

Appeal No: VA19/5/1016

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2015
VALUATION ACTS, 2001 - 2015**

Scholars Townhouse Hotel

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of
Property No. 1303006, Hospitality at PT 3B INCL 4-12 King Street, Church Lane, Drogheda,
County Louth.

B E F O R E

Donal Madigan - MRICS, MSCSI

Deputy Chairperson

Frank O'Grady - MA, FSCSI, FRICS

Member

Caroline Murphy - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27th DAY OF SEPTEMBER, 2022

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th day of October, 2019 the Appellant appealed against the determination of the Respondent pursuant to which the Net Annual Value ‘(the NAV)’ of the above relevant Property was fixed in the sum of €102,500.

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: *“The valuation is excessive and inequitable. This is irregular shaped split level which renders it a difficult business to run. The business is heavily staffed which is reflected in the salary costs. The Fleadh in Drogheda has inflated this T/O - a suitable adjustment should be made to reflect this.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €74,000.

2. REVALUATION HISTORY

2.1 On the 29th 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 €103,500.

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 €102,500.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €102,500.

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

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely, on the 5th day of September, 2022. At the hearing the Appellant was represented by Mr. Martin McGowan of Scholars Townhouse Hotel and the Respondent was represented by Ms. Aoife McCrystal 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/her précis as their evidence-in-chief in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts:

4.1 The Property is centrally located in Drogheda approx. 400 metres north east of West Street on the western side of King Street;

4.2 The Property comprises of a three star boutique hotel in a former converted Christian Brothers school, with 16 guest bedrooms, which also has a restaurant, bar and small conference room together with a car park to the front with spaces for about 20 vehicles. The building dates from 1867, having been designed by Ashlin & Pugin, and has been adapted and refurbished as a hotel which is spread over three floors. It is listed as a protected structure in the Louth County Council Development Plan;

4.3 The Property is owner occupied (freehold);

4.4 Trading information for 2015, 2016 & 2017 has been provided by the Appellant which is detailed **only** in the Appendix to this Determination (N/A to public), (visible to the parties) for the reason of preserving confidentiality.

4.5 The applicable process of valuation here, not contested by the Appellant, is the shortened form of the Receipts & Expenditures method where set percentage unit value rates (expressed as percentages) are applied to the different classes of income streams from the Property to derive net annual value. The income streams are indications of the fair maintainable trade ("FMT") that a reasonably efficient operator would hope to achieve from trading in the Property. This is customary in the rating valuation of hotel and hospitality properties.

5. ISSUES

The ultimate issue arising in this appeal is the quantum of the valuation.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references in this Determination to the Valuation Act 2001 are to that Act as amended.

6.2 In Revaluation type appeals, as in this appeal, sec. 37 provides that the Valuation Tribunal must reach a determination having regard to the provisions of sec. 19 (5) of the Valuation Act, 2001, that shall achieve both (insofar as is reasonably practicable)—

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list, and so that (as regards the matters referred to in paragraph (b)) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.

6.3 The net annual value of the Property must 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.”

6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the basis 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. Martin McGowan, for the Appellant, outlined in his precis and oral evidence, his case for the Tribunal, stating that he is the owner of this hotel which he had purchased in 2000. He had initially used the property to house refugees on contract with the Department of Justice for around four years.

He subsequently put the property up for sale but the purchaser abandoned the transaction which left him at a grave disadvantage because offering the property back again on the market was not possible at the time.

He then tried to secure planning permission for a nursing home but, as that was refused, this prompted him to turn the property into a small boutique hotel. His family background was in the hospitality industry, and so he took a chance on this working as it was his only option at that time.

Having secured finance, he commenced the refurbishment but encountered problems as the building is listed as a protected structure and he was restricted at every stage to extend bedrooms or to take down walls to enlarge bedrooms. The building was originally used as a residence for Christian brothers and hence bedrooms were small, being, in fact, referred to as "cells". He tried to incorporate the hall landings, allowing for much larger bedrooms, but was refused this proposal too.

He referred to the fact that the hotel only qualifies for three-star classification with Fáilte Ireland because of the small size of the bedrooms.

He submitted that the property has large hallways, very wide staircases, laundry rooms, kitchens and storerooms, all of which take up half the area of the hotel but do not produce any income. The restaurant only has seating for 60 people. He described that, as it is necessary to keep the restaurant open for regular customers as much as possible, as a result, that restricts the intake of weddings and parties at weekends.

