

Appeal No: VA19/5/1091

**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. 2176071, Retail (Shops) at 101B/Unit 2 Clanbrassil Street, Dundalk, County Louth.

B E F O R E

John Stewart – FSCSI, FRICS

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 €19,970.

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 €14,650.

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 €19,970.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €19,970.

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. Kathy Farrelly 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 the eastern side of The Long Walk in Dundalk town centre adjacent to The Long Walk Shopping Centre just north of Market Square. Dundalk is

the administrative centre for County Louth and had a population of approximately 39,000 according to the 2016 census of population. The town has good road and rail infrastructure just off the main Dublin Belfast motorway and is home to a number of major operations including PayPal eBay and National Pen and includes the Dundalk Institute of Technology. Adjacent areas are mainly commercial and there is metered on street car parking and pay parking in a number of shopping centres including The Long Walk, Marshes and Clanbrassil Centre as well as in a long stay car park.

4.3 The subject property comprises a single storey end of terrace rendered concrete block built building incorporating a retail ground floor. It has two large plate glass display windows one facing The Long Walk and a second to the return frontage. Internally the floor is of concrete slab construction with a tiled finish and the walls are plastered and painted and a suspended ceiling includes fluorescent lighting.

4.4 The floor area is agreed and comprises a retail area of 81.98m², with a Zone A of 51.18 m² and a Zone B of 30.80 m.

4.5 The property was subject to a lease which was unsigned and undated. Details are included in the appendix.

5. ISSUES

The issue is one of quantum. The Appellant claimed that valuation was incorrect as it was excessive and inequitable having regard to the location, quality and physical characteristics of the property, market rental evidence and relativity to the Net Annual Values of other comparable properties as stated on the Valuation List. She sought a NAV of €13,300. The Respondent contended that when determining the valuation of €19,970 that she had considered the grounds of appeal, 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 Ms. Madden adopted her precis of evidence and proceeded to give her oral evidence. She said that the subject property which comprised a single storey retail unit of 81.98 m² was in a secondary location on The Long Walk and had a restricted frontage. She said it was in competition with Marshes Shopping Centre which was anchored by Dunnes Stores and Penneys and included approximately 40 additional retail units and 1,350 car spaces. She said The Long Walk Shopping Centre was anchored by Tesco and included approximately 30 additional retail units and 450 car spaces. She noted that there were no free car parking spaces on The Long Walk whereas the shopping centres provided free customer parking and a greater variety of retail offerings.

7.2 Ms. Madden said that there was metered car parking available in the Clanbrassil Centre adjacent to the subject property and additional metered car parking in the long stay car park 210m north of the premises and she noted that The Long Walk Shopping Centre had 450 free customer car spaces. She added that the double yellow lines outside the premises restricted car parking for customers and deliveries. She added that in her opinion Clanbrassil Street was a busier retail location than The Long Walk.

7.3 She said the subject property was let on a short term lease from 2015 on a full repairing and insuring lease at €16,000pa and the letting included a 4 month rent free concession which equated to a net effective rent of €14,667pa which was €178.90/ m² overall or €220.29/ m² ITZA.

7.4 Ms. Madden provided seven market rental evidence comparisons and three tone of the list comparisons.

7.5 Her first market rental comparison which referred to an open market letting of the subject property on The Long Walk and referred to a short term lease at €14,667pa from 2015 which she analysed at €178.90/m² overall or €220.29/m² ITZA.

7.6 Her second comparison also on The Long Walk was vacant from January 2016 and at the valuation date. It referred to a 10 year lease at €35,000pa and comprised an open market letting of 247.36 m² from Q1 2021 which she analysed at €141.49/m² overall. This property which is an irregular shaped unit had remained vacant from 2016 to 2021.

