

Appeal No: VA19/5/0942

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

Why Not Salon Ltd. T/A Artisan Hair

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 2104369, Retail (Shops) at 109 . Main Street North, Wexford Co. Wexford**

B E F O R E

John Stewart – FSCSI, FRICS, MCI Arb

Deputy Chairperson

Caroline Murphy - BL

Member

Rowena Mulcahy – Solicitor, CArb., FCI Arb.

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8th DAY OF FEBRUARY, 2022**

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of October, 2019 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 €19,090.

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 of its value that accords with that required to be achieved by section 19 (5) of the Act because:

1. *"The subject property is of office type and not a conventional retail unit. The subject property has no shopfront and no frontage to the road. It can only be accessed by way of a common lobby.*

2. *The subject property is currently leased at €10,000 per annum, which clearly indicates that the Commissioner has adopted the wrong approach here. The subject should not exceed €100/m² overall in line with PN 2104526."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,600.

2. REVALUATION HISTORY

2.1 On the 15th day of March, 2019 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 €19,090.

2.2 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €19,090.

2.3 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2017.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 1st day of November, 2021. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), BA. (Mod) of Eamonn Halpin & Co. Ltd 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.

4.2 The subject property comprises a ground floor section of the former YMCA hall at 109 North Main Street, Wexford Town.

4.3 The ground floor extends to an area of 96M² with a total retail area of 76.28M² and stores comprising 19.72M².

4.4 The subject property was let for a short term. Details of the Lease of the subject property to the Appellant are set out in the Appendix.

4.5 The subject property is currently in use as a hairdressing salon and was previously used as a clothes shop.

4.6 A copy of the lease of the subject property to the Appellant was provided.

5. ISSUES

5.1 The matter at issue is quantum. The Appellant claims that as the property forms part of a former YMCA Hall, has no conventional retail frontage, limited exterior signage as it is a listed structure and can only be accessed through shared lobbies, it cannot be regarded as a standard retail unit and that the passing rent supports this claim. He sought a NAV of €9,600. The Respondent contends that when determining the valuation of €19,090 he considered key rental transactions and took account of uniformity and equity and of the features of the subject property.

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 adopted his precis of evidence and proceeded to give his oral evidence. He said the subject property was an office type and not a conventional retail unit. He added that the subject property had no shop front and no frontage to the roadway and that it could only be accessed by way of a series of internal lobbies.

7.2 He said that the NAV should be reduced in line with its actual potential rental value and the emerging tone of the list and should not exceed €100/M² overall in line with a property in Selskar Street.

7.3 Mr. Halpin confirmed that the subject property was in a Town Centre location but stated it comprised part of the ground floor of a former YMCA Hall constructed over 150 years ago. He added that it was a listed building and comprised quasi-office, quasi- retail and quasi-showroom use, and that it could not be described as retail accommodation. He said the subject property was prohibited from having any fixed signage other than a plaque and a hanging sign on the exterior of the property, it had no conventional shop front and could only be accessed from two internal lobbies shared with a restaurant in the same building.

7.4 Mr. Halpin stated that the property was held on a short term lease at the rent specified in the Appendix. He submitted that the proposed NAV was almost double the passing rent. He could not understand the Respondent’s approach in this instance.

7.5 Mr. Halpin confirmed that the accommodation comprised an area of 96M² and he provided various photographs of the subject property, externally and internally, to include the room at the front of the property used as a hair salon, the corridor and access lobbies.

7.6 He said that the subject property was the only one on North Main Street that did not have a conventional retail frontage and he submitted that consequently it could not be compared to standard retail units. He added that the subject property was unique on North Main Street but that it was very comparable to a number of other re-purposed structures throughout the town. He submitted that all of these re-purposed comparisons had been valued by the Respondent at €100/M², that the ground floor of the adjoining restaurant in the subject building had also been valued at €100/M², and that the NAV of the subject property should be determined in line with its actual retail potential.

7.7 In his first tone of the list comparison Mr. Halpin provided a photograph of a shared ground floor entrance lobby and a second photograph of a first floor restaurant in the subject building. He confirmed that this property had been inspected externally and provided details of how the NAV of €14,470 was calculated.

PN 2167122

Level	Use	Area M²	NAV € M²	NAV €
-1	Store	4.59	€75.00	€344.25
0	Store	18.16	€100.00	€1,816.00
1	Restaurant	111.85	€95.00	€10,625.75
Mezz	Restaurant	42.18	€40.00	€1,687.20

He argued that as the ground floor of this adjoining property had been valued at €100/M², the subject property should be valued at the same rate.

