Appeal No: VA17/4/0038

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

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

DROGHEDA THEATRE CO **APPELLANT**

AND

COMMISSIONER OF VALUATION **RESPONDENT**

In relation to the valuation of
Property No. 5007252, Theatre at 36 A (Unit 12), No Street, Drogheda, Rathmullen, Drogheda Borough, County Louth

B E F O R E

Dolores Power – MSCSI, MRICS	**Deputy Chairperson**
Liam Daly – FSCSI, FRICS	**Member**
Úna Ní Chatháin - BL	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 14TH DAY OF JULY, 2021

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th day of November, 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 €535.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are that the valuation of the property concerned is not a determination of its value that accords with that required to be achieved by section 49 as:

- The building is used as 900 seated Concert Hall and is used on average of 2 nights per week.

- Only Concert hall between Belfast and Dublin and was built for the people of Drogheda and District.
- Non profitable company as are most theatres in Ireland at the moment and occupier employs 4 people.
- Occupier fighting hard to stay open.
- Valuation is too high.

1.3 The Appellant in its Notice of Appeal submitted that the valuation of the Property ought to have been determined in the sum of €200 but revised this upwards at the hearing to the sum of €270.

2. VALUATION HISTORY

2.1 On the 2nd day of November, 2015 a copy of a valuation certificate proposed to be issued under section 28(6) of the Valuation Act 2001 ("the Act") in relation to the Property was sent to the Appellant indicating a valuation of €535.

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 23rd day of October, 2017 stating a valuation of €535.

3. THE HEARING

3.1 The Appeal proceeded by way of a remote hearing, on the 11th day of December, 2020. At the hearing the Appellant was represented by Ms. Siobhan Murphy MSCSI, MRICS, IRRV (Hons) of Avison Young and the Respondent was represented by Ms. Orla Lambe 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 situated in the East Coast Business Park, Drogheda, County Louth. The property is located at exit 9 (Drogheda North) interchange on the M1 Dublin/Belfast motorway.

4.3 The subject property comprises 1,780.04 sq. m of an industrial style building originally constructed as a Retail Warehouse; subsequently planning permission was obtained to convert the property to a purpose built state of the art theatre. The property had not previously been included on the valuation list.

4.4 The accommodation has been agreed between the parties;

Basement	Dressing Rooms	170.15
Ground Floor	Car Parking	294.01
	Entrance Foyer	91.72
	Theatre	675.88
First Floor	Bar area & toilets	368.08
	Balcony Seating	180.56
Total Floor Area		**1,780.04 sq. m.**

4.5 The subject property is held leasehold.

5. ISSUES

5.1 The matter at issue is Quantum. Following a re-examination of the property and comparable properties, the respondent proposed at the hearing that the valuation be reduced from €535 to €466.

5.2 The respondent relies on 6 properties (Section 49(1) - 'TONE of the LIST') that share similar characteristics and are situated in the same rating Authority area to support the valuation on the subject property.

6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

"(1) If the value of a relevant property … falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made 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.

7. APPELLANT'S CASE

7.1 Ms. Siobhan Murphy on behalf of the Appellant adopted her precis as her evidence-in-chief.

7.2 Ms. Murphy explained that in 2009 planning permission was obtained to convert the subject property from a standard industrial unit and to fit it out for theatre use. It comprises a rectangular shape which is split out into various uses. The theatre has a maximum seating capacity of 913 comprising 650 seats at ground floor level and 263 seats at balcony level. Ms. Murphy described the interior in some detail and agreed that it was fitted out to a high standard.

7.3 Ms. Murphy introduced thirteen NAV Comparisons (See Appendix 1) within the rating authority area and a further six NAV Comparisons (See Appendix 2) from outside the Co. Louth rating authority area.

7.4 After outlining the various NAV Comparisons, Ms Murphy stated that in her opinion, there are no truly comparable properties to the subject. Therefore the subject property should be reviewed in first principles on a receipts and expenditure basis (Profits Method of Valuation). She opened the accounts of the occupier between 2012 and 2019 to the Tribunal. Briefly stated, Ms. Murphy put forward that engaging such a methodology would give a maximum valuation of €200 for the subject property on the figures. She stated that while there was a bar in the subject property, it operated under a restricted licence which had a negative impact on the property's value. She contended that the existing fit-out would not necessarily be viewed as adding value to the premises by a hypothetical tenant. She proposed that a hypothetical tenant

"might build in some 'hope value' in … that they could potentially operate more efficiently …" and suggested that an RV of €270 would reflect that..

