

**Appeal No: VA18/2/0007**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**SIOBHAN MURPHY T/A KALDARRI COOKERY  
SCHOOL**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 5013478, Office at Kaldarri Cookery School, Carnalway, Kilcullen, County Kildare.

**B E F O R E**

**Hugh Markey –FRICS FSCSI**

**Deputy Chairperson**

**Claire Hogan - BL**

**Member**

**Frank O'Grady – MA, FRICS, FSCSI, FIABCI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 2<sup>ND</sup> DAY OF NOVEMBER, 2020.**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 13<sup>th</sup> day of April, 2018 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 €6,440.

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 28(4) of the Act because : *“The Valuation of the subject property is excessive and inequitable. The property’s value is not in line with its hypothetical rental value. The subject property is a converted stable in a remote rural location.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,500.

## **2. VALUATION HISTORY**

2.1 On the 23<sup>rd</sup> day of February, 2018 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 €7,150.

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 €7,150.

2.3 A Final Valuation Certificate issued on the 20<sup>th</sup> day of March, 2018 stating a valuation of €6,440.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of a remote hearing, on the 31<sup>st</sup> day of July, 2020. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Viorel Gogu 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 made an affirmation, adopted their précis as their 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 property is a home cookery school situated in a rural area, adjacent to the occupier’s own residence approx. 3 km from Kilcullen, 9 km from Newbridge and 10 km from Naas.

4.3 The building is a converted garage/stables, fitted out for its existing use with a cookery school at ground floor and ancillary stores overhead.

4.4 The floor areas are agreed between the parties

Ground floor 62.25 sq. m.

Attic stores 22.40 sq. m.

Total Area 84.65 sq. m.

## **5. ISSUES**

5.1 The only issue in question is one of quantum.

5.2 The Appellant claims that the subject property is in a rural location adjoining a private residence with shared entrance and has no public services including water and lighting and it would be difficult to attract a tenant.

5.3 We are advised that the property is held freehold and is owner occupied.

## **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 (in subsection (2) referred to as the “first-mentioned 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 Mr. Halpin appeared for the Appellant, and contended for a rate of €45/ sq. m. for the ground floor cookery school. He stated that the Commissioner had made an error in classifying

the property as an office in an effort to fit it into a list of comparable properties and he opined that this was a converted building and not an office.

7.2 He also stated that the surrounding area was rural and there were no other commercial properties in the immediate area.

7.3 Mr. Halpin stated that there was only one other cookery school valued in Co. Kildare. His comparison No.1 is The Ivy Cookery School. He noted this is a purpose built cookery school, and also adjoins a residential property. He noted that “outside of some cookery schools and catering facilities the property was not readily comparable with any other kind of property”. He referred to two Tribunal cases VA17/5/134 and VA17/5/1240 which suggested that the unique factors affecting the property including “the remote and rural location, the lack of public services, no passing footfall and the ongoing cooperation with the adjoining residential occupier” had to be taken into consideration when assessing the NAV.

7.4 Mr. Halpin also stated that the first floor/ attic space was not habitable space due to the low headroom and could only be regarded as storage.

7.5 To support his case Mr. Halpin put forward 4 transactions/ tone of the list comparisons:

Comparison 1: PN 2206600

Large cookery school and commercial kitchen, adjoining the occupier’s residence in a rural area, 3 km from Rathangan.

Cold Room 4.56 sq. m. @ €37.65/ sq. m.

Kitchen/ Office(s) 340.54 sq. m. @ €30.00/sq. m.

NAV €10,380

Comparison 2: PN 1737396

Catering/ food preparation premises in a modern business park in Kilcullen.

Office 68.70 sq. m. @ €40.00/sq. m.

Warehouse 303.80 sq. m. @ €40.00/sq. m.

NAV €14,900

Comparison 3: PN 5010462

Modern purpose office building/dental surgery in Kilcullen.

Offices 183.92 sq. m. @ €100.00/sq. m.

NAV €18,390

Comparison 4: PN 2168177

Industrial building located adjacent to occupier's residence in rural location near Kilcullen.

Workshop 264.55 sq. m. @ €20.00/sq. m.