7.7 Her third market rental transaction also on The Long Walk referred to a letting from 5th February 2018 for 10 years at €25,000pa for the first three years and €30,000pa for the 4th and 5th years which she stated provided an effective rent of €27,000pa which she analysed at €79.40/m² overall with an ITZA of €171.45/ m².

7.8 Her fourth market rental transaction on Clanbrassil Street which is parallel to The Long Walk was she said a busier location with number of banks and on street parking. The letting referred to a 4 year 9 month lease at €15,000pa and not €17,640pa from February 2020 which she analysed at €103.00/ m² overall or €110.63/m² ITZA.

7.9 Her fifth market rental transaction also on Clanbrassil Street referred to a 10 year lease at €16,900pa from July 2017 which she analysed at €113.65/ m² overall. She referred to the Valuation Office floor area of 110 m² but she confirmed that the letting agent had confirmed that the floor area as let was 148.70 m² which would have equated to an ITZA of €223.70/ m².

7.10 Her sixth market rental transaction on Jocelyn Mall, Jocelyn Street referred to a 4 year 9 month lease at €12,000pa from November 2016 which she analysed at €149.98/m² overall or €268.68/m² ITZA.

7.11 Her final market rental transaction on Clanbrassil Street referred to a 10 year lease at €17,640pa from February 2016 which she analysed at €118.16/ m² overall or €286.07/m² ITZA. She provided a street plan which showed the various rental comparisons in relation to the subject property.

7.12 Ms. Madden also provided details of three tone of the list comparisons, two on The Long Walk and one in The Long Walk Shopping Centre. The first referred to a ground floor retail unit which she said was opposite the subject property and comprised a retail Zone A area of 48.08 m² with an NAV of €150.00/ m² and a Zone B area of 25.69 m² with an NAV of €75.00/ m². She said that this level of NAV was half that proposed for the subject property on The Long Walk.

7.13 The second also referred to a second ground floor retail unit also opposite the subject property and comprised a retail Zone A area of 57.00 m² at €150.00/ m² NAV and a Zone B area of 16.70 m² with an €75.00/ m² NAV.

7.14 Her third and final tone of the list comparison referred to a property in The Long Walk Shopping Centre which comprised a ground floor unit with a retail Zone A area of 37.33 m² at €300.00/ m² and a Zone B area of 18.36 m² at €150.00/ m². She said that this property comprised a retail unit in a purpose built shopping centre with the benefit of 450 free car parking spaces and that the centre was anchored by Tesco and included 30 additional retail units. She argued that the subject property did not have the benefit of a large anchor store or free car parking. She added that the subject property should not be valued at the same level as a unit in The Long Walk Shopping Centre which had clear advantages over the subject property.

7.15 Ms. Madden provided a summary of her evidence and said that a number of her market rental comparisons referred to Clanbrassil Street which she stated was a superior retail location to The Long Walk. She said that market evidence indicates that values had decreased in Dundalk.

7.16 She referred to her 'tone of the list' comparisons and said that the first two were located opposite the subject property and valued at a Zone A rate of €150.00/ m² whereas The Long Walk Shopping Centre unit which she stated was vastly superior as it was anchored by Tesco had been valued at a Zone A rate of €300/ m². Consequently she argued that the subject property could not have a similar value to a unit in The Long Walk Shopping Centre. She added that the double yellow lines outside the subject property restricted access and deliveries.

7.17 She said that an analysis of the market rent for the subject property showed an ITZA of €220.29/ m² from 2015 and the analysis of her third market rental comparison from 2018 at €171.45/ m² postdated the valuation date. She argued that her 5th comparison in Clanbrassil Street at an ITZA of €223.70/ m², a superior retail location, from July 2017 close to the valuation date of 15th September supported her contended value of an ITZA of €200/ m² based on the market rent for the subject property and her third comparison.