7.8 Mr. Halpin provided a second tone of the list comparison stating that this property had been inspected externally and had an NAV of €10,900 calculated as follows.

PN 2104526

Level	Use	Area M²	NAV € M²	NAV €
0	Offices	42.61	€100.00	€4,261.00
0	Store	13.69	€42.00	€574.98
1	Offices	46.59	€70.00	€3,261.30
2	Offices	57.31	€49.00	€2,808.19

He stated that this property had been constructed prior to 1840 and was currently in use as an office. He added that this property had both conventional and return retail frontages and had been valued at €100/M² and had been inspected externally.

7.9 Mr. Halpin provided details of a third tone of the list comparison, a former bank premises which is currently vacant, and he included internal and external photographs. He confirmed that the property had been inspected externally. He added that this property had been constructed in 1877 and had been classified as a listed structure. He said the property had full retail planning and that the property had full retail frontage to Common Quay Street. The property was currently to let for €20,000 per annum. He provided details of the NAV of €19,980.

PN 2104653

Level	Use	Area M ²	NAV € M ²	NAV €
0	Offices	120.40	€100.00	€12,040.00
1	Offices	113.46	€70.00	€7,942.20

7.10 Mr Halpin's fourth tone of the list comparison had a NAV of €27,800 and he stated that this quasi-retail office had full frontage to both North Main Street and the Bullring. The NAV calculation was:

PN 2101589

Level	Use	Area M ²	NAV € M ²	NAV €
0	Offices	144.13	€100.00	€14,413.00
0	Store	12.00	€100.00	€1,200.00
1	Offices	130.89	€70.00	€9,162.30
1	Store	12.00	€70.00	€840.00
2	Offices	45.80	€49.00	€2,244.20

The fifth tone of the list comparison was withdrawn.

7.11 Mr Halpin's 6th tone of the list comparison comprised a smaller property and had been inspected externally. He argued that it had clearly been used as a retail salon but had been valued at €100/M² giving a NAV of €2,990 calculated as follows:

PN 2104418

Level	Use	Area M ²	NAV € M ²	NAV €
0	Offices	24.83	€100.00	€2,483.00
0	Store	5.13	€100.00	€513.00

7.12 Mr Halpin concluded his oral evidence and stated that in his opinion the NAV should be determined at €100 x 96M² = €9,600. He submitted that the subject property had been repurposed for commercial use in 2002, that it had hosted a variety of quasi-retail and office uses and that the actual rent being paid reflected its listed status and lack of retail frontage as well as its restricted access via two shared lobbies.

7.13 During cross examination, Mr. Halpin accepted that he had provided no photographs of the ground floor accommodation of the adjacent restaurant premises. He did not dispute the fact that the ground floor accommodation adjacent to the subject property comprised storage accommodation for the first floor restaurant but he argued that ground floor accommodation should be compared to ground floor accommodation. He did not accept that his second comparison could not be compared to the subject property. Mr. Halpin argued the subject property should be compared to other similar ground floor offices at €100/M² and he did not accept the Respondent's contention that it should be regarded as retail accommodation.

8. RESPONDENT'S CASE

8.1 Mr. Power adopted his precis and proceeded to give his oral evidence to the hearing.

8.2 He provided a synopsis of the revaluation and its purpose as well as the statutory provisions governing revaluation and background information and statistics.

8.3 Mr. Power stated that the subject property was located in the main commercial centre in Wexford which had a population of 20,188, according to the 2016 census. He provided location maps indicating the position of the subject property.

8.4 He described the subject property as a ground floor retail unit comprising part of a two storey mixed use terrace development. He acknowledged that the property had been used formerly as a YMCA Hall and that it was a listed structure. He noted that the subject property

shares access with an adjoining property. He stated that the retail unit in the subject property had a good standard fit out with tiled floors and plastered and painted walls and that the entrance of the subject property faced directly onto North Main Street, one of the main commercial streets in Wexford.

8.5 He confirmed the floor area of the subject property comprised 96M² of which 76.28 M² was retail and 19.72 M² was stores. He provided a block plan which indicated the layout of the subject property and a number of internal and external photographs.

8.6 He confirmed that the subject property was held under a short term lease from 2019 at a rent and with the benefit of the inducement set out in the Appendix.

