

Appeal No: VA21/4/0055

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Aldi Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2177833, Supermarket 2 (500-2500sqm) Floor: 1, Unit 196, Red Mall,
Blanchardstown Centre, Dublin, County Dublin

B E F O R E

Dairine MacFadden - Solicitor

Caroline Murphy - BL

Brian Meldon - FSCSI, FRICS, Reg Val, Arb

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18 TH DAY OF OCTOBER 2022**

1. THE APPEAL

1.1 By Notice of Appeal received on the 17th day of November 2021 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 **€554,000**.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: *"I believe the valuation of the subject property is excessive and does not accord with Section 49 of the Valuation Acts 2001-2020 as in my opinion it does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list. In consideration of these specific matters, I believe a lower valuation as set out herein is more representative of a reasonable Net Annual Value in accordance with Section 49 of the Act. "*

1.3 The amount the Appellant considered ought to have been determined as being the valuation of the subject property was revised upwards from €339,000 as stated in the Notice of Appeal to €361,000 at the hearing.

2. VALUATION HISTORY

2.1 On the 9th day of September 2021 a copy of a valuation certificate proposed to be issued under section 29 of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €554,000.

2.2 A Final Valuation Certificate issued on the 22nd day of October 2021 stating a valuation of €554,000.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 18th day of May 2022 and on the 27th June 2022. At the hearing the Appellant was represented by Ms Claire Mason B.Sc (Surv) of Avison Young and the Respondent was represented by Vasile Goian 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 situated within the larger shopping complex of Blanchardstown Shopping Centre.

4.3 Blanchardstown Shopping Centre is located approximately 11.5 km northwest of Dublin City Centre and is laid out across two levels. There are 180 stores including Marks & Spencer, Penneys and Dunnes Stores as anchor retailers. In addition, there are in excess of 25 Restaurants and Cafe’s, a 9-screen cinema and 7,000 car parking spaces. The subject unit is located at the entrance to the ‘Red Mall’ of the centre, and forms part of an extension to the centre which facilitated the construction of 3 units, the others being, Art of Coffee and the Mobility.

4.4 The subject property was constructed in 2019/2020, as part of an extension to shopping Centre and comprises a single storey supermarket with an external loading bay to the rear. The space is laid out with the main retail area towards the front and offices, staff quarters and stock room at the rear. The stock room is split level and has a ramp and stair to the loading bay area. There is also an external yard to the rear.

4.5 The area for the supermarket has been agreed at 2,055.14sq.m.

4.6 The lease terms and permitted uses are set out in Appendix (N/A to public) A and Appendix (N/A to public) B

5. ISSUES

5.1 The first issue in dispute is the quantum of the valuation. This is a Revision type of appeal by reference to values that prevailed at the original valuation date of 7th April 2011 for the

Fingal County Council Revaluation and evidence therefore relates to tone of the list comparisons only. The second issue is whether or not the yard is to be included in the valuation.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

7. APPELLANT’S CASE

7.1 Ms. Claire Mason representing the Appellant presented her précis of evidence first. She described the subject property as being situated at the entrance to the “Red Mall” within the larger shopping complex of Blanchardstown Shopping Centre which was laid out across two levels comprising 180 stores with three anchor stores, Marks & Spencer, Pennies and Dunnes Stores. In addition, there are 28 restaurants and Cafes, nine screen cinemas and 7000 parking spaces.

7.2 Ms. Mason gave her opinion of value as €361,000.00, broken down as follows;

Floor Level Floor	Use	Area (M ²)	NAV (€ per M ²)	NAV (€)
0	Supermarket	2,0555.14	160.00	328,822.40
0	Fit out @ 7%	1.00	23,017.57	23,017.57
	Off Licence	1.00	10,000.00	10,000.00
			Total (€):	361,839.96
			NAV (€):	361,000.00

7.3 In support of her opinion of value Ms. Mason provided rental evidence from 5 supermarket lettings located in the surrounding neighbourhoods of Castleknock, Mulhuddart, Blakestown, Ongar Village and Tyrellstown. A sixth letting was located at Westend Retail Park, Blanchardstown. This evidence had an NAV/sq.m. range of between €150 and €160.

