

Appeal No. VA13/3/005

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

Clane Fertility Clinic

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2211376, Clinic at Lot No. 1A2A/Unit 4, Abbeyland, Clane, Naas 1, County Kildare.

B E F O R E

Sasha Gayer - Senior Counsel

Chairperson

Patrick Riney - FSCSI, FRICS, ACI Arb

Member

Frank Walsh - QFA, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF FEBRUARY, 2014

By Notice of Appeal received on the 12th day of September, 2013, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €196 on the above described relevant property.

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

"On the Basis that the RV as assessed is excessive & inequitable given the property's location on the outskirts of the village of Clane, Co. Kildare.

The RV is also excessive in view of the established tone for comparable property already in the list."

The appeal by way of an oral hearing, which took place in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 18th day of November, 2013, The appellant was represented by Mr Eamonn Halpin, B.Sc. (Surveying) MRICS, MSCSI, of Eamonn Halpin & Co. Ltd, and the respondent was represented by Mr John W. O'Brien, B.Sc. (Hons) Real Estate Management, MSCSI, a valuer at the Valuation Office. Both representatives adopted their written submissions as being their evidence in chief given under oath.

At Issue

Quantum.

The Property

The property is located at Abbeylands off the Clane Relief Road on the outskirts of Clane, adjacent to the ruins of Clane Abbey. The property comprises a modern 2-storey part dormer building in use as a fertility clinic. The building was originally developed for office use but prior to its completion the current user came forward and building was subsequently enlarged to approximately twice its original size, a lift being added to transport patients to the 1st floor, if required.

The subject property was measured on a Net Internal Area (NIA) basis. While the parties agreed upon floor area, there was disagreement regarding the inclusion of the fire corridors.

Accommodation

Level	Use	Floor Area (NIA)	Including Fire Corridor of:
0	Clinic	304.66 sq. metres	73.46 sq. meters
1	Clinic	268.88 sq. metres	47.84 sq. meters

Valuation History

This appeal arises on foot of the issue by the Commissioner of Valuation of a Final Valuation Certificate in respect of the property concerned on 23rd November, 2011. The Commissioner of Valuation issued the results of the first appeal on 16th August, 2013 and the occupier appealed this decision on the 12th September, 2013.

Appellant's Case

Mr. Halpin adopted his précis as his evidence-in-chief. He contended that the rateable valuation (RV) of the subject property is excessive in view of its size and location. He said that the first floor of the subject property is inferior to the ground floor and that what he contended were permanent fire corridors should be excluded from the valuation of the property.

Appellant's Valuation

Mr. Halpin contended for a rateable valuation of €118 for the subject property, calculated as follows:

NIA (per Valuation Office, inclusive of permanent fire corridors)

Ground Floor – 304.66 sq. metres (Permanent Fire Corridor – 73.46 sq. metres)

First Floor – 268.68 sq. metres (Permanent Fire Corridor – 47.84 sq. metres)

NOTE: Mr Halpin also offered his measurement of the subject property on a GIA and GEA basis as his comparisons 1 and 2 were measured on a GEA basis and his comparison 3 was measured on a GIA basis:

GIA

Ground Floor (Clinic) – 337.89 sq. metres

First Floor (Offices, Canteen, Meeting Room, WCs) – 321.62 sq. metres

GEA

Ground Floor (Clinic) – 416.03 sq. metres

First Floor (Offices, Canteen, Meeting Room, WCs) – 376.03 sq. metres

NIA

Ground Floor 231.20 sq. metres @ €61.51 per sq. metre = €14,221

First Floor 230.84 sq. metres @ €41.00 per sq. metre = € 9,464

€23,685

€23,685 @ 0.5% = €118.43

Say RV €118

In support of his valuation Mr. Halpin argued that -

- The location of the subject property is moderate, its being located on the edge of the town of Clane, adjacent to the ruins of Clane Abbey. Clane itself is a moderate commercial location, being only the eighth largest town in Kildare.
- The design of the property, although attractive, curtails the utilisation of space, particularly at first floor level.
- The level applied by the Commissioner is excessive in view of the established tone of the list for comparable properties in the town of Clane and elsewhere in Kildare.
- The appellant contends that the property should be measured and valued on a NIA basis excluding the permanent fire corridors.
- The property must be regarded as large in the context of the local market at 462.04 per sq. metres (NIA) and, as such, quantum would certainly apply.