He said that the capacity of the building to host events is very limited by the fact that the restaurant only holds 60 people which is too small for most occasions. The capacity is limited further by the fact the hotel has only 16 bedrooms and that it has no proper function/conference room. He has two other small rooms, for example, the Chef's dining room which holds 8 guests and one other room which holds 20 guests. The Gastro Lounge holds approx. 35 people.

He submitted that the hotel caters for high end dining but that, as a consequence, the wage bill is significant being of the order of € 500,000 for approx. 50 staff. By contrast he contended that if he was operating a Public House with the same turnover, that he could cut the staff by two thirds.

He outlined that the hotel has been the biggest training hotel in Co Louth and has trained many chefs bringing them from a basic level to the highest level in the industry, in addition to helping students at transition year for experience at reception duties etc.

He further asserted that he has been actively involved in the hospitality industry with his son Mark McGowan having been made President of the Restaurant Association of Ireland for the last three years. During the recession he had to re mortgage his house to keep the business and staff and family afloat.

He has been an asset to Drogheda heritage over the years because he has devoted attention to maintaining the historical links of the building for the benefit of tourists. By way of example, he put a fresco of the Battle of the Boyne on the restaurant ceiling, and erected monuments and plaques to famous persons associated with the building including John Philip Holland, inventor of the submarine, Eamonn Ceannt and T K Whittaker. The hotel has also hosted many important persons including the President of Ireland, the Ambassador for Japan, Cardinal Timothy Dolan and others over the years. He produced photographs of these plaques and features in his precis.

He also confirmed that he re-established the lions club in Drogheda after 25 years with a new charter.

He submitted that the hotel was more in the nature of a B & B establishment rather than a hotel and he emphasised the problems in dealing with a listed building and its split level nature with added problems of repairs to an old building (principally the roof) but also replacement of the lifts and the consequent high costs involved, citing a cost of € 28,000 for one lift alone.

7.2 Under cross examination, M/s McCrystal asked Mr. McGowan to confirm whether he was seeking a valuation of € 74,000 set out in his Notice of Appeal. Mr. McGowan contended for the valuation put forward previously by his agents when the appeal was first lodged (that firm no longer act in this appeal) which is a valuation of € 74,000. He was not fixated on this figure, citing a lack of understanding of the process but was content, in the absence of him having a firm alternative figure, for this to be put in evidence on his behalf, no such figure having been advanced in his filed precis. He put it succinctly that he wanted to see some form of reduction.

7.3 In response to a question from the Tribunal as to the date of the Appellant's accounting year end, as it appeared the Fleadh Cheoil was held after the relevant accounting years, Mr. McGowan said he wasn't sure of the year end but that his Accountant would know.

7.4 Mr. McGowan had provided, shortly before the hearing, a letter from a firm of Accountants and Business Advisers dated 28th August this year, purporting to support the contentions that the listing status affected the operation of the Property and that the staff bill for the hotel was extraordinary. This was shown to M/s McCrystal at the hearing.

8. RESPONDENT'S CASE

8.1 M/s Aoife McCrystal, Valuer for the Respondent, outlined in her precis (assisted with maps, block plans, and photographs) and by oral evidence, the basis of assessment of the property describing the nature of the valuation scheme adopted for the valuation of hotels in County Louth. This was to estimate the fair maintainable trade (FMT) for the various functions in the property (accommodation, food, drink, sundries) after analysis of returns made by occupiers for this category of property, and then to apply unit value rates (percentages) to each stream of estimated income to derive net annual value.

In addition to outlining the location, description, tenure and other matters she clarified that this valuation scheme was developed from financial information supplied in 11 out of 18 cases in Louth. She confirmed that no rental evidence was available on hotel properties in Louth. The valuation scheme for hotel properties in Louth is the same as the one utilised in the Revaluation 2017 project where 101 hotels in counties including Leitrim, Longford & Westmeath were valued. All were either accepted or agreed with no outstanding Valuation Tribunal Appeals. The scheme was developed from 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) led the Commissioner of Valuation to believe that the shortened method of valuation was the most appropriate.

The following valuation scheme is applicable to all hotels in County Louth.

Income Stream

Rooms 10%

Conference/Room Hire 10%

Food 5%

Beverage 7%

Leisure & Spa 15%

Sundry 15%

The above percentages were deemed appropriate to apply to the Fair Maintainable Trade (FMT) in each property. The subject is one of two hotel properties in Louth appealed to the Valuation Tribunal.

