

Appeal No. VA06/1/014

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

**Debenhams Retail (Ireland) Limited**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop, Store at Lot No. Unit B, Ballinure Road, Mahon B, Mahon, County Borough of Cork

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**Michael McWey - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF AUGUST, 2006**

By Notice of Appeal dated the 6th day of March, 2006 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €2,930.00 on the above described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal and in a letter attached thereto, copies of which are in Appendix 1 attached to this judgment.

1. This appeal proceeded by way of an oral hearing in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 28<sup>th</sup> day of April, 2006.
2. At the hearing Mr. Nicholas Rose, Bsc (Hons), MRICS, of Gerald Eve gave expert valuation evidence on behalf of the appellant and his colleague Mr. Tom MacLynn acted as advocate. Mr. Frank Twomey, a valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation

### **The Property Concerned**

3. The property concerned in this appeal is Debenhams Department Store in Mahon Point Shopping Centre, which is situated adjacent to the South Link Road, the main arterial route around Cork city.
4. The Mahon Point Shopping Centre forms part of an extensive mixed development scheme which also includes a retail warehouse park and business/office centre. The Shopping Centre is linear in configuration with the shopping mall at two levels with an anchor unit at either end, Tesco and Debenhams. In all there are 50 shop units and kiosks and at the Debenhams' end of the mall there is a multiplex cinema.
5. The Shopping Centre, which runs in an east to west direction, is built on a sloping site so that each mall has the benefit of direct access to an extensive car park at either end of the Centre. For reference purposes the malls are described as being at lower ground floor level and upper ground floor level. The two retail levels are linked internally by elevators, lifts and stairs. There is direct access to the shopping malls from the car park at each level and Debenhams also has the benefit of its own separate entrance at lower ground floor level. The Tesco unit at the upper ground floor level at the western end of the mall also has the benefit of its own separate entrance at car park level.
6. The Debenhams unit, which is at the east end of the centre, is arranged over three storeys with retail and stock space at levels one and two with ancillary office and staff accommodation overhead. Internally the subject property has been fitted out to a quality typical of modern department stores with tiled floors, suspended ceilings incorporating spot lighting and air conditioning. Escalators, lifts and stairs are also provided within the store.

7. The agreed accommodation and floor areas are set out below:

**Lower ground floor level**

Retail	2,973 sq. metres
Stock	212 sq. metres

**Upper ground floor level**

Retail	2,850 sq. metres
Stock	88 sq. metres

**Level 3**

Office & staff accommodation	617 sq. metres
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8. The property is occupied by Debenhams subject to the terms and conditions of a 25 year lease from 1<sup>st</sup> February, 2005 subject to an initial yearly rent of €1,646,000 subject to rent reviews at five yearly intervals. At the start of the lease Debenhams had the benefit of a 12 month rent-free period and a capital contribution from the developer of €3,417,103.

**History**

9. On 7<sup>th</sup> March, 2005, Mr. Twomey was appointed as revision officer pursuant to section 28(2) of the Valuation Act, 2001. On 16<sup>th</sup> June, 2005 a proposed valuation certificate was issued in respect of the property concerned proposing a rateable valuation of €3,300. No representations were received from the appellant at this stage and on 18<sup>th</sup> July, 2005 a valuation certificate was issued to the effect that the rateable valuation had been determined at €3,300. On foot of an appeal to the Commissioner of Valuation this figure was reduced to €2,930 and it is against this decision by the Commissioner of Valuation that the appeal to this Tribunal lies.

**Appellant's Evidence**

10. Mr. Rose having taken the oath adopted his précis of valuation which had previously been received by the Tribunal as being his evidence-in-chief.
11. In his evidence Mr. Rose contended for a rateable valuation of €2,225 calculated as set out below:

**Ground Floor**

Retail	2,973 sq. metres @ €71.79 per sq. metre	€213,432
Stock	212 sq. metres @ €47.79 per sq. metre	€10,131

**First Floor**

Retail	2,850 sq. metres @ €38.77 per sq. metre	€110,495
Stock	88 sq. metres @ €22.25 per sq. metre	€1,958