Appellant's Comparison Properties

In support of his opinion of rateable valuation Mr Halpin put forward seven comparison properties with comment as follows -

1. Clane General Hospital, Prosperous Road, Clane

Property No. 1738958

RV €380.92 (1992 1st Appeal)

NAV Basis (GEA): Hospital (Ground Floor) 1,931 sq. metres @ €39.50 per sq. metre

Comment - All ground floor hospital and sports injury clinic building also on the outskirts of Clane on the Prosperous Road. Valued by the Commissioner on a GEA basis, devaluing at €39.50 per sq. metre overall.

2. Elaine Byrne (Beautician), Unit W7C Toughers Business Park, Naas, Co Kildare.

Property No. 2190864

RV €80 (2010)

NAV Basis (GEA): Ground Floor Front 38.44 sq. metres @ €41 per sq. metre

1st Floor Front 38.44 sq. metres @ €41 per sq. metre

Ground Floor Rear 189.72 sq. metres @ €34.17 per sq. metre

1st Floor Rear 189.72 sq. metres @ €34.17 per sq. metre

Comment - High spec purpose built showroom/office unit comprehensively re-fitted as a beauticians/therapy centre, with numerous individual treatment rooms. Superior

commercial location on the main Naas to Newbridge road, with significant profile to the main road.

3. Cocoon Childcare, Sallins

Property No. 2204336

RV €67 (2010)

NAV Basis (GIA): Crèche (ground floor) 390 sq. metres @ €34.29 per sq. metre

Comment - Purpose built crèche on the edge of Sallins. Comparable size to the subject property on the ground floor (GIA) demonstrates the comparable level of value for this size of property in off town centre location.

4. Kildare County Enterprise Board, Unit 4 The Woods, Clane

Property No. 2171670

RV €23 (2003 1st

Appeal)

NAV Basis (NIA): Offices (first floor) 82 sq. metres @ €54.68 per sq. metre

Comment – The property is located in a prime office development within the town of Clane at The Woods, just off the Main Street. Property is significantly smaller than the subject property and thus demonstrates the starting level for small similarly fitted offices in the vicinity. The subject property should be granted significant quantum on a Net basis based on the level of €54.68 sq. metre owing to size and location.

5. Drs. Lynch & O’Flynn, The Woods Medical Centre, Clane

Property No. 1738994

RV €38.09 (1999)

NAV Basis (NIA): Surgery 89 sq. metres @ €82 per sq. metre

Comment – The property is located in a mixed development of retail and office users adjacent to a prominent filling station at the junction of Main Street and College Road. The adjoining ground floor units are occupied by the Flaming Wok Restaurant and a Centra convenient store. Property is significantly smaller than the subject property, with retail potential, and thus demonstrates a superior level for smaller similarly fitted surgery accommodation.

6. Adrian Fadden, Unit 5 Abbeylands Medical Centre, Clane

Property No. 2211375

RV €34 (2011 1st Appeal)

NAV Basis (NIA): Surgery (Ground Floor) 83 sq. metres @ €82 per sq. metre

Comment – Surgery located within the Abbeylands medical centre development as part of the Abbeylands shopping centre development. Superior location and profile to the subject property at the main pedestrian entrance to the shopping centre. Significantly smaller than the subject property, again demonstrating the need for sufficient quantum allowances for the subject property.

Note: The property is assessed on a NIA basis excluding the permanent fire corridor as a result of the appeal.

7. Patrick Fadden (Le Monde Holdings Ltd.), Unit 3 Abbeylands Medical Centre, Clane

Property No. 2211377

RV €29 (2011 1st Appeal)

NAV Basis (NIA): Offices (second floor) 85.40 sq. metres @ €68.34 per sq. metre

Comment – Office suite located within the Abbeylands medical development as part of the Abbeylands shopping centre development. Superior location and profile to the subject property at the main pedestrian entrance to the shopping centre. Significantly smaller than the subject property, again demonstrating the need for sufficient quantum allowances for the subject property.

At the conclusion of his direct evidence Mr. Halpin requested that the Tribunal have regard to the size of the property and to the fact that its location is moderate. He submitted that the first floor should be assessed at a rate of 2/3 (66%) of the ground floor rate. Mr. Halpin also submitted that his comparisons demonstrated the need for a significant quantum allowance to be applied to the subject property.