7.5 It was therefore Ms Murphy's opinion that the NAV should be €270

7.6 In cross examination the Respondent questioned the inclusion of two properties (Comparison 1 & 2 ,See Appendix 1) as NAV Comparisons, as they were not valued. Ms Murphy agreed they should be disregarded.

7.7 The Respondent disputed the inclusion of NAV Comparisons (Appendix 2) from outside the County Louth rating area. Ms Murphy rejected this argument on basis these NAV comparisons were introduced to allow for a "barometer of the Tone". She also did not accept that there was an established tone within the rating authority area for theatres of a comparable nature, but agreed that there was an established tone of the list within the industrial estate for properties of light industrial use. When it was put to Ms. Murphy that as there was an accepted established tone based on evidence from within the industrial estate, there was no need to adopt the receipts and expenditure method, Ms Murphy stated she did not accept that there was an established tone for theatres within the industrial estate in the rating area, and that an alternative method of valuation was required.

7.8 The Respondent rejected the Appellants proposal that a receipts and expenditure method of valuation would have been a more appropriate method to be utilised when determining the rateable valuation.

7.9 Ms Murphy's assertion that restriction of the bar licence had a negative impact on value was also rejected by the Respondent.

8. RESPONDENT'S CASE

8.1 Ms. Orla Lambe for the Respondent adopted her precis as her evidence-in-chief.

8.2 Ms. Lambe commenced her evidence by explaining there are no theatres valued on the valuation list in Louth County Council by reference to the 1988 valuation basis. There is one other theatre, property number 1277523 but this is valued at pre-1988 valuation levels. Nonetheless, due to the unusual location of the subject property within an industrial estate, it

is more appropriate to have regard to the valuation levels on properties surrounding the property with adjustments for the subject property.

8.3 Ms Lambe outlined six NAV comparisons which she said shared similar characteristics with the subject property. Three of the respondent's NAV comparisons were units within the same industrial estate, and three were units within a different industrial estate within the same rating authority area (see Appendix 3).

8.4 Ms Lambe contended that if the property was a retail warehouse / light industrial unit, the property would be valued by reference to all similar units in the industrial estate where the property is situated which are all valued at €44.42 psm. Ms Lambe explained that in reflecting the relative value of the subject property due to its superior specification by comparison to the surrounding properties an addition of 15% was applied to €44.42 psm to adopt the main valuation level on the subject property of €51.26 psm.; this equates to a 15% addition to the prevailing industrial valuation levels.

8.5 Ms Lambe stated that following a re-examination of the property and comparable properties, the Commissioner was now proposing that the valuation be reduced from €535 to €466. The reduction now proposed to RV €466 arises due to the fact that the valuation levels applied to the comparisons at first floor (2194360, 2187496 and 2194358) have been valued at 60% to 62% of the ground floor levels. Valuing the first floor areas of the subject property at 60% of €51.26 (€30.75) resulted in a reduced overall RV of €466, which was in keeping with the tone of the list.

8.6 It was put to Ms Lambe that the first line on p. 11 of her own précis was that "There are no Theatres valued on the valuation list in Louth County Council by reference to 1988 valuation basis." Ms. Lambe agreed but added that the subject property was a light industrial unit which was fitted out as a theatre. She agreed that planning permission was required to convert it and would be required if it was proposed that the use of the property revert to light industrial.

8.7 Ms Lambe agreed that the respondent's NAV comparisons 4, 5 and 6 were situated in a superior retail location, but added that that was reflected in their proportionately higher valuations.

9. SUBMISSIONS

9.1 There were no legal submissions

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 Louth County Council.

10.2 The Tribunal considered the evidence adduced by the parties. The appellant's comparisons were of little assistance. NAV Comparisons 1,2 and 3 of the appellant are not listed. NAV Comparisons 4 and 5 are valued as shops and are not of assistance. NAV Comparison 6 has been closed for a decade. NAV Comparison 7 does not appear on the list. NAV Comparisons 8 and 9 are leisure centres significantly larger than the subject property and NAV Comparison 10 is a swimming pool and gym, also larger than the subject property. The NAV comparisons of the appellant from outside the rating authority area are not relevant.

