

Appeal No: VA20/4/0093

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Kevin and Sandra Miller T/A The Butterbean

APPELLANT

and

Commissioner Of Valuation

RESPONDENT

In relation to the valuation of
Property No. 2004274, Guesthouse/Restaurant/Café at 8 Pound Street, Carndonagh,
Churchland Quarters, Carndonagh, Inishowen, County Donegal

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 15TH DAY OF MAY, 2023

BEFORE

Allen Morgan - FSCSI, FRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of December 2020 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 €110.

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.
- Details stated in the relevant valuation list are incorrect.
- Not Valued in accordance with Valuation Registration.
- Comparisons relied upon are not comparable.
- Valuation does not reflect the tone of the list of comparable properties.
- Description in Respondents precis of evidence is incorrect.

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

2. VALUATION HISTORY

2.1 On the 21st October 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 €116

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 €110

2.3 A Final Valuation Certificate issued on the 16th day of November 2020 stating a valuation of €110.

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.

3.3 The documentary summaries of evidence are dated as follows:

- Appellant: 4th May 2022
- Respondent: 24th May 2022
- Appellant: Counter-submission - 31st May 2022.

4. FACTS

4.1 The parties are agreed as to the following facts regarding the Subject Property:

4.2 **Location:** The subject property is located on Bank Place close to “The Diamond” in the centre of Carndonagh, Co. Donegal. The Diamond is a large intersection and convergence of Malin Street (R4238), Chapel Street (R4240) and Bank Place streets in the centre of Carndonagh. Carndonagh is the largest Town at the Northern end of Malin head, 16km South of Malin Head, 18.8km Northeast of Buncrana and 45km Northeast of Letterkenny, on the Inishowen peninsula. The subject is located on in the centre of Carndonagh; other businesses in the immediate area include Apache Pizza, AIB Bank, Bank of Ireland, Ladbrokes, Neal Doherty Gift Shop and Saburritos, as well as a number of public houses. However, it is also noted that two of the adjoining properties to the subject have been vacant for several years, and that Pound Street to the East has seen most of the retail outlets which have closed down.

4.3 **Description and accommodation details:** The subject is a two-storey property with parking to the rear. A restaurant occupies the ground floor, comprising a floor area of 164.84sqm, with an additional 23.52sqm of stores. The restaurant is open during the hours 10am and 8.30pm and holds a full licence.

The first floor comprises of 8 en-suite bedrooms and a communal sitting room, in a floor area of 369.20sqm.

The property also benefits from a large yard for car parking at the rear, accessed through a side passageway on front right-hand side of the building, viewed from Bank Place. The B&B at first floor level can be accessed from the rear of the building via an entrance lobby which provides direct access from the rear car park. Photographs of the carpark indicate it can accommodate approximately 8 cars.

4.4 *Floor Areas*

Description	Floor	M²
Store	0	23.52
Restaurant	0	164.84
Bed and Breakfast	1	369.20
Total		557.56

These floor area details are not disputed by the appellant.

4.5 **Condition** The property is in very good condition throughout, finished in an attractive decor in the restaurant and on first floor.

4.6 **Planning History** The property was previously a bank branch of National Irish Bank (Danske bank). The present occupiers were granted planning permission as of 19/05/2015 for the change of use from ground floor bank and first floor office accommodation to restaurant with first floor bed and breakfast accommodation. This involved significant alterations to convert the building from a retail bank.

5. ISSUES

- Subject not Valued in accordance with Valuation Registration.
- Comparisons relied upon are not comparable.
- Valuation does not reflect the tone of the list of comparable properties.
- Description of subject is incorrect.
- Details stated in the relevant valuation list are incorrect.

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”

6.2 Mr. Patrick McCarroll, Valuer, represented the Appellants. Mr. Andrew Cremin, Valuer, represented the Respondents, the VO.

