**Appeal No: VA19/5/0610** 

# AN BINSE LUACHÁLA VALUATION TRIBUNAL

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

## Rona Hotels Ltd - <u>APPELLANT</u>

and

## **Commissioner of Valuation - RESPONDENT**

#### In relation to the valuation of

Property No. 1990081, Hotel at Killygarry, Cavan Rural, Cavan, Co. Cavan.

BEFORE

Stephen J. Byrne - BL Deputy Chairperson

Fergus Keogh – MSCSI, MRICS Member

Eamonn Maguire – FRICS, FSCSI, VRS, ARB Member

# JUDGMENT OF THE VALUATION TRIBUNAL ISSUED ON THE 5TH DAY OF JULY, 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 €402,000

- 1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:
  - "The valuation is incorrect.
  - The valuation is excessive and does not accord with Section 19(5) of the Valuation Act i.e., it does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list.
  - More specifically I do not believe equity and uniformity of value have been achieved between comparable properties as I believe the subject property has unique considerations which differentiate it from similarly categorised properties on the list.
  - The income levels used in the calculation do not reflect a FMT taking into consideration the location and physical set up of the property."
- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €337,000.

#### 2. REVALUATION HISTORY

- 2.1 On the 29<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 €466,000.
- 2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €402,000.
- 2.3 A Final Valuation Certificate issued on the 10<sup>th</sup> day of September 2019 stating a valuation of €402,000.
- 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 hearings held remotely on the 16<sup>th</sup> day of September 2021 and the 26<sup>th</sup> day of October, 2021. At the hearing the Appellant was represented by Mr. John Algar MSCSI, MRICS of Avison Young and the Respondent was represented by Mr. Alan Sweeney 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 hearings, 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 of this Appeal comprises a four star hotel which trades as *The Hotel Kilmore* ("the Subject") and is located approximately 3.5 kms east of Cavan town centre off the N3 primary route.
- 4.3 The Subject is a part two storey part single storey building that was purpose built in the early 1980's and subsequently extended in 1998 and 2016 and refurbished in 2019 / 2020. There are 74 no. guest bedrooms of which 34 no. were added in the 2016 extension works. In addition there are function rooms together with foyer and lounge areas, bar, restaurant, kitchen, meeting rooms & conference facilities, a small gymnasium and staff quarters.
- 4.4 The bar and restaurant can accommodate 83 no. and 105 no. patrons respectively whilst the meeting rooms and can accommodate up to 800 no. delegates or 350 no. in banquet style layout.
- 4.5 The entire property extends to approximately 7,655 square metres. There is extensive on-site car parking together with landscaped lawns and external courtyards.

#### 5. ISSUES

5.1 The Appeal raised the sole issue as to whether the NAV of the Subject property as determined by the Respondent is excessive.

#### 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 Mr. Algar, having taken the oath, adopted his Précis as his evidence-in-chief in addition to giving oral evidence.
- 7.2 Mr. Algar advised the Tribunal that he accepted the method of valuation adopted by the Respondent ("the Schematic") for the valuation of hotels in Cavan whereby the level of Fair Maintainable Trade ("the FMT") is forecasted for the relevant hotel as operated

by a Reasonably Efficient Operator ("REO") and set percentages are applied to the various income streams in the hotel to arrive at the Net Annual Value. The Schematic percentages are as follows;

| <b>Income Stream Source</b> | Applied Percentage |
|-----------------------------|--------------------|
| Rooms                       | 10%                |
| Conference / Room Hire      | 10%                |
| Food                        | 5%                 |
| Beverage                    | 7%                 |
| Leisure & Spa               | 15%                |
| Sundry                      | 15%                |

Whilst accepting the methodology of the Schematic Mr. Algar disputed the Respondent's level of adopted FMT of the Subject to which the Schematic has been applied.

