

Appeal No: VA17/5/1271 & 1272

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Padraig Mulligan

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5007543, Retail (Shops) at 51a Main Street, Ballaghaderreen, County Roscommon.

Property Number 101856, 52/53 Main Street, Ballaghaderreen, Co. Roscommon.

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE DAY OF 1st of March 2022

BEFORE

Donal Madigan – MRICS, MSCSI

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 13th 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 Properties were fixed in the sum of €7,070 (PN 5007543) and € 10,250 (PN 101856).

1.2 The grounds 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, in summary, inter alia, :

- *“Valuation and Rates are excessive.*
- *Valuation of 2 property numbers.*
- *Additional information regarding the business provided.*
- *Zoning.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in each case in the sum of €1,250.

2. RE-VALUATION HISTORY

2.1 On the 12th day of January 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 each property was sent to the Appellant indicating a valuation of € 7,070 and € 10,250.

2.2 Being dissatisfied with the valuations proposed, representations were made to the valuation manager in relation to the valuations. Following consideration of those representations, the valuation manager did not consider it appropriate to provide for lower valuations.

2.3 Final Valuation Certificates issued on the 7th day of September, 2017 stating a valuation of € 7,070 (Property Number 5007543) and € 10,250 (Property Number 101856).

2.4 The date by reference to which the value of the properties, the subject of this appeal, were determined is 30th day of October, 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

From a review of the written submissions the following are the outline of the facts in this case:

4.1 The property (left hand side facing the building from the street) comprises Property Number 101856 which comprises a ground floor shop with small licensed bar to the rear of 93.85m².

4.2 The property (right hand side facing the building from the street) is Property Number 5007543 and this comprises a ground floor shop of 58.93m².

5. ISSUES

The issues arising in this case concern several matters but chiefly the objection by the Appellant to the use by the Respondent Commissioner of Valuation of the Zoning method of Comparative Valuation and, as a consequence, the quantum of the valuation, or amount of the net annual value (NAV), applied to each property. The overall floor areas are agreed but the approach to the valuation is disputed.

6. RELEVANT STATUTORY PROVISIONS:

6.1 As this is a Revaluation type appeal regard must be had, firstly, to sec. 19(5) of the Valuation Act 2001, as amended, which provides that the valuation entered on the Valuation List shall achieve both (insofar as is reasonably practicable) –

(a) correctness of value; and

(b) equity and uniformity of value between properties on that valuation list, and so that (as regards the matters referred to in paragraph (b)) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.

6.2 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.”

6.3 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 The Appellant, Mr. Padraig Mulligan, contends in each case on the Notice of Appeal for a Net Annual Value of € 1,250 as the valuation of the property as at the statutory valuation date of 30th October, 2015.

7.2 In his submission he puts forward a calculation of the Net Annual Value of the two relevant properties (Property Number 5007543 and Property Number 101856) combined, (amalgamated) in summary, as follows:

			€
Ground Floor	Zone A	37.21m ² @ € 120.00 per m ²	4,465.20
	Zone B	37.21m ² @ € 60.00 per m ²	2,232.60
	Zone C	37.21m ² @ € 30.00 per m ²	1,116.30
	Zone D	13.18m ² @ € 15.00 per m ²	<u>197.70</u>
			8,011.80
	Store	27.90m ² @ € 12.50 per m ²	349.38
	Drink Sales		<u>2,000.00</u>
			10,361.18

7.3 The Appellant submits comparative accounts in support of his case about his business and as this information is confidential, details will not be referred to here but a summary extract of his contention is set out in Section A of the Appendix to this Determination.

7.4 The Appellant makes the following points, in summary, inter alia, as follows:

(a) The business, James Mulligan & Sons, was founded by the Appellant's late Father in 1944 and in the past ten years, despite investing heavily and expanding, the business is down 20-25% due to many factors including competition from Woodies DIY, Homebase, Home Store & More, Aldi, Lidl, Tesco and Supervalu. He is 66 years of age and has three loyal staff employed in the business but unfortunately with family members (who might assist) abroad;

5.

(b) At the height of the boom in 2007 his rates amounted to c. 2.5% of profits whereas for the latest year (2018), by contrast, they amounted to 11.5% of profits;

(c) Despite the circumstances prevailing in (a) above, he embarked on expansion and refurbishment of the premises at considerable expense utilising all his savings plus borrowing;

(d) He has had to place plans for developing an online aspect to the business on hold:

(e) Efforts to entice family members into the business have been unsuccessful:

(f) The rates levy is unfair, ill-defined and out of proportion to the harsh realities facing small businesses today;

(g) The high rates are a disincentive to future generations entering a family business and businesses in this town are, for the most part, run by people in the 60/80 age group with no family to follow on;

(h) The once vibrant town has been eroded by the bypass and the closure of Durkin's Hotel, a major employer prominent in the square for the past 50 years, and the penal level of rates, he asserts, contributed to their closure;