7.18 During cross examination, Ms. Madden confirmed that the rent stated in the lease of the subject property was €16,000pa and the agreement included a 4 month rent free concession which provided an effective rent of €14,667pa. She accepted that it was common practice for a rent free concession to be granted when letting a unit. When queried as to whether the lease date was March or June 2015 Ms. Madden confirmed that neither she nor the landlord had a dated copy of the lease. She acknowledged that the date preceded the valuation date by approximately 2 years but argued that this was the market rent paid at that time. She further stated that she was restricted to evidence from the market at the time of the valuation or two years either side of the valuation date.

7.19 Ms. Madden confirmed that her second market rental comparison was listed with the Tribunal for appeal and the lease commencement date was 2 years 4 months after the valuation date and agreed that the lease signing date was after the commencement date and consequently could not have been considered by the Valuation Office. She added that this property had been vacant since 2016 and that it had taken almost five years to let the premises which she said indicated the level of demand for this area. When queried as to why she had analysed on an overall basis only she said the unit had an irregular shape, was long and narrow and not suitable for zoning. She accepted that it had a retail frontage to The Long Walk and a larger one to the car park.

7.20 In relation to the third market rental comparison Ms. Madden accepted that it was also under appeal to the Tribunal and that she had adopted the Valuation Office Certificate rate of €30.00 m² when analysing the rent for the store and €80.00 m² for the mezzanine.

7.21 Ms. Madden confirmed that her fourth market rental comparison on Clanbrassil Street post-dated the valuation date by more than two years and the lease was signed after the valuation date. She said that she had been given the floor area by the letting agent and acknowledged that it was different to the area recited on the Valuation Office website. She confirmed that her inspection was external only and that she was aware that the letting agents brochure had a ground floor of 60 m² and a basement of 85 m² but she had disregarded these areas and relied on the Valuation Office basement area of 92.2 m² and a ground floor area of 92.92 m² which provided an ITZA of 68.40 m² when analysing the comparison. She accepted that the ITZA was based on the Valuation website figures and zoning areas made up of Zone A 48.01 m² plus Zone B 18.33 m² (50% of 36.66 m²) plus Zone C 2.06 m² (25% of 8.25 m²) which provided her with an ITZA area of 68.4 m². In her analysis of the market rent of €15,000pa she first discounted the NAV for the basement as published in the Valuation office Certificate based on a reported area of 92.92 m² x €80.00 which equalled €7,433.60. She deducted this from the market rent €15,000-€7,433.60 = €7,566.40 and discounted the remaining rent of €7,566.40. This provided an ITZA rate of €110.63/ m² which replaced the figure in her precis of €148.22 m². She did not accept that stores areas should be determined at 10% of the Zone A area and said that she relied on the published Valuation Certificate rates. Ms. Madden confirmed that the lease was signed in February 2020 more than 2 years after the valuation date but she argued that rental levels had not increased in the intervening period.

7.22 In relation to her fifth comparison Ms. Madden confirmed that she had not inspected this property internally and had only viewed it externally. She confirmed that she had spoken to the letting agent who confirmed the floor area of 148.7 m² and when queried about the description of the floor area and whether it comprised a rear store she said that she was not aware of any rear store area. She stated that she had relied on the floor areas in the valuation certificate ground floor areas.

7.23 In relation to the sixth comparison in Jocelyn Mall Ms Madden confirmed that the lease had been signed 8 months prior to the valuation date. Ms Farrelly queried the floor area of 80.01 m² as the valuation office had an area of 91.41 m² however Ms. Madden confirmed that

the area she had relied upon was provided in an extract from the PSRA website. She also confirmed that she had relied on the rates of €20.00/m² and €80.00/m² for the kitchen and store respectively taken from the Valuation Certificate in her analysis and the reported Zone A area of 32.2 m² and Zone B of 9.14 m² (being 50% of the reported Zone B rate).

7.24 In relation to her final market rental property the parties had slightly differing floor areas with Ms. Madden at 149.26 m² and Ms. Farrelly at 143.46 m². Ms Madden based her area on the Property Price Register and Ms. Farrelly on areas extracted from the revaluation inspection by her office.