8.2 M/s McCrystal contended for a valuation of € 102,500 (the figure currently appearing in the Valuation List) as at the valuation date of 15th September, 2017, which she calculated as follows:

	FMT €		NAV €
Accommodation	440,000	@ 10%	44,000
Food	750,000	@ 5%	37,500
Drink	300,000	@ 7%	<u>21,000</u>
	1,490,000		102,500

8.3 In support of her valuation, M/s McCrystal made reference to the Net Annual Value of four comparable properties from the Valuation List, in summary form, as follows:

Comparable No. 1 PN 1278488

The Westcourt Hotel, West Street, Drogheda.

Three Star hotel with 27 bedrooms, restaurant, bar, function room and adjacent nightclub (separately assessed) which is valued at an NAV of € 222,000 that is calculated as follows:

	FMT €			NAV €
Accommodation	600,000	@	10%	60,000
Food	1,650,000	@	5%	82,500
Drink	1,120,000	@	7%	78,400
Sundry	12,000	@	15%	<u>1,800</u>
	3,382,000			222,700 rounded to € 222,000.

This valuation was not subject to representations nor an appeal.

The NAV equates to 6.56% of the total FMT.

The NAV equates to € 8,222 per bedroom.

Comparable No. 2 PN 1278655

The Boyne Valley Hotel, Dublin Road, Drogheda.

Three Star hotel located south east of the town and approx.. 3.5 Kms from the subject property with 56 bedrooms, restaurant, bar, function room and leisure centre (separately assessed), which is valued at an NAV of € 134,500 that is calculated as follows:

	FMT €			NAV €
Accommodation	750,000	@	10%	75,000
Food	600,000	@	5%	30,000
Drink	350,000	@	7%	24,500
Conference hire	5,000	@	10%	<u>5,000</u>
	1,750,000			134,500

This valuation was not subject to representations nor an appeal.

The NAV equates to 7.68% of the total FMT.

The NAV equates to € 2,401 per bedroom.

Comparable No. 3 **PN 1279834**

The Village Hotel, Market Street, Carlingford, Co. Louth.

Two Star hotel located approx.. 65 Kms north east of Drogheda, with 17 bedrooms, restaurant and bar, which is valued at an NAV of € 80,500 that is calculated as follows:

	FMT €		NAV €
Accommodation	150,000	@ 10%	15,000
Food	575,000	@ 5%	28,750
Drink	525,000	@ 7%	<u>36,750</u>
	1,250,000		80,500

This valuation was subject to representations by Avison Young but no appeal.

The NAV equates to 6.43% of the total FMT.

The NAV equates to € 5,750 per bedroom.

Comparable No. 4 **PN 2182107**

The D Hotel, Drogheda

Four Star hotel located on south bank of the River Boyne in Drogheda, with 111 bedrooms, restaurant, bar, and function room, which is valued at an NAV of € 394,000 that is calculated as follows:

	FMT €		NAV €
Accommodation	2,400,000	@ 10%	240,000
Food	1,300,000	@ 5%	65,000
Drink	900,000	@ 7%	63,000
Sundry	175,000	@ 10%	<u>26,250</u>
	4,775,000		394,250 rounded to € 394,000.

This valuation was subject to representations by Avison Young but no appeal.

The NAV equates to 8.25% of the total FMT.

The NAV equates to € 3,549 per bedroom.

8.4 Under cross examination, Mr. McGowan asked M/s McCrystal to confirm that the subject property could not hold conferences which she confirmed. In answer to a question from the Tribunal as to the reason for the amendment of the valuation from €103,500 to €102,500, M/s McCrystal confirmed she had made an allowance on the rooms and that she had taken account of costs in the valuation.

9. SUMMARY OF CASES.

(a) In summing up, Mr. McGowan said that staff costs were higher because of the smaller rooms in the Property as it is an older building and that it operated more like a B & B than a hotel.

(b) In summing up, M/s McCrystal said the subject property was a tastefully presented 16 bedroom hotel. She said the valuation scheme was developed from financial information supplied in 11 out of 18 cases in Louth. She said all were either accepted or agreed. The result of this analysis (including the carrying out of full receipts and expenditure valuations) led the Commissioner of Valuation to believe that the shortened method of valuation was the most appropriate. She said all hotels were valued on the same basis and asked the Tribunal to affirm the valuation.

10. SUBMISSIONS

There were no legal submissions in this case.

11. FINDINGS AND CONCLUSIONS

11.1 On this appeal the Valuation Tribunal must 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.

11.2 As is the case in many rating appeals before the Tribunal mounted by lay Appellants (i.e. those ratepayers who are not professionally represented by a Valuer or Surveyor) confusion can arise in the understanding of the role of the Tribunal and its scope of power.