(i) If local authorities are serious about regeneration of town centres he considers that they need to take a serious look at the crippling level of rates as they are a disincentive to small businesses and so help is required to put Ballaghaderreen back where it belongs as the gateway to the West;

(j) As regards the use of zoning in the valuation adopted by the Respondent he considers this unfair as it classifies the entire at the higher rate [Zone A Unit value per m²] whereas, apart from an area 1.5m X 6m immediately on the left as you enter, the area where the counter and a passage are located, the whole shop extends to the right or the end, and although the extension runs parallel to the street, there is only one entrance/exit;

(k) He further contends that this is an old style shop where over 80% of customers come to the counter to be served and less than 20% visit that other end, because it is quiet, being used for temporary storage and checking/pricing incoming orders;

(l) He briefly also refers to the book by John Healy Nobody Shouted Stop formerly called Death of an Irish Town;

8. RESPONDENT'S CASE

8.1 M/s Harris, Valuer, for the Respondent Commissioner of Valuation, contended for the valuations that presently appear in the Valuation List as € 7,070 & € 10,250 which she calculated as follows:

Property Number 5007543 NAV € 7,070

Ground Floor	Retail Zone A	58.93m ² @ € 120.00 per m ²	7,071.60
			rounded to NAV € 7,070.

Property Number 101856 NAV € 10,250

Ground Floor	Retail Zone A	65.90m ² @ € 120.00 per m ²	7,908.00
	Store	<u>27.95</u> m ² @ € 12.50 per m ²	349.38

Additional item	Licence/drink sales	<u>2,000.00</u>
		10,257.38
rounded to NAV € 10,250.		

8.2 In support of her valuations, M/s Harris relied on the following ten comparables, full details of which appear in Section B of the Appendix to this Determination, but for which there are redacted versions hereunder, as follows:

1. **Property Number** [redacted] Key Rental Transaction Number 1

(Main Street, Ballaghaderreen)

The property comprises a shop of 79.69m² which was let on a lease for 4 years and 9 months from April 2015 at the rent of € 7,200 per annum reflecting a net effective rent of € 6,760.87 p.a. which is analysed at € 146.62 Zone A per m². The property is assessed at NAV of € 5,530.

2. Property Number [redacted] Key Rental Transaction Number 2

(Main Street, Ballaghaderreen)

This property comprises a shop of 59.66m² and which was let on a 2 year lease from April 2015 at the rent of € 4,635.65 per annum reflecting a net effective rent of € 4,180 p.a. which is analysed at € 94.00 Zone A per m². This property is assessed at an NAV of € 5,370.

3. Property Number [redacted] Key Rental Transaction Number 3

(Main Street, Ballaghaderreen.)

This property comprises a shop of 124.07m² which was let on a lease for 4 years and 9 months from November, 2015 at the rent of € 20,880 p.a. reflecting a net effective rent of € 19,828 p.a. which is analysed at € 296.36 Zone A per m².

This property is assessed at the NAV of € 8,020.

4. Property Number 101858

(Molloys Pharmacy, 55 & 56 Main Street, Ballaghaderreen.)

This property comprises a shop and first floor store of 394.50m² which is assessed at the NAV of € 19,400 that is calculated as follows:

Ground Floor	Retail Zone A	75.64m ² @ € 120.00 per m ²	9,076.80
	Retail Zone B	75.64m ² @ € 60.00 per m ²	4,538.40
	Retail Zone C	75.64m ² @ € 30.00 per m ²	2,269.20
	Remainder	66.60m ² @ € 15.00 per m ²	999.00
First Floor	Store	100.98m ² @ € 25.00 per m ²	2,524.50

19,407.90 rounded to € 19,400.

8.

5. Property Number 101865

(61 Main Street, Ballaghaderreen.)

This property comprises a shop and first floor store of 261.16m² which is assessed at the NAV of € 8,510 that is calculated as follows:

Ground Floor	Retail Zone A	35.99m ² @ € 120.00 per m ²	4,318.80
	Retail Zone B	7.67m ² @ € 60.00 per m ²	460.20
	Store	131.00m ² @ € 12.00 per m ²	1,572.00
First Floor	Store	86.50m ² @ € 25.00 per m ²	2,162.50
			8,513.50 rounded to € 8,510.

6. . Property Number 2180012

(14/1 Main Street, Ballaghaderreen.)

This property comprises a shop and store of 173.83m² which is assessed at the NAV of € 9,880 that is calculated as follows:

Ground Floor	Retail Zone A	47.58m ² @ € 120.00 per m ²	5,709.60
	Retail Zone B	47.20m ² @ € 60.00 per m ²	2,832.00
	Retail Zone C	22.21m ² @ € 30.00 per m ²	666.30
	Store	56.84m ² @ € 25.00 per m ²	682.08
			9,889.98 rounded to € 9,880.

7. Property Number 101816 Licensed Premises Comparable

(M. Costello 31a Main Street, Ballaghaderreen)

6 day licence

NAV € 5,250.

8. Property Number 101899 Licensed Premises Comparable

(M. Gallagher 82a Main Street, Ballaghaderreen)

Retail NAV € 5,054 add for Licence 15% € 758

NAV € 5,810.