8.7 Mr. Power stated that in his opinion the NAV of the subject property was fair and equitable and in line with other similar type developments. He argued that this was reflected in the comparisons cited in the Key Rental Transactions and the emerging tone of the list properties. He stated that in his opinion the subject property was a retail unit, not an office property, and that it ought to be valued as such. He stated that the property was currently in retail use and had been formerly used as a shop. He acknowledged that there were unique points regarding the subject property particularly its access and frontage but that the NAV comparisons had been valued in a similar fashion. He relied on three Key Rental Transactions (“KRT”). He stated that the first comparison provided by the Appellants referred to a first floor restaurant and a ground floor store.

8.8 His first KRT comparison referred to a ground floor retail and basement store premises on North Main Street, Wexford which had been let for 1 year in October 2016 for €25,000pa. The NER was €25,000. The NAV was €20,000 and he provided an analysis of both the rent and the NAV with a Zone A rent of €640/ M² and a Zone A NAV of €500/ M² with a NER of €70.00/ M² and a NAV of 65.00/ M² for one of the basement stores. He confirmed that this property was in a similar location in Wexford and he provided an external photograph of the building. No representations had been made.

Level	Description	Size M²	NER /M² €	NAV/ M² €
0	Retail Zone A	26.23	€640	€500
0	Retail Zone B	18.28	€320	€250
0	Retail Zone C	6.67	€160	€125
-1	Store	1		€306
-1	Store	18.86	€70	€65
			Total	€20,000

8.9 His second key rental transaction referred to a ground floor retail premises on Common Quay Street, Wexford which was let for 10 years from March 2017 at €21,962 pa and had the same NER and an NAV of €18,650. He provided an analysis of both the rent and the NAV with a Zone A rent of €470.88/ M² and a NAV of €400/ M². He added that this property was in a similar location in Wexford Town. No representations had been made.

Level	Description	Size M²	NER /M² €	NAV/ M² €
0	Retail Zone A	34.97	€470.88	€400
0	Retail Zone B	23.33	€235.44	€200
			Total	€18,650

8.10 His third key rental transaction also referred to a ground floor retail premises on North Main Street that was let from December 2016 on a 20 year lease at €47,000pa with the same NER. It had a NAV of €38,100 pa and he provided a Zone A rental analysis at €600/ M² and NAV analysis at €500/ M² with rates of €90/ M² and €65/ M² respectively for the first floor store and €100/ M² and €85/ M² respectively for the basement shop. He stated that this property was located in a similar location to the subject property within Wexford Town. No representations had been made.

Level	Description	Size M²	NER /M² €	NAV/ M² €
0	Retail Zone A	28.23	€ 600	€500
0	Retail Zone B	36.60	€300	€250
0	Retail Zone C	22.80	€150	€125
1	Store	82.53	€90	€65
-1	Shop	78.71	€100	€85

			Total	€38,100
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8.11 Mr. Power provided seven NAV comparisons. His first comparison comprised a vacant ground floor retail unit located on Main Street close to the subject property, which had previously been operated as a nightclub that formed part of an adjacent hotel. It was valued on an overall basis and had a very wide frontage including a number of concrete pillars and a narrow depth. The NAV had been appealed to the Valuation Tribunal but was agreed with a valuer representing the occupier. The analysis was as follows:

PN 5015842

Level	Use	Area M ²	NAV € M ²
0	Restaurant	137.25	€240.00
0	Restaurant	69.53	€240.00
1	Restaurant	194.78	€85.00
0	Allowance	1	-€4,962.00
			€61,200

8.12 His second NAV comparison was also located on North Main Street and had a NAV of €18,630. The property comprised a non-standard ground floor retail unit located close to the subject property. Representations had been made and an appeal to the Valuation Tribunal had been withdrawn. It was valued on an overall basis and it had a very wide frontage and a narrow depth. It was analysed as follows:

PN 2104325

Level	Use	Area M ²	NAV € M ²
0	Shop	90.32	€240.00
0	Allowance	-1	-€4,335.36
0	Store	32.36	€40.00
			€18,630

8.13 His third comparison referred to George Street Lower and Trimmer's Lane West and it had an NAV of €89,000. The accommodation comprised a ground floor shop, basement store with offices on the first, second and third floors. This property formerly comprised an office and had been extensively reconstructed to provide the current retail and restaurant area, a

kitchen and office accommodation and it had been valued on an overall basis. No representations had been made. Analysis is as follows:

