

**Appeal No: VA19/5/1092**

**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. 2176072, Retail (Shops) at 101B/Unit 3A 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 10<sup>th</sup> DAY of May, 2022**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 14<sup>th</sup> 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 €39,400

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 annual 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 €24,900.

## **2. REVALUATION HISTORY**

2.1 On the 15<sup>th</sup> 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 €39,400.

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 10<sup>th</sup> day of September, 2019 stating a valuation of €39,400.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15<sup>th</sup> day of September, 2017.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 14<sup>th</sup> 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 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 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, along with 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.

4.3 The subject property comprises a two storey, end of terrace, rendered concrete block-built building, incorporating a retail ground floor and a retail mezzanine. It has two large plate glass display windows facing The Long Walk with two smaller similar windows to the return. Internally the floors are of concrete slab with a mix of laminated timber floating floors and a Marmoleum floor covering. The walls are plastered and painted and the suspended ceiling includes suspended lighting.

4.4 The floor areas are agreed and comprise a ground floor retail area of 187.23m<sup>2</sup>, (Zone A 54.22 m<sup>2</sup>, Zone B 50.65 m<sup>2</sup> , Zone C 55.85 m<sup>2</sup> and the remainder 26.54 m<sup>2</sup> ), 37.31 m<sup>2</sup> of stores and the mezzanine area of 115.56 m<sup>2</sup>.

4.5 The subject property was subject to a lease and the terms were agreed by both parties. 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 €26,400. The Respondent contended that when determining the valuation of €39,400 she had considered the grounds of appeal, key rental transactions, and that she also 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 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 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 Long Walk whereas the shopping centres provided free customer parking and a greater variety of retail offerings.

7.2 Ms. Madden provided a drawing of the subject property which comprised a ground floor retail unit and mezzanine area and stated that it had a front to depth ratio of 1: 2.4 and was a long narrow unit. It extended to 225 m<sup>2</sup> on the ground floor with a retail area of 187.23 m<sup>2</sup>, a store of 37.31 m<sup>2</sup> and a mezzanine area of 115.56 m<sup>2</sup>. She argued that this layout restricted the frontage and reduced natural lighting. She said that there were double yellow lines outside the subject property which restricted parking for customers and deliveries.

7.3 She said that the subject property was subject to a full repairing and insuring lease for 10 years from 5<sup>th</sup> February 2018 at an average rent of €27,000pa (based on a rent of €25,000 for the first 3 years and €30,000pa for the 4<sup>th</sup> and 5<sup>th</sup> Years)

7.4 Ms Madden provided seven market rental evidence comparisons and three tone of the list comparisons. Her first market rental comparison comprised 340.07 m<sup>2</sup> and involved the open market letting of the subject property on The Long Walk from February 2018 for 10 years at €25,000 for the first three years and €30,000 for the 4<sup>th</sup> and 5<sup>th</sup> years, which she analysed at €79.40/m<sup>2</sup> and €171.45/ m<sup>2</sup> ITZA, which was based on a Zone A NAV of €200.00/ m<sup>2</sup>; Zone B of €100.00/ m<sup>2</sup>; Zone C €50.00/ m<sup>2</sup> and retail zone remainder of €25.00/ m<sup>2</sup>.

7.5 Her second comparison, also on The Long Walk, comprised 247.36 m<sup>2</sup>, involved a 10 year lease at €35,000pa and comprised an open market letting from Q1 2021 which she analysed at €141.49/m<sup>2</sup> overall. It had been vacant from 2016.

7.6 Her third market rental transaction, also on The Long Walk, comprised 81.98 m<sup>2</sup>, and involved a short term lease at €14,667pa from 2015 which she analysed at €178.90/m<sup>2</sup> overall or €220.29/m<sup>2</sup> ITZA.

7.7 Her fourth market rental transaction on Clanbrassil Street comprised 145 m<sup>2</sup> and involved a 4 year 9 month lease at €15,000pa from February 2020 which she analysed at €103.00/ m<sup>2</sup> overall or €110.63/m<sup>2</sup> ITZA.

