

Appeal No: VA17/5/199

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Patrick L. Durkin

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 1988600, Retail (Shops) at 82ab Main Street, Granard, County Longford.**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14th DAY OF MARCH 2023**

BEFORE

Killian O'Higgins - FSCSI, FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 6th day of October, 2017 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 €7,660.

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 incorrect in comparison to similar properties in the area."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €3,881.

2. RE-VALUATION HISTORY

2.1 On the 12th day of January, 2017 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 €7,660.

2.2 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €7,660.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 30th day of October, 2015.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 The property is located on Main Street, Granard, Co. Longford.

4.3 The property comprises the ground floor unit of a multi-storey end of terrace building

4.4 Ms. Olwen Jones, Valuation Office, for the Respondent, submitted: *“There was no issue with Floor Areas”* Ms. Jones submitted the floor areas as:

Level	Use	Area Sq. M
0	Retail Zone A	39.89
0	Retail Zone B	22.36
Total		62.25

Ms. Jones' submission accords with the details on the Valuation list.

Mr Durkan, the Appellant, submitted Zone A and Zone B measurements of 39.89 Sq. M for each zone – total 79.78 Sq. M. However, an analysis of the Appellant's calculations for Zone B rental value, demonstrates a figure of 22.37 Sq. M for Zone B.

The Tribunal has adopted the areas submitted by Ms. Jones, for the Respondent, as the factual area of the property, accepting Ms. Jones submission that there is no significant difference between the parties on floor areas.

5. ISSUES

In the Notice of Appeal the Appellant stated that the Valuation is incorrect with a property on the opposite side of the street is paying €88 psm and another at €64 psm, both Zone A and described as more realistic.

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 The Appellant, Mr Durkin, relied on two properties, also in Main Street, Granard, to make his case that the valuation of his property was incorrect.
- 7.2 Mr. Durkin submitted that Property Number 1988616 had a current NAV of €88 psm Zone A
- 7.3 Mr. Durkin submitted that Property Number 1988548 had a current NAV of €64 psm Zone A
- 7.4 Mr Durkin contended that the Average NAV Zone A for both these properties was €76 psm and he adopted €76.00 Zone A in calculating the NAV of his property as follows:

Zone	Area Sq. M	NAV/Sq. M	Total
A	39.89	€76.00	€3,032
B	39.89	€37.95	€849
Total			€3,881

It is clear that Mr Durkin has transposed the Zone B floor area with that of the Zone A figure. An analysis of his calculated Zone B figure of €849 suggests a floor area of 22.37 Sq. M ($€849 / €37.95 = 22.37$). This Zone B figure of 23.37 Sq. M figures compares with Ms Jones' submission (and the Valuation List figure) of 22.36 Sq. M. and therefore Mr. Durkin's analysis, is considered by the Tribunal as:

Zone	Area Sq. M	NAV/Sq. M	Total
A	39.89	€76.00	€3,032
B	22.37	€37.95	€849
Total			€3,881

- 7.5 Mr. Durkin also stated that he only opens 3-4 days per week.
- 7.6 Accordingly, Mr. Durkin, the Appellant, submitted that the NAV should be €3,881.

8. RESPONDENT'S CASE

- 8.1 In response to the Grounds of Appeal, Ms. Jones submitted a revised opinion of value, opining that the property was not suitable for zoning due to the presence of a solid structural wall and proposed a revised NAV of €5,600 as follows:

Area Sq. M	NAV/Sq. M	Total
62.25	€90.00	€5,602.50

- 8.2 In response to the submission made by the Appellant to the Tribunal Ms. Jones, quoting that Section 48 (3) of the Valuation Acts 2001 to 2015 (as amended), submitted that the NAV relates to the property in its actual state and the issue of underutilisation cannot be considered by the Commissioner of Valuation.
- 8.3 In response to the rental comparisons from the Valuation List introduced by the Appellant, Ms. Jones submitted:

Appellant's NAV Comparison 1 (PN 1988616)

Ms Jones accepted Mr Durkin's Zone A analysis at €88 psm. however later analysis provided is €150 Zone A. Ms. Jones submitted that the rent dates from 2013 and there is no signed lease in place. Representations were received and a minor reduction of €10 was applied to the NAV – from €3,730 to €3,720 – due to a small reduction in floor area. No appeal was submitted to the Valuation Tribunal.

Ms Jones analysis of the €3,720 NAV was:

Zone	Area Sq. M	NAV/Sq. M	Total
A	20.00	€150.00	€3,000
B	6.77	€75.00	€508
Store	14.41	€15.00	€216
Total			€3,724

Appellant's NAV Comparison 2 (PN 1988548)

Ms Jones accepted Mr. Durkin's Zone A analysis at €64 psm. However later analysis is at €150 psm. Ms Jones submitted that the rent dates from 2011 and there is no signed lease in place and declares that no representations were made and there was no Appeal to the Valuation Tribunal.

