

Appeal No: VA19/5/0605

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Aldi Stores (Ireland)

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 2183972, Retail (Shops) at 13/a Bridge Street Ashbourne Co Meath**

B E F O R E

Majella Twomey - BL

Fergus Keogh - MSCSI, MRICS

TJ Kearns - B.Sc.(Surv),MRICS

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND DAY OF APRIL 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 €152,900.

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 because: "*excessive and inequitable*"

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €121,900.

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 €282,000.

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 €152,900.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €152,900.

2.4 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 a remote hearing held on the 30th day of March, 2022. At the hearing the Appellant was represented by the Claire Mason B.Sc Surv of Avison Young and the Respondent was represented by Neil Corkery BSc, ASCSI 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 Bridge Street in Ashbourne Town Centre, approximately 14km north of the M50 and approximately 22km northwest of Dublin city.

4.3 The property comprises a modern, single storey detached Aldi supermarket with large car park. The building is of standard Aldi build format with entrance area and trolley bay to the front, leading into the supermarket with additional offices, staff-facilities and storage accommodation. The property is valued as a Category 2 type supermarket.

4.4 Agreed Gross Internal Floor Areas

Ground Floor

Supermarket	1,131 sq.m.
Store	304 sq.m
Offices	68 sq.m
Plant Room	51 sq.m.

Total	1,554 sq.m
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4.5 Tenure

The property is held Freehold.

5. ISSUES

5.1 The single issue in this appeal is quantum.

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 Ms. Mason, on behalf of the Appellant, stated that:

In arriving at her estimate of NAV, she had regard to supermarkets on the Valuation List in the Meath Co. Council’s administrative area which details rates per sq.m. ranging from €60 to €95 with a prevailing tone of the list being €70 per sq.m.

7.2 Comparisons:

Ms Mason introduced 5 “Tone of the List” comparisons together with a summary schedule of a further 8 supporting comparisons in Appendix 5 of her Precis of Evidence. Analysis and details of both sets of comparisons are set out in Appendix 1 attached.

Taking the 5 detailed comparisons in turn below:

- **Comparison 1** - Situated in Ratoath, a Category 2 type supermarket, in a similar size town to Ashbourne, approximately 6.6km west of subject property. This property has benefit of complimentary users like café and pharmacy and was valued at €60 per sqm.
- **Comparison 2**- A Category 2 modern supermarket, situated in centre of Laytown approximately 30km northwest of subject. This has a slightly larger supermarket area by c.190 sq.m and is situate in a similar size town when compared to CS0 2016 population census and has a valuation rate of €70 per sqm on main area and €45 per sqm on remaining staff locker rooms and canteen.
- **Comparison 3** - A modern Category 2 supermarket situated in Trim Town centre approximately 32km northwest of subject. The evidence was that this is similar in size, construction and town size to Ashbourne and is valued at €70 per sqm.
- **Comparison 4** – A Category 2 supermarket, situated on the main street in Dunshaughlin approximately 12km west of the subject with a slightly larger floor area and has the benefit of a Costa Coffee and pharmacy adjacent. Ms Mason said that the property is situated in a smaller town than Ashbourne and is valued at a rate of €70 per sq.m.
- **Comparison 5** A modern Category 2 supermarket situated approx. 15km northwest of Dublin in the village of Clonee. Ms. Mason gave evidence that this is similar in construction and size to subject and valued at €70 per sq.m.

Ms Mason also included an additional 8 supporting comparisons from Co. Meath in a summary schedule format showing a NAV range of €50 to €70 psm, see Appendix 1.

7.3 Ms, Mason stated that her opinion of NAV of the subject as of 15th of September 2017 was;

Supermarket	1,131 @ €70 per sq.m.	€ 79,170
Store	304 @ €70 per sq, m.	€ 21,280
Offices	68 @ €70 per sq.m.	€ 4,760
Plant Room	51 @ €70 per sq.m.	€ 3,570
Off Licence	1 @ €10,000	€ 10,000
Fit-Out Allowance	1 @ €3,156.30	€ 3,156.30
Total		€121,936.30
Rateable Valuation	Say	€121,900.00

7.4 Under cross-examination by the Respondent, Ms. Mason confirmed that she was aware of four other Supermarkets in Ashbourne and gave reasons for not including these in her evidence as follows;

1) Property No 2171331 which has an NAV €90 per sq. m.