7.8 Her fifth market rental transaction, also on Clanbrassil Street, comprised 148.70 m<sup>2</sup>, and involved a 10 year lease at €16,900pa from July 2017 which she analysed at €113.65/ m<sup>2</sup> overall or €281.85/m<sup>2</sup> ITZA based on the Valuation Certificate area of 110 m<sup>2</sup>. However, she added that the unit size as let was 148.7 m<sup>2</sup> which would have equated to an ITZA of €223.70/ m<sup>2</sup>.

7.9 Her sixth market rental transaction on Jocelyn Mall, Jocelyn Street comprised 80.01 m<sup>2</sup> and involved a 4 year 9 month lease at €12,000pa from November 2016 which she analysed at €149.98 m<sup>2</sup> overall or €268.68/m<sup>2</sup> ITZA.

7.10 Her seventh market rental transaction on Clanbrassil Street comprised 149.29 m<sup>2</sup> and involved a 10 year lease at €17,640pa from February 2016 which she analysed at €118.16/ m<sup>2</sup> overall or €286.07/m<sup>2</sup> ITZA.

7.11 She concluded the market rental transactions part of her evidence with a plan showing the location of the various comparisons, noting that Clanbrassil Street was a busier retail location with a variety of retailers and banks.

7.12 Ms. Madden provided details of three tone of the list comparisons, two in Adelphi Court on The Long Walk and one in Long Walk Shopping Centre. The first referred to a ground floor retail unit which she stated was opposite the subject property and comprised a retail Zone A area of 48.08 m<sup>2</sup> at €150.00/ m<sup>2</sup> and a Zone B area of 25.69 m<sup>2</sup> at €75.00/ m<sup>2</sup>. The second also referred to a ground floor retail unit opposite the subject property and comprised a retail Zone A area of 57.00 m<sup>2</sup> at €150.00/ m<sup>2</sup> and a Zone B area of 16.70 m<sup>2</sup> at €75.00/ m<sup>2</sup>. Ms. Madden said that when she went to inspect this property she was unable to identify their actual locations. 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 m<sup>2</sup> at €300.00/ m<sup>2</sup> and a Zone B area of 18.36 m<sup>2</sup> at €150.00/ m<sup>2</sup>. She said that this property comprised a 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 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.

7.13 Ms. Madden provided a summary of her evidence and stated that the subject property was let in the open market in February 2018 at a rent of €27,000pa, substantially below the proposed NAV of €39,400. She added that her third comparison referred to a slightly higher rent which was due to size variation/quantum. She argued that her 4<sup>th</sup> and 5<sup>th</sup> market rental transactions which dated from February 2016 and July 2017 showed that there had been a reduction in rent from two similarly located properties on Clanbrassil Street, by 22% in that period. She concluded by stating that in her opinion the NAV should be €26,400, based on a Zone A rent of €200.00/ m<sup>2</sup>; a Zone B rent of €100.00/ m<sup>2</sup>; a Zone C rent of €50.00/ m<sup>2</sup> and retail zone remainder of €25.00/ m<sup>2</sup>; with a store at €20.00/ m<sup>2</sup> and the mezzanine at €55.00/ m<sup>2</sup>.

7.14 During cross examination, Ms. Madden stated in relation to the subject property that when analysing the transaction she had taken the Valuation certificate rates of €30.00/ m<sup>2</sup> and €80.00/ m<sup>2</sup> for the store and mezzanine respectively and having deducted these amounts from €27,000 she calculated the ITZA rate from the remainder.

7.15 In relation to her second market rental comparison she confirmed that the date of the transaction was Q1 2021, more than 2 year 4 months after the Valuation Date.

7.16 Ms. Madden confirmed that the rent stated in the lease of her third comparison 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.