7.25 When questioned about the tone of the list comparisons particularly the first two on The Long Walk Ms. Madden agreed that she was unable to identify their locations and stated that saw doorways only but could not identify street frontage. She agreed that in such circumstances that a lower rent should apply.

This concluded Ms Farrelly's cross examination.

8. RESPONDENT'S CASE

8.1 Ms. Farrelly adopted her precis of evidence and proceeded to give her oral evidence. She commenced her evidence at Location as both sides confirmed that the overview and valuation history was accepted. She confirmed that she had relied on various sources of rental information focused on 6 months either side of the valuation date and from a wider timeline if that was relevant. She confirmed that the subject property was close to The Long Walk Shopping Centre, Clanbrassil Centre and Market Square and that Dundalk was the administrative centre for Co. Louth. She noted the major multinational corporations in the town including PayPal eBay and National Pen as well as the Dundalk Institute of Technology. She stated that Dundalk had good road and rail infrastructure and proximity to the Dublin Belfast connector at exits 16, 17 and 18. She noted that the town had metered on-street parking which she said was normal in many larger towns as well as pay parking in the shopping centres. She provided a location map which showed the subject property in relation to The Clanbrassil Centre, The Long Walk Shopping Centre, a long term car park and The Marshes Shopping Centre.

8.2 She confirmed that the subject property was inspected by her in May 2021 and that it comprised a single storey end of terrace building and a retail ground floor area. She stated that

the property had large floor to ceiling display windows on the ground floor. She confirmed that the total floor area was 81.98 m² with a Zone A area of 51.18 m² and a Zone B area of 30.80 m² which areas and zoning were agreed between the parties. She provided a small floor /block plan indicating the subject property and a number of photographs taken in November 2021 which showed the frontage and the interior which appeared to be undergoing works. She said the lease commencement date, current annual rent, capital contributions, side letters, and rent review patterns were to be confirmed by the Appellant. She noted the 2015 lease had expired and that the 4 months' rent free comprised 3 months for fit-out and 1 month if the break option was not exercised. She also referred to the Appellants representations wherein she had sought a reduction from a Zone A rate of €300/ m² to €220/ m² and referred to the Appellants representation stage opinion of value at €14,647.50, at the notice of appeal stage €14,650 and in her precis €13,300.

8.3 She noted that the Appellants in its summary of the grounds for appeal had relied on seven market rental transactions and three of the list transactions and she commented that in relation to the first market rental transaction that it postdated the valuation date by approximately 5 months.

8.4 She noted that the second comparison postdated valuation date by three years Q1 2021 and was subject to appeal to the Tribunal. It was not available to the Valuation Office at the date of valuation.

8.5 In relation to the Appellants 3rd rental comparison which she noted was also under appeal to the Tribunal she stated that it predated the Valuation Date by 2 years and the exact lease commencement date was not provided. She argued that she would not usually devalue a rent free period of 4 months as it was less than 6 months which she regarded as a standard concession for fit out.

8.6 She added that the 4th comparison refers to February 2020 which was over two years after the valuation date.

8.7 Ms. Farrelly said that the 5th comparison was not agreed between the parties as there was a difference of opinion as to the correct floor area for analysis. Ms. Farrelly stated that having spoken to the letting agent in November 2021 that he had confirmed there was a large store at

the rear of the premises with a step down to this rear area and she claimed that this would account for the Valuation Office area of 110 m² rather than the area relied upon by the Appellants of 148.70 m².

8.8 Ms. Farrelly also disputed the floor area in the Appellants sixth comparison as the Valuation Office has measured it as part of the 2019 Revaluation at 91.41 m² and she noted that the property had been let in November 2016 but had been relet in September 2018 at €16,800pa which she analysed at €381.41/ m² Zone A. She also stated that it was in an inferior location to the subject property.