A rates bill is comprised of two parts. The first is the **valuation (Net Annual Value)** and the second is the **ARV, the annual rate on valuation**. The total rates payable is a factor of one component multiplied by the other. The jurisdiction of the Tribunal is solely concerned with the correct and equitable determination of the first of these, the **valuation**. The second of these, the **ARV** is fixed annually by the local rating authority and the Tribunal has no function on the determination of this figure. The **ARV** will vary from local authority to local authority and the amount of this will also vary greatly depending on whether the local authority area has been revalued or not. As stated in Section 6. of this Determination above, the basis of the **valuation** is the notional rental value of the property assuming it to be vacant and to let at the valuation date identified in the Valuation Order, (in this case as at 15th September, 2017) or in the case of a local authority area not yet revalued, as at 1st November, 1988.

11.3 The Appellant has thoroughly outlined the history of the Property relaying several occasions where significant challenges were encountered and, faced with these, the Tribunal is sympathetic to his circumstances. He has demonstrated in his evidence how he has sought to deal with these issues and there can be little doubt about his commitment to the community, and to the history and heritage of Drogheda, which is to be admired and welcomed.

11.4 The grounds of appeal set out in his Notice of Appeal of 14th October 2019 draw attention to four main arguments that the valuation is incorrect, in summary, being that:

- (a) The valuation is excessive and inequitable.
- (b) This is an irregular shaped split-level hotel which renders it a difficult business to run.
- (c) The business is heavily staffed which is reflected in the salary costs
- (d) The Fleadh in Drogheda has inflated the turnover and that a suitable adjustment should be made to reflect this.

Taking each of these four main grounds the Tribunal comments as follows:

(a) The valuation is excessive and inequitable

The valuation applied by the Respondent is based on the valuation scheme for hotels developed by the Commissioner of Valuation which involves the estimate of Fair Maintainable Trade for the Property based on an analysis of the returned actual income earned for the various categories of business undertaken at the property. When these estimates are made it is then the application of various unit value rates (expressed as percentages) which are used to determine Net Annual Value. This is further cross checked by reference to the NAV per bedroom and by regard to the NAV as a percentage of the total FMT. It was established at the hearing that this valuation scheme has been accepted by several professional agents as being appropriate for County Louth Revaluation. The Respondent put forward four comparable Net Annual Values of other hotels in the county from which a clear pattern in these assessments was discernible. The Appellant did not submit any detailed calculation in support of a lower valuation, nor did he reference any comparable properties to justify a departure from the adopted tone of values. In these cases, it has been long established that the onus of proof in demonstrating that the Respondent's assessment is incorrect rests with the Appellant and the Tribunal considers that he has not discharged this proof in this appeal.

(b) This is an irregular shaped split-level hotel which renders it a difficult business to run.

No evidence was forthcoming to prove that the historic and split-level nature of the Property contributed to a lower valuation. The Tribunal is satisfied that if the estimated FMT submitted by the Respondent accords with (or is below) actual trading levels around the valuation date that this reflects the earning capacity of the Property and, thereby, the ability to pay a notional rent (net annual value) for the purposes of this rating exercise.

(c) The business is heavily staffed which is reflected in the salary costs.

No direct evidence was forthcoming to prove this point by the Appellant. The letter that was submitted by the Appellant from Accountants & Business Advisers was not conclusive on this point being more in the nature of a hearsay commentary. The letter was tendered late in the appeal process putting the Respondent Valuer at a distinct disadvantage and as the writer of the letter was not giving sworn testimony at the hearing, they could not be properly examined

on the opinion expressed. In answer to a specific question from the Tribunal at the hearing, M/s McCrystal confirmed that she had taken account of costs in the valuation which was not contested by Mr. McGowan.

(d) The Fleadh in Drogheda has inflated the turnover and that a suitable adjustment should be made to reflect this.

From questions at the hearing, it became apparent that the fleadh cheoil was held in August in each of 2018 and 2019 which is **after** the relevant accounting years that were examined for the purposes of calculating an estimated fair maintainable trade and therefore could not be considered to have inflated the figures.

11.5 The Tribunal finds that M/s McCrystal for the Respondent, demonstrated by her evidence that the Property has been fairly assessed in line with the valuation scheme for hotels in County Louth and that the estimated FMT for the various income streams for the Property has been reasonably calculated, borne out by reference to the levels of actual trade and by reference to the four comparable assessments of Net Annual Value.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent at Net Annual Value **€102,500**.