7.3 Mr. Algar advised that the Subject is currently assessed with an FMT €6,380,000 of which food & beverage comprises 84.64% and a resultant NAV of €402,000 and contended for a NAV of €265,000 based on an FMT of €3,700,000 as follows;

| Revenue       | FMT per Bedroom | FMT           | %       | NAV         |
|---------------|-----------------|---------------|---------|-------------|
| Bar           | €14,000         | €1,036,000    | 7.00%   | €72,520     |
| Food          | €20,000         | €1,480,000    | 5.00%   | €74,000     |
| Accommodation | €15,000         | €1,110,000    | 10.00%  | €111,000    |
| Room Hire     | €1,000          | €74,000       | 10.00%  | €7,400      |
|               |                 |               |         |             |
| Total         |                 | €3,700,000.00 |         | €264,920.00 |
|               |                 |               | Say     | €265,000.00 |
|               |                 |               | NAV Per |             |
|               |                 |               | Bedroom | €3,581.08   |

7.4 Mr. Algar provided details and analysis of two hotels in Cavan as comparisons in support of the NAV being sought. Details of each comparison is set out in **Appendix 1** attached.

## i. Comparison 1.

The property comprises an 84 no. bedroom 4-star hotel located close to Cavan town centre with a large function room, bar, restaurant, leisure centre including a gymnasium, 25 metre swimming pool, sauna, steam room and spa facilities. The comparison has an FMT of  $\[ \in \]$ 4,520,000 of which food & beverage sales comprise 54.76% and an NAV of  $\[ \in \]$ 364,000. The hotel has a large leisure centre.

Mr Algar considered this comparison to be the most relevant of his two comparisons.

## ii. Comparison 2.

The property comprises a 222 no. bedroom 4-star hotel set on 33 acres with an 18 hole golf course. The hotel has 12 meeting / function rooms, 2 bars, 3 restaurants, leisure centre including a gymnasium, 20 metre swimming pool, sauna, steam room and spa facilities. The comparison has an FMT of €13,245,000 of which food & beverage sales comprise 58.13%.

- 7.5 Mr. Algar provided the following additional information and analysis in relation to the two comparisons provided and compared them further to the Subject under the headings as set out in the tables below:
  - i. Facilities Comparison Table 1.

|                         | Hotel Kilmore | Comparison 1 | Comparison 2   |
|-------------------------|---------------|--------------|----------------|
| Star Rating             | 4 Star        | 4 Star       | 4 Star         |
| Bedrooms                | 74            | 85           | 222            |
| Function Room           | 300 Capacity  | 350 Capacity | 1,200 Capacity |
| Bar                     | 1 Bar         | 1 Bar        | 2 Bar          |
| Restaurant              | 1 Restaurant  | 1 Restaurant | 4 Restaurant   |
| Meeting Rooms           | 3             | 4            | 12             |
| lounge & Foyer<br>Areas | Yes           | Yes          | Yes            |
| Gymnasium               | Yes           | Yes          | Yes            |
| Leisure Centre          | No            | Yes          | Yes            |
| Swimming Pool           | No            | Yes          | Yes            |
| Beauty Spa              | No            | Yes          | Yes            |
| Hair Salon              | No            | Yes          | Yes            |
| Golf                    | No            | No           | Yes            |
| Playground              | No            | Yes          | Yes            |

# ii. NAV Comparison Table 2.

| Revenue         | Hotel Kilmore FMT | Comparison 1 | Comparison 2. |
|-----------------|-------------------|--------------|---------------|
| Bar             | €1,700,000        | € 875,000    | €2,700,000    |
| Food            | €3,700,000        | €1,600,000   | €5,000,000    |
| Accommodation   | €900,000          | €1,550,000   | €4,400,000    |
| Room Hire       | €80,000           | €115,000     | €60,000       |
| Leisure Centre  | -                 | €350,000     | €1,000,000    |
| Sundry          | -                 | €30,000      | €85,000       |
| Totals          | €6,380,000        | €4,520,000   | €13,245,000   |
| NAV             | €402,000.00       | €364,000     | €1,047,000    |
| NAV Per Bedroom | €5,432.43         | €4,282.35    | €4,716.22     |

| Revenue            | Hotel Kilmore | Comparison 1 | Comparison 2 |  |  |
|--------------------|---------------|--------------|--------------|--|--|
| Bar                | €22,972.97    | €10,294.12   | €12,162.16   |  |  |
| Food               | €50,000.00    | €18,823.53   | €22,522.52   |  |  |
| Accommodation      | €12,162.16    | €18,235.29   | €19,819.82   |  |  |
| Room Hire          | €1,081.08     | €1,352.94    | €270.27      |  |  |
| Leisure Centre     | -             | €4,117.65    | €4,504.50    |  |  |
| Sundry             | -             | €352.94      | €382.88      |  |  |
| Total              | €86,216.22    | €53,176.47   | €59,662.16   |  |  |
| NAV Per<br>Bedroom | €5,432.43     | €4,282.35    | €4,716.22    |  |  |