Property Number	Property Address	Level applied	Floor area	Total NAV
5017821	Castleknock Village, Dublin 15	€150 per sqm €105 sqm	1989.06 sqm 450.89 sqm	€376,000
5004472	Main Street, Mulhuddart, Dublin 15	€155 per sqm	990 sqm	€174,100

570381	Blakestown Way, Dublin 15	€155 per sqm	1,291.29 sqm	€216,000
2179054	Main Street, Ongar, Dublin 15	€150 per sqm	1,897.50 sqm	€305,000
2149479	Westend Retail Park, Dublin 15	€160 per sqm	1,366.20 sqm	€228,000
2179972	Tyrellstown Town	€150 per sqm	1,716.74 sqm	€275,000

7.4 Ms. Mason disagreed with the Respondent's approach of using department stores from within the shopping centre as comparisons given that there are similar circumstanced properties within close proximity to the subject which better reflect the tone of the list for supermarkets. Therefore, in her view, valuing the property at €230/sq.m. did not achieve equality or uniformity in value between supermarkets.

7.5 Ms Mason went on to draw comparisons with the Pavillions Shopping Centre, Swords, which she regarded as the most directly comparable shopping centre in the Fingal County Council area. In reviewing the approach of the Respondent, here she pointed to the fact that the department stores' values ranged from between €200-€250/sq.m. whereas Dunnes Stores, categorised as a department store, comprising grocery at ground floor with drapery overhead was valued at €190/sq.m. This was also consistent with other supermarket levels in Swords.

7.6 In addition to this, Ms. Mason cited the SuperValu unit which is centrally located in the Pavillions as further evidence. This unit falls into the Supermarket 3 category size wise and is valued at €170/sq.m. This, she states, is in line with the tone of the list for supermarkets in the Swords area, being in the €160-€170/sq.m. range.

7.7 Within the Blanchardstown Centre she had reviewed the Dunnes Stores and Marks & Spencer units. In the case of Dunnes Stores, it is categorised as a department store and is somewhat comparable as it is laid out as grocery with drapery overhead, although considerably larger. The Respondent have applied €190/sq.m. in this case to reflect its department store use and central location.

7.8 In the case of Marks & Spencer, the supermarket element was small, and it was predominantly a department store over two floors with a superior frontage. Ms. Mason had been advised that this valuation was the subject of an appeal on the basis of the rate/sq.m. She concluded by referring to Lidl, located at Westend Retail Park, Blanchardstown valued at €160/sq.m. in line with other retail warehouses.

7.9 Having regard to the above and more specifically the tone of the list for similar circumstanced properties and adopting a similar approach to that adopted at the Pavillions in Swords, Ms Mason applied a rate of €160/sq.m., 7% for the fit out due to its age and allowed for an off-licence add on. The rate of €160/sq.m. also reflected the better location of the subject relative to her other similar circumstanced supermarket 2 comparisons. She stated that the inclusion of the external yard was unresolved and that they were of the opinion it should be excluded from the valuation in line with the SCSI Measuring Practice Guidance Notes for Gross Internal areas.

7.10 Under cross-examination from Mr. Goian, Ms. Mason confirmed the reserved rent on the subject unit. She confirmed that the use was restricted to supermarket use under the lease and that her comparisons 1,2,3 and 6 were purpose-built supermarkets located in residential areas. When asked about the subject unit's location she agreed that it was a unit accessed from inside the shopping centre.

7.11 When pressed as to why she chose evidence outside the shopping centre, she reiterated her belief that her evidence showed different treatment for supermarkets within shopping centres and that her opinion was consistent with the tone for supermarkets in the surrounding areas and consistent with her interpretation of similar circumstanced properties.

7.12 When questioned on her exclusion of the rear yard, Ms. Mason quoted the Measuring Practice Guidance Notes, which she interpreted as excluding an area, which contained plant and equipment such as this and which was not covered by a roof. Mr. Goian's interpretation was different in that the plant and equipment was housed in permanent structures and should therefore be included.

8. RESPONDENT'S CASE

8.1 Mr. Vasile Goian then presented the case on behalf of the Respondent.

8.2 In terms of location, description and condition the parties were largely in agreement save for the inclusion of the rear yard by the Respondent.

8.3 Mr. Goian went on to comment on the Appellant's case, pointing out that four of the five NAV comparisons were located outside the subject shopping centre and the fifth was a warehouse in a retail park used as a supermarket. There were 14 other retail warehouses in that retail park valued at rates between €160-€180/sq.m. depending on size. The Appellant's comparisons one, two and three were detached properties and should be regarded as a different type. The fourth comparison was not relevant as it was a mid-terrace retail unit with access directly off the street. He concluded by stating that the Commissioner was of the opinion that the subject property should be valued in line with similar properties that are located within the Blanchardstown Shopping Centre.

8.4 Mr. Goian went on to point out that the subject property had been valued in line with similar comparisons as per Section 28(4) of the Valuation Act 2001-2020.

8.5 He went on to explain that in carrying out revaluations, market information was collected, collated, and analysed to support the development of valuation schemes. Once an appropriate scheme of valuation was developed, it was applied to the group of properties sharing similar characteristics as the subject property.