Ms Mason said that this property is part of Ashbourne Town Centre, close to other high street retailers like Mc Donald's and New Look and has the benefit of higher footfall. She confirmed that this is a Category 3 Supermarket.

2) Property No 1552584 NAV 90 per sq. m.

Ms Mason said that this is part of original town shopping centre and benefits from a range of complimentary users as opposed to a standalone supermarket like subject.

3) A Category 2 Supermarket – The evidence was that this property is currently subject to appeal.

4) A Department Store property appealed under reference VA 19/5/0974 as this was categorized as a Department Store with drapery/food use and as such was not comparable to the stand-alone subject property.

7.5 In response to Respondents question, if the Appellant was aware of any basis for use of population statistics in a Valuation Tribunal outcome, Ms. Mason stated that she was unaware of any such situations and pointed out that she included the population statistics to support and assist with the “tone of the list” to further demonstrate that similar size towns and locations have properties that have been valued at lower rates.

8. RESPONDENT'S CASE

8.1 Mr. Corkery on behalf of the Respondent rejected the level of €70 per sq.m. sought by the Appellant and stated that such a rate would greatly undervalue the subject property and affect the integrity of the established tone of the list. Mr Corkery stated that 3 similar supermarket properties in Ashbourne are valued at €90 per sq. m. and were contested at representations stage. In his introduction Mr. Corkery also referred to a supermarket rate of €95per sq. m. in Navan and introduced one Key Rental Transaction and 6 NAV comparisons.

8.2 Comparisons:

Mr, Corkery dealt with the comparisons in his evidence, as set out below.

- **Comparison 1** is a Key Rental Transaction, the details as provided by Mr. Corkery are set out in Appendix 2 attached. The property extends to 2,198.76 sq.m of which the supermarket element comprises 2,108.76 sq.m. and was valued at €95 psm and was subject to an appeal to The Valuation Tribunal.

Ms. Mason subsequently informed the Tribunal that she understood that the appeal of this KRT comparison to the Valuation Tribunal had been agreed by the parties and that the result was a reduction in the valuation and that the revised assessment had been recently entered on the Valuation List. Mr Corkery did not disagree with this evidence.

NAV Comparisons

- **Comparison 1** - Property No. 2171331, New Town Centre, Ashbourne Co. Meath. This is a larger Supermarket than subject property being 2,934 sq.m. The Respondent said it was contested at Representations stage and NAV reduced to €90 per sq. m.
- **Comparison 2** - Property No. 1552584 Ashbourne Town Centre, Ashbourne, Co. Meath. The Respondent said that the NAV was reduced at the representation stage following the inclusion of a fitout allowance and area correction to €90 NAV per sq.m on the Supermarket element and €36 per sq.m. on the offices. The Respondent said that this was not appealed to Valuation Tribunal.
- **Comparison 3** - Property No 2208400 Brews Hill, Navan, Co Meath. The Respondent gave evidence that the NAV was reduced at representations stage for fitout allowances with the applied rate of €95 per sq.m unchanged.
- **Comparison 4** - Property No. 1943281 Trimgate Street Navan, Co. Meath. The Respondent said that this is a two storey Supermarket including offices, stores and mainly grocery with a drapery section. An NAV of €95 per sq.m. was applied to the supermarket and €47.50 psm to the office/stores.
- **Comparison 5** - Property No. 2206553 Trim Road, Navan, Co. Meath. The Respondent said that this is slightly larger but similar to the subject and was contested at the representations stage. The NAV remained unchanged at €95 per sq.m. applied to the supermarket of 1,622.97 sq.m.
- **Comparison No 6** - Property No. 1943380 Kennedy Ave, Navan, Co Meath. The Respondent gave evidence that this is a large Supermarket of 2,934 sqm in Navan, which was reduced at representations stage due to an area correction with no change to NAV rate of €95 per sq.m.

8.3 Respondents Opinion of Net Annual Value

On behalf of the Respondent Mr. Corkery sought the following NAV valuation for the subject;

Supermarket	1,131 @ €90 per sq.m.	€101,790
Store	304 @ €90 per sq. m.	€ 27,360
Offices	68 @ €90 per sq.m.	€ 6,120
Plant Room	51 @ €90 per sq.m.	€ 4,590
Off Licence	1 @ €10,000	€ 10,000
Fit-Out Allowance	1 @ €3,053.70	€ 3,053.70
Total		€152,913.70

Rateable Valuation **Say** **€152,900.00**

8.4 Under cross-examination by Ms. Mason, Mr. Corkery confirmed that there are 3 other Supermarkets in Ashbourne and the Dunnes Stores property which is categorised as Department Store.