8.9 In relation to the Appellants final market rental comparison she confirmed that the property had been inspected by the Valuation Office as part of the Revaluation 2019 and that the total floor area was 143.46 m² including a mezzanine store of 11.06 m² and that that this lease predated the valuation date by 20 months.

8.10 She said that the three tone of the list comparisons provided by the Appellants included two which had no street frontage to The Long Walk and were accessed from a mall/courtyard and following representations had been reduced from €300/ m² Zone A to €200/ m² Zone A, while the third had been reduced to €300/ m² after representations.

8.11 Ms. Farrelly relied on four Key Rental Transactions KRT's and said that she would usually rely on comparisons either 6-12 months either side of a valuation date. The first referred to a unit at Adelphi Court Long Walk Dundalk and a letting for 15 years from the 18th of October 2017 at €25,992pa with an NAV of €25,400. She analysed the NER value at €311.60/ m² and the NAV at €300/ m². She confirmed that the property was in use as a restaurant and was located on the opposite side of The Long Walk to subject property with limited on street car parking. She noted that representations had been received and that the lease postdated the valuation date by one month. She included a photograph and a site location plan.

8.12 Ms. Farrelly's second KRT on Clanbrassil Street comprised 144.6 m² and referred to a retail unit 112.42 m², stores 11.06 m² and a mezzanine store of 19.98 m² which had been let for a term of 10 years from 22nd February 2016 at €17,640pa which provided an NER of €17,640 and an NAV of €18,450. She provided an NER analysis of €290/ m² Zone A and an NAV Zone A of €300/ m². She stated that this property on Clanbrassil Street was inspected in 2018

and was one of the main retail areas in the town. It was behind the subject property and the lease was agreed 19 months before the valuation date.

8.13 Ms. Farrelly's third KRT referred to a retail unit and store on Clanbrassil Street which had been let for 4 years 9 months from 1st August 2017 at €13,443.90pa which provided an NER of €13,443.90 and an NAV of €14,670. She provided an NER analysis of €274.50/ m² Zone A and an NAV Zone A of €300/ m². She said the lease was agreed one month before the Valuation Date of 15th September 2017.

8.14 Ms. Farrelly's fourth KRT referred to a retail unit on Park Street comprising 44.15 m² which had been let for 3 years from 1st October 2018 at €12,000pa with an NER of €11,392.76 and an NAV of €9,520. She provided an NER analysis of €358.94/ m² Zone A and an NAV Zone A of €300/ m². She said the lease was agreed in October 2018 just 12 months after the Valuation Date of 15th September 2017. She concluded her evidence on the market rental comparisons by confirming that her four examples were spread out with one on opposite the subject property and two on Clanbrassil Street and one on Park Place.

8.15 Ms Farrelly relied on seven of the list comparisons. All seven had Zone A retail NAV's of €300.00/ m². The first which comprised a retail unit was on Annes Street and was described as a retail unit on the outskirts of the retail area of Dundalk with double yellow lines and on-street car parking on the opposite side of the road. It had a total area of 179.09 m². Following representations by an agent no change was made to the valuation.

8.16 The second which comprised a retail unit and store was also on Anne Street which was described as a retail unit on the outskirts of the town and had limited on street car parking. It had a total area of 45.66 m². Following representations from an agent no change was made to the valuation. The store had an NAV of €30.00/ m².

8.17 The third which comprised a retail unit and store was located on Clanbrassil Street. It did not have car parking in front of the premises and was opposite a loading bay. It had a total area of 177.91 m². Following representations from an agent the floor areas were amended but no change was made to the Zone A NAV of €300.00/ m². The store had an NAV of €30.00/ m².

8.18 The fourth which comprised a mid-terraced retail unit and store was located in Adelphi Court Dundalk opposite the subject property. It had disabled car parking and double yellow lines on the opposite side of the road. It had a total area of 192.06 m². Following representations matters of fact were amended but no change was made to the Zone A NAV of €300.00/ m² which was not challenged by the agent. The store had an NAV of €30.00/ m².