- 7.6 Mr. Algar said that the FMT values applied to each property above vary considerably reflecting property size, star rating and on-site amenities including leisure and golf facilities. He considered that the quantum of food & beverage trade within the Subject at 84.64% of its valued FMT was disproportionally high. He contended that whilst the Subject enjoyed an exceptional level of food & beverage trade that this was due to the Appellant's specific skills in this area and considered that this level of trade would not be maintained by a hypothetical tenant and on this basis the Subject should be valued at a level not exceeding that of Comparison 1.
- 7.7 Mr. Algar provided copies of the Subject's Management Accounts and copies of Abridged Audited Financial Statements for the years ending 31<sup>st</sup> May 2015, 2016 and 2017.

Mr Algar also provided two charts summarising firstly the Subject's revenue for the financial years ending 31<sup>st</sup> May 2015 - 2018 and secondly the Subject's revenue for the calendar years 2015 - 2017 with the source of the revenue streams identified in accordance with the Schematic and the relative percentages of each stream to the relative annual total. These charts are set out in Tables 3 and 4 in **Appendix 1** attached.

- 7.8 Under cross examination by Mr. Sweeney, Mr. Algar confirmed that the 36 no. bedroom extension was completed in approximately November 2016 at a cost of €2.70 m. Mr. Algar confirmed that he represented the occupier of Comparison No. 1 and agreed its valuation at Representations Stage as instructed by his client. He confirmed that the hotel operator had other hotels and that he considered the operator to be a good operator and to be reasonably efficient.
- 7.9 Mr. Sweeney questioned Mr. Algar on his opinion that exceptional trade in the food & beverage sectors is taking place in the Subject and this was due to the operator's skill in this area. Mr. Algar acknowledged that mixture of sales is different in each hotel property and that the ability to undertake an exceptional trade is not a quantifiable talent. Mr. Algar did not agree with Mr. Sweeney that the hypothetical tenant would expect to maintain a similar level of trade in the hotel as currently enjoyed and that the current level of trade was due to operator's popularity, reputation and commitment to the hotel.

## 8. RESPONDENT'S CASE

- 8.1 Mr. Sweeney having taken the oath, adopted his Précis as his evidence-in-chief in addition to giving oral evidence.
- 8.2 Mr. Sweeney outlined the location, accommodation, description and condition of the Subject which were generally in keeping with similar comments in Mr. Algar's précis.
- Mr. Sweeney advised that the valuation Schematic being used to value hotel properties in Cavan is the same as the one utilised in the Revaluation 2017 project where 101 no. hotels in counties including Leitrim, Longford & Westmeath were valued all of which were either accepted or agreed with no outstanding Valuation Tribunal Appeals.
  Mr. Sweeney advised that the Schematic was developed from the detailed analysis of market transactions combined with the analysis of financial information. The result of this analysis (including the carrying out of full receipts and expenditure valuations) lead the Commissioner to believe the shortened method of valuation was the most appropriate. This approach ensures correctness, equity and uniformity for all ratepayers as prescribed in Section 19(5).

The operation of the Schematic has been previously set out in Section 7.2.

8.4 Mr. Sweeney advised that the Subject is currently assessed with an FMT €6,380,000 and a resultant NAV of €402,000 and was contending for a NAV of €405,000 for the Subject Property based on an FMT of €7,010,000. The chart below sets out Mr. Sweeny's calculations as submitted to the Tribunal as follows;

| Valu                 |                            | NAV % | NAV       |          |
|----------------------|----------------------------|-------|-----------|----------|
| Rooms                | €1,150,000                 |       | 10%       | €115,000 |
| Conference Room Hire | ire €100,000<br>€3,900,000 |       | 10%       | €10,000  |
| Food                 |                            |       | 5%        | €195,000 |
| Beverage             | €1,850,000                 |       | 7%        | €129,500 |
| Sundry               | €10,000                    |       | 15%       | €1,500   |
| Less 10% allowance   |                            |       | -€45,100  |          |
|                      |                            |       |           |          |
| Total FMT            | €7,010,000                 |       | Total NAV | €405,000 |

8.5 Mr. Sweeney provided valuation details and his analysis of six hotels in County Cavan as comparisons in support of the NAV being sought. Details of each comparison is set out in **Appendix 2** attached.

