

**Appeal No: VA17/5/366**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**MCCONVILLE'S SUPERVALU**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1737489, Retail (Shops) at Units 1,4 Monasterevin Shopping Centre,  
Monasterevin, County Kildare

**B E F O R E**

**Dolores Power – MSCSI, MRICS**

**Deputy Chairperson**

**Claire Hogan - BL**

**Member**

**Annamaria Gallivan – MRICS, MSCSI, BSc Hons, TRC**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 17<sup>TH</sup> DAY OF SEPTEMBER, 2020**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 10<sup>th</sup> 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 €198,300.

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 for the following reasons:

- i The Valuation of the subject property is excessive and inequitable as it is not in line with its potential rental value.

- ii The subject property has been assessed by the Commissioner at €80/m<sup>2</sup> all over. The subject property has a very significant area at 1st floor and far in excess of the average and this has not been reflected with a suitable discount for the 1st floor space.
- iii The retail supermarket level of €80/m<sup>2</sup> is excessive in view of the actual location of the subject property. The subject is a significant distance outside the town of Monasterevin and not on a main road. Moreover, the only reason the subject does not face competition in Monasterevin from one of the major players is that their studies have shown it to be an unsustainable location to trade in. PN 2184128 in Clane is a similar set up to the subject property and has been valued at €65/m<sup>2</sup> on the ground floor. €45/m<sup>2</sup> on the 1st floor and €25/m<sup>2</sup> on the 2nd floor. The subject should not be valued at more than this as Monasterevin in a poorer location.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €149,700.

## **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 €195,300.

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 increased to €198,300.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> September 2017 stating a valuation of €198,300.

2.4 The date by reference to which the value of the Property was determined is the 30<sup>th</sup> 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 04<sup>th</sup> day of September 2019. At the hearing the Appellant was represented by Mr. Eamonn S. Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Sean Donnellan MSCSI, MRICS, B.Sc. Hons in Property Valuation and Management 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.
- 4.2 The subject property is located on the corner of the Togher Road and Rathangan Road in Monasterevin Shopping Centre, which is in Monasterevin town. The property is close to the centre of the town and forms part of the Shopping Centre which has 4 other small units. There are no other supermarkets in the immediate catchment area, with a resident population of 4,247 (census 2016).
- 4.3 The subject property comprises of a two storey purpose-built supermarket, built in 2004. The supermarket is ground floor level with storage and offices on first floor level. The offices occupy approximately 50% of the first-floor area. Access to the first floor is internal through the supermarket. There are approximately 60 parking spaces to the rear of the property.
- 4.4 The areas were agreed between the parties as follows:
- |               |            |
|---------------|------------|
| Ground floor: | 1,669 sq m |
| First floor:  | 570 sq m   |
| Total;        | 2,239 sq m |
- 4.5 The parties have agreed the fit-out allowance shall equate to 3% of the Ground Floor Supermarket NAV and the off licence shall be valued at €10,000

4.6 The Appellant is the owner and occupier of the Property. The property is held freehold.

## **5. ISSUES**

5.1 The matter at issue is quantum. The Appellant claims that the valuation of the Property is excessive and inequitable and ought to have been valued at €124,800. The Respondent contends that the valuation of €198,300.00 is in line with the tone of the list for the rating authority area and requests that the Tribunal affirm same as representing its Net Annual Value in accordance with Section 48 of the Valuation Act 2001 and the requirements of section 19(5) of that Act as amended.

## **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 considered 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 Appellants adopted his Précis and described the Property as a ground floor supermarket with first floor storage and office space.

7.2 He stated that there was a lack of market rental information in relation to supermarkets in Co. Kildare and therefore heed must be paid to the tone of the list.