PN 2104126

Level	Use	Area M²	NAV € M²
0	Shop	299.14	€240.00
-1	Store	23.46	€65.00
1	Offices	297.14	€65.00
2	Offices	162.90	€42.00
3	Offices	37.95	€27.00
3	Allowance	1	-€11,482
			€89,000

8.14 The 4th comparison referred to Selskar Street, Wexford and it had a NAV of €49,900. It was located close to the subject property and comprised a terraced ground floor shop, store and outdoor area and stores on the first and second floors. No representations had been made. It was analysed as follows:

PN 2104527

Level	Use	Area M²	NAV € M²
0	Shop	177.20	€240.00
0	Store	49.30	€40.00
0	Outdoor area	62.40	€15.00
1	Store	50.10	€65.00
2	Store	29.80	€42.00
			€49,900

8.15 The 5th comparison referred to South Main Street, Wexford and a ground floor retail unit that had shared access to the upper floors. No representations had been made. The NAV was €8,530 analysed as follows:

PN 2102795

Level	Use	Area M²	NAV € M²
0	Retail Zone A	27.26	€300.00
0	Retail Zone B	2.40	€150.00
			€8,530.00

8.16 The 6th comparison referred to North Main Street, Wexford and comprised a ground floor retail unit with ground floor and first floor storage accommodation and shared ground floor access, located close to the subject property. Representations had been made. The NAV was €17,990 analysed as follows:

PN 2104350

Level	Use	Area M ²	NAV € M ²
0	Retail Zone A	33.70	€400.00
0	Retail Zone B	4.06	€200.00
0	Store	61.41	€40.00
1	Store	19.21	€65.00
			€17,990

8.17 The 7th and final NAV comparison referred to South Main Street, Wexford and comprised a ground floor insurance office valued as a retail unit and store with offices on the 1st floor. No representations had been made. It had an NAV of €29,500 analysed as follows:

PN 2191197

Level	Use	Area M ²	NAV € M ²
0	Retail Zone A	35.38	€300.00
0	Retail Zone B	20.80	€150.00
0	Retail Zone C	29.47	€75.00
0	Retail Zone remainder	25.47	€37.50
0	Store	12.6	30.00
1	Office(s)	229.43	€75.00
2	Allowance	1	-€8,196
	Store	78.17	€42.00
			€29,500.00

8.18 Mr. Power concluded his oral evidence and submitted that a NAV of €19,090 was in line with the valuation of comparable properties on the Valuation list. He argued that the subject property was a retail shop and should be valued accordingly and that it was not an office development. He added that no retail premises in the town had been valued at €100/M² and he stated that while the subject property had unique physical factors, these factors had been

accounted for in the levels applied in this instance. He submitted that a number of other premises had similar physical issues and the NAV for the subject property had accounted for these issues and an equitable and uniform approach had been adopted.

8.19 During cross examination Mr. Power acknowledged that the subject property had unique features but argued that similar features were contained in his third NAV comparison and he maintained that the subject property should be valued as retail accommodation. Mr. Power agreed that the subject property did have limitations when it came to signage and frontage but argued that the established Zone A rent for North Main Street of €400/M² had been discounted to reflect these differences to €240.00/M². In response to Mr. Halpin's query as to rationale, Mr. Power stated that the valuation was based on a well-established system that had been subject to appeal and had been accepted by the agents involved. In relation to Mr. Power's NAV comparison No. 1, Mr. Power accepted that it comprised a fully fitted restaurant and that it had a frontage of 25/30 meters but that it was disadvantaged by pillars and an overhanging canopy. In relation to his second NAV comparison Mr. Power stated that it was located behind a tree but had two frontages. In relation to his third NAV comparison he confirmed that it comprised a restored building with good natural light. When it was put to him that the shared access to the subject property was a significant disadvantage, Mr. Power stated that a number of his NAV comparisons had similar access issues.

8.20 Mr. Halpin concluded with a short summary and argued that the subject property was unique, a period building from c.1850's and that the entrance was restricted with access available via two lobbies by way of a stepped entrance. He added that the signage was non-standard and the NAV should reflect the actual market rent being paid.

8.21 Mr. Power concluded his submission stating that he had sought to bring equity and fairness to the valuation and that the subject property was clearly a retail unit but the established Zone A retail rate for North Main Street of €400/ M² had been adjusted to reflect the unique access features of the subject property.