**Second Floor**

Staff & Offices	617 sq. metres @ €27.28 per sq. metre	<u>€16,832</u>
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Total NAV €352,848

RV @ 0.63% Say €2,225

12. Mr. Rose said that, in his opinion, the valuation adopted by the revision officer in relation to the subject property was fundamentally flawed and as a result the property was considerably overvalued. Section 49(1) of the Valuation Act, 2001 requires that the property concerned is to be valued

*“by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property”.*

Mr. Rose said that that being so, the most relevant comparison in his opinion was the Marks & Spencer store in the Merchants Quay Shopping Centre in Cork City, which is valued as follows:

**Ground Floor**

Retail	2,676.50 sq. metres @ €177.61 per sq. metre	€475,373
Goods in	204.46 sq. metres @ €68.31 per sq. metre	€13,967

**First Floor**

Retail	2,380.50 sq. metres @ €95.64 per sq. metre	€277,671
Stockrooms	418.90 sq. metres @ €54.65 per sq. metre	€22,893

**Second Floor**

Staffrooms/Offices	506.00 sq. metres @ €68.31 per sq. metre	€34,565
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Stockrooms	765.00 sq. metres @ €40.99 per sq. metre	<u>€31,357</u>
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Total NAV €805,826

RV @ 0.63% Say €5,075

13. Mr. Rose said the Marks & Spencer comparison was highly relevant, not so much as to value, but as to the valuation methodology adopted by the Valuation Office which indicated a distinct differential in the square metre rate applied to retail space at ground floor and first floor levels. In his opinion, this valuation approach should be applied when valuing the property concerned and this was the essence of the dispute between him and the Valuation Office and the sole grounds of the appeal to the Tribunal. Whilst he was prepared to accept that the retail space at lower ground floor be assessed at the rate of €71.73 per sq. metre, as used by the Valuation Office, he contended that the accommodation at the upper level should be assessed in line with the Marks & Spencer valuation. In arriving at his opinion of net annual value Mr. Rose said he had applied the same differentials as applied in the Marks & Spencer premises in Merchants Quay and in so doing he was acting in a manner consistent with the requirements of section 49(1).
14. In further support of his argument that retail space at ground floor level should be valued at a considerably higher rate than retail space at first floor level, Mr. Rose referred to an earlier decision of this Tribunal, **VA01/2/037 - Michael Guiney**.
15. As a secondary argument Mr. Rose said that he had been advised that the net annual value of the retail units in the mall represented approx 27-30% of the passing rents in most cases. When due allowance was made for the rent free period Mr. Rose said his opinion of net annual value represented just under 27% of the adjusted annual rent of €1,316,800.
16. Under examination Mr. Rose agreed that the Marks & Spencer premises in Merchants Quay Shopping Centre was in a primary city centre retail location but stressed that he had introduced this property as a comparison solely to illustrate the valuation methodology used by the Valuation Office when valuing department stores. It was his argument that the Valuation Office should, as a matter of consistency, use the same methodology in valuing the property concerned.
17. When asked as to why he had valued the stock space at a lower rate per sq. metre than the retail space, Mr. Rose said that his reasons for so doing was to apply the same differentials as those used in the Marks & Spencer valuation. He agreed that the sq. metre rate of €71.73 applied to the Tesco premises at Mahon Point was fair and agreed also that the retail space accounted for only 61% of the overall accommodation of that store.

### The Respondent's Evidence

18. Mr. Twomey having taken the oath adopted his précis of valuation which had previously been received by the Tribunal as being his evidence-in-chief.

19. In his evidence Mr. Twomey valued the subject property as set out below and in support of his opinion of net annual value he provided 6 comparisons, details of which are contained in Appendix 2 to this judgment.

