking which was not the case in the Pavillion development, which she said was located on the fringe of the town centre.

Under cross-examination Ms. Murphy agreed that the Pavillion development was located opposite the ferry port where the car park was valued at €650 per space and that GVA Donal O Buachalla had acted for the occupier at Representations Stage when the valuation was reduced from €408,000 to €354,000. Ms. Murphy said that this car park was primarily a

surface car park and this would be less costly to maintain than a multi-storey car park such as the subject property. Ms. Murphy reiterated her contention that the other three multi-storey car parks benefitted from the fact that they were either located in a shopping centre development or a cinema development which created demand for car parking facilities.

When questioned about the hourly rates at the subject car park, Ms. Murphy agreed that these were fixed at the discretion of the operator who wished to maximise income. In regard to her comparisons Ms. Murphy agreed that the car parking at the Dundrum Shopping Centre was in truth not a relevant comparison.

The Respondent's Evidence

Ms. Mullins, having taken the oath, adopted her written précis of evidence and valuation which had previously been received by the Tribunal and the appellant as being her evidence-in-chief. In evidence Ms. Mullins contended that the rateable valuation of the property concerned in accordance with Section 48 of the Act was €228,000, calculated as set out below.

Car Parking: 304 spaces @ €750 per space = €228,000

NAV €228,000

In support of her opinion of Net Annual Value Ms. Mullins introduced five comparisons, details of which are set out in Appendix 2 to this judgment.

Ms. Mullins said in evidence that she was the valuer nominated to value all the fee-paying car parks in Dun Laoghaire as part of the revaluation programme. In carrying out this task she made herself familiar with all the car parking in Dun Laoghaire and its environs and assembled as much market rental information as available which in the final analysis, she said, was of limited assistance. Nonetheless, based on her judgment and having regard to all factors that would have a bearing on rental value, she valued each multi-storey car park at a uniform level of €750 per space. However, following representations, the valuation of the car park at Bloomfields Shopping Centre was reduced to €675 per space and the car parks at the Harbour and the IMC development were reduced to €650 per space.

In response to a question from Ms. Murphy, Ms. Mullins agreed that that Bloomfields and IMC car parks were located in close proximity to developments which would give rise to a demand for car parking. However, in this regard Ms. Mullins said that in her opinion the IMC car park occupied an inferior location to both the Bloomfields and Pavillion developments.

Findings

The Tribunal has carefully considered all the submissions made and evidence adduced by the parties and finds as follows:

1. Dun Laoghaire, for a town of its size, is well provided with multi-storey car parks. Most, if not all, are strategically located convenient to, or form part of, a commercial development which give rise to a demand for such a facility.
2. Having considered all the valuation evidence the Tribunal attaches most weight to those comparisons in Dun Laoghaire and in particular the car park at Bloomfields Shopping Centre, the IMC car park and the car parking at the Harbour.
3. The valuations of all three of these properties were agreed at Representations Stage and were not the subject of further appeals to the Commissioner of Valuation under Section 30 of the Act.
4. All of these car parks were valued on the basis of €650 per space save for Bloomfields which is valued at €675 per space.
5. The remaining comparisons are of lesser assistance for a variety of reasons such as location and the nature and scale of the development of which they form a part.
6. It is noted that the valuation of the car park at the Dun Laoghaire Harbour is calculated on the basis of €650 per space. This car park, which provides 545 spaces (the majority of which are at surface level), was initially valued at €750 per space, but the valuation was reduced following representations made by GVA Donal O Buachalla on behalf of the occupier. Having regard to the fact that this car park is located immediately opposite to the property concerned and provides car parking for 545 cars as against the subject which has only 304 spaces the Tribunal has come to the conclusion that the appellant's contention that the property concerned be valued at €600 per space is unsustainable. Equally, the respondent's contention that the property concerned should be valued on the basis of €750 per space is also unsustainable having regard to the fact that the car park at Bloomfields has been valued at €675 per space and that car parking at the IMC development and the Harbour has been valued at €650 per space.

Determination

Having regard to the foregoing the Tribunal determines the Net Annual Value of the property concerned in accordance with the statutory provisions contained in Section 48 of the Act of 2001 as follows:

Car Parking: 304 spaces @ €650 per space = €197,600

NAV €197,600

And the Tribunal so determines.