8.22 Two different figures for the rent payable in respect of the subject property were provided. Following a query from the Tribunal, Mr. Halpin confirmed that the lower figure represented the rent specified in the Lease. The higher figure represented the rent, inclusive of VAT, that is paid by the Appellant. He acknowledged that there was no reference to VAT in the lease.

Following a second query from the Tribunal it was confirmed that the tenant was responsible for the shared hallway/entrance and that the entrance comprises two lobby areas. When asked whether any other comparisons had as he described “two lobbies”, Mr. Halpin confirmed that no other property had two lobbies.

8.23 In the precis submitted by Mr Power on behalf of the Respondent, Mr Power stated that “no retail unit in Wexford Town has been valued at €100 per sq. m overall”. Comparison PN 2104418 submitted on behalf of the Appellant, which was valued as Office accommodation with a NAV of €100/M², was in retail use. Following a query from the Tribunal as to why the comparison property had been valued as office accommodation, Mr. Power stated that the comparison property consisted of a number of small rooms and the layout of the property would not be suitable for retail.

9. SUBMISSIONS

9.1 No Legal Submissions were received from either party.

10. FINDINGS AND CONCLUSIONS

10.1 In 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 Wexford County Council.

10.2 While both parties have agreed that the floor area is 96 M², the Tribunal finds that the analysis provided by the Respondent as indicated on its Block plan, (namely that the two rooms at the front and mid sections of the subject property, which are described in the Valuation list as Shop, extend to 76.28 M² and the two rooms at the rear, which are described in the Valuation list as Store, extend to 19.72 M²), is a more correct representation of the floor area of the subject property.

10.3 This appeal relates to the valuation of portion of the ground floor subject property namely the two rooms at the front and mid sections of the property each of which is described in the Valuation list as “Shop” and which together comprise 76.28 M² No evidence was adduced to challenge the valuation of €788.80 for the store accommodation at the rear of the subject property which comprises 19.72 M² and the Tribunal accepts this valuation.

10.4 What is at issue is whether the subject property is to be regarded as offices, as contended by the Appellant, or as retail accommodation, as contended by the Respondent. The subject property is currently in use as a hairdressing salon and evidence given on behalf of the Respondent that the subject property was previously in use as a clothes shop was not disputed by the Appellant. The Respondent is entitled to consider the actual use to which the premises are put. The Tribunal is satisfied that the subject property is currently in use as a retail unit, namely a hair salon and that it was formerly in use as a retail unit, namely a clothes shop. The Tribunal finds that the Respondent was entitled to regard the subject property as a retail premises and was correct in valuing the subject property on that basis.

10.5 The Respondent acknowledged that there are unique points regarding the unit in relation to access and frontage and he submitted that the unit had not been zoned for that reason. The Respondent submitted that he had valued the retail accommodation on an overall basis rather than on a zoned basis to reflect the unique nature of the subject property. Both valuers had adopted this approach and The Tribunal accepts that this approach is correct in this instance due to the configuration of the subject premises.

10.6 The Respondent relied on three Key Rental Transactions (“KRTs”), two from 2016 and one from 2017, all three of which pre-date, but were close to, the valuation date of 15th September 2017. The analysis provided by the Respondent for all three KRTs referred to a Zoning basis. The Tribunal is satisfied that the valuation of the retail section of the subject property should be calculated on an overall basis to reflect the approach adopted by both parties and by reference to the most relevant comparisons. It has extracted the retail elements as provided by the Respondent to show the overall retail rents and NAV equivalents per square metre. To do otherwise would be to confuse the issue. The subject property is located on the ground floor and the following analysis refers to the ground floor areas and associated rental values of the KRTs only. No objection was made to the details provided by the Respondents however the calculation of the overall retail rents as distinct to retail zoning values has been arrived at by the Tribunal.

KRT 1 NAV €20,000 of which €18,374 (less non ground floor retail areas €306 + €1,320) refers to the retail accommodation. The retail area of KRT no. 1 is 51.18M² (includes Zone A 26.23M² +Zone B 18.28M² +Zone C 6.67M²).

Analysis:

Description	Retail Area M ²	NAV/M ² for retail area €	NAV
NAV analysis	51.18	€359.00	€18,374

KRT 2 NAV of €18,650, which refer to retail accommodation. The area of KRT no. 2, all of which is retail, is 58.30M²(includes Zone A 34.97M² +Zone B 23.33M²).

