

**Appeal No. VA17/2/016**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 - 2015  
VALUATION ACTS, 2001 - 2015**

**MS ADRIENNE KIRWAN**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In Relation to the Issue of Quantum of Valuation in Respect of:**

Property No. 5009890, Beauty/Hair Salon at Lot No. 3 St. Johns Crescent, Johnstown, Kill,  
Naas 1, County Kildare.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 29<sup>TH</sup> DAY OF AUGUST, 2018**

BEFORE:

**John Stewart – FSCSI, FRICS, MCI Arb**

**Deputy Chairperson**

**Michael Connellan Jr - Solicitor**

**Member**

**Claire Hogan - BL**

**Member**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 15<sup>th</sup> day of June 2017 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of € 31 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

*“1) Rural Location away from main shops in village and set down a quiet country lane”.*

*“2) Low footfall with no passing trade”.*

*3) One of only two shops occupied within a five-unit complex which is badly maintained by landlord, thus reducing customer's willingness to enter retail area"*

*"4) Business trading at a loss since recession"*

## **2. VALUATION HISTORY**

2.1 On the 3<sup>rd</sup> day of April, 2017 a copy of a valuation certificate in relation to the Property was sent to the Appellant indicating a valuation of €31.

2.2 A Final Valuation Certificate issued on the 22<sup>nd</sup> day of May, 2017, stating a valuation of €31.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing at the office of the Valuation Tribunal, 3<sup>rd</sup> Floor, Holbrook House, Holles Street, Dublin 22 on the 20<sup>th</sup> day of October, 2017. At the hearing the Appellant represented herself and the Respondent was represented by Mr Ian Power of the Valuation Office. At the hearing, both parties having taken the oath adopted their respective précis as their evidence in chief.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

## **4. FACTS**

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The subject property is in St John's Grove neighbourhood retail centre adjacent to Johnstown village and fronting St John's Grove Estate.

4.3 The subject property comprises a ground floor mid-terraced retail unit in a two-storey terrace of similar properties.

4.4 The subject property is leasehold in the agreed floor areas 64.97 m<sup>2</sup>.

## **5 THE ISSUE**

5.1 Quantum only.

5.2 The appellant claims that the property is in a semi-rural location away from the main shops in the village on a quiet country lane.

5.3 She also claims the property has low footfall with no passing trade.

5.4 She also states the subject property is one of only two shops occupied within a five-unit complex which has been badly maintained by the landlord and the consequential poor customer response.

5.5 They further state that the business has been trading at a loss since the recession.

5.6 They confirmed that the property is leasehold.

## **6. RELEVANT STATUTORY PROVISIONS:**

6.1 The value of the Property must 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 considered in calculating the 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. APPELLANTS CASE**

7.1 The appellant stated that the subject property was located within the St Johns Grove Neighbourhood Retail Centre just off Johnstown Village and to the front of St Johns Grove Estate. Johnstown is in North Kildare just off junction 8 on the M7 (Naas Road) and 2km from Naas Town. She further stated that subject property was located on the ground floor of a two-storey mixed use development and comprises a ground floor terraced retail unit constructed with concrete floors, concrete walls and aluminium framed windows. The unit is internally fitted out as a Beauty/Hair Salon.

7.2 The appellants claims that the subject property is the only one operating on a 12-month basis and the HSE occasionally uses the first-floor office.

7.3 The appellant contended that Alan Jordan's, T/a Centra, Main Street, Johnstown, County Kildare was located on Main Street, Johnstown over 700m distant from the subject property, and had a high volume of traffic and foot fall. She also stated that Kildare Kitchens/Fabric Mill was located approximately 800 metres from the subject property on Main Street with higher passing traffic and footfall. In relation to her third comparison the appellant stated that Sunny Laundrette/All Care Chemist were both located on Main Street with similarly high levels of passing trade and pedestrian footfall.

7.4 She contended that none of these examples is comparable to the subject property to their locations on Main Street which had the benefit of substantial passing traffic whereas the subject property with its semirural location had a minimal passing trade. She provided an aerial photograph and map in support of her claim.

7.5 Ms. Kirwan stated that the location of the subject property on a country lane restricted passing trade and that reduced security due to its location was made worse by a lack of public lighting. She further stated that the access point to the shops through the estate was in dispute with Kildare County Council. She argued that the vandalism to the shop units deterred new traders as the shop units were not visible from the estate and had restricted visibility from the road. She also stated that the closure of local businesses such as Kelly's newsagent and the ADM warehouse damage the subject property from a trading perspective.

7.6 In conclusion, the appellant stated that the subject property was not comparable to the Main Street and did not enjoy the same amenities. She further stated that access to the units was through the residential estate and that this unit suffered from a lack of security. She stated that the current business was trading at a loss due to the low footfall and volumes of traffic and that the general appearance of the retail units was undermining businesses in the location. She stated that her rent was €1,000 per month with staff costs of approximately €140 per week and she had de-registered for VAT in 2017 due to low levels of business. She also claimed that she was effectively responsible for the foot-path and car park in front of her unit.