## i. Comparison 1.

The property comprises an 84 no. bedroom 4-star hotel located close to Cavan town centre extending to 8,772 sq.m. with a bar, restaurant, leisure centre and conference / meeting room facilities. The property was purchased in 2014 for  $\epsilon$ 3m. The comparison has an FMT of  $\epsilon$ 4,520,000 of which food & beverage sales comprise 54% and a NAV of  $\epsilon$ 364,000. The NAV equates to 8.05% of the FMT. Financial information was supplied for the years 2014-2018. The property was subject to Representations by Avison Young and was not subsequently appealed to The Tribunal.

This comparison is also Mr. Algar's comparison no. 1.

## ii. Comparison 2.

The property comprises a 158 no. bedroom 4-star hotel located close to Cavan town centre extending to 17,626.65 sq.m. with a bars, restaurants, leisure centre and conference / meeting room facilities. There is also an on-site 18-hole championship golf course. The comparison has an FMT of &12,226,000 of which food & beverage sales comprise 47% and a NAV of &1,050,000. The NAV equates to 8.59% of the FMT. Financial information was supplied for the years 2016-2018. The property is subject to an appeal to the Tribunal and is represented by Avison Young.

## iii. Comparison 3.

The property comprises a 105 no. bedroom 4-star hotel located approximately 45 kms from Cavan town centre extending to 6,237 sq.m. with a bar, lounge, restaurants and conference / meeting room facilities. There is also an on-site 9-hole golf course and is a popular wedding venue. The comparison has an FMT of  $\epsilon$ 6,690,000 of which food & beverage sales comprise 72% and a NAV of  $\epsilon$ 461,000. The NAV equates to 6.89% of the FMT. Financial information was supplied for the years 2014-2019. The property is subject to an appeal to the Tribunal and is represented by Avison Young.

## iv. Comparison 4.

The property comprises a 222 no. bedroom 4-star hotel located approximately 25 kms from Cavan town centre extending to 21,800 sq.m. with a bar / lounge, restaurants, leisure centre and conference / meeting room facilities. There is also an on-site 18-hole golf course. The comparison has an FMT of &13,245,000 of which food & beverage sales comprise 58% and a NAV of &1,047,000. The NAV equates to 7.9% of the FMT. Financial information was supplied for the years 2014-2016. The property was subject to Representations by Avison Young and was not subsequently appealed to The Tribunal.

This comparison is also Mr. Algar's comparison no. 2.

## v. Comparison 5.

The property comprises a 29 no. bedroom 4-star hotel located approximately 20 kms from Cavan town centre extending to 3,872.45 sq.m. with a bar, restaurant & function room and is a popular wedding venue. The comparison has an FMT of €2,475,000 of which food & beverage sales comprise 80% and a NAV of €160,700. The NAV equates to 6.49% of the FMT. Financial information was supplied for the years 2015-2018. The property was subject to Representations by the occupier and was not subsequently appealed to The Tribunal.

## vi. Comparison 6.

The property comprises a 38 no. bedroom 3-star hotel located approximately 26 kms from Cavan town centre extending to 3,716 sq.m. with a bar / restaurant, cookery school & banqueting room. The comparison has an FMT of €2,200,000 of which food & beverage sales comprise 80% and a NAV of €146,200. The NAV equates to 6.65% of the FMT. Financial information was supplied for the years 2015-2018. The property was not subject to Representations and was not appealed to The Tribunal.