7.17 In relation to her fourth comparison, she agreed 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 agent's brochure had a ground floor of 60 m<sup>2</sup> and a basement of 85 m<sup>2</sup>, but she had disregarded these areas and relied on the Valuation Office basement area of 92.2 m<sup>2</sup> and a ground floor area of 92.92 m<sup>2</sup> which provided an ITZA of 68.40 m<sup>2</sup> 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 m<sup>2</sup> plus Zone B 18.33 m<sup>2</sup> (50% of 36.66 m<sup>2</sup>) plus Zone C 2.06 m<sup>2</sup> (25% of 8.25 m<sup>2</sup>), which provided her with an ITZA area of 68.4 m<sup>2</sup>. 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 m<sup>2</sup> x €80.00 which equaled €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/ m<sup>2</sup> which replaced the figure in her precis of €148.22 m<sup>2</sup>. 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.

7.18 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 m<sup>2</sup> 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.

7.19 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 m<sup>2</sup> as the valuation office had an area of 91.41 m<sup>2</sup> 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/m<sup>2</sup> and €80.00/m<sup>2</sup> for the kitchen and store respectively taken from the Valuation Certificate in her analysis and the reported Zone A area of 32.2 m<sup>2</sup> and Zone B of 9.14 m<sup>2</sup> (being 50% of the reported Zone B rate).

7.20 In relation to her final market rental property the parties had slightly differing floor areas with Ms. Madden at 149.26 m<sup>2</sup> and Ms. Farrelly at 143.46 m<sup>2</sup>. Ms Madden based her area on the Property Price Register and Ms. Farrelly on areas extracted from the revaluation inspection by her office.

7.21 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 she saw doorways only, but could not identify any street frontage. She agreed that in such circumstances that a lower rent should apply.

## **8. RESPONDENT'S CASE**

8.1 Ms. Farrelly adopted her precis of evidence and proceeded to give her oral evidence. She commenced her evidence with the issue of location, as both sides confirmed that the overview and valuation history was accepted. 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 comprised a two storey end of terrace building with retail accommodation on the ground floor and 1<sup>st</sup> floor mezzanine areas. She stated that the property had large floor to ceiling display windows on the ground floor and first floors and a concrete mezzanine floor. She confirmed that the total floor area was 340.10 m<sup>2</sup>, of which 224.54 m<sup>2</sup> were on the ground floor with the remainder on the mezzanine level, and included a block plan showing both floors. She confirmed that the floor areas were agreed between the parties and provided details of the agreed zoning areas of the ground floor. She provided a number of photographs taken in November and May 2021. She stated that the lease terms were as confirmed by the Appellant.

8.3 She noted that the Appellant had relied on seven market rental transactions and three tone of the list transactions and she commented that in relation to the first market rental transaction that it postdated valuation date by approximately 5 months. She noted that the second comparison postdated valuation date by three years and that the 3rd rental comparison predated the valuation date by approximately 2 years. She added that the 4th comparison refers to February 2020, which was over two years after the valuation date and that the analysis of 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, he had confirmed to her that there was a large store at the rear of the premises with a step down to this area, and this would account for the Valuation Office area of 110m<sup>2</sup> rather than the area relied upon by the Appellants of 148.70m<sup>2</sup>. Ms Farrelly also disputed the floor area in the Appellant's sixth comparison, as the Valuation Office has measured it as part of the 2019 Revaluation at 91.41m<sup>2</sup> and she noted that the property had been relet in September 2018 at €16,800pa, which she analysed at €381.41/m<sup>2</sup> Zone A. She also stated that it was

inferior to the subject property. 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 m<sup>2</sup>, including a mezzanine store of 11.06 m<sup>2</sup>, and that that this lease predated the valuation date by 20 months.

8.4 She said that the three tone of the list comparisons provided by the Appellant included two which had no frontage to The Long Walk and were accessed from a courtyard, while the third had been reduced to €300/ m<sup>2</sup> after representations.

8.5 Ms. Farrelly relied on four Key Rental Transactions (KRTs). The first referred to a unit at Adelphi Court, The Long Walk, Dundalk and a letting for 15 years from the 18th of October 2017 at €25,992pa with a NAV of €25,400. She analysed the NER value at €311.60/ m<sup>2</sup> and the NAV at €300/ m<sup>2</sup>. She confirmed that the property was in use as a restaurant and was located opposite the subject property on The Long Walk. She noted that representations had been received and that the lease post-dated the valuation date by one month. She included a photograph and site location plan.