Retail – lower ground floor	2,973 sq. metres @ €71.73 per sq. metre	€213,253
Retail – upper ground floor	2,850 sq. metres @ €71.73 per sq. metre	€204,430
Staffrooms	617 sq. metres @ €54.65 per sq. metre	€33,719
Stockrooms	300 sq. metres @ €47.82 per sq. metre	<u>€14,346</u>
Total NAV		€465,748
RV @ 0.63% Say		€2,930

20. Mr. Twomey in his evidence said he was the revision officer appointed by the Commissioner of Valuation to value all units in the Mahon Point Shopping Centre. When first appointed he set about gathering and analysing all relevant information in relation to rents and other pertinent matters. His analysis, Mr. Twomey said, showed that there was no appreciable difference in rental levels for retail units in the two malls. Accordingly therefore he had valued all the units at a uniform rate per sq. metre except for the larger retail units where he had made an allowance for quantum.

21. However, when he came to value the anchor units (Debenhams and Tesco) Mr. Twomey said he had examined the valuations of a number of similar sized units in other suburban shopping centres in the Cork area and found that they were valued at a consistent level of €71.73 per sq. metre which he accepted as being the tone of the list for such units. In the circumstances he considered it fair and reasonable to value both stores in Mahon Point at this level.

22. Referring to the Marks & Spencer store in Merchants Quay Shopping Centre Mr. Twomey said that there was a distinct difference between it and the Debenhams store at Mahon Point. One was a prime city centre premises and the other was not. In city centre premises it was the accepted practise to value retail space on first floor level and above at a lower

rate per sq. metre than the lower level retail space in order to reflect the ease of access, and more importantly market demand for ground floor retail space. The subject property however was different from a traditional city centre department store in that a feature of the design provided direct customer access to each floor level from the car parks. In the circumstances he could see no good reason to value one floor at a higher rate per sq. metre than the other and this was borne out by his analysis of the rents for the mall units.

23. Under cross examination Mr. Twomey said he did not look at the assessments of other department-type stores in Cork city because he did not consider them to be relevant comparables by virtue of their location. He agreed that the property concerned and the Marks & Spencer Department Store in Merchants Quay Shopping Centre were somewhat similar in size, fit out and configuration, but nonetheless Mr. Twomey contended they were not comparable for rating purposes as one was a city centre premises and the other was not.
24. When questioned about his comparison numbers 5 and 6 (units 1a and 1b) occupied by Next plc and Zara, Mr. Twomey said he had introduced these merely to show that in respect of the shops within the centre which were trading at both levels, the retail space on each mall was valued at the same rate per sq. metre. The only allowance he had made was for quantum and no allowance had been made to reflect the fact that the premises were trading at two levels.

### **Findings**

1. The evidence and argument put forward by the valuers in this appeal was well presented and the level of agreement between them in relation to all relevant facts was commendable and for this the Tribunal is indebted to them.
2. The difference between the valuers in this appeal is fundamental, in that Mr. Rose is of the view that the property concerned should be valued on the same basis as that considered appropriate when considering city centre department stores whereas Mr. Twomey is not
3. The property concerned in this appeal forms part of an “out of town” retail development and as such cannot be compared to similar type stores occupying city centre locations. In the circumstances the Tribunal prefers Mr. Twomey’s valuation approach having regard to

4. The Tribunal also accepts Mr. Twomey's uncontested evidence that there is an established tone for valuing anchor units in suburban shopping centre locations in the Cork city area and that the tone so established is €71.73 per sq. metre, as set out in his comparisons Nos. 2, 3 and 4.
5. The primary comparisons in this case are all single storey and are smaller than the property concerned. In the circumstances the Tribunal considers that there should be an allowance in recognition of the layout differentials and the degree of quantum.

### **Determination**

Having considered all the evidence and argument adduced by both parties, and having regard to the above findings, the Tribunal determines the rateable valuation of the property concerned to be as follows:

#### Lower Ground Floor Level

Retail	2,973 sq. metres @ €64.56 per sq. metre	€191,936
Stock Space	212 sq. metres @ €47.82 per sq. metre	€10,138

#### Upper Ground Floor Level

Retail	2,850 sq. metres @ €64.56 per sq. metre	€183,996
Stock Space	88 sq. metres @ €47.82 per sq. metre	€4,208

#### Level 3:

Office & Staff		
Accommodation	617 sq. metres @ €54.65 per sq. metre	<u>€33,719</u>
Total		€23,997
NAV Say		€24,000
RV @ 0.63%		€2,671

And so the Tribunal determines.