8.6 Mr. Sweeney summarised the details of his six comparisons and the Subject by way of the following table;

| Property      | Floor<br>Area | Star<br>Rating | No. of<br>Beds | Est FMT     | Leisure &<br>Spa | Accounts<br>Submitted | NAV        | NAV/ %<br>FMT | NAV<br>Per<br>Bedroom |
|---------------|---------------|----------------|----------------|-------------|------------------|-----------------------|------------|---------------|-----------------------|
| Comparison 1. | 8,772 sq.m.   | 4              | 85             | €4,520,000  | Yes              | 2014-2018             | €364,000   | 8.05%         | €4,282                |
| Comparison 2. | 17,626 sq.m.  | 4              | 158            | €12,226,000 | Yes              | 2016-2018             | €1,050,000 | 8.59%         | €6,645                |
| Comparison 3. | 6,237 sq.m.   | 4              | 105            | €6,690,000  | -                | 2014-2019             | €461,000   | 6.89%         | €4,390                |
| Comparison 4. | 21,800 sq.m.  | 4              | 222            | €13,245,000 | Yes              | 2014-2016             | €1,047,000 | 7.90%         | €4,716                |
| Comparison 5. | 3,872 sq.m.   | 4              | 29             | €2,475,000  | -                | 2015-2018             | €160,700   | 6.49%         | €5,541                |
| Comparison 6. | 3,716 sq.m.   | 3              | 38             | €2,200,000  | -                | 2014-2017             | €146,200   | 6.65%         | €3,847                |

| Subject | 7,655 sq.m. | 4 | 74 | €6,380,000 | - | 2015-2019 | €402,000 | 6.30% | €5,432 |
|---------|-------------|---|----|------------|---|-----------|----------|-------|--------|

- 8.7 Under cross examination by Mr. Algar regarding the uniformity and equity of hotel NAV assessments and that no hotel should gain an advantage in its assessment Mr. Sweeney confirmed that in his opinion that the Schematic as adopted achieved this aim.
- 8.8 Under cross examination by Mr. Algar of his various comparisons Mr. Sweeney accepted that Comparison No. 1 was a large hotel but did not agree that it was the most relevant comparison and considered it to be in a fundamentally different and inconvenient location due to road access noting that food & beverage accounted for 54% of FMT.

Mr. Sweeney agreed that Comparison No. 2 was substantially larger than the Subject and had an 18 hole golf course & lodges attached on-site and accepted that these had the potential to increase bar & food revenue in the hotel. He noted that golf course green fees were not included in FMT and that the lodges were not valued. He further noted that food & beverage accounted for 54% of FMT and that this comparison is subject to a Valuation Tribunal Appeal.

In relation to Comparison No. 3, Mr. Sweeney accepted that the hotel had 9 hole golf course attached and that the valuation assessment was subject to a Valuation Tribunal Appeal noting that food & beverage accounted for 72% of the assessed FMT.

In relation to Comparison No. 4, Mr. Sweeney accepted that the hotel was substantially larger than the subject with 222 no. bedrooms and had an 18 hole golf course attached. He noted that assessment was not subject to a Valuation Tribunal Appeal noting that food & beverage accounted for 58% of the assessed FMT.

Mr. Sweeney accepted that Comparison No. 5 was a smaller hotel and primarily a wedding venue with additional accommodation provided by on-site houses and noted that the assessment was not subject to a Valuation Tribunal Appeal and with food & beverage accounting for 80% of the assessed FMT

Mr. Sweeney accepted that Comparison No. 6 was also primarily a venue as opposed to a hotel noted that the assessment was not subject to a Valuation Tribunal Appeal and with food & beverage accounting for 80% of the assessed FMT.

Mr. Sweeny accepted Mr. Algar analysis that the combined food & beverage revenue of the Subject at 84% of the revenue in 2017 was at the upper end of the spectrum and noted that he considered an end allowance was appropriate in the his final analysis. Mr. Sweeny did not accept that the hypothetical tenant could not replicate and maintain this level of trade.

#### 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 Cavan County Council.
- 10.2 The relevant question on this appeal concerns the amount that a hypothetical tenant would pay in rent for a tenancy of the Property on the terns set out in section 48 of the 2001 Act as amended.
- 10.3 Hotel values in the rating area are established by reference to the use of the Respondent's Schematic whereby the level of Fair Maintainable Trade ("the FMT") is estimated for the relevant hotel property as operated by a Reasonably Efficient Operator ("REO") and set percentages are applied to the various revenue streams in the hotel to arrive at the Net Annual Value.

Mr. Algar advised the Tribunal that he accepted the principles of the Schematic method of valuation adopted by the Respondent for the valuation of hotels in Cavan but did not accept the FMT adopted in the valuation of the Subject.