8.6 He stated that the application of the scheme was only the starting point and that if there were any relevant individual considerations in relation to the subject property, relative to that group, further adjustments could be made to the subject property's estimate of NAV. In addition to this and in the interests of Equity and Uniformity, properties which are 'similarly circumstanced' could be considered comparable. This means they share characteristics such as use, size, location and/or construction in addition to the relevant market evidence which underpins the valuation

8.7 In the subject case a valuation level of €230/sq.m. was applied to arrive at an NAV of €521,000. As the Commissioner was of the view that the yard should be included an appropriate figure was included for that. Mr. Goian pointed to comparison 5 submitted by the Commissioner which had a similar yard and was included in the valuation. The occupier accepted that. In addition, he said, the yard of the subject property is surrounded by a fence which means that it is used exclusively by the occupier.

8.8 To underpin his opinion of value Mr. Goian put forward the following five comparative transactions from within the Blanchardstown Shopping Centre.

Property No.	Address	Level applied (€)	Floor area, sqm	NAV (€)
2177823	Unit 180 & 181, Blanchardstown SC	€300 overall	1,224.76	343,000
2177825	Unit 182, Blanchardstown SC	€210 overall	5,520	1,130,000
1035215	Unit 224, 225, 226 Blanchardstown SC	€190 overall	9,313.48	1,718,000
2163548	Unit 304, Blanchardstown SC	€190 overall	8,534.77	1,510,000
1035213	Green Mall, Blanchardstown SC	€190 overall	12,235	2,477,000

8.9 Mr. Goian gave his opinion of value as €521,000.00, broken down as follows;

Level	Use	Area	NAV (sq.m)	Total NAV (€)
1	Department Store	2,055.14	230	472,682.20
0	Yard	240	23	5,520
0	Fit Out Allowance	7%	1	33,087.75
Off Licence		1	1	10,000
			Total Nav	€521,289.95
			Valuation	€521,000

8.10 Under cross-examination from Ms. Mason, Mr. Goian agreed that the grounds of her appeal were with regard to the tone of the list and not just the Blanchardstown Shopping Centre.

8.11 When asked if her comparisons were within 5 kilometres of the subject centre and therefore relevant, Mr. Goian answered that they were within 5 kilometres of the centre but not within it.

8.12 When asked if there were similar supermarket 2 or supermarket 3 units within the centre, Mr. Goian responded that the Valuation Office did not look at the use but at the fact that it is retail within a centre. He instanced his no. 5 comparison Dunnes Stores which has grocery at ground floor level, was three times bigger, and was valued at €190/sq.m.

8.13 Ms. Mason then drew Mr. Goian's attention to page 19 of his précis, final paragraph, where "use" was mentioned in the context of properties which are 'similarly circumstanced' as one of four criteria to be taken into consideration. Mr. Goian maintained his position that his evidence was more appropriate in that it was the same type of property, giving the example

that a unit being used as a hairdresser or a shoe repair shop would be valued the same, ignoring the use. He agreed on further questioning that 'type' was not mentioned as a criterion.

8.14 When asked about the lower level of the SuperValu unit in the Pavillions Centre he said he did not know why but considered it unfair.

8.15 When asked to clarify his understanding of the word 'type' when used in paragraph 5.4, page 18 of his précis, he explained that the Appellant's comparison 5, was a former warehouse used as a supermarket, whereas her first three comparisons were purpose-built supermarkets.

8.16 Ms. Mason then asked if the Valuation Office had different schemes established for department Stores and Supermarkets in the context of fit out allowances. Mr. Goian was of the view that the range was 3-7%. Ms. Mason clarified that the range was 0-10% for department stores and 0-7% for supermarkets which she considered reinforced her argument about the differentiation between the two property types.

8.17 Ms. Mason went on to query why the Respondent changed their opinion of the appropriate rate from €250/sq.m. to €230/sq.m. following the initial valuation. Mr. Goian responded that it was due to the size and location. When pressed on the secondary nature of the location, he agreed there were better located properties. And the subject had a small frontage.

8.18 When asked if the Respondent was aware of any yard comparisons other than the Dunnes Stores one inside the Centre, Mr. Goian said they could not find any. When asked about the circumstances whereby the Dunnes Stores yard was rated he stated he did not know.

8.19 When asked by the Tribunal if the yard was rentalised as part of the original negotiations Ms. Mason said her understanding was that it was not.

8.20 When asked by the Tribunal what allowance was made for the small entrance to the unit Mr Goian stated that it was -10%.

8.21 The Tribunal asked the parties to look at the yard photographic evidence and comment on why they considered it should be included or excluded. Ms Mason stated that her interpretation of the measuring guidance notes was that the space should be excluded as there were no permanently covered structures. She had not included the guidance notes as part of her précis but could do so.

