

Appeal No: VA19/5/1087

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

FGM Properties

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2176070, Retail (Shops) at 101B/ Unit 1 Clanbrassil Street, Dundalk,
County Louth.

B E F O R E

John Stewart FRICS FSCSI MCI Arb

Deputy Chairperson

Claire Hogan - BL

Member

Annamaria Gallivan - FRICS, FSCSI, MPhil SEE

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 10th DAY OF May, 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th 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 €42,100.

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: *"Valuation is excessive and inequitable having regard to the location, quality, layout and physical characteristics of the property,*

market rental evidence and relativity to the Net Values of other comparable properties as stated on the Valuation list.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €28,100.

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 €46,800.

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 €42,100.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €42,100.

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 an oral hearing held remotely on the 14th day of December, 2021. At the hearing the Appellant was represented by Ms. Pauline Madden B.Sc. (Hons) of Power Kelly and Company and the Respondent was represented by Ms. Roisin Casey 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 her précis as her 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 Long Walk in Dundalk, Co. Louth.

4.3 The subject property is an end of terrace retail unit with a mezzanine store and a curved glazed frontage, which provides the property with an irregular shape.

4.4 The areas were agreed between the parties as follows;

	Floor	SQM
Retail	0	231
Mezz		17.36
Total		248.76

4.5 The property was vacant at the date of valuation but has since been let at €35,000 per annum for 10 years.

5. ISSUES

The matter at issue is quantum. The Appellant claims that the valuation of the Property is excessive and inequitable and ought to have been valued at € 28,100. The Respondent contends that the valuation of €42,100 is in line with the tone of the list for the rating authority area and requests that the Tribunal affirm same as representing its Net Annual Value in accordance with Section 48 of the Valuation Act 2001 and the requirements of section 19(5) of that Act as amended.

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

Ms. Madden in her précis and in her oral evidence noted that:

7.1 The property is Unit 1 Long Walk, Dundalk. It is an end of terrace property, with a net internal area of approximately 231.40 sq. m at ground floor level and 17.36 sq. m. at mezzanine level. It is located on Long Walk, approximately 100 metres north of its intersection with Magnet Road and approximately 170 metres south of Long Walk Shopping Centre. Within the immediate vicinity, properties are predominately commercial. Ms. Madden referred to a map with the location of the property circled.

7.2 Ms. Madden described the property's location on Long Walk, as having no parking or loading area directly outside the property due to yellow lines. Parking is available on a pay and display basis further up the street, or for customers of Clanbrassil Shopping Centre, in the Centre itself which has 450 car spaces and 30 retail units. Marshes Shopping Centre is anchored by Dunnes Stores and Penneys and includes approximately 40 retail units and 1,350 car spaces.

7.3 Ms. Madden stated the unit is an irregularly shaped unit, with limited frontage to Long Walk, due to the layout of the building. She described the unit as effectively 2 blocks, of which, some 50% is to the rear of the unit, without profile or natural light. The unit was

vacated in January 2016 for 5 years and only recently let at a rent of €35,000 per annum on a 10-year lease.

7.4 Ms Madden put forward seven pieces of Market Evidence (full details in the appendix)

- Property 1 The subject property which was analysed at €141.49/SQM on an overall basis and €220.29/ SQM ITZA. Let recently.
- Property 2 An adjacent property, analysed at €179.0/ SQM and €220.29/ SQM ITZA. Let in 2015.
- Property 3 A nearby property, analysed at €79.40/ SQM and €171.45/ SQM ITZA. Let in 2018.
- Property 4 A property on Clanbrassil Street, analysed at €103.00/ SQM and €110.63/ SQM ITZA. Let in 2020.
- Property 5 A property on Clanbrassil Street, analysed at €113.65/ SQM and €223.70 ITZA. Let in 2017.
- Property 6 A property on Jocelyn Street, analysed at €149.98/ SQM and €268.68 ITZA. Let in 2016.
- Property 7 A property on Clanbrassil Street, analysed at €118.16/ SQM and €286.07 ITZA. Let in 2016.