- 10.4 Mr. Algar contended that the Subject was over-trading in the food & beverage departments and that these areas combined accounted for approximately 84% of revenue for the calendar year 2017. The reason for this level of trade was due to the Appellant's personal skills and acumen and Mr. Algar contended that this would not be maintained by the hypothetical tenant.
- 10.5 Mr Algar relied on two hotel comparisons with 85 no. and 222 no. bedroom respectively and both with larger function room capacity where the comparative level of food & beverage allowance in the calculated FMT's was approximately 58% and where the NAV per bedroom is €4,282.35 and €4,716.22 respectively compared to that of the Subject of €5,432.43. Mr. Algar considered that his comparison number 1 to be the most relevant of his comparisons. In Mr. Algar's assessment of an appropriate FMT for the subject food & beverage accounts for 68% of the FMT.
- On behalf of the Respondent Mr. Sweeney relied on six hotel comparisons. Comparisons numbers two and three are currently subject to appeals to the Valuation Tribunal. In comparisons numbers one and four the comparative level of food & beverage allowance in the calculated FMT's is approximately 57.75% and 58.13% and the NAV per bedroom is €4,282 and €4,716 respectively. These two hotels correspond to Mr. Algar's two comparisons. In comparisons five and six the comparative level of food & beverage allowance in the calculated FMT's is approximately 80.8% and 80.0% and the NAV per bedroom is €5,541 and €3,847 respectively. Mr. Sweeney agreed that the food & beverage revenue in the Subject was at the upper end of the scale at 84%. In Mr. Sweeney's assessment of an appropriate FMT for the subject food & beverage accounts for 82% of the FMT.
- 10.7 The Tribunal considers Mr. Sweeney's comparisons numbers 2 and 3 to be less relevant as they are subject to Appeals to the Valuation Tribunal and also comparisons nos. 5 and 6 due to their size, location and the general style of trade carried on both hotels being more comparable to wedding or event type venues.

10.8 The Parties have effectively relied on similar comparisons. It is necessary to consider all the evidence in the round and it is the duty of the Tribunal to consider the evidence adduced and the arguments advanced and to arrive at a determination in accordance with section 48 of the 2001 Act as amended.

The Tribunal accepts that the Subject trades strongly in the food & beverage departments when compared to the comparison hotels and although Mr. Algar contended that this was due to the Appellant's personal skills he was unable to quantify the effect of this influence. The Tribunal considers that there are other factors which can influence this level of trade including location and accessibility. The current proprietors are obviously very diligent business people and do a very good job of running this hotel however it is not proven to the Tribunal that the current proprietors have unique attributes that could not largely be repeated by the hypothetical tenant.

10.9 It is always assumed that the hypothetical tenant will seek to maximise the potential turnover of the premises and that he can replicate the characteristics, skill and approach of the current occupier.

The Tribunal judgments in Nallob Limited (VA95/5/024) and Swigmore Inns Limited (VA95/5/025) considered that the effect on turnover of an operator having exceptional personality or business acumen on long established businesses is less effected by its proprietor than might be the case otherwise.

10.10 The Tribunal does not consider that the FMT of €3,700,000 as adopted by Mr. Algar in his valuation as being a level that a Reasonably Efficient Operator would expect to achieve particularly having regard to the affirmed revenue figures supplied and considers the proposed level to be unrealistically pessimistic.

10.11 Mr. Sweeney has aligned his opinion of the Subject's FMT close to the Subject's revenue generated in the calendar year post the valuation date. The Tribunal considers that it is realistic to assume that the hypothetical tenant would anticipate an element of risk in relation to the Subject's FMT particularly having regard to the high levels of the food & beverage revenue acknowledged by both witnesses. The Tribunal is of the view that a reduction in the FMT that has been adopted by the Respondent in the valuation of the Subject as it appears on the valuation list is appropriate to reflect this risk.

## **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €390,750 calculated as follows;

| Item                 | FMT        | NAV% | NAV      |
|----------------------|------------|------|----------|
| Rooms                | €1,110,000 | 10%  | €111,000 |
| Conference Room Hire | €75,000    | 10%  | €7,500   |
| Food                 | €3,300,000 | 5%   | €165,000 |
| Beverage             | €1,500,000 | 7%   | €105,000 |
| Sundry               | €15,000    | 15%  | €2,250   |
|                      |            |      |          |
| Totals               | €6,000,000 |      | €390,750 |