8.19 The fifth which comprised a ground floor take-away unit and store was located on Adelphi Court, The Long Walk, Dundalk. It had car parking and a total area of 81.41 m². Following representations from an agent areas were amended but no change was made to the Zone A NAV of €300.00/ m². The ground floor store, kitchen, cold room and offices had an NAV of €30.00/ m².

8.20 The sixth which comprised a ground floor retail unit was located in Carroll Village Dundalk. It had a total area of 111.89 m². Following representations no change was made to the Zone A NAV of €300.00/ m².

8.21 The seventh which comprised a ground floor retail unit, ground floor, basement and first floor stores on Roden Place was described as being located just outside the main retail area of the town. It had a total area of 134.9 m². No representations were made. The first floor and basement stores were valued at €80.00/ m² and the ground floor stores were valued at €30.00/ m².

8.22 Ms. Farrelly concluded her oral evidence by restating that she had relied on four KRT's which had effective rents that ranged from €274.50/ m²(August 2017) to €290/ m² (February 2016) to €311.60/ m² (October 2017) to €358.54/ m² (October 2018). She also relied on seven NAV comparisons which had Zone A rents of €300/ m² in a variety of locations a number of which were on The Long Walk and she concluded by stating that in her opinion the level of €300/ m² was correct for the subject property and the NAV of €19,970 should be confirmed.

8.23 During cross examination Ms. Farrelly confirmed that her first KRT which comprised a restaurant was located opposite the subject property and close to a number of retail and services units and the bus station. She said she was not aware when the two external seating areas had been added but indicated that they were not have been in place in 2017 at lease commencement

and the use started during the Covid pandemic. She confirmed that she was from Dundalk and knew the premises.

8.24 She confirmed that Clanbrassil Street was similar to many main retail streets in provincial towns with a mixture of shop units such as pharmacies, hairdressers, retailers and some owner occupied premises. She agreed that there was on-street car parking and a number of banks.

8.25 She confirmed that her third KRT adjoined a car park which also served the subject property on The Long Walk and Clanbrassil Street.

8.26 Ms. Farrelly confirmed that Park Street was similar to The Long Walk and had on -street pay parking.

8.27 Referring to her first tone of the list comparisons Ms. Farrelly said that Anne Street was largely residential with bookmakers, a school, cottage style retail units and a number of pubs and it was a feeder street to Park Street. She agreed that the property had dual frontage approx. 24m but limited car parking.

8.28 She confirmed that her third tone of the list comparison on Clanbrassil Street also had access to a car park which also served The Long Walk.

8.29 She said that her fourth comparison on Adelphi Court was close to a Citizen Advice Bureau, the Bus Station and a beautician and that is was on the opposite side to the street to the subject property.

8.30 She said that her fifth tone of the list comparison had a similar location to the subject property at the junction of two roads but that on-street car pay parking was available and other occupiers included a restaurant and coffee shops.

8.31 Ms. Farrelly in relation to her final NAV comparison said that Roden Place was similar to Anne Street with older units, a furniture shop, a grocery store and a GYM. She accepted that it had on-street but limited car parking but she did not accept that it was a retail location.

This concluded Ms Madden's cross examination.

8.32 Following a query by the Tribunal to Ms. Farrelly regarding the relative retail strengths of the location she confirmed that in her opinion The Long Walk was generally comparable to

Clanbrassil Street and benefited from its proximity to the Bus Station and while on-street car parking was limited there were a number of car parking facilities in the immediate area.

8.33 Ms. Madden was asked by the Tribunal to indicate which of her comparisons was the most important and said that in her opinion the two NAV comparisons in Adelphi Court at a Zone rate of €150/ m² were the most significant.