NAV €5,290

7.6 Mr. Halpin contended for a revised valuation of €3,000

Ground floor 62.25 sq. m. @ €45/ sq. m. €2,801.00

Attic 22.40 sq. m. @ €9/ sq. m. € 201.00

Total NAV €3,002.00

7.7 Under cross examination from Mr. Gogu on the nature of the construction of the building, Mr. Halpin stated that it was a modified building, not a purpose- built industrial/office building. He confirmed that the cookery school was an established user but planning permission had not been obtained. When queried on services he confirmed that no public lighting, mains water/sewerage or rubbish collection were available in the immediate area.

## 8. RESPONDENT'S CASE

8.1 Mr. Gogu appeared for the Respondent, confirmed agreement with the location, title and floor areas.

8.2 Mr. Gogu described the property and stated that it had an excellent quality fit out and was compared to other office properties in Co. Kildare and that an allowance of 10% had been made for its rural location and contended for a rate of €90/ sq. m. for the ground floor.

8.3 He introduced 7 Tone of the List comparisons to support his opinion (Appendix 1)

Comparison 2: PN 5009956

Music recording studio, similar nature to the subject in rural location.

Office/Studio 99.44 sq. m. @ €90/ sq. m. €8,949.60

NAV €8,940

Comparison 4: PN 2206601

Veterinary office similar to subject in rural location.

Office 50.46 sq. m. @ €90/ sq. m. €4,541.40

NAV €4,540

Comparison 5: PN 5007363

Similar style building used for the sale of Bridalwear/Dresses in rural location.

Office 71.47 sq. m. @ €90/ sq. m. €6,432.30

NAV €6,430

8.4 Mr. Gogu requested the Tribunal to affirm the valuation at €6,230 stating that the subject property was in full use, similar to the above comparisons and fair and reasonable.

Ground floor Office 62.25 sq. m. @ €90/sq. m. €5,602.50

Attic Store 22.40 sq. m. @ €59/sq. m. €1,321.60

NAV €6,230

8.5 Under cross examination from Mr. Halpin on the nature/structure of the building Mr. Gogu confirmed that the property was not a purpose-built cookery school or an industrial building but a converted structure. He further stated that the Commissioner had valued the type of building not the user.

## **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 Kildare County Council.

10.2 Having heard the oral evidence and examined the written evidence of both parties, the Tribunal notes the predicament raised by the Appellant on the choice of category used by the Commissioner and the lack of comparable evidence for cookery schools in the county. The fact

that the Ivy School is the only other cookery school is noted but it is a purpose-built structure and substantially larger than the subject.

10.3 The tone of the list comparisons introduced by the Respondent do show the very wide scope used by the Commissioner in the “Office Category” and the Tribunal has to take this fact into consideration in arriving at its determination.

10.4 The matter of a rural allowance was also noted with the Respondent giving 10% for the lack of mains services and remote location and the Appellant stating that such sum was insufficient.

10.5 The headroom in the attic and the amount of usable space was also questioned and the correct valuation or rate to be applied to such space was disputed, but no evidence was provided by either party to support their very different opinions of rental value for this space.

The Tribunal accepts that this is, in reality, little more than ancillary/ storage space and should be valued as such.

10.6 The Tribunal, in arriving at its determination, has to be mindful of the tone of the list rate at €90/sq. m. for rural offices but believes that the arbitrary nature of the ‘Office other’ category adopted by the Respondent can lead to anomalies when considering an appropriate NAV for properties such as that under consideration. It is also of the view that insufficient weight or cognisance was given to the remote location and the lack of mains services, the 10% discount allowed was arbitrary and believes an allowance of 30% to be appropriate to properly reflect the particular circumstances of the property under appeal.

**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 €4,235.00.

Ground floor	Office	62.25 sq. m.	@ €90 /sq. m.	€5,602.50
Attic	Stores	22.40 sq. m.	@ €20 /sq. m.	<u>€ 448.00</u>
				€6,050.50
	Less Allowance	30%		<u>€1,815.15</u>
				€4,235.35

Say, NAV €4,235

And the Tribunal so determines.