

Appeal No: VA17/5/385

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

WILLIAM COUGHLAN

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2125804, Office(s) at Floor 1, 51C/3 (1st Floor) The Square, Maynooth, County Kildare.

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Frank Walsh – QFA, MIPAV, Valuer

Member

Kenneth Enright - Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND DAY OF NOVEMBER, 2018**

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th day of October, 2017 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €17,790.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- The proposed valuation shows an increase of almost 300%.
- Audited accounts for the last 14 years show average profit per year of €5,900 before Income Tax and Block Insurance.
- The Centre is a social amenity in the North Kildare area mainly used by Senior Citizens.

- Only Bridge is played in the centre, no commercial activity, no Drinks licence.
- Bridge is a sport.
- It is incorrect to designate the centre as an office. It has been a Bridge Centre for the last 20 years.
- Planning permission condition No 8 (Kildare Co Co. Ref 97/874 states “ First Floor shall be used as general area for Bridge Club and Old Folks only”.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €6,500.00.

2. REVALUATION HISTORY

2.1 On the 10th day of March, 2017 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €17,790.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €17,790.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 17th day of October, 2018. At the hearing the Appellant was represented by Mr John Algar BSc (Surveying), ASCSI, ARICS and the Respondent was represented by Mr Ian Power of the Valuation Office.

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.

The Subject property is situated just off Courthouse Square which is located in the centre of Maynooth Town.

Maynooth Town is located approximately 24 km west of Dublin city on the N4 road to Galway/Sligo.

4.2 The subject property is a Bridge Centre located on the first floor of ACOL House, The Square, Maynooth, Co. Kildare.

4.3 The subject property comprises first floor accommodation of a two storey detached commercial development. There are two shop units on the ground floor which are occupied by a separate tenant. Access to the building is via a narrow laneway between two retail units fronting Straffan Road.

4.4 The subject property is a modern construction including concrete floors, block walls with rendered finish, aluminium glazed windows and a tiled insulated roof. Internally, the layout is largely open plan with a fitted kitchen, rear toilets, carpet floors, plastered walls and partial air conditioning.

4.5 The floor area is agreed as:

Total NIA: 118.62 sq.metre.

4.6 The subject property is held Freehold.

5. ISSUES

The grounds of the Appeal can be summarised as follows:

The Respondent's description of the subject property as an office and whether it is appropriate to compare the subject property with office accommodation in the Town due to the permitted use as a Bridge Centre.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to 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 taken into account in calculating the net annual 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. APPELLANT'S CASE

7.1 The subject property comprises the first floor of a two storey detached building which is used as a Bridge Centre. Access to the building is via a narrow laneway between two retail units fronting the Straffan Road.

7.2 The subject property is documented in the Final Valuation Certificate as:

Category: Office

Use: Office (over the shop).

7.3 Planning permission for this development was granted by Kildare County Council on 8th April 1998, 18 conditions applied to this Planning Permission.

Condition No 8 of the permission states that *“The First Floor shall be used as a general area for bridge club and old folks card only and shall not be used as apartments. If it is proposed to use the development for living accommodation a separate planning application shall be submitted to the Planning Authority.”*

The user clause condition is extremely restrictive. The property was planned and designed as a Bridge Centre and for the last c.20 years it has been used as a Bridge Centre.

7.4 Planning Permission restricts the property to be used for any other purpose and this should be reflected in the valuation.

7.5 The Appellant submitted that it is not appropriate comparing this property with office accommodation in the Town due to the permitted use.

7.6 The Appellant seek the application that a fair rateable valuation of the subject property is €4,100.00 which devalues as follows:

Bridge Centre	118.62 sq.m	x	€35.00	=	€4,151.70
				SAY	€4,100.00

7.7 The Appellant supplied 4 comparisons of sport, social and bridge clubs in keeping with the subject property permitted use.

See Appendix (1) – Appellants List of Comparisons

8. RESPONDENT’S CASE

8.1 The subject property comprises first floor accommodation of a two storey detached commercial development.

8.2 Modern construction with concrete floors, block walls with rendered finish. Aluminium glazed windows and tiled insulated roof. The first floor is open plan with partial air conditioning. Access is from the side of the building. There are two retail units located on the ground floor of the development.

8.3 The development has planning permission as a Bridge Centre, however, what is valued for rating purposes is not the use of the property but the property itself.

The property is valued in line with other similar first floor developments located within Maynooth.

8.4 The Commissioner relies upon 3 items of market information to inform the estimate of the Net Annual Value of the subject property as now appearing on the relevant valuation list. These Key Rental Transactions are identified in Appendix (2).

Each of the transactions were investigated and analysed in accordance with Valuation Office policy and procedures and regard was had to:

- The date of the transaction relative to the statutory valuation date,
- Any inducements which were included in the transaction, and
- Any other individual features of the transaction.

In the case of the subject property a valuation level €150 per square metre was applied to arrive at the NAV of €17,790.

See Appendix (2) - Respondents Summary Key Rental Transactions

8.5 There are 42 properties valued in the vicinity of the subject property at €150.00 per sq. metre. Three of these properties were subject to representations to the Commissioner of Valuation. The subject property is the only unit, which is currently under appeal to the Valuation Tribunal.

Mr Power supplied the Tribunal with 5 comparisons for first floor commercial units.

See Appendix (3) – Respondents Comparisons

9. FINDINGS AND CONCLUSIONS

9.1 On this appeal the Tribunal has to determine the value of the Property so as 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 County Kildare.

9.2 The Tribunal finds the evidence as presented by the Appellant in relation to the planning permission restrictions particularly persuasive in this instance.

9.3 The Tribunal accepts that the Commissioner has taken all first floor accommodation in Maynooth at a value of €150.00 per sq. metre, however, the Tribunal believes it is not appropriate to compare the subject property to commercial space such as office and gym. The unit is hampered in terms of what it could obtain as rental income due to the restricted planning permission clause.

9.4 It is the Tribunal's opinion that a Hypothetical Tenant would not pay the same level of rent per sq. metre for a property with such a restrictive usage clause. The closest comparable property presented by the Appellant is located 0.5 km at Maynooth GAA Club, Moyglare Road, Maynooth Comparison 1 (see appendix 1), this club house is valued at €45.00 per sq. metre.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €5,330.00.

Bridge Centre	118.62 sq. m	x	€45.00	= €5,337.90
			SAY	= €5,330.00

And the Tribunal so determines.