10.3 NAV Comparisons 11, 12 and 13 of the appellant are NAV Comparison 1, 3 and 2 of the respondent respectively and all three are considered by the Tribunal to be comparable to the subject property. The Tribunal accepts that the NAV Comparisons of the respondent are comparable to the subject property and go to demonstrating the tone of the list. The Tribunal rejects the appellant's contentions that no properties comparable to the subject property exist in the rating authority area, and that recourse must be had to an alternative method of valuation.

10.4 The Tribunal considers that the valuation method utilised by the Commissioner was correct and accepts the evidence of the respondent in respect of the tone of the list.

10.4 The Tribunal considers that the initial valuation of the subject property at €535 was excessive. The Tribunal considers that the approach proposed by the respondent at the hearing of this appeal is more appropriate by reference to comparable properties on the valuation list of the rating authority area and that the revised valuation of €466 is correct and equitable.

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 €466.

Level	**Use**	**Area (m2)**	**€/m2**	**NAV**
-1	Store	170.15	€51.26	€8,721.88
0	Store/car park (internal)	294.01	€30.74	€9,037.867
0	Entrance hall	91.72	€51.26	€4,701.567
0	Theatre	675.88	€51.26	€34,645.61
1	Bar	368.08	€30.75	€11,318.46
Mezzanine	Theatre	180.56	€30.75	€5,552.22
			Total NAV	€73,977.61

REDUCING FACTOR .0063

Rateable Value €466.00

And the Tribunal so determines.

Appendix 1

Comparison 1

Property Number NoNumber	Details Drogheda Arts Centre 170 seater theatre located off Stockwell Street in Drogheda Town Centre. Not for profit and not valued on list.
Address	Stockwell Street, Drogheda
Occupier	Drogheda Arts Centre
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	Not Listed

Comparison 2

Property Number No Property Number	Details Barbican Centre, Drogheda 500 seat theatre space located within Laurence Town Shopping Centre development built in 2010. Not for profit and not valued on list.
Address	Laurence Town Shopping Centre ,Drogheda
Occupier	Barbican Centre
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	Not Listed

Comparison 3

Property Number 5018491	Details An Tain Theatre, Dundalk 350 seater independent theatre and art space previously operated by Louth Co. Co. but tendered out to independent operator in 2013. Not valued until 2019 Louth Revaluation.
Address	Drogheda
Occupier	An Tain Theatre
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	Not Listed

Comparison 4

Property Number 1277523	Details Little Duke Street Theatre This was a small independent theatre operated by the Drogheda School of Performing Arts which has since moved venue to PN1277529 (valued as a shop). The valuation is a pre-1988 valuation and devalues at approx. €27.50 psm overall on 294 sq.m. spread across basement and ground floor level. €50.7
Address	Drogheda
Occupier	Little Duke Street Theatre
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	€50.79

Comparison 5

Property Number 2171426	Details The Arc Cinema, Drogheda This is a 734 seater 6 screen cinema which opened in Drogheda Town Shopping Centre in 2014. The valuation on the list pre-Reval is categorised as shop and appears to not have been updated to reflect the cinema offering until the 2019 Louth Revaluation. €154.00
Address	Drogheda
Occupier	
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	€154.00

Comparison 6

Property Number 2171436	Details Old Abbey Cinema This was the first cinema in Drogheda and comprises a 2 screen twin cinema projection with seating for approximately 300 patrons. It has been closed for the last decade.
Address	Drogheda
Occupier	
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	€82.5

Comparison 7

Property Number PN1277502	Details Old Boyne Centre Cinema This is a 4 screen cinema now operated by Omniplex and appears to have been removed from the list.
Address	Drogheda
Occupier	Old Boyne Centre Cinema
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	€342.83

Comparison 8

Property Number PN1278609	Details FUNTASIA WATER PARK & LEISURE CENTRE
Address	Drogheda
Occupier	FUNTASIA WATER PARK
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	€2,100

Comparison 9

Property Number PN2203494	Details DROGHEDA LEISURE CENTRE
Address	Drogheda
Occupier	DROGHEDA LEISURE CENTRE
Total Floor Area	N/A
Lease Details	N/A
Lease Term	N/A
NAV	€630

Comparison 10

Property Number PN2203413	Details Swimming pool and gym
Address	Drogheda
Occupier	??
Total Floor Area	2337.9
Lease Details	N/A
Lease Term	N/A
NAV	€488