7.5 Ms. Madden put forward the following Tone of the List comparisons.

1. Tone of the List Comparison 1 - Property Number 1318870 – Adelphi Court, Long Walk
Valued at €150 Zone A.
This property is located opposite the subject property.
2. Tone of the List Comparison 2 – Property Number 2200573 – Adelphi Court, Long Walk
Valued at €150 Zone A.

This property is located opposite the subject property.

3. Tone of the List Comparison 3 – PN 1318849 – Long Walk Shopping Centre

Valued at €300 Zone A. Part of Long Walk Shopping Centre which includes 30 retail units and free parking.

7.6 Ms. Madden concluded that nearby Unit 2 has an ITZA of €220.29/SQM and Unit 3A, €171.45, ITZA. Ms. Madden stated that there is a decline in retail rent on Long Walk. In comparison, the Long Walk Shopping Centre, is anchored by Tesco with a number of other retail units and free parking. Ms. Madden, based on these comparisons, contends for a Zone A, of €200.00 with a discount of 40% in respect of the irregular shape of the property, arriving at €120.00/SQM, a value of €28,100.

7.7 In cross examination, Ms. Madden stated that comparisons should be at or close to, the effective valuation date, however the property was vacant at the time, with no demand from tenants, therefore, the comparisons she utilised indicated a decline in the rent. Ms. Madden confirmed that the areas used for comparisons were on the valuation certificate and she did not accept that there was a store included in the fifth rental comparison measurements. Ms. Madden did accept that if there was a store area, it would be valued at less than the retail areas. In relation to the tone of the list properties in Adelphi Court, she confirmed that she could not definitively locate them, but she would not accept that they were not located on the Long Walk. She maintained that it was her understanding that they were on Long Walk. Ms. Madden accepted there was a car park adjacent to the property, but believed this was difficult for deliveries, and there were limited retail units on the street.

8. RESPONDENT'S CASE

Ms. Casey in her précis and in her oral evidence noted that:

8.1 Ms. Casey described the property as an end of terrace retail unit with a mezzanine store and a large curved glazed frontage. Ms. Casey described the total ground floor area of 231.40 SQM with a mezzanine of 17.36 SQM. The property was described as being in

good condition, with ground floor concrete floors and a suspended ceiling with fluorescent lighting. The mezzanine floor area is carpeted with partitioned walls for offices, kitchen and a WC. The property is described as located on Long Walk in Dundalk, Co. Louth, in proximity to Long Walk Shopping Centre, the Clanbrassil Centre and Market Square. Parking is available in the Clanbrassil Centre adjacent to the subject property along with all day parking for a nominal fee in a car park that is 118 m away from the subject property.

8.2 Floor areas were agreed with Adrian Power of Power Kelly & Company as follows:

	Floor	M2
SHOP	0	126.76
SHOP	0	135.96
SHOP	0	-6.53
SHOP	0	-7.69
SHOP	0	-11.49
SHOP	0	-5.61
STORE	MEZZ	0.66
STORE	MEZZ	5.78
STORE	MEZZ	10.92
Total		248.76

8.3 Ms. Casey stated that the property had been vacant on the date of inspection but has since been occupied under a lease for 10 years, with a commencement date of Q1 2021 at a rent of €35,000 per annum. There are break options in year 3 and year 5.

8.4 Ms. Casey contended that the property was valued based on market evidence at the valuation date 17th September 2017 and put forward four Key Rental Transactions. The details of these properties are in the Appendices. Ms. Casey confirmed that the lease commencement dates were close to the valuation date and were in general over €300.00/SQM, Zone A.

- Property 1 This property is situated opposite the subject property on Long Walk. It comprised 114.6 SQM. There were no representations. The lease was agreed 1 month after the valuation date.
Analysis: NER Zone A: €311.60/SQM and NAV Zone A €300.00/SQM and the store was valued at €80.00/SQM.
- Property 2 This property is located on Park Street south of Market Square and Magnet Road and comprised 44.15 SQM. There were no representations. The lease was agreed 1 year after the valuation date.
Analysis: NER Zone A: €358.94 and NAV Zone A €300.00/SQM.
- Property 3 This property is located is in Ramparts Shopping Centre which is 1km south of Market Square and comprises 254.64 SQM. There were no representations. The lease was agreed 3 months after the valuation date.
Analysis: NER Zone A: €391.59 and NAV Zone A €300.00/SQM. The offices and store were valued at €30.00/SQM and the showroom at €36.00 SQM.
- Property 4 This property is located on Clanbrassil Street behind the subject property and comprises 70.04 SQM. There were no representations. The lease was agreed 1 months before the valuation date.
Analysis: NER Zone: €274.75 and NAV Zone A €300.00/SQM and the store was valued at €30.00/SQM.