8.34 Ms. Farrelly said that in her opinion the most significant comparison was her first KRT on in Adelphi Court on The Long Walk just one month after the Valuation date.

8.35 Ms. Madden concluded and summarised by stating that in her opinion The Long Walk had a large number of car parks and less retail accommodation than Clanbrassil Street and Park Street. She argued that The Long Walk and Marshes Shopping Centres were located at either end of The Long Walk and would draw customers away from the mid area where the subject property was located. She also argued that the lack of immediate on street car parking would reduce the demand for the subject property whereas the properties on Clanbrassil Street, Park Street and the various shopping centres had car parking available to them which would have enhanced their value. She said that the subject property was being compared to Clanbrassil Street and Park Street and The Long Walk shopping Centre at Zone A rents of €300/ m² whereas in her opinion the subject property should be valued at €13,300 based on a Zone A rent of €200/ m² and a Zone B rent of €100/ m².

8.36 Ms. Farrelly concluded her submission and stated that The Long Walk shops had the benefit of a large number of car parking spaces and the one way system in the Town directed traffic to park on The Long Walk. She said that the Town had a full system of pay parking and the only exceptions were The Long Walk Centre which provided two hours free parking and Marshes Shopping Centre which provided one hour for parking for patrons. Commenting on her KRT's she confirmed that the Valuation Office had relied on the rental information available which were close in date to the valuation date and relevant to the location. She sought confirmation that the NAV should be confirmed at €19,970.

9. SUBMISSIONS

9.1 No legal submissions were received.

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 Appellants have sought to have the NAV reduced from €19,970 to €13,300 based on market rental evidence and a reliance on a number of tone of the list comparisons. Usually when Market Rental evidence is available an Appellant will place the greatest reliance on these transactions if they are descriptively and locationally relevant. Ms. Madden provided seven market rental transactions, however she stated that her most important comparisons were the two tone of the list comparisons in Adelphi Court.

10.3 Ms. Madden of behalf of the Appellant FGM Properties referred to a letting of the subject property from 2015 but was unable to provide a lease commencement date even though the Landlord was the Appellant. A total floor area was provided and Ms. Madden said that she relied on the floor areas recited in the Valuation Certificate for this property namely Zone A 51.18 m² and Zone B 30.80 m². She also acknowledged that the transaction pre-dated the Valuation date by more than 2 years. This comparison was of very limited value as it pre-dated the Valuation date and had an uncertain commencement date.

10.4 Her second market rental transaction referred to an adjacent premises which was vacant at the valuation date but the transaction referred to a letting in Q1 2021 for a much larger premises which was not analysed on a Zoning basis. This comparison post-dated the Valuation date by more than two years and this factor without any zoning as well as the fact it was a large unit substantially reduced its evidential value to this Tribunal.

10.5 Ms. Madden's third market rental transaction referred to an adjacent premises let at €27,000pa average from February 2018 less than 6 months after the Valuation date and while it comprised a much larger premises of 340.07 m² the constituent parts included a ground floor retail area of 187.23 m², a ground floor store of 37.30 m² and a retail mezzanine of 115.56 m². Ms. Madden analysed the transaction by relying on the Valuation Certificate rates of €30.00/ m² and €80.00/ m² for the store and mezzanine respectively which provided a sub total of €10,364.10 which left a residual value of €16,651.70 for the ground floor or a Zone A rate of

€171.45/ m². The Tribunal was not satisfied with this approach particularly when Ms. Madden relied on rates of €20.00/ m² and €55.00/ m² in other evidence to the Tribunal.

10.6 Ms. Madden's fourth market rental transaction referred to a premises comprising a ground floor and basement on Clanbrassil Street let at €15,000pa from February 2020 more than two years after the Valuation date. She recited the floor area as 145 m² which had been supplied to her by the letting agent and she provided an overall rate per square metre of €103.00/ m² based on this area, but she had disregarded this area and relied on the areas in the Valuation Certificate for her ITZA analysis. She deducted the Valuation Certificate amount for the basement of €7,433.60 from the market rent of €15,000pa and apportioned the residue of €7,566.40 over the ground floor with a Zone A rate of €110.63/ m². This method suggests that the basement and ground floors have approximately equal rental values which the Tribunal does not accept and it has consequently disregarded this comparison.