8.6 Ms. Farrelly's second KRT referred to a retail unit and mezzanine store on Clanbrassil Street which had been let for a term of 10 years from August 2017 at €17,640pa, which provided a NER of €17,640 and a NAV of €18,450. She provided a NER analysis of €290/ m<sup>2</sup> Zone A and a NAV Zone A of €300/ m<sup>2</sup>. She stated that this property on Clanbrassil Street was inspected in 2018 and was located behind the subject property and the lease had been agreed one month before the valuation date.

8.7 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 1<sup>st</sup> August 2017 at €13,443.49pa, which provided a NER of €13,443.9 and a NAV of €14,670. She provided a NER analysis of €274.50/ m<sup>2</sup> Zone A and a NAV Zone A of €300/ m<sup>2</sup>. She said the lease was agreed one month before the Valuation Date of 15<sup>th</sup> September 2017.

8.8 Ms. Farrelly's fourth KRT referred to a retail unit on Park Street which had been let for 3 years from 1<sup>st</sup> October 2018 at €12,000pa with a NER of €11,392.76 and a NAV of €9,520. She provided a NER analysis of €358.94/ m<sup>2</sup> Zone A and a NAV Zone A of €300/ m<sup>2</sup>. She said the lease was agreed in October 2018, over 12 months after the Valuation Date of 15<sup>th</sup>

September 2017. She concluded her evidence on the market rental comparisons by confirming that her four examples were spread out with one opposite the subject property, two on Clanbrassil Street, and one on Park Place.

8.9 Ms Farrelly relied on seven of the list comparisons. All seven had Zone A retail NAVs of €300.00/ m<sup>2</sup> and six had been subject to challenge. While some corrections had been made, the Zone A rent of €300.00/ m<sup>2</sup> had not been changed in any of them. The first, which comprised a retail unit on Anne Street, was described as a retail unit on the outskirts of the town with double yellow lines and on-street car parking on the opposite side of the road. It had a total area of 179.09 m<sup>2</sup>. Following representations, no change was made to the valuation.

8.10 The second, which comprised a retail unit and store, was also on Anne Street and was described as a retail unit on the outskirts of the town. It had a total area of 45.66 m<sup>2</sup>. Following representations, no change was made to the valuation. The store had a NAV of €30.00/ m<sup>2</sup>.

8.11 The third, which comprised a retail unit and store, was located on Clanbrassil Street. It had limited car parking in front of the premises and was opposite a loading bay. It had a total area of 177.91 m<sup>2</sup>. Following representations, the floor areas were amended but no change was made to the Zone A NAV of €300.00/ m<sup>2</sup>. The store had a NAV of €30.00/ m<sup>2</sup>.

8.12 The fourth, which comprised a mid-terraced retail unit and store, was located on Adelphi Court Dundalk. It had disabled car parking and double yellow lines on the opposite side of the road. It comprised a total area of 192.06 m<sup>2</sup>. Following representations, matters of fact were amended, but no change was made to the Zone A NAV of €300.00/ m<sup>2</sup> which was not challenged by the agent. The store had a NAV of €30.00/ m<sup>2</sup>.

8.13 The fifth, which comprised a ground floor take-away unit and store, was located on Adelphi Court, Long Walk, Dundalk. Ms. Farrelly stated that lease information provided was too far removed from the valuation date to be considered. It had disabled car parking and double yellow lines on the opposite side of the road. It had a total area of 81.41 m<sup>2</sup>. Following representations areas were amended but no change was made to the Zone A NAV of €300.00/ m<sup>2</sup>. The store, kitchen and offices had a NAV of €30.00/ m<sup>2</sup>.

8.14 The sixth, which comprised a ground floor retail unit, was located in Carroll Village Dundalk just after The Long Walk Shopping Centre. It had a total area of 111.89 m<sup>2</sup>. Following representations by the occupier, no change was made to the Zone A NAV of €300.00/ m<sup>2</sup>.

