

Appeal No: VA17/5/384

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

MARTIN FLEMING

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1036223, Retail (Shops) at Floors 0,1, 27 New Row, Naas, County Kildare.

B E F O R E

Dolores Power – MSCSI, MRICS

Deputy Chairperson

Dairine Mac Fadden - Solicitor

Member

Donal Madigan – MRICS, MSCSI

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 23RD DAY OF JANUARY, 2020

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 €9,780.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because :

- 1. The Valuation of the subject property is excessive and inequitable. The property’s value as applied by the Commissioner is not in line with its actual and potential rental value.*

2. *The subject property's 1st floor is a poor store and should not be valued at a standardised 1st floor level – which would reflect good quality offices. The 1st floor cannot be worth more than the ground floor workshop.*
3. *The mezzanine is over the workshop and is a poor structure. It should be valued at 20% of the ground floor workshop level in line with Commissioner's standard practice.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,960.

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 € 15,580.

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 of the Property was reduced to € 9,780.

2.3A Final Valuation Certificate issued on 7th September, 2017 stating a valuation of € 9,780.

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 10th day of December, 2019. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. and the Respondent was represented by Ms. Fidelma Malone 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 their précis as their evidence-in-chief in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts:

4.1 The property is located c. 60 metres west of Main Street South in a tertiary retail location;

4.2 The property comprises a mid-terrace two storey building dating from the 1860-1880 period with frontage to New Row;

4.3 The property is used for the sale and repair of bicycles and lawnmowers with ancillary storage at first floor level accessed by an internal staircase;

4.4 The net internal floor areas are agreed between the parties' Surveyors as follows:

Ground Floor	Retail (Zone A)	25.52m ²
	Workshop/Store	29.79m ²
First Floor	Store	<u>41.82m²</u>
	Total:	97.13m ²

4.5 The property is freehold.

5. ISSUES

5.1 The Surveyors for the Appellant and the Respondent are agreed on the value to be attributed to the ground floor retail area (Zone A rate) and to the ground floor store, and thus the **only** component of the valuation in dispute is the rate per m² to be applied to the first floor Store.

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 Mr. Halpin for the Appellant, made two approaches to the valuation of this property, as follows:

A. as a shop with ancillaries

Ground Floor	Retail (Zone A)	25.52m ² @	180.00	4,594
	Workshop/Store	29.79m ² @	20.00	596
First Floor	Store	<u>41.82m²</u> @	20.00	<u>836</u>
	Total:	97.13m ²		6,026 say, NAV € 6,020

B. as industrial.

Ground Floor	Retail	25.52m ² @	78.00	1,991
	Workshop/Store	29.79m ² @	65.00	1,936
First Floor	Store	<u>41.82m²</u> @	65.00	<u>2,718</u>
	Total:	97.13m ²		6,645 say, NAV € 6,640

He opts for the approach used in A. above and contends for a valuation of € 6,020.

7.2 In support of his valuation Mr. Halpin puts forward five comparable properties as set out in detail in Section A of the Appendix to this Determination.

7.3 His comparables include, in redacted summary format, in sequence:

- (a) one rental of a leisure type property which comprises 203.38m² which devalues at € 45.00 per m² on the two floors, on a lease from 2013 and
- (b) four NAV comparables ranging from a restaurant of 84.40m² assessed at € 150.00 per m² and Store of 113.26m² assessed at € 25.00 per m² to
- (c) a Store of 167.22m² assessed at € 65.00 per m² through to
- (d) a retail hybrid over two floors of 121.80m² assessed at € 42.00 per m² on ground floor and € 35.00 per m² on first floor to
- (e) a single storey funeral parlour assessed at € 42.00 per m² for an area of 228.90m².

7.4 The thrust of his argument is against the value attributed by the Commissioner of Valuation to the first floor Store as he accepts that, if treated as retail, the values applied by M/s Malone to the other parts of the property for the Respondent can be accepted, being a Zone a rate of € 180.00 per m² for Ground Floor retail and the ancillary ground floor Store at € 20.00 per m². It is the value placed on the first floor Store of € 110.00 per m² that he considers should equate with the unit value per m² applied to the ground floor Store as he submits it is conventional logic that, provided the upper floor ancillary accommodation is not in some way superior to the ground floor ancillary accommodation, then it cannot be of greater value. He refers to other decisions of the Valuation Tribunal in this regard citing VA17/5/318 (Raymond Healy); VA17/5/692 (Jim Williamson); VA17/5/154 (Eddie Corkery) and VA17/5/342 (Peadar & Lucy Kennedy).

7.5 If the property is to be treated as industrial, he considers that a value of € 65.00 per m² be applied with the showroom area loaded by 20% to follow the Commissioner of Valuation's approach in these instances.

8. RESPONDENT'S CASE

8.1 M/s Malone for the Respondent contends for a valuation of € 9,780 which she calculates as follows:

Ground Floor	Retail (Zone A)	25.52m ² @ 180.00	4,593.60
	Workshop/Store	29.79m ² @ 20.00	595.80
First Floor	Store	<u>41.82m²</u> @ 110.00	<u>4,600.20</u>
	Total:	97.13m ²	9,789.60 say, NAV € 9,780.

