

Appeal No. VA05/3/062

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

**Aldi Stores (Ireland) Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Supermarket at Lot No. 3B.3E/5, Belgard Road, Cookstown, Tallaght Springfield, Tallaght West, County Dublin.

**B E F O R E**

**John Kerr - BBS. ASCS. MRICS. FIAVI**

**Deputy Chairperson**

**Patrick Riney - FSCS FRICS FIAVI**

**Member**

**Michael McWey - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF JANUARY, 2006**

By Notice of Appeal dated the 29th day of July, 2005, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €750.00 on the above described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are:  
"Valuation excessive and inequitable."

This appeal proceeded by way of an oral hearing held in the Offices of the Tribunal, Ormond Quay Upper, Dublin 7 on the 26<sup>th</sup> October, 2005. The appellant was represented by Mr. Desmond M. Killen, FRICS, FSCS, IRRV, a director of GVA Donal O Buachalla and Mr. Francis Twomey, Valuer Grade 1 in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.

### **The Property**

The property concerned is a purpose-built, single storey supermarket with storage and office accommodation. There is a cobble locked car park to accommodate 101 cars exclusively for customers of the supermarket.

### **Location**

The property is located in Tallaght off, and visible from, the Belgard Road but with access from the Old Belgard Road.

### **Tenure**

Presumed to be freehold.

### **Valuation History**

The property was valued in November 2004. A proposed Valuation Certificate was issued on 9<sup>th</sup> November, 2004 proposing a rateable valuation (RV) of €750. No representations were received and a Valuation Certificate was issued on 29<sup>th</sup> November, 2004. The assessment was unchanged at first appeal stage.

The agreed areas are as follows:

Supermarket	867 sq. metres
Offices	67.9 sq. metres
Stores	290.3 sq. metres
Cold Stores	49.5 sq. metres
Canopy	72.0 sq. metres

### **The Appellant's Case**

Having taken the oath, Mr. Killen adopted his précis as his evidence-in-chief and provided the Tribunal with photographs of the subject property and of some of his comparisons. He confirmed that he was appointed by the appellant, Aldi Ltd., after the first appeal process had been dealt with and acknowledged the help given to him by the Valuation Office.

He described the building as steel framed, with panelled concrete walls and insulated metal deck mono pitched roof. Mr. Killen stated that all Aldi supermarkets were constructed similarly and from identical plans. He referred to sections 48 and 49 of the Valuation Act, 2001 and said that it was common cause that comparable properties in the same rating authority area should be considered in order to arrive at the correct valuation of the subject property.

Mr. Killen then reviewed the comparison properties outlined in his précis of evidence (see Appendix 1 to this judgment) as follows:

1. Eurospar, Ballyowen Shopping Centre, Lucan RV €850.00 - This, he said, was located in a highly developed area and had already been considered by the Valuation Tribunal as it was a comparison in Appeal ref. **VA05/2/022 – Lidl Ireland GmbH**.
2. Aldi, Lucan RV €556.00 – Mr. Killen stated that this property was located in Fonthill Retail Park close to Liffey Valley Shopping Centre and he supplied the Tribunal with a map of the area. This retail park included retailers such as Smiths, Tubs and Tiles, Arramont Furniture, Power City, Elverys and others. He had valued the subject on an identical basis to this property which was similar in size and design to the subject and, if anything, in a better location than the subject, with shops all around it.
3. Lidl, Lucan, RV €1,220.00 - This property had been the subject of an appeal to the Tribunal (Appeal ref. **VA05/2/022 – Lidl Ireland GmbH**) in which the Tribunal determination was delivered immediately prior to the subject hearing. Mr Killen said he was trying to analyse that decision in the short time available to him and, on first glance, it appeared to him to result in an overall 9% reduction in the RV.

Mr. Killen said there were other larger supermarkets in the South Dublin rating authority area i.e. Superquinn and Tesco in Lucan and Dunnes Stores in Kilnamanagh and in the Mill Centre, Clondalkin but they were not comparable as they were larger in area and superior to the subject.