Respondent's Case

Mr O'Brien adopted his précis as his evidence-in-chief. He contended for a rateable valuation of €196 for the subject property, calculated as follows:

Level	Use	Floor Area (NIA)	Rate per sq. metre
0	Clinic	304.66 sq. metres	€68.34
1	Clinic	268.88 sq. metres	€68.34

573.54 sq. metres @ €68.34 per sq. metre = €39,195.72 x .005 = €196

Valuation €196.00

Respondent's Comparison Properties

In support of his opinion of rateable valuation Mr. O'Brien put forward three comparison properties with comment as follows:

1. The Surgery, Prosperous Road, Clane, Co. Kildare.

Occupier – Dr Francis Xavier Flanagan

Property No. 2168191

Level	Use	Measurement	Area sq. metres	Rate per sq. metre
0	Surgery	NIA	49.99	€82

Valuation (rounded) €21.00

- It is situated on the Prosperous Road on the outskirts of Clane village, Co. Kildare.
- It is a stand-alone two storey office block with ground floor in use as a surgery.

2. First Floor, The Surgery, Prosperous Road, Clane, Co. Kildare.

Occupier – Vacant

Property No. 2168192

Level	Use	Measurement	Area sq. metres	Rate per sq. metre
1	Surgery	NIA	49.99	€76.20

Valuation (rounded) €19.00

- It is situated on the Prosperous Road on the outskirts of Clane village, Co. Kildare.
- It is the first floor of a stand-alone two storey office block with ground floor in use as a surgery.

3. Ground Floor, The Woods, Clane, Co. Kildare.

Occupier – Kildare Child Care Committee

Property No. 2171661

Level	Use	Measurement	Area sq. metres	Rate per sq. metre
0	Offices	NIA	93	€68.31

Valuation (rounded) €32.00

- It is situated on the outskirts of Clane village, Co. Kildare.
- It is part of the ground floor of a stand-alone two storey office block.

Direct Evidence

Addressing Mr Halpin's submission that the rate per sq. metre applied to the first floor of the subject property should be 33% lower than that applied to the ground floor, Mr. O'Brien stated that the subject property had a lift and is fitted out to an excellent standard in accordance with the occupier specification. Mr. O'Brien contended that the same rate should apply to the first floor.

Addressing Mr Halpin's submission that the fire corridors should be omitted from the valuation of the property, Mr O'Brien stated that his NIA measurement excluded stairs, toilets, lift and that voids were inclusive of passageways. He also stated that the internal walls of the property were non-structural and could be moved depending on requirements.

Mr O'Brien submitted that the subject property had ample parking and was in a good location. He also stated that the Commissioner had reduced the RV at first appeal.

In support of the rate per sq. metre applied by him to the subject property, Mr O'Brien relied on his comparison properties.

Cross-Examination of Respondent

In response to questions raised by Mr Halpin and the Valuation Tribunal, Mr O'Brien indicated that –

- The passageways/corridors in the subject property were net usable space and should be included in the Net Internal Area (NIA).
- An allowance for quantum was not necessary.

Summaries

The representatives of both the appellant and the respondent availed of the opportunity to provide summation statements which were a synopsis of the foregoing arguments and positions adopted by them in both their précis of evidence and the hearing.

Findings

The Tribunal has carefully considered the evidence adduced and submissions made by the two expert witnesses and finds as follows:

1. The Tribunal agrees with the appellant that a quantum allowance of 10% on the entire subject property would be appropriate in this case.
2. The Tribunal accepts the argument by the appellant that the design of the first floor curtails the utilization of space and is of the view that a further reduction of 33.33% on the ground floor rate would be appropriate. This finding is supported by the appellant's photographs in Appendix II of its précis.
3. Insofar as the corridors/passageways are concerned, the Tribunal is not satisfied in this case that they should be excluded from valuation. This view is supported by the respondent's internal photographs and floor plan drawings of the subject property.

Determination

In view of the foregoing, the Tribunal determines that the Rateable Valuation of the subject property should be calculated as follows:

Ground Floor Clinic - 304.66 sq. metres @ €61.51 per sq. metre	= €18,739.64
First Floor Clinic - 268.88 sq. metres @ €41.00 per sq. metre	<u>= €11,024.08</u>
Total	€29,763.72

€29,763.72 @ 0.5% = €148.82

RV say €149.00

And the Tribunal so determines.