8.2 In support of her valuation, M/s Malone puts forward 13 comparable properties as set out in detail in Section B of the Appendix to this Determination.

8.3 In summary, her comparables include:

(a) A shop and store of 62.31m² let from 2015 in Main Street which devalues at a Zone A of € 400.00 per m² with halving back on zones B & C and a ground floor store at € 50.00 per m². The NAV breaks back at a Zone A of € 375 with the Store on the ground floor assessed at € 37.50 per m².

(b) A further shop on Main Street of 34.13m² let from 2013 which devalues at a Zone A rate of € 484 per m² with ground floor store at € 40.00 per m². This is also assessed at a Zone A rate of € 375 per m² with the ground floor Store assessed at € 37.50 per m².

(c) A shop and office on Main Street comprising 137.98m² over two floors which was let from 2012 at a rent that devalues to a Zone a of € 382.00 per m² and at € 100.00 per m² for the first floor Office. This is assessed at an NAV based on € 375.00 per m² Zone A and at a rate of € 110.00 per m² for the first floor Office.

(d) A first floor office on Main Street of 58.41m² let from 2013 at a rent which devalues to € 130.00 per m² and which has an NAV assessed at € 120.00 per m².

(e) Restaurant in New Row comprising a total of 152.91m² assessed at an NAV based on € 200.00 per m² Zone A but with main area assessed at € 130.00 per m² and first floor Store assessed at € 110.00 per m².

(f) Two storey property in New Row of 37.16m² which is assessed at an NAV based on a Zone A of € 200.00 per m² with first floor store and office assessed at € 110.00 per m².

(g) Two storey property in New Row of 40.42m² assessed at an NAV based on a Zone A rate of € 200.00 per m² with the first floor assessed at € 110.00 per m².

(h) Ground floor property in New Row of 54.64m² which is assessed at an NAV based on a Zone A rate of € 200.00 per m².

(i) Ground floor property in New Row of 53.43m² assessed at an NAV based on a Zone A rate of € 200.00 per m².

(j) Two storey property in New Row of 52.01m² which is assessed on an NAV based on a Zone A rate of € 250.00 per m² with halving back for Zones B, C and remainder and first floor sales assessed at € 130.00 per m².

(k) Two storey property in New Row of 60.09m² which is assessed on an NAV based on a Zone A rate of € 250.00 per m² with € 25.00 per m² for a ground floor office and € 110.00 per m² for the first floor office.

(l) Two storey property in New Row of 169.72m² which is assessed on an NAV based on a Zone A rate of € 250.00 per m², halving back for Zones B, C and remainder with the first floor restaurant assessed at € 130.00 per m².

(m) Ground Floor unit in New Row of 61.20m² assessed at an NAV based on a Zone A rate of € 250.00 per m² and halving back for Zones B & C.

9. SUBMISSIONS

9.1 There were no legal submissions in this case.

10. FINDINGS AND CONCLUSIONS

10.1 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 Kildare County Council.

10.2 It is fortunate in this case that both Surveyors for the Appellant and the Respondent have been able to broadly agree on the values of the main Retail area and the ancillary area on the ground floor if the unit falls to be valued as retail. Although a former domestic property, it is the view of this Tribunal that the current use is clearly retail on the ground floor with ancillary storage. As we begin from that classification what remains to be considered is the relative value of the first floor section of the property which the evidence points to being as ancillary stores. The floor area is agreed between the parties as being 41.82m² with the Appellant's Surveyor contending for a unit value of € 20.00 per m² in contrast to the Respondent's Surveyor at a unit value of € 110.00 per m² or a difference in the value of the first floor of € 3,764.20 (€ 4,600.20 Respondent v. € 836.00 Appellant).

10.3 The weight of rental evidence that formed the basis of the schematic for the tone to be adopted for this part of Naas seems to be based on discounting the Zone A rate of € 375 for Main Street and applying a declining rate of € 250.00 Zone A for New Row decreasing as the

location moves down New Row away from the intersection with Main Street to a Zone A rate of € 180.00 for the subject property. The values of ancillary areas are derived from some relation to the Zone A rate and in evidence it emerged that the Valuation Office approach to ancillary ground floor Stores is to fix these at a unit value rate at 10% of the Zone A rate.

10.4 A strictly formulaic approach is satisfactory if it produces a fair and rational outcome but in this case, taking account of the evidence, the Tribunal has some difficulty accepting that a unit value rate for first floor Stores, accessed only internally, could have such a high relative value to the Ground Floor retail **and be** significantly higher in value to ground floor Stores. Having regard to the facts of this case, the Tribunal finds that the value of this area should be in line with the value applied to the ground floor stores.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decrease the valuation of the Property as stated in the valuation certificate to **€ 6,020**.

Ground Floor	Retail (Zone A)	25.52m ² @ 180.00	4,594
	Workshop/Store	29.79m ² @ 20.00	596
First Floor	Store	<u>41.82m² @ 20.00</u>	<u>836</u>
	Total:	97.13m ²	6,026 say, NAV € 6,020

And the Tribunal so determines.