8.15 The seventh, which comprised a ground floor retail unit, ground floor, basement and first floor stores on Roden Place, was described as outside the main retail area of the town. It had a total area of 134.9 m<sup>2</sup>. No representations were made. The first floor and basement stores were valued at €80.00/ m<sup>2</sup> and the ground floor stores were valued at €30.00/ m<sup>2</sup>.

8.16 Ms. Farrelly concluded her oral evidence by restating that she had relied on four KRTs which had effective rents that ranged from €274.50/ m<sup>2</sup>(August 2017) to €290/ m<sup>2</sup> (February 2016) to €311.60/ m<sup>2</sup> (October 2017) to €358.54/ m<sup>2</sup> (October 2018). She also confirmed that she had relied on seven NAV comparisons which had Zone A rents of €300/ m<sup>2</sup> in a variety of locations in the Town. A number of these were on The Long Walk and she concluded by stating that in her opinion the level of €300/ m<sup>2</sup> was correct for the subject property and the NAV of €39,400 should be confirmed.

8.17 During cross-examination, Ms Farrelly confirmed that her first KRT referred to café/retail use, but she did not agree that a tenant would pay a higher rent for a café use. She confirmed that the adjoining occupiers include a hairdressers, clothes shop, Citizen Advice Bureau and take away and agreed that there was on street car parking outside the unit. She said she was not aware when the two external seating areas had been added but indicated that they were not in place in 2017 at lease commencement and the use may have started during the COVID pandemic. She confirmed that she was from Dundalk and knew the premises.

8.18 In relation to her second and third KRTs, Ms Farrelly confirmed that Clanbrassil Street had on street pay parking and comprised a mix of uses similar to many provincial towns, including banks, the Post office and various retail units. She agreed that there was on-street car parking and a number of banks. She confirmed that her third KRT adjoined a car park which also served the subject property on The Long Walk and Clanbrassil Street.

8.19 Referring to her fourth market rental comparison, Ms. Farrelly agreed that Park Street was an established retail location with a good mix of retail units similar to The Long Walk.

8.20 Referring to her tone of the list comparisons, Ms Farrelly said that Anne Street was a mainly residential location and the first NAV comparison was located on the edge of the retail area of the town but was adjacent to three pubs. She acknowledged that its proximity to the pubs and residential accommodation was an advantage to the occupier. She also accepted that it had a double frontage and had a good retail profile.

8.21 In relation to the second NAV comparison in Anne Street, she confirmed that it had been subject to representations but that it did not go to appeal.

8.22 In relation to her third NAV comparison she confirmed that it had access to a car park which also provided access to The Long Walk.

8.23 Ms Farrelly confirmed that the fourth NAV comparison in Adelphi Court on The Long Walk was close to the Bus Station, a beautician, the Citizens Advice Bureau, a shoe shop and a cafe.

8.24 She agreed that her fifth NAV comparison had the benefit of a high profile location as it formed part of the Town's one way system and it had pay parking in the immediate area.

8.25 Ms Farrelly confirmed that Roden Place was close to the cathedral and a location which had a number of solicitor's practices, offices, a pub and a number of smaller restaurants. However, she did not accept that it was a retail location. She confirmed that the off street car parking served both The Long Walk and Clanbrassil Street and the Long Walk Shopping Centre car park had free parking for patrons.

8.26 Following a query from the Tribunal Ms. Madden confirmed that in her analysis of the subject property that she had relied on the Valuation Commissioner's breakdown of the overall area of 340.07 m<sup>2</sup> which comprised a ground floor retail area of 187.23 m<sup>2</sup>, a ground floor store of 37.31 m<sup>2</sup> and a mezzanine area of 115.56 m<sup>2</sup>. She also confirmed that she had relied on the Commissioners Valuation Certificate rates of €30.00/ m<sup>2</sup> for the store and €80.00/ m<sup>2</sup> for the mezzanine and had apportioned the remainder to the ground floor area of 187.23 m<sup>2</sup> to arrive at her opinion of an ITZA of 171.45/ m<sup>2</sup>.

8.27 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/ m<sup>2</sup> were the most significant.