Ms. Jones analysis of the €5,940 NAV was:

Zone	Area Sq. M	NAV/Sq. M	Total
A	38.32	€150.00	€5,748
B	1.11	€75.00	€83
Store	7.70	€15.00	€116
Total			€5,947

8.4 Key Rental Transactions were offered in evidence by Ms. Jones. These are transactions on which the Commissioner of Valuation relies to assess the NAV of properties in the List. These transactions are analysed for relativity to the Statutory date, inducements or any other individual features.

Key Rental Transaction 1

PN 2175982			
Address		Main Street, Granard	
Total Floor Area Sq. M		33.07	
Lease commencement		01.06.15	
Term		3 yrs	
Rent pa		€4,200	
NER 30.10.15		€3,875.87	
		Sq. M	
Zone A	€149.00	23.79	
Zone B	€74.50	3.12	
Store	€15.00	6.16	

This ground floor property is a professional office on the same street.

No change to Zone A level on appeal.

Key Rental Transaction 2

PN 2175982			
Address		Main Street, Granard	
Total Floor Area Sq. M		87.87	
Lease commencement		01.06.12	
Term		4yrs, 9 mths	
Rent pa		€10,000	
NER 30.10.15		€9,207.93	
		Sq. M	
Zone A	€192.47	24.88	
Zone B	€96.24	28.87	
Store	€48.12	34.12	

This ground floor retail outlet is located on the same street

Key Rental Transaction 3

PN 2205773			
Address		Main Street, Granard	
Total Floor Area Sq. M		87	
Lease commencement		Jan-14	
Term		Not Set	
Rent pa		€10,200	
NER 30.10.15		€9,207.93	
		Sq. M	
Zone A	€192.47	32.9	
Zone B	€96.24	30.4	
Stote	€48.12	23.7	

This ground floor retail outlet is on the same street, almost directly opposite the subject property. There is no written lease and only verbal agreements since 2008. Rent reduced from €14,400 in 2014.

- 8.5 Ms. Jones submitted that there were 30 retail properties valued in the vicinity at €150 psm Zone A with a small number receiving an end allowance, typically 10%, due to large size. A banking hall (PN 19886590) was valued at €90 psm – 60% of the €150 psm Zone A.

- 8.6 Eight of these 30 properties were the subject of Representations to the Commissioner of Valuation, with a total of four, including the subject property, lodging an appeal at the Valuation Tribunal. One of the four was settled prior to a listed Valuation Tribunal appeal:

PN 1988593 -Main Street, Granard – Tribunal Reference VA/17/5/044

This appeal was settled with an agent representing the occupier. The NAV was reduced from €13,300 to €11,500. Large solid structural wall within Zone A. There are a number of floor level changes, and it was 42m deep.

- 8.7 Ms. Jones provided details of the subject property as it appears on the list:

Level	Use	Area Sq. M	€/Sq. M	NAV
0	Retail Zone	39.89	€150	€5,983.50
0	Retail Zone	22.36	€75	€1,677.00
Total		62.25		€7,660.50
			Say	€7,660

- 8.8 Ms. Jones, for the Respondent, contended that the property is not suitable for zoning and should be valued at 60% of the “established” Zone A Nav – $60\% \times €150 = €90$.

Level	Use	Area Sq. M	€/Sq. M	NAV
0	Shop	62.25	€90	€5,602.50
Total		62.25		€5,602.50
			Say	€5,600

The approach appears to relate to commentary that PN 19886590, a banking hall, is valued at €90/Sq. Zone A.

9. FINDINGS AND CONCLUSIONS

- 9.1 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 Longford County Council.

9.2 The location of the property is not in dispute and there is no significant difference of opinion between the parties as to the description or size of the property - these facts are agreed.

9.3. In determining the rent at which it is estimated a relevant property might reasonably be expected to be let, the best evidence is lettings of comparable premises in the open market. Use of the rental method of valuation depends, however, on sufficient, appropriate, and reliable comparable evidence being available from the marketplace; if it is available then it is top of the evidential hierarchy. Ms. Jones for the Respondent offered such comparable information in her submission of “Key Rental Transactions”. Mr. Durkin did not introduce evidence of comparable premises in the open market.

9.4 Under the Valuation Act 2001, as amended, Section 19(5) requires:

*“.... valuation certificates to 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.”*

9.5 Mr. Durkin, the Appellant, offered evidence of the valuation of two properties from the Valuation List and considered by Mr. Durkin to be comparable, or relative to the value of the subject property.

Mr. Durkin provided analysis of Zone A NAV psm of €88 psm for PN 1988616 and €64 psm for PN 1988548 and averaging the two figures arrived at a Zone A NAV psm of €76 for his property and Zone B of €37.95 psm.