His opinion was that the correct valuation, having regard to relevant comparisons and in accordance with Sections 48 & 49 of the Valuation Act, 2001, should be calculated as follows:

Supermarket	867.7 sq. metres	@ €82.00 per sq. metre	= €71,094
Offices	67.9 sq. metres	@ €82.00 per sq. metre	= €5,568
Stores	290.3 sq. metres	@ €41.00 per sq. metre	= €1,321*
Cold Stores	49.5 sq. metres	@ €54.67 per sq. metre	= €2,706
Canopy	72.0 sq. metres	@ €6.83 per sq. metre	= €492
<b>Total NAV</b>			<b>€1,762</b>
<b>RV</b>			<b>€578</b>

### Cross examination

Under cross examination by Mr. Twomey, Mr. Killen corrected a miscalculation in his valuation where the NAV for the Stores\* (290.3 sq. metres @ €41.00 per sq. metre) should be €1,902 but noted that his figure of €1,762 for the total NAV was correct. In further reply to Mr. Twomey he stated that there were no properties comparable to the subject in the Tallaght area.

Queried further on the proximity of the subject to the Luas terminal, Mr. Killen acknowledged that the subject property was beside a Luas stop. When asked further by Mr. Twomey about the relative distances between (i) the subject and The Square Shopping Centre in Tallaght and (ii) Aldi of Lucan and the Liffey Valley Shopping Centre, Mr. Killen stated that the vast majority of his client's customers travelled not by Luas but by car to the subject property and he further noted that the extensive car parking facilities were provided at the subject property with that in mind. Mr. Killen also stated that access to the property was difficult given its location off the Belgard Road, but acknowledged that the Luas service to the area was quite good. He confirmed that the car park serving the subject was for the exclusive use of his client's customers, as was also the case in respect of the parking facilities adjoining Aldi's store in Lucan.

Mr. Twomey then questioned Mr. Killen on the distances between the subject and his comparison stating that Belgard Road and Lucan were six miles apart. Mr. Killen replied that, following the principle of the tone of the list and having regard to market conditions, he considered Belgard and Lucan to be segments of the market within the same rating authority area. He had looked at Tallaght but had not found anything directly comparable. His comparisons complied with the Valuation Act, 2001 being in the same rating area as the subject.

### **The Respondent's Case**

Mr. Twomey, having taken the oath, adopted his précis as his evidence-in-chief. He said that he was appointed Revision Officer to carry out a valuation on the subject on the 9<sup>th</sup> September, 2004. He declared that the original building on the site was a Cold Store which had an RV of €39.61. It had been demolished and the subject property was constructed on the site. He stated that the subject property was adjacent to the Luas stop and near to the Square Shopping Centre, Tallaght and that it had exclusive surface parking for 101 cars. He expressed the view that the net issue was how far one went in search of suitable comparisons. He had confined himself to the immediate locality of the subject while the appellant had introduced comparisons from a distance of six miles. He offered the following comparisons (see Appendix 2 to this judgment):

1. DID Electrical, Block 2, Unit 1, Tallaght Retail Centre RV €799.93. Mr. Twomey said the primary difference between the properties was that the subject sold food while DID sold electrical goods.
2. Budget Carpets, Block 2, Unit 3, Tallaght Retail Centre RV €412.66. Again, according to Mr. Twomey, both the subject and this property were trading in the retailing sector, selling goods to the public from the shop floor.
3. Dunnes Stores, The Square Shopping Centre RV €7,237.41. Mr. Twomey said he had chosen this because it was the subject's main competitor. He acknowledged it was in a better location than the subject and he had therefore valued the subject at the lower rate of €109.30 per square metre as against €116.13 per square metre in Dunnes although the latter was a much larger property.

Asked by the Tribunal how he was guided by the decision to select comparison properties only from within the immediate locality, Mr. Twomey replied that market values were determined not for, but by, rents paid in that specific area. There were, he said, different segments of the market even within the same rating authority area and he cited Grafton Street and Capel Street as an extreme example of such. In further reply to the Tribunal, Mr. Twomey said that if he went into a new area with an expanding population and there were no other similar properties there on which to base a reasonable valuation, it would then be appropriate to go further afield to identify suitable comparisons.