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

8.29 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/ m<sup>2</sup>, whereas in her opinion the subject property should be valued at €26,400 based on a Zone A rent of €200/ m<sup>2</sup> and a Zone B rent of €100/ m<sup>2</sup>.

8.30 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, which 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 KRTs, she confirmed that the Valuation Office had relied on the rental information available which was close in date to the valuation date and relevant to the location. She contended that the NAV should be confirmed at €39,400.

## **9. SUBMISSIONS**

9.1 There were no legal submissions.

## **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 €39,400 to €26,400 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 2018, at €27,000pa average from February 2018, less than 6 months after the Valuation date and it comprised an area of 340.07 m<sup>2</sup>, the constituent parts of which included a ground floor retail area of 187.23 m<sup>2</sup>, a ground floor store of 37.30 m<sup>2</sup> and a retail mezzanine of 115.56 m<sup>2</sup>. Ms. Madden analysed the transaction by relying on the Valuation Certificate rates of €30.00/ m<sup>2</sup> and €80.00/ m<sup>2</sup> 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/ m<sup>2</sup>. The Tribunal was not satisfied with this approach. The Tribunal noted that Ms. Madden relied on rates of €20.00/ m<sup>2</sup> and €55.00/ m<sup>2</sup> in other evidence tendered to the Tribunal.

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, along with the lack of 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 retail premises but she 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 m<sup>2</sup> and Zone B 30.80 m<sup>2</sup>. 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.

10.6 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 m<sup>2</sup> which had been supplied to her by the letting agent and she provided an overall rate per square metre of €103.00/ m<sup>2</sup> based on this area. However, 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/ m<sup>2</sup>. 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 15<sup>th</sup> September 2017. She relied on a floor area of 148.7 m<sup>2</sup> which she said provided a Zone A rate of €223.70/ m<sup>2</sup>, whereas the Respondent relied on a floor area of 110.26 m<sup>2</sup> which provided a Zone A rate of €281.85/ m<sup>2</sup>. Ms. Madden said the letting agent had stated the area to be 148.7 m<sup>2</sup> 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 of the areas, and consequently this comparison is of limited assistance to the Tribunal as the floor area issue is unresolved.

10.8 The Appellant's sixth comparison related to Jocelyn Mall and a letting from November 2016 at €12,000pa for 80.01 m<sup>2</sup>, made up of floor areas provided in the Property Services Commercial Lease Register of 60 m<sup>2</sup> restaurant and 20 m<sup>2</sup> toilet and storage, which provided an overall rate of €149.98/ m<sup>2</sup>. To calculate the Zone A rent, Ms. Madden discounted the Valuation certificate amounts for the kitchen: €370 at €20.00/ m<sup>2</sup> and the store: €1,060 at €80.00/ m<sup>2</sup>, and apportioned the remainder at a Zone A rate of €268.68/ m<sup>2</sup> 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 m<sup>2</sup> and did not accept the floor area of 143.46 m<sup>2</sup> 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/ m<sup>2</sup> 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 were the two on Adelphi Court at a Zone A rate of €150.00/ m<sup>2</sup>, however she could not identify the precise location of either unit and she did not accept that they were located off The Long Walk in a Mall. The fact that these were the Appellant's most important comparisons allied to the fact that she was unable to identify their location must undermine the Appellant's case to a significant degree. Her third comparison was in The Long Walk Shopping Centre at €300.00/ m<sup>2</sup> 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/ m<sup>2</sup>. The Tribunal was persuaded that these figures support the proposed NAV rate of €300.00/ m<sup>2</sup>.

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/ m<sup>2</sup>. 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.

<b>Floor use</b>	<b>Square M</b>	<b>NAV €/ m<sup>2</sup></b>	<b>Total NAV €</b>
Retail Zone A	54.22	€300.00	€16,266.00
Retail Zone B	50.65	€150.00	€7,597.50
Retail Zone C	55.82	€75.00	€4,186.50
Retail Zone Remainder	26.54	€37.50	€995.25
Store	37.31	€30.00	€1,119.30
Mezzanine retail	115.56	€80.00	€9,244.80
			€39,409.35
			Say €39,400