8.5 Mr. Corkery accepted that the Appellant's comparisons are of a similar geographical distance from Dublin as the subject property and that the Clonee comparison was closer to Dublin.

8.6 Ms. Mason highlighted a correction to page 24 and paragraph 7.1 of Mr Corkery's evidence and Mr Corkery agreed that the representations referred to as by Agents, Lisney, were made by Avison Young.

8.7 In relation to the Respondents Key Rental Transaction No 1, Ms. Mason sought information on the source, possible inducements/rent free period and if this transaction was an open market transaction given that the current tenant and the previous tenant, which according to Ms. Mason appeared to be the same party. Mr. Corkery was unable to provide the additional information sought.

Mr Corkery stated that based on his investigations, the transaction was on the basis of an open market arm's length transaction.

8.8 Mr Corkery confirmed that while he was aware that his Key Rental Transaction 1 was under appeal to the Valuation Tribunal, he was not aware of the recent valuation amendment to this KRT and a revised assessment being entered onto the Valuation List. Ms. Mason stated that the NAV was reduced from €95 per sq. m. to €80 per sq. m. on the supermarket element and from €47.50 per sq. m. to €40 per sq. m on the first-floor offices and that this was agreed between the parties in March 2022 under Valuation Tribunal Reference VA 19/5/0402.

8.9 On Ms. Mason's question, as to whether the result of this appeal and reduction achieved brought into question or undermined the valuation scheme, Mr Corkery was unable to comment at this stage not having the full details of the agreement available to him.

8.10 Mr. Corkery agreed that his NAV comparison 1 on page 30 of his précis is a Category 3 Supermarket.

8.11 Ms. Mason queried the NAV of €36 per sq.m. applied to the first-floor offices on Comparison 2 page 33 which was usually €45 per sq.m for similar Town centre properties. Mr. Corkery was unable to comment on reason for applying the lower rate.

9. SUBMISSIONS

9.1 There were no legal Submissions made by the either party.

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 Meath Co Council.

10.2 The Tribunal notes that the Commissioner's Certificate of Valuation dated the 10th of Sept 2019 contains a valuation €152,900 and the Respondent, in his evidence to the Tribunal, put forward a revised Valuation of €152,800.

10.3 The Respondent's valuer's opinion of €90 per sq.m for supermarket space is based upon Key Rental Transaction 1 and six NAV comparisons. Of these, the Tribunal considers that the Key Rental Transaction as submitted by the Respondent is unreliable, due to the lack of factual evidence by Mr. Corkery pertaining to same and the Tribunal noted that whilst Mr. Corkery was aware that this KRT was subject to an appeal to the Valuation Tribunal he was not aware of its settlement and a reduction in its assessment on the list.

10.4 The Tribunal notes that the Respondent's NAV Comparisons 1 & 2 can be distinguished from the subject property as they are located in Ashbourne Town Centre and are part of an existing Town Centre with the benefit of additional complimentary occupiers, unlike the standalone subject property. The Tribunal finds that, based on the evidence presented, Comparison 1 is larger than the subject property and is a Category 3 Supermarket. Furthermore, a question relating to NAV applied to offices in Comparison 2 was not adequately clarified by the Respondent.

10.5 The Tribunal finds that the Respondent's NAV Comparisons 3 to 6 are a mixture of standalone and shopping centre supermarkets in Navan. Comparison 4 is classified as a Department Store and Comparison 6 is a larger Category 3 store in a superior location in Navan shopping centre.

10.6 Having considered the totality of the evidence presented to it, the Tribunal's view is that the Appellants valuer's opinion of €70 per sqm for supermarket space in the 5 NAV comparison's presented are comparable in terms of size and nature to the subject property. Comparison 1 at €60 per sq.m is situated within 7km of the subject property and also benefits from additional retail users, while Comparison 4 is within 15km of the subject property with an NAV of €70 per sqm. Comparisons 2, 3 and 5 in Laytown, Trim and Clonee support a tone €70 per sq.m for similar design supermarkets around Co Meath.

10.7 In the absence of reliable Market evidence from the Respondent, the Tribunal prefers the evidence presented by the Appellant at this hearing.

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 **€121,900**.

NAV calculation

Supermarket	1,131 @ €70 per sq.m.	€79,170
Store	304 @ €70 per sq.m.	€ 21,280
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