8.22 Neither party was able to confirm if the buildings in the yard were exclusive to Aldi or shared, such as an electrical sub-station for example.

8.23 When asked to comment, Mr. Goian stated that buildings which were not in exclusive use should be excluded from the valuation and the remainder included.

8.24 At this point the Tribunal retired to discuss this issue. Having considered the matter it was decided to direct Ms. Mason to provide the measuring code she was relying on together with a copy of the lease or title document which might provide clarity on easements, description of the demise and maps. The hearing was adjourned until the 27th June to facilitate this.

9. FURTHER SUBMISSIONS BY PARTIES – RECONVENED HEARING 27th JUNE 2022

9.1 The information requested was provided and the hearing reconvened on the 27th June 2022.

9.2 The Tribunal drew the parties attention to the lease maps and description, however, both parties agreed that the maps were ambiguous, and it was not immediately clear what was included. They reverted to their original arguments that the yard should be excluded for the Appellant and included for the Respondent. Following a joint inspection by the witnesses for both parties after the first day of the hearing, they did agree on the following yard measurements,

	Sq.ms.
Yard total including plant	264.31
Yard total excluding plant	195.85

9.3 Ms. Mason stated that she had discussed the matter with the letting agent who confirmed that the yard was not separately rentalised and that it was for the exclusive use of the tenant.

10. CLOSING STATEMENTS

10.1 Ms. Mason's opinion of value was based on the tone of the list for similar category 2 supermarkets in the surrounding areas. This approach was supported, she said, by the Valuation Office's treatment of the Dunnes Stores and SuperValu units in the Pavillions Shopping Centre, Swords. Here the rates were €190/sq.ms. and €170/sq.ms. respectively (Dunnes being half grocery with drapery overhead). This was lower than the standard unit rate of €190-€250/sq.ms. for the department store units. Ms. Mason's opinion was based on a €160/sq.m. with agreed allowances for fit out and allowances.

10.2 Mr. Goian's opinion of value was based on comparison to similar retail units within the subject centre. The fact that it was used as a supermarket should not affect the rate/sq.m. A slight adjustment was made to the rate to reflect the less prominent entrance. Mr. Goian's opinion of value was based on a rate of €230/sq.m. with similar allowances.

11. SUBMISSIONS

No legal submissions.

12. FINDINGS AND CONCLUSIONS

12.1 On this appeal the Tribunal must determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable by reference to the values, as appearing on the valuation list for the Fingal County Council rating authority area as that property is situate in, or of other properties comparable to that property.

12.2 The matter to be determined by the Tribunal in this instance is which interpretation of the parties more closely corresponds to the definition of other comparable properties, as provided for in section 49(1).

12.3 Mr. Goian's, on behalf of the Respondent, evidence to the Tribunal he submitted that properties which are 'similarly circumstanced' are considered comparable. He stated, "this means they share characteristics such as use, size, location and/or construction". Under cross-examination from Ms. Mason on the 'use' of the unit as a supermarket and why this was not taken into consideration, Mr. Goian maintained his interpretation was the correct one. When

asked about the apparent differing levels in the Pavillions for supermarkets he did not know why this would be the case.

12.4 In this instance the Tribunal confirms the approach adopted by the Respondent. The subject unit is located within a shopping centre complex with its only customer access from the trading mall. It happens to be trading as a supermarket but could just as easily trade in a wide variety of other retail uses. Therefore, the Tribunal agrees that the subject property is more similarly circumstanced to the comparable evidence from within the centre adduced by the Respondent. It is acknowledged by both parties that the entrance to the subject property is less prominent. However, the Tribunal noted the evidence given by Mr. Goian, on behalf of the Respondent, that an allowance had been made to reflect this.

12.5 In relation to the yard, the Appellant referred to the SCSi Measuring Practice Guidance Notes for Gross Internal Areas. The Respondent adduced one example, Dunnes Stores, in support of a separate valuation for the yard. The Tribunal considers the evidence presented in favour of separately valuing the space outweighs that in favour of an inclusive valuation as the comparison adduced by the Respondent is a more relevant form of evidence in the form of a comparative property than the guidance notes.

DETERMINATION:

The Tribunal disallows the appeal and confirms the decision of the Respondent as follows,

Level	Use	Area	NAV (sq.m)	Total NAV (€)
1	Department Store	2,055.14	230	472,682.20
0	Yard	264.31	23	6,079.13
0	Fit Out Allowance	7%	1	33,087.75
Off Licence		1	1	10,000
			Total Nav	€521,849
			Valuation	€521,000