9.6 Confusingly, Ms. Jones for the Respondent states in respect of the Mr. Durkin’s evidence of PN 1988616 *“The Appellant submits a rent of €88 ZA in respect of the*

property which is in line with our analysis of the same rental evidence.” In respect of PN 1988548, Ms. Jones stated: *“The Appellant submits a rent of €64 ZA in respect of the property which is in line with our analysis of the same rental evidence.”* However, in both instances, despite appearing to agree with the Appellants analysis, the evidence provided by Ms. Jones for NAV psm is Zone A - €150, Zone B - €75 and Storage - €15.

- 9.7 The entries on the Valuation List in respect of each of Mr. Durkin’s comparable evidence is:

PN 1988616			
Zone	Area Sq. M	NAV/Sq. M	Total
A	20.00	€150.00	€3,000.00
B	6.77	€75.00	€507.75
Store	14.41	€15.00	€216.15
Total			€3,723.90
		NAV	€3,720

PN 1988548			
Zone	Area Sq. M	NAV/Sq. M	Total
A	38.32	€150.00	€5,748.00
B	1.11	€75.00	€83.25
Store	7.70	€15.00	€115.50
Total			€5,946.75
		NAV	€5,940

The above accords with the analysis provided by Ms. Jones for the Respondent, despite the commentary appearing to agree with Mr. Durkin. The evidence introduced by Mr. Durkin and considered comparable to his property, is contradicted by the data on the Valuation List, referencing the same properties. Accordingly, it is clear that the evidence introduced by Mr. Durkin did not accord with his analysis on Zone A rentals but referred to properties with a Zone A NAV psm of €150.

- 9.8 The evidence on the Valuation List is helpful to the Tribunal in assessing Zone A NAV’s psm in Main Street Granard. It also of assistance to the Tribunal that Mr. Durkin has identified PN 1988616 and PN 1988548 as comparable to his property.

- 9.9 The analysis of Mr. Durkin's comparable properties by Ms. Jones demonstrated a Zone A of €150 psm by reference to details on the Valuation List. Ms. Jones for the Respondent offered evidence of the valuation of other properties on the Valuation List and considered by Ms Jones to be comparable, or relative to the value of the subject property. Key Rental Transactions evidence presented by Ms. Jones, for the Respondent demonstrated Net Effective Rents (NER) providing the basis for applying the appropriate NAV's psm as follows:

October 2015: Main Street, Granard		
Property No.	Zone A	NAV
PN 2175982	€149.00	€3,890
PN 2134436	€192.47	€7,170
PN 2205773	€179.75	€8,100

As all the properties are all on Main Street, Granard, the evidence is of assistance to the Tribunal in affirming a minimum Zone A rate of €149 psm.

- 9.10 For evidence of equity and uniformity Ms. Jones stated that a banking hall (PN1988659) was valued at €90 psm. Data from the Valuation List in respect of this property is:

PN 1988659				
Level	Use	Area Sq. M	€/Sq. M	NAV
2	Office(s)	43.23	€20	€864.60
1rtn	Office(s)	23.65	€30	€709.50
1	Office(s)	42.08	€30	€1,262.40
-1	Store	11.56	€20	€231.20
0	Office(s)	39.51	€60	€2,370.60
0	Bank/Banking Hall	56.81	€90	€5,112.90
Total				€10,551.20
			NAV	€10,550

- 9.11 Ms. Jones provided evidence of an agreement settling a case (PN 1988593/VA17/5/044) before the Valuation Tribunal, in advance of a hearing. The Appellant was represented by an agent and Ms. Jones stated that the NAV had been reduced from €13,300 to €11,500 including an end allowance of 15%. No evidence was offered as to size but Ms. Jones referred to a number of floor level changes and a

depth at of 42m. Given the apparent size and nature of the subject property, and limited data provided, this evidence is of no assistance to the Tribunal.

- 9.12 Ms. Jones submitted that the subject property was not appropriate for a zoning approach given its particular configuration. Ms. Jones described the Zone A rate of €150 psm as ‘established’ and applied a rate of 60% to €150 Zone A rate in arriving at a figure of €90 psm exclusive of a zoning approach. In applying €90 psm to the entire floor area of 62.25 Sq. M, Ms. Jones arrived at revised NAV of €5,600. The NAV as listed in the Final Certificate of Valuation is €7,660.

Area Sq. M	NAV/Sq. M	Total
62.25	€90.00	€5,602.50

- 9.13 In appeals before the Valuation Tribunal, the onus of proof strictly rests with the ratepayer – the Appellant in this case. Mr. Durkin’s evidence referenced comparable properties with a Zone A of €150 psm, as evidenced from the Valuation List, despite Mr. Durkin’s contention otherwise. Mr. Durkin, the Appellant, has failed to prove his case.
- 9.14 However, Ms. Jones for the Respondent reconsidered the valuation approach, dispensed with the zoning method and adopted a rate of €90 psm to the entire accommodation, arriving at a NAV of €5,600. The rate of €90 psm appears to have been adopted from a banking hall also on Main Street, Granard.
- 9.15 In the circumstances, Ms. Jones’ evidence is preferred by the Tribunal.

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 **€5,600**.