9. Property Number 101901 Licensed Premises Comparable

(T. Solan 83 Main Street, Ballaghaderreen)

NAV € 6,300

10. Property Number 101907 Licensed Premises Comparable

(D. Hanley 86a Main Street, Ballaghaderreen)

NAV € 6,300

9. FINDINGS AND CONCLUSIONS

9.1 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 Roscommon County Council.

9.2 It is worth recording here that a rates bill is composed of two components, the valuation (or Net Annual Value) and the annual rate on valuation (ARV) which was formerly known as, historically, the “rate in the pound”. The valuation is conducted by the Commissioner of Valuation whilst the ARV is set by the local authority, in this case, Roscommon County Council. The right of appeal here, under the Valuation Act 2001, as amended, relates to the **valuation only**, and not to the total rates bill.

9.3 The Tribunal's function for a rating appeal is provided by statute and its jurisdiction is limited to determining an accurate and equitable **valuation** of the rateable relevant property. It has no authority to reduce rates bills but can only deal with the **valuation** and the factors governing that valuation.

9.4 The Appellant makes several points as regards rates in proportion to profits, factors concerning fall off in business, competition, road by-pass, closure of hotel, vacancies, and aspects of continuing a business with a high incidence of rates being levied. The Tribunal notes these various points. Other rateable properties in the town face these challenges also.

9.5 The Appellant does not submit rental evidence or details of comparable assessments from the Valuation List in support of his case.

9.6 The Appellant makes a submission as regards the application of his own version of zoning and his alternative approach to the valuation is to put forward an overall valuation of the two premises amalgamated (as set out above at 7.2 on page 4 of this Determination) which gives a total of € 10,361.18 that contrasts with the two valuations by the Respondent of € 10,250 and € 7,070 (i.e. a corresponding total of € 17,320).

9.7 The Respondent Valuer, M/s Harris submits rental evidence as well as comparable assessments from the Valuation List of retail properties in this town. She has used the zoning method for comparative analysis and valuation, in keeping with the usual practice of the Commissioner of Valuation in this and all other local authority cases across Ireland. The use of zoning for valuing retail properties for rating purposes is well established and her measurement and floor areas reflect the normal application of accepted practices by reference to the guidelines published by the Society of Chartered Surveyors Ireland and the Valuation Office of the Commissioner of Valuation. The Tribunal cannot see any departure from normal practice in the application by M/s Harris to the use of zoning in this case.

9.8 The valuation basis adopted by M/s Harris, for each property, is supported by rental evidence and, furthermore, by reference to their assessments, the Zone A unit value of € 120.00 per m² applied by her is shown to be consistent with the Zone A level applied to other comparable retail properties in the town.

9.9. In the case of Property Number 101856, a nominal amount of € 2,000 has been applied to drink sales and this is shown not to be excessive in that M/s Harris has calculated an alternative valuation of Property Number 101856 to demonstrate that if the drink sales area is valued at a proportion of Zone A, then on that basis, it shows the rear bar area as falling in Zone B (the area of 26.38m²) that with the addition of 15% for the licence (being generally accepted practice for these types of properties, as, for example, in the case of her Comparable Number 8. (Property Number 101899) then this alternative approach would, in fact, if such were deemed to be relevant, yield a higher valuation.

9.10. In the case of Property Number 5007543, this is categorised as all falling within Zone A with an area of 58.93m² and that is also valued by the application of a Zone A unit value per m² of € 120.00.

9.11. In rating appeals of this nature before the Valuation Tribunal, it is established in law that the onus of proving a case falls on the Appellant (not the Respondent) and, whilst acknowledging the difficulties facing small businesses, the Tribunal cannot find evidence from the Appellant to demonstrate that either of the two assessments are either (a) incorrect or (b) not in conformity with other retail assessments in the town. The Appellant has not introduced any **valuation** type evidence, by way of rents or other NAV assessments, to discharge the burden of proof and accordingly, in the absence of evidence to the contrary, the Tribunal can only determine the valuations on the basis of pertinent evidence, such as rents deemed to be relevant at the valuation date of 30th October, 2015, and also any comparable NAV assessments, that might indicate a different view, that are placed before it.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows both appeals and confirms the decisions of the Respondent, as follows:

VA.17/5/1271 Property Number 5007543 NAV € 7,070

VA.17/5/1272 Property Number 101856 NAV € 10,250

And these are calculated as follows:

Property Number 5007543 NAV € 7,070

Ground Floor	Retail Zone A	58.93m ² @ € 120.00 per m ²	7,071.60
			rounded to NAV € 7,070.

Property Number 101856 NAV € 10,250

Ground Floor	Retail Zone A	65.90m ² @ € 120.00 per m ²	7,908.00
	Store	<u>27.95</u> m ² @ € 12.50 per m ²	349.38

Additional item	Licence/drink sales	<u>2,000.00</u>
		10,257.38

rounded to NAV € 10,250.

And the Tribunal so Determines.