Comparison 11

Property Number PN2207978	Details SOUND SHOP, UNIT 11, EAST COAST BUSINESS PARK
Address	Drogheda
Occupier	SOUND SHOP
Total Floor Area	2,075 sq. m
Lease Details	N/A
Lease Term	N/A
NAV	€430

Comparison 12

Property Number PN2194231	Details HARVEY NORMAN, UNIT 13/14 EAST COAST BUSINESS PARK
Address	Drogheda
Occupier	HARVEY NORMAN
Total Floor Area	2250 sq. m
Lease Details	N/A
Lease Term	N/A
NAV	€440

Comparison 13

Property Number PN2207978	Details CREATIVE KITCHENS, UNIT 19EAST COAST BUSINESS PARK
Address	Drogheda
Occupier	CREATIVE KITCHENS
Total Floor Area	355 sq. m
Lease Details	N/A
Lease Term	N/A
NAV	€87

Appendix 2

Property	VO No.	RV	Capacity	Analysis per sq.m
Grand Canal Theatre	2207051	€5,360	2000	€72.00
Helix Theatre	2171317	€3,450	1860	€60.00
Gaiety	787105	€889.00	1165	€50.00
Olympia	852261	€393.62	1262	€44.00
Tivoli Theatre	802113	€298.39	447	€44.00
Vicar Street	1546335	€482.50	1000	€43.00
Subject		€535.00	916	€51.26

Appendix 3

Comparison 1

Property Address:	East Coast Business Park, Drogheda, Co. Louth
Occupier:	T Leddy & S McEvoy T/A The Sound Room
Property Number:	2194622

Block	Floor	Use	Area (sq.m.)	Level €psm	NAV
	0	Retail Warehouse	1,0123.35	€44.42	€44,968.58
	1	Store	878.46	€20.42	€18,008.43
	1	Office & Music Rooms	140.91	€44.42	€6,259.22
	0	Loading Bay	44.40	€30.74	€1,364.85
				NAV	€70,601.80

RV (Rounded to) €445.00

Comparison 2

Property Address:	East Coast Business Park, Drogheda, Co Louth
Occupier:	Donal Carolan, Creative Kitchens
Property Number:	2207978

Block	Floor	Use	Area (sq.m.)	Level €psm	NAV
	0	Showroom	157.87	€44.42	€7,012.58
	1	Warehouse.	128.67	€30.72	€3,952.74
	1	Office	69.62	€41.00	€2,854.42
				NAV	€13,819.74

RV (Rounded to) €87.00

Comparison 3

Property Address:	Unit 13.14 East Coast Business Park, Drogheda, Co Louth
Occupier:	Harvey Norman
Property Number:	2194231

Block	Floor	Use	Area (sq.m.)	Level €psm	NAV
	0	Offices	53.43	€44.53	€2,379.23
	0	Warehouse	2,196.07	€30.74	€67,507.19
				NAV	€69,886.42

RV (Rounded to) €440.00

Comparison 4

Property Address:	Unit C M1 Retail Park, Drogheda, Co Louth
Occupier:	Heatons, T/A Heatons and Sports Direct
Property Number:	2187496

Block	Floor	Floor Use	Area (sq.m.)	Level €psm	NAV
	0	Retail	1,528.69	€54.68	€83,588.76
	Mezz	Retail Warehouse	1,309.19	€34.17	€44,735.02
				NAV	€128,323.78

RV (Rounded to) €810.00

Comparison 5

Property Address:	Unit G M1 Retail Park, Drogheda, Co Louth
Occupier:	Hubert Tully & Co. Ltd, T/A Home Living Property
Property Number:	2194360

Block	Floor	Use	Area (sq.m.)	Level €psm	NAV
	0	Retail Warehouse	717.78	€56.73	€40,719.6
	Mezz	Office	60.20	€34.17	€2,057.03
	Mezz	Store	355.14	€27.34	€9,709.52
				NAV	€52,486.20

RV (Rounded to) €330.00

Comparison 6

Property Address:	Unit E M1 Retail Park, Drogheda, Co Louth
Occupier:	Poundland (Ireland) Ltd, Deal
Property Number:	2194358

Block	Floor	Floor Use	Area (sq.m.)	Level €psm	NAV
	0	Retail Warehouse 1	1,086.40	€56.50	€61,381.60
	1	Office	331.31	€34.17	€11,320.86

	1	Store	181.30	€27.34	€4,956.74
				NAV	€77,659.20

RV (Rounded to) **€490.00**