- 7.3 Mr. Halpin stated that the reduced figure of 3% as opposed to the original 7% of the ground floor NAV had been agreed in relation to the fit-out addition as it is over 10 years. The Appellant accepted the off-licence addition at €10,000 NAV. This was ratified by the Respondent.
- 7.3 In Mr. Halpin's view the application of the same figure on ground floor and first floor could only be justified in the case of a shop with an internal escalator not for storage space or first floor office space. He stated that a key criterion in determining the hypothetical rent of any retail unit was that of an ideal layout for a modern supermarket that is, to have storage etc all at ground floor level.
- 7.4 Mr Halpin stated that the first floor valued at the same level as the ground floor was not consistent with cases dealt with by the Valuation Tribunal, whereby the first floor was valued at 50% of the ground floor.
- 7.5 An additional piece of evidence produced by Mr. Halpin to support his case was a chart listing the rate/M<sup>2</sup> for supermarkets based on location, which clearly showed 4 of the local comparisons valued at €65/M<sup>2</sup>. A second chart showed levels adjudicated by the Commissioner and Tribunal at €50-€60/M<sup>2</sup>
- 7.6 Mr Halpin stated that the location of the unit was too close to neighbouring larger towns and a hypothetical tenant would move towards those with Aldi and Lidl deciding not to locate there. He stated that SuperValu Clane a similar out of town neighbourhood centre had been valued at €65/M<sup>2</sup> on ground floor and other SuperValu properties in Carlow and Kilkenny adjudicated by the Commissioner and Tribunal at €50 - €60/M<sup>2</sup>. Mr. Halpin argued that there was a lack of market evidence of supermarket properties in the immediate area. The lack of suitable market evidence was accepted as fact.
- 7.7 Mr Halpin put forward the following three Decisions of the Valuation Tribunal:

**SuperValu, Bridge Street, Tullow: PN 2210735 (VA17/5/155)**  
**NAV €156,700**

Determined by the Valuation Tribunal in December 2018. The Appellant accepts that whilst this comparison is imperfect, being 50 kilometres from the subject property, nonetheless, it is a SuperValu store with a similar ground floor and first floor area to the subject property, located in a town of almost identical population.

Ground floor retail	€60/M <sup>2</sup>
First floor	€30/M <sup>2</sup>

**Supervalu Ballyragget, Castle Street, Ballyragget: PN 198792 (VA17/5/287)**

**NAV €63,500**

Determined by the Valuation Tribunal in March 2019. Also 50 kilometres from the subject property and the only supermarket in the town of Ballyragget. This property is more modern than the subject property but does have a significantly lower population base to draw on.

Ground floor retail/store	€60/M <sup>2</sup>
First floor	€30/M <sup>2</sup>

**SuperValu, Carlow Road, Bunclody, Co. Carlow: PN 2197481 (VA17/5/332)**

**NAV €90,500**

Determined by the Valuation Tribunal in in March 2019. Modern purpose-built supermarket on the Carlow Road, Bunclody (population 1,984 — Census 2016). This property is slightly more modern than the subject property, but the actual location is inferior to that of the subject property and shows the lowest level applied by either the Tribunal or the Commissioner (€50/M<sup>2</sup>).

Ground floor retail	€50/M <sup>2</sup>
First floor offices	€25/M <sup>2</sup>

7.8 Mr. Halpin also adduced evidence of 8 tone of the list comparisons as set out in Appendix 1.

7.9 In conclusion, Mr. Halpin stated that there was no market rental evidence to support the Respondent's valuation. He argued that the level of €65/M<sup>2</sup> would be in line with Tesco Kildare Town and SuperValu Clane. He argued that the property was not in prime position but rather only 3 km from the Laois border and this supported his contention that the Respondent's determination of value was excessive and inequitable.

The appellant sought a NAV of €140,800 made up of the following;

Supermarket	1669 m <sup>2</sup> @ €65/m <sup>2</sup>	= €108,485
Floor	570m <sup>2</sup> @ €32.50/m <sup>2</sup>	= €18,525
+ Fitout Allowance @ 3%		= €3,810
+ Off-licence @		= €10,000
<b>TOTAL NAV</b>	<b>€140,820</b>	<b>say €140,800</b>