Mr. Twomey contended for the following RV

Supermarket	867.0 sq. metres	@ €109.30 per sq. metre	= €94,760
Offices	67.9 sq. metres	@ €81.97 per sq. metre	= €5,566
Stores	290.3 sq. metres	@ €54.65 per sq. metre	= €15,864
Cold Stores	49.5 sq. metres	@ €68.31 per sq. metre	= €3,383
Canopy	72.0 sq. metres	@ €6.83 per sq. metre	= €492
<b>Total Nav</b>			<b>€120,064</b>
<b>RV</b>			<b>= €756.40</b>
<b>Say RV</b>			<b>€750</b>

### **Cross Examination by Mr. Killen**

Mr. Killen asked Mr. Twomey if the subject property was located on the Belgard Road or on the Old Belgard Road. Mr. Twomey agreed that it was on the Old Belgard Road and did not front onto, nor have direct access from, the Belgard Road.

Mr. Twomey further agreed that his comparisons No. 1 and No. 2 were on the Belgard Road, that they had been built as warehouses and that the subject was a purpose-built supermarket. With regard to his comparison No. 3, Dunnes Stores, Mr. Twomey would not accept Mr. Killen's contention that it was not a suitable comparison property. He said that it, like the subject, was a supermarket and both served the same market. He agreed that Dunnes Stores in Tallaght was a better building and in a better location than the subject.

Mr. Killen put it to Mr. Twomey that the Valuation Act, 2001 requires that comparisons should be selected from the same rating authority area but does not require that they be in the

same immediate locality. Mr. Twomey replied that the dispute was how far it was acceptable to go to find appropriate comparative evidence.

### **Findings & Determination**

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

1. The respondent's net issue was whether to take comparisons from the immediate locality or from the broader rating authority area.
2. The respondent argued that the appellant's comparison No. 3, Lidl, Lucan (the subject of Appeal ref. **VA05/2/022 – Lidl Ireland GmbH**, should not be considered as a suitable comparator on the basis of its distance of 6 miles from the subject, whereas the Commissioner of Valuation had offered comparison properties from within a distance of circa one kilometre of the subject.
3. The appellant argued that similarly circumstanced comparisons within the same rating authority area suffice, comply with the relevant legislation and accordingly should be relied upon.
4. The respondent adopted retailing as a generic activity regardless of the product (food, electric goods, carpets etc.) being retailed and accordingly the Commissioner of Valuation believes that all similar retail outlets in the immediate vicinity may therefore be considered as suitable comparators.
5. The respondent confirmed in cross examination that his comparisons No. 1 and No. 2 fronted onto the Belgard Road; that the subject was accessed from the Old Belgard Road and that the subject was purpose-built as a supermarket and not as a warehouse.
6. The respondent confirmed that all of his comparisons were superior to the subject and that he had reflected same by discounting the rate per square metre on the subject.
7. The Tribunal notes the parties' agreement that the car park with 101 spaces is exclusive to the subject property.

8. Section 49(1) of the Valuation Act, 2001 provides:

*“If the value of a relevant property (in sub section (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of Section 28 (4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situated in, of other properties comparable to that property”*

The Tribunal finds that all the appellant’s comparisons, and in particular his comparison No. 3 Lidl, Lucan, satisfy this requirement.

9. The Tribunal considers the appellant’s comparison No. 3, Lidl, Lucan to be similarly circumstanced in terms of location, access, local population density, catchment area, and competing market forces as the subject.

Having regard to the foregoing and mindful of the decision made by the Tribunal in **VA05/2/022 – Lidl Ireland GmbH**, delivered prior to the hearing of the subject appeal, the Tribunal determines the net annual value and rateable valuation of the subject property as follows:

Supermarket	867.0 sq. metres	@ €95.21 per sq. metre	= €82,547.07
Offices	67.9 sq. metres	@ €81.97 per sq. metre	= €5,566.76
Stores	290.3 sq. metres	@ €43.93 per sq. metre	= €12,752.88
Cold Stores	49.5 sq. metres	@ €54.67 per sq. metre	= €2,706.17
Canopy	72.0 sq. metres	@ €6.83 per sq. metre	= <u>€491.76</u>
<b>Total NAV</b>			<b>€104,064.64</b>
<b>RV @ 0.63%</b>			<b>€655.60</b>
			<b>Say RV €656</b>

And the Tribunal so determines.