7.7 Following cross-examination Ms Kirwan confirmed that she did not agree that the Centra unit the Kildare Kitchens unit, the Fabric Mill, Sunny Laundrette and All Care Pharmacy were comparable to the subject property as they were on Main Street and her property was in a largely deserted retail mall in a semirural location with little or no passing trade.

## **8. RESPONDENTS CASE**

8.1 Mr Power in his evidence confirmed the location and description of the subject property and provided several photographs internally and externally. He confirmed the valuation history and stated that the basis of valuation was:

Shop 64.97m<sup>2</sup> @ €95.67.m<sup>2</sup> = €6,215.68 x 0.05% = €31. Valuation Office Rateable Valuation.

8.2 He relied on five properties that he contended shared similar characteristics and are in the same local authority to support the valuation of the subject property.

8.3 Mr. Power's first comparison referred to Alan Jordan T/a Centra, Johnstown County Kildare. Property No 2167947. He stated that this shop is located close to the subject property and in the same village. He provided the following analysis:

Shop NIA 140.4 sq.m @ €95.67.

Store NIA 28.4 sq.m @ €54.6.

Office NIA 5.28 sq.m @ €95.67. Valuation say €77.

8.4 His second comparison referred to Kildare Kitchens, The Old Mill, Johnstown County Kildare. Property No 1738710.

He stated that this property has been redeveloped into a retail unit and is located close to the subject property in the same village, (Revision 2001)

He provided the following analysis:

Shop NIA 51.1 sq.m @ €95.67.

Store NIA 3.8 sq.m @ €54.6. Valuation say €25.39.

8.5 The third comparison comprised The Fabric Mill, The Old Mill, Johnstown County Kildare. Property No 2161173.

This property has also been redeveloped into a retail unit and is located close to the subject property in the same village, (Revision 2001). He provided the following analysis:

Shop NIA 84.1 sqm @ €95.67. Valuation say €40.63.

8.6 Comparison 4 comprised Sunny Laundrette, Unit 1 Clarendon Court, Kill, County Kildare.

Property No 1738533.

This is in a purpose-built retail development in a nearby village to the subject property, (Revision 1994). He provided the following analysis:

Shop NIA 58sq.m @ €136.67. Valuation say €39.36.

8.7 Mr Power's final Comparison referred to premises occupied by All Care Chemist Ltd, Main Street, Kill, County Kildare. Property No 1738540. He stated that this is comparison in a similar purpose-built retail unit and is located close to the subject property in the same village. (Revision 2007). He provided the following analysis:

Shop NIA 137.24 sqm @ €136.68. Valuation say €95.

8.8 Mr Power provided an aerial photograph and site map indicating the locations of the subject property and comparisons 1, 2 and 3. He provided a second location map which showed locations of all five comparisons and the subject property.

8.9 He concluded by stating that the subject property had been inspected in March 2017. Following his evidence, he requested that the Tribunal affirms the valuation of the subject as determined by the Commissioner of the property as follows:

Shop 64.97 sqm @ €95.67 = NAV €6,215.68 x .5%. And Valuation say €31.00

8.10 Following cross-examination, Mr Power confirmed that in his opinion the comparisons adduced supported the valuation of €31.00 as three were in the same village and two were in an adjoining village.

## **9. LEGAL SUBMISSIONS**

9.1 No legal submissions were received.

## **10. FINDINGS**

10.1 On this appeal the Tribunal must determine the value of the Property 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 **Kildare County Council**.

10.2 The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence and having heard the oral evidence on the 20<sup>th</sup> day of October, 2017 adduced before us by Ms Adrienne Kirwan on behalf of the Appellant, who contended for a rateable valuation of €11, and Mr Ian Power, B.Sc. of the Valuation Office on behalf of the Respondent to the appeal has reached the following conclusions.

10.3 The Tribunal finds that the subject property is in a poorer location when compared to the comparisons.

10.4 The Tribunal is satisfied that there is evidence of considerable vacancy in the adjoining retail units adjacent to the subject property which differentiate it from Main Street and that this position has existed for a considerable period.

10.5 The Tribunal is satisfied that there is lower foot fall/passing traffic to the other comparisons offered in the same village and consequently a lower value should apply.

10.6 The Tribunal is also satisfied that as there is limited maintenance of the common areas that effectively maintenance of the car park and foot-path falls to the appellant.

10.7 The Tribunal finds that the Commissioner relied solely on “tone of the list” comparables which the Tribunal does not accept are directly comparable to St. Johns Crescent.

10.8 The Tribunal finds that the Rateable Valuation of €31.00 should be reduced by 33%.

## **11. DETERMINATION**

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation to €20.00.

Shop 64.97 sqm @ €63.78 = NAV €4,143.78 x .5%. And Valuation say €20.71 Say €20.00

And the Tribunal so determines.