Analysis:

Description	Retail Area M ²	NAV/M ² for retail area €	NAV
NAV analysis	58.30	€319.90	€18,650

KRT 3 NAV of €38,100 of which €26,062 (less non ground floor retail areas €6,673.35 + €5,364.45) refers to the ground floor retail accommodation. The ground floor retail area of KRT no. 3 is 87.63M²(includes Zone A 28.23M² +Zone B 36.6M² +Zone C 22.8M²).

Analysis:

Description	Retail Area M ²	Rent of retail area €	
NAV analysis	87.63	€297.41	€26,062

The rental comparisons provided a range of NAV ground floor rates from €297.41/M² to €319.90M² to €359/M². These rates apply to standard retail premises in a similar location to the subject property which have retail shop fronts and direct access to the public thoroughfare and are consequently superior to the subject property which does not have a shop front and has no direct street access.

10.7 The rent payable in respect of the subject property postdates the Valuation Date by approximately 18 months. No analysis was provided by the Appellants. The Tribunal finds that the Respondent's evidence of Market Rent for the Valuation date is more persuasive as they are closer in time to the valuation date, however, it also finds that the proposed value for the subject property must be discounted to reflect its limited shop front, stepped access and recessed lobby access.

10.8 The Appellant provided six NAV comparisons to the Tribunal, one of which was withdrawn at the outset of the Hearing. The first, the adjacent restaurant property in the subject building, included accommodation on the ground floor that has a NAV of €100/ M². This was

described in the Appellant's precis of evidence as "the ground floor section of the first floor restaurant..." The ground floor accommodation of the adjacent property is not a section of the restaurant but rather is referred to as a "Store" in the Valuation list and is used as a store. Furthermore, no evidence that this ground floor accommodation had any retail potential, frontage or access was provided. The Tribunal finds that the ground floor storage accommodation in the adjacent property is not comparable to the retail accommodation in the subject property. The Tribunal is satisfied that this comparison does not support the Appellant's claim.

10.9 The Appellant also relied on four other NAV comparisons to support its contention that portion of the subject property should be valued as office accommodation. Each one of the four NAV comparisons, including PN 2104526 which the Appellant referred to in its Notice of Appeal, referred to office accommodation with a NAV of €100/ M² however the Tribunal has found that use of the front of the subject property was retail and consequently it is of little assistance. Two of the four NAV comparisons were in use as offices and one was vacant. The fourth NAV comparison, PN 2104418, was in use as a retail salon but it was significantly smaller than the subject property. The Tribunal accepted the evidence of Mr. Power on behalf of the Respondent that this latter property was valued as office accommodation because it comprised a number of small rooms, as distinct from an open plan layout which would be more suitable for retail. Each of the 4 NAV comparisons was referred to as "Office(s)" in the Valuation list. As the Tribunal has found that the portion of the subject property the subject of this Appeal should be valued as retail accommodation, these four NAV comparisons submitted by the Appellant are of limited assistance.

10.10 The Respondent provided seven NAV comparisons to the Tribunal. The first four had ground floor NAV values of €240/ M² and the other three included zoning analysis based on €300/ M² or €400/ M² Zone A. The Tribunal finds that having considered all seven comparisons, the first four are the most persuasive as they refer to more comparable properties and were valued on an overall rate for ground floor retail accommodation; whereas the other three are zoned and refer to more traditional shop units and the fifth is much smaller than the subject property. Of these four comparisons, three included reported discounts of 10%, 20% and 16% respectively. No discount was allowed on the fourth comparison. The net effect was to reduce the ground floor rates applied from €240/ M² to €216/ M², €192/ M² and €201.60/ M²

respectively. The Tribunal regards these four comparisons as the most comparable for the subject property.

10.11 The Tribunal finds that a discount of 20% should apply to the rate of €240/ M² for the retail portion of the subject property to account for the fact that the subject property does not possess the usual attributes of a shop as it has restricted access via two internal lobbies, a stepped access from the street; restricted signage on the exterior of the property due to the fact that it is a listed structure; and it does not have a traditional shopfront.

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 €15,400.

Description	Area /	NAV €/ M ²	Total NAV €
Retail	76.28	€192.00	€14,645.76
Store	19.72	€40.00	<u>€788.80</u>
			€15,434.56
			Say NAV€15,400.00

And the Tribunal so determines.