10.7 The Appellants fifth comparison also referred to Clanbrassil Street and a letting from July 2017 just before the Valuation date of 15th September 2017. She relied on a floor area of 148.7 m² which she said provided a Zone A rate of €223.70/ m² whereas the Respondents relied on a floor area of 110.26 m² which provided a Zone A rate of €281.85/ m². Ms. Madden said the letting agent had stated the area to be 148.7 m² however Ms. Farrelly said that the agent had confirmed to her that there was a large rear store which would account for the difference in the two floor areas. Ms. Madden did not provide any details of her zoning analysis areas and consequently this comparison is of limited assistance to the Tribunal as the floor area issue is unresolved.

10.8 The Appellants sixth comparison related to Jocelyn Mall and a letting from November 2016 at €12,000pa for 80.01 m² made up of floor areas provided in the Property Services Commercial Lease Register of 60 m² restaurant and 20 m² toilet and storage which provided an overall rate of €149.98/ m². To calculate the Zone A rent Ms. Madden discounted the Valuation certificate amounts for the kitchen €370 at €20.00/ m² and the store €1,060 at €80.00/ m² and apportioned the remainder at a Zone A rate of €268.68/ m² based on the areas reported in the Valuation Certificate. This evidence was of assistance for a slightly inferior location.

10.9 In her final market rental comparison from February 2016 approx. 18 months before the valuation date Ms. Madden relied on a floor area of 149.29 m² and did not accept the floor area

of 143.46 m² provided by the Respondents following their recent inspection. Ms. Madden said her floor area may have been provided by the Property Price Commercial Register. No zoned areas were provided by Ms. Madden but the analysis appears to be based on the areas included in the Valuation Certificate at €286.07/ m² Zone A. This comparison was of some assistance.

10.10 Referring to her tone of the list comparisons Ms. Madden stated that her most important comparisons referred to the two on Adelphi Court at a Zone A rate of €150.00/ m², however she could not identify either unit and she did not accept that they were located off The Long Walk in a Mall. The fact that these were the Appellants most important comparisons allied to the fact that she was unable to identify their location must undermine the Appellants case to a significant degree. Her third comparison was in The Long Walk Shopping Centre at €300.00/ m² Zone A.

10.11 The Respondent's four KRTs, discussed in detail above, were located in The Long Walk, Clanbrassil Street and Park Street, with two within one month of the Valuation Date, another 19 months before the date, and the fourth 13 months after it. The Zone A rates varied from €274.50- €290.00- €311.60 -€358.94/ m². The Tribunal was persuaded that these figures support the proposed NAV rate of €300.00/ m².

10.12 Additionally, the NAV comparisons provided by the Respondents, and discussed in detail above, provided additional support to the NAV rate of €300.00/ m². In particular, the Tribunal had regard to the comparison properties in Anne Street, a poorer retail location; in Adelphi Court, a very similar location; in Carroll Village, a generally similar location, and in Roden place, a poorer retail location.

10.13 The onus of proof rests on the Appellant to demonstrate, through cogent evidence that the Respondent has erred. The Tribunal was satisfied, based on the foregoing discussion of the respective evidence tendered, that this onus was not discharged by the Appellant.

DETERMINATION:

Accordingly, for the above reasons, The Tribunal disallows the appeal and confirms the decision of the Respondent.

Floor use	Square M	NAV €/ m²	Total NAV €
Retail Zone A	51.18	€300.00	€15,354.00
Retail Zone B	30.80	€150.00	4,620.00
			€19,974
			Say €19,970

