

**Appeal No: VA17/5/578**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Crumlin Specsavers Ltd**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2148968, Retail (Shops) at Unit 10, Ashleaf Shopping Centre, Crumlin Cross, Dublin 12, County Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 1<sup>st</sup> DAY OF NOVEMBER 2022**

**BEFORE**

Hugh Markey FRICS FCSI,

**Deputy Chairperson**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 12<sup>th</sup> 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 €37,900

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 ASSESSMENT IS EXCESSIVE AND BAD IN LAW AND SHOULD BE REDUCED. THE ASSESSMENT IS EXCESSIVE HAVING REGARD TO THE RENT ON THE SUBJECT PROPERTY AND OTHER RENTS IN THE CENTRE AT THE VALUATION DATE.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €30,400

## **2. RE-VALUATION HISTORY**

2.1 On the 17<sup>th</sup> April 2013, 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 €41,700

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 €37,900

2.3 A Final Valuation Certificate issued on 7<sup>th</sup> September 2017, stating a valuation of €37,900

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 30<sup>th</sup> 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 Appellant's valuer, Mr Thomas MacLynn of RHM Commercial, submitted his précis of evidence to the Tribunal. In accordance with s. 36 of the Act, this was forwarded to the Respondent. No précis of evidence or submission was submitted. The Respondent's précis was due to be submitted by 22 July 2022. Reminders were issued to the Respondent on 25 July 2022 and again on 02 August 2022. Nothing was received.

## **4. FACTS**

4.1 As no evidence has been submitted by or on behalf of the Respondent, it is not possible to recite any agreed facts, apart from the floor areas and zoning which, according to the evidence of the Appellant, were agreed. The following facts are taken from the Appellant's evidence and are deemed to be accurate.

4.2 The property under appeal is located in Ashleaf Shopping Centre, Crumlin, Dublin 12. The centre is located at the junction of Cromwellsfort Road with Whitehall Road, West. The centre is anchored by Dunnes Stores and has a single covered mall with two pedestrian entrances. The first floor accommodates a restaurant, medical centre and office units. There is a basement car park for 600 cars. The centre was constructed c 2000.

4.3 The area of the Property and the zoning has been agreed as follows:

Total area: 128.55 sq. m.

Zone A 43.92 sq. m.

Zone B 43.92 sq. m.

Zone C 39.56 sq. m.

Remainder 1.14 sq. m.

The witness noted there was a separate first floor remote staff and office area extending to 28.43sq. m.

The Property has frontage of approximately 7m.

## **5. ISSUES**

5.1 The sole issue in dispute is the quantum of the NAV

## **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 MacLynn noted how the tenant had entered into a full repairing and insuring lease for a term of 15 years from 18<sup>th</sup> January 2016 at a headline rent of €35,000pa. The lease contained tenant breaks in the 5<sup>th</sup> and 10<sup>th</sup> years and the tenant was granted a 12 month rent free period.

He noted that this lease was on comparable terms to those as set out in s. 48 of the Act.

7.2 The witness analysed the letting as representing a net effective rent (NER) of €28,000pa, having allowed for the rent free period over the term certain of 5 years. He pointed out that the Respondent had the incorrect rental figure in its records (€57,138), despite being provided with the full details at representations stage.

7.3 He quoted from the judgment in the matter of VA17/5/1080 where the Tribunal reduced the rate applied from €500 per sq. m zone A to €410 per sq. m. zone A. The judgment found the blanket zone A rate applied by the Respondent did not reflect actual rental variations in the centre.

7.4 Mr. MacLynn included a plan of the centre and suggested there was a difference in the 3 distinct malls; the Whitewall Road West mall, where this unit is located, being the weakest. This plan is included at Appendix 1 of this judgment (n/a to public).

7.5 The witness introduced 7 rental transactions in the centre which occurred between November 2013 and January 2015. These are included at Appendix 2 of this judgment (n/a to public). Of these, he considered 4 to be of limited assistance as they were likely lease renewals or regears with existing tenants. He focussed on the 3 lettings within 8 months of the valuation date as being the best evidence of the rental values pertaining at the relevant time.

7.5 Mr MacLynn then considered a breakdown of the current valuations in the centre- these are included at Appendix 3 of this judgment (n/a to public).

7.6 Mr. MacLynn contended for a NAV of €28,200/zone A rate of €330 per sq. m to be applied to the subject. This included applying 34% of the zone A rate to the first floor 'remote area' as had been applied in PN 2148930 & PN 2148697.

His valuation is:

Level	Use	Area (m <sup>2</sup> )	Price (€/m <sup>2</sup> )	NAV
0	Zone A	43.92	€330.00	€14,494
0	Zone B	43.92	€165.00	€7,247
0	Zone C	39.57	€82.50	€3,265
0	Zone D	1.14	€41.25	€47
1	Remote Area	28.43	€112.20	€3,190
			Total	€28,243
			Say	€28,200

## 8. RESPONDENT'S CASE

8.1 No submissions were received from or on behalf of the Respondent.

## 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 South Dublin County Council

9.2 The Tribunal finds that the blanket application of a single zone A rate in a shopping centre is not appropriate. Retail is particularly nuanced and values can change from one part of a shopping mall to another. While, in theory, zoning should take account of different configurations and frontage to depth ratios, a singular application can lead to serious error. Better regard should have been had for the actual rental evidence close to the valuation date in considering what appropriate zone A rates should have been applied in the centre. A consideration of overall rental rates would also have assisted.

9.3 From the evidence adduced, it is clear from the market evidence of lettings in the centre that there is a wide divergence in the zone A tone. The Tribunal regards the open market letting evidence of the subject unit within 3 months of the valuation date to be the best evidence of its Net Annual Value in accordance with the Act and finds that the rate contended for by the Appellant to be fair and accurate.

9.4 The Tribunal also accepts the use of the ratio of 34% of zone A to be applied to the remote area at first floor.

## 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 €28,200 as set out below:

Level	Use	Area (m <sup>2</sup> )	Price (€/m <sup>2</sup> )	NAV
0	Zone A	43.92	€330.00	€14,494
0	Zone B	43.92	€165.00	€7,247
0	Zone C	39.57	€82.50	€3,265
0	Zone D	1.14	€41.25	€47
1	Remote Area	28.43	€112.20	€3,190
			Total	€28,243
			Say	€28,200

Net Annual Value €28,200 (Twenty Eight Thousand Two Hundred Euro).

And the Tribunal so determines.