8.5 Ms Casey for the Respondent put forward five NAV comparisons.

Property Number	Address	NAV /SQM	NAV
1318867	UNIT 2 ADELPHI COURT, DUNDALK, CO. LOUTH.	€ 300	€ 30,200
	The store was valued at €30.00/SQM. This property was located opposite the subject property. There were representations made by an agent and matters of fact were amended but		

the Zone A level of €300/SQM remained unchanged.

1280891	LONG WALK, OLIVER PLUNKETT PARK, DUNDALK, CO. LOUTH	€ 300	€ 58,200
	The store was valued at €30.00/SQM. There were no representations. This property is larger than size than the subject property.		
1280905	26C LONG WALK, DUNDALK, CO. LOUTH	€ 300	€ 74,900
	The store was valued at €30.00/SQM and the mezzanine showroom at €80.00/SQM. There were no representations. This property is larger than size than the subject property.		
1281730	34A CLANBRASSIL STREET, DUNDALK, CO. LOUTH.	€ 300	€ 18,450
	The ground floor store was valued at €30.00/SQM and the mezzanine store at €27.00/SQM. There were no representations.		
1318858	ADELPHI COURT, DUNDALK, CO. LOUTH	€300	€11,280
	The cold room, kitchen, stores and offices were valued at €30.00/SQM. There were representations made and matters of fact were amended but the Zone level of €300/SQM remained unchanged.		

8.6 It was Ms Casey's evidence that the Appellant had relied on seven pieces of Market Information to inform their opinion of value. Ms. Casey made the following observations in relation to these comparisons (full details of the properties are in the Appendices):

- Property 1 The agent had analysed the rent at €141.69 /SQM on an overall basis. The premises had been valued at €180 /SQM. The transaction was three years after the valuation date. The valuation should be based on information that was known at the relevant date September 2017. The Respondent's evidence put forward shows higher rents were achieved closer to the valuation date.
- Property 2 The agent had analysed the rent at €220.29 ITZA, 2 two years prior to the valuation date. The premises had been valued at €300 Zone A. The Respondent's evidence put forward shows higher rents were achieved closer to the valuation date.
- Property 3 The agent had analysed the rent at €171.45 ITZA based on a stepped rent. The premises had been valued at €300 Zone A.
- Property 4 The agent had analysed the rent at €149.22 ITZA two years after the Valuation Date. The premises had been valued at €300 Zone A.
- Property 5 The agent had analysed the rent at €223.70 ITZA. The premises had been valued at €300 Zone A.
- Property 6 The agent had analysed the rent at €268.68 ITZA. A lease commencing in September 2018 (a year after the Valuation Date) was analysed at €360.41 Zone A. The premises had been valued at €200 Zone A. This property is further away from Market Square than the subject, which is evidenced by the fact that the property has been valued at €200 Zone A.

Property 7 The agent had analysed the rent ITZA at €286.07/SQM, 20 months prior to the Valuation Date. The premises had been valued at €300/SQM Zone A.

8.7 Ms Casey made the following observations in relation to the Appellant's NAV comparables:

1. Agent's Tone of the List Comparison 1 - Property Number 1318870 – Adelphi Court, Long Walk

Valued at €150 Zone A.

This property is located opposite the subject but is in a courtyard to the rear of the on-street properties and was valued at the lower rate to reflect the lack of street frontage.

2. Agent's Tone of the List Comparison 2 – Property Number 2200573 – Adelphi Court, Long Walk

Valued at €150 Zone A.