## 8. RESPONDENT'S CASE

- 8.1 Mr. Donnellan on behalf of the Respondent, adopted his Précis of evidence. He pointed out the Property's location as Monasterevin town centre.
- 8.2 Mr. Donnellan described the Property as a two-storey purpose built supermarket in a modern shopping centre. The unit had the benefit of air conditioning, suspended ceilings and a lift. The unit has storage on the ground floor and first floor and first floor office space.
- 8.3 Mr Donnellan opened his evidence by describing the central location and layout of the subject property, using photographs and maps in his precis. He stated that the property was a good quality property, centrally located in the Town with parking to the rear. He stated that it was the only supermarket in the area and produced CSO figures and population heat maps to demonstrate that the area was in a growth phase with a fairly significant growth in population in recent years. He stated that the supermarket had no direct competition. He agreed that a portion of the first floor, approximately 50% was in use as storage and that portion was constructed as such. He also stated that the remainder was office space. Under cross examination he could not verify if it was possible to access the office space through a separate entrance. He stated that there may be an access via the fire escape. He stated that there was a lift to the first floor, but this was for use as a goods lift.
- 8.4 Mr Donnellan confirmed that there was a shortage of rental evidence as many of the units are larger than the subject. Mr. Donnellan stated that the available rental evidence related to short terms or larger units, he said the valuation of €80/m<sup>2</sup> was in line with properties in Co Kildare. Mr Donnellan confirmed that in relation to transaction evidence the dates were relative to the statutory valuation. He confirmed that although

there were representations made on two properties the subject was the only property that was under appeal.

- 8.5 To support the Respondent's valuation, Mr. Donnellan relied on five Key Rental Transactions as set out in Appendix 2.
- 8.5 In addition, Mr. Donnellan submitted 4 NAV comparisons to support his case as set out in Appendix 3.
- 8.6 Mr. Donnellan stated that the fit out of the supermarket is over 10 years old and that an allowance of 3% is now applicable. In addition, there is a small basic storage area separate to the main building which similar to the Castledermot supermarket should be valued at a lower level.

	(sg.m)	€/per sg.m.	NAV
Supermarket	1,645	€80	€131,600
Offices & Store	570	€80	€45,600
Fit out addition @3%			
€3,948			
Off Licence			€10,000
Store (separate building) 24		€30	€720
		Total NAV	€191,868
		SAY	€191,800

## 9. SUBMISSIONS

- 9.1 The parties referred to the previous Tribunal decisions described above.

## 10. FINDINGS AND CONCLUSIONS

- 10.1 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 value of the Property 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 has examined the particulars of the Property and considered the written and oral evidence adduced by Mr. Halpin who contended for a revised valuation of €140,800 and by Mr. Donnellan who sought confirmation of the Respondent's determination of €191,800 as being fair and equitable.
- 10.3 The Appellant's case was that there was no direct rental evidence available for similar properties and that the Commissioner had treated the property as if it was in a prime location. The Respondents' case was that while the key rental transactions relied on by the Respondent did not provide evidence of open market rents for similar sized properties or in some cases locations, appropriate adjustments had been made by the Respondent to the rental evidence that was made available pursuant to section 45 of the Act. The Respondent also pointed to the KRT no 5 in which there had been representations, therefore this was 'somewhat tested'.
- 10.3 In determining the rent at which it is estimated a relevant property might reasonably be expected to be let, the best evidence would be evidence of lettings of comparable premises in the open market. Use of the rental method of valuation depends, however, on sufficient, appropriate and reliable comparable evidence being available from the marketplace; if it is available then it is top of the evidential hierarchy.
- 10.4 On this appeal, there was no evidence of lettings of comparable premises in the area at or around the valuation date. There was no clarity around the figure of €80/m<sup>2</sup> and where that figure came from. The lack of market information from both parties is a hindrance to the Tribunal as all the evidence was based on the interpretation of the tone of the list. The sizes of the key rental comparisons relied upon by the Respondent were too large to be any real assistance. With fairly sparse and poor rental evidence, it is the Tribunal's opinion that the NAV of the Property should fully reflect the location of the property relative to large population centres.
- 10.5 As for whether the valuation method should include the upper floor a rate of 50% of the ground floor, it is the Tribunal's opinion that the NAV of the Property should fully reflect the fact that the store is on the first floor and the office space is an intrinsic part of the premises without separate access.

10.6 As the rental evidence is poor, it is therefore appropriate to take into account the value of comparable properties on the valuation list so as to ensure that the value of the Property is relative to the value of those other properties.

10.7 In the Tribunal's opinion, the NAV of the Property should be reduced by €15/m<sup>2</sup> for the ground floor to €65/m<sup>2</sup> and 50% of the revised ground floor to €32.50/m<sup>2</sup>

**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 €139,200.00

Supermarket	1645	65	€106,925
Store	24	30	€ 720
First Floor	570	32.5	€ 18,525
+ Fit out	@ 3%		€ 3,207.75
+ Off licence			<u>€ 10,000</u>
			€139,377.80

Say €139,400.00

And the Tribunal so determines.