This property is located opposite the subject but is in a courtyard to the rear of the on-street properties and was valued at the lower rate to reflect the lack of street frontage.

3. Agent's Tone of the List Comparison 3 – PN 1318849 – Long Walk Shopping Centre

Valued at €300 Zone A.

8.8 Ms Casey explained the valuation scheme was expressed in terms of €/SQM (and €/Zone A for most retail properties), at the beginning of the valuation process. Following application of the scheme values, where there were relevant individual considerations in relation a particular property, relative to that group, further adjustments could be made to the estimate of NAV. In the case of the subject property the valuation level of €180/SQM was applied on the ground floor and €27/SQM on the mezzanine floor to arrive at an NAV of €42,100.

8.9 Ms. Casey stated that in her opinion the correct NAV for the property is €42,100, based on the following calculations.

Floor	USE	Area (m2)	NAV € (m2)	Total NAV € (m2)
0	SHOP	231.4	€180	€41,652
MEZZ	STORE	17.36	€ 27	€ 468.72
				€ 42,120.72
			NAV Rounded	€42,100

8.10 In cross-examination Ms. Casey could not confirm if there were seating areas outside some of the KRT's which she had utilised. Ms. Casey stated that the lack of on-street parking in front of the property was negated by the fact that there was a carpark directly adjacent to the subject property. Ms Casey confirmed that Unit 2 Adelphi Court was adjacent to a HSE office and the bus station.

9. SUBMISSIONS

9.1 Summing up, Ms. Madden described the property as an irregular shaped unit, located on Long Walk, with no on-street parking, due to double yellow lines directly outside the property, with the side facing onto a carpark. Ms. Madden described the retail areas of Dundalk as being primarily located on Clanbrassil Street and Park Street. Based on those factors, Ms. Madden contended for a Zone A of €120.00, and a NAV of € 28,100.

9.2 Ms. Casey in her summary, contended for a valuation of €42,100 based on an overall valuation of €180.00/SQM, discounted to reflect its irregular shape, from a Zone A level of €300.00/SQM. She relied on the available market evidence and the matters of fact including the property, its location, adjacent carpark, walking distance to bus station.

9.3 There were no legal submissions made by the parties.

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 has examined the particulars of the property and considered the written and oral evidence adduced by Ms. Madden on behalf of the Appellant who contended for a revaluation of €28,100 and Ms. Casey on behalf of the Respondent who sought confirmation of €42,100 NAV. Both parties accepted that the ground floor of the subject premises should be valued on an overall basis. No zoning was applied to the subject premises and consequently the Tribunal is not aware of the various zones that might have been applied to the subject property, though references to zoning analysis were made by both parties in their respective précis. It must be highlighted that the use of zoning comparisons by both valuers, where the parties have agreed that the correct methodology to be adopted is on an overall basis, did not assist the Tribunal.

10.3 Ms. Madden in her evidence in relation to rental comparison No. 1 provided an overall rate of €141.49/m² but did not show a breakdown between the ground floor and mezzanine areas. This evidence related to Q1 2021 which significantly post-dated the valuation date, and this timeline and the inconclusive analysis does not assist the Tribunal. Ms. Madden's second rental transaction showed an overall rate of €178.90/SQM of a short-term letting from 2015, which, although it related to a smaller and earlier transaction, was of some assistance. Ms. Madden's third rental comparison provided an overall rate of €79.40/SQM, and related to a two-storey building. However, no evidence was adduced for the overall ground floor area, and while this transaction was close to the valuation date, the lack of analysis between the ground floor and upper floor did not assist the Tribunal. There was an unresolved difference of opinion in relation to the floor areas for Ms Madden's fourth and fifth comparisons, and consequently they were not of assistance to the Tribunal. Ms Madden's sixth rental comparison at €149.98/SQM overall, related to a November 2016 date which was less than 12 months before the valuation date, and in an inferior location. However, this was of assistance to the Tribunal.

Her final comparison referred to an overall rate of €118.16/SQM, and it is not clear if this referred to an overall ground floor rate.

10.4 Ms. Madden provided three NAV comparisons, again on a zoned basis, but as the full areas were provided, the overall rates for units 1B and 6 Adelphi Court can be readily deduced at €123.76/SQM and €132.97/SQM. Ms Madden could not clearly identify the units to the Tribunal. The Tribunal is more persuaded by Ms. Casey in this instance, who was of the clear opinion that these two units are located in a Mall off Long Walk and consequently would have a lower value than the subject property. Ms Madden's final NAV comparison had an overall rate of €250.94/SQM, extracted from the Long Walk Shopping Centre evidence.

10.5 Ms. Casey provided 4 Key Rental Transactions (KRT) which were dated close to the valuation date. While they provided NER and NAV rates determined on a zoning basis, they also included the relevant floor levels and the constituent areas, which allowed the Tribunal to determine the overall retail ground floor areas and rates per square metre. Ms. Casey's first KRT on Long Walk had an overall ground floor retail area of 105.88 SQM and discounting the value attributed to the ground floor store provided an overall NER rate of €242.90/SQM and a NAV rate of €233.30/SQM. This property was located opposite the subject property on Long Walk. Ms Casey's second KRT comprised a ground floor area of 44.15 SQM, which provided an NER rate of €258.05/SQM and a NAV rate of €215.62/SQM for a retail premises on Park Street. Her third KRT referred to a large premises in the Ramparts Shopping Centre, but as it comprised a relatively small retail area together with a larger office and a very large showroom no beneficial analysis was possible. Her fourth and final KRT referred to Clanbrassil Street, and having discounted the store values, provided an overall NER rate of €227.69/SQM and a NAV rate of €248.47/SQM. Ms Casey provided five NAV comparisons. The first on Adelphi Court, having discounted the value of the store, provided an overall rate for the ground floor of €170.45/SQM for an area of 173.99 SQM. The second which refers to Long Walk, Oliver Plunkett Park, having discounted the small store, provides an overall rate for the ground floor of €169/SQM. The third on Long Walk refers to a large ground floor of 388.31 SQM, and having discounted the ground floor store of 94.22 SQM, and the large first floor showroom of 300.83 SQM, the ground floor area of 388.31 SQM devalues at

€125.30/SQM. The fourth NAV refers to Clanbrassil Street and having discounted the ground floor and mezzanine stores, provides an overall rate of €156.13/SQM for an overall ground floor of 112.42 SQM. Ms Casey's fifth and final NAV comparison referred to Adelphi Court and comprised a small retail area with an ancillary cold room, kitchen, store and offices. However, any extrapolation of the small ground floor area would be contrived. The Tribunal finds that Ms Casey's overall values support her contention for a rate of €180/SQM, the Tribunal notes that Ms. Madden's evidence did not support her claim for an overall rate of €120/SQM.

10.6 Ms. Madden was of the opinion that the lack of on-street parking, as opposed to off-street car parking which is to be adjacent to the property, would have a negative effect on rent. It was the evidence of Ms. Casey, for the Respondent, that the property was directly adjacent to off-street car parking which negated the need for on-street parking. The Respondent supported her contention with photographs demonstrating the adjacent car parking opportunities, and the Tribunal was more persuaded by this evidence.

10.7 The Tribunal accepts the Appellant's contention that the irregular shape of the property should be accounted for in the Valuation. However, the Tribunal also accepts the Respondent's contention that a discount to €180.00 /SQM has been made to account for this issue. Consequently, the Tribunal finds that the proposed rate of €180/SQM for the ground floor is fair and equitable, and takes into account the unusual configuration. No clear evidence was provided to challenge the mezzanine rate of €27.00/SQM. So, the Tribunal finds that no further adjustment should be made.

10.8 The onus of proof rests on the Appellant and the Tribunal was satisfied, based on the evidence tendered, that this onus was not discharged by the Appellant.

DETERMINATION:

The Tribunal disallows the appeal and confirms the Valuation.

And the Tribunal so determines.

Floor	Use	Area (M2)	NAV € (M2)	Total NAV € (M2)
0	SHOP	231.4	€180.00	€41,652.00

Mezz	STORE	17.36	€27.00	€ 468.72
				€42,120.72
			say	€42,100.00