7. APPELLANT’S CASE

7.1 Valuation: Valued within the relevant legislation, the Appellants witness contends that the correct valuation of the property under appeal is €74, calculated as:

Description	Area m2	NAV per sqm	NAV
Store	23.52	12.70	€299.00
Guesthouse	534.04	27.33	€14,595.00
Total	557.56		€14,894.00
ARV - 0.05			€74

7.2 In his assessment of value as set out above, Mr. McCarroll relies upon 8 comparator properties to support his contention for an RV of €74 for the subject. These comparables are stated to be pertinent in terms of:

- Establishing the Tone of the List
- Sharing similar characteristics
- Being located in Donegal County Council Rating Area
- Ensuring equity and uniformity

7.3 APPELLANT'S COMPARATORS AND COMMENTARY

7.3.1 As a document-based appeal, the respective two precis of evidence were exchanged between the parties in advance and the Respondents opted to provide commentary on the Appellants precis within their submission. This approach by the Respondents may have prompted the subsequent counter-submission by the Appellant to provide commentary on the Respondents submission.

For ease of reference in this judgement, I have juxtaposed Mr. Cremin's observations on each of Mr. McCarroll's 8 comparisons contained in his precis - see below - with Mr. Cremin's corresponding response to Mr. McCarroll's evidence.

This is followed by a summary of Mr. McCarroll's counter-submission on the Respondents observations.

The Appellants and the Respondents comparisons are attached, respectively, at Appendix A and B loaded at the rear of this judgement (n/a to the public.)

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
1	219965	Trasna House	195.00	Hotel	1,187.45	30.00
	9	2* Ballyliffin		Store	169.34	Not stated 10.00?

7.3.2 **Mr. McCarroll's comments:** 2* hotel, located in Ballyliffin, convenient to the world-famous 36-hole Ballyliffin golf club. Modern and purpose-built. Accommodation comprises: Restaurant, Bar, Bedroom accommodation 13 bedrooms.

7.3.3 **Mr. Cremin's comments on Mr. McCarroll's comparator 1:** Modern, purpose built 13-bedroom hotel, with fully licenced bar and restaurant, over 1,357 sqm total floor area.

Located in village centre beside Ballyliffin golf club.

NAV applied to the entire property and valued as a hotel. Characteristics and accommodation type is hotel service in nature along with presence of a public house.

Quite different to the subject restaurant and bed and breakfast.

The subject is a retail type property on the ground floor and is not similar to this comparison.

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
2	191291 9 VA01/3 /057	Point Lodge Quigley's Point	226.00	Licenced Guesthouse	2,069	27.33

7.3.4 **Mr. McCarroll's comments:** The property has a full 7-day licence. It is located at a road junction leading to Derry, Moville, and Carndonagh/Malin Road. The accommodation comprises Bar/Restaurant, Function Room and Bedroom accommodation (15 rooms). The witness references VA01/3/057 but does not provide supporting context or significance.

7.3.5 **Mr. Cremin's comments on Mr. McCarroll's comparator 2:** 15-bedroom hotel with bar, restaurant, and function room. Again, as with comparable 1, this property is not comparable with the subject in terms of its operating, trading, and service to customers as a hotel premises with floor area of 1,600 sqm. It also trades as a public house – quite different from the subject property which is a restaurant with rooms above.

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
3	200409 2	Teac Jack Bunbeg	285.69	Hostel, Land, Licenced House	2,170	27.33

7.3.6 **Mr. McCarroll's comments:** This property is described on their website as a Pub, Restaurant and Hotel. The accommodation is described as an Entrance, Bar, Function Room, Bedrooms 26, Full 7-day licence.

7.3.7 **Mr. Cremin's comments on Mr. McCarroll's comparator 3:** Hostel, Pub, and restaurant. 2,069 sqm. Also comprises 26 bedrooms and a function room.

He refers to a note in agent's comments re comparison 4, wherein agent includes summary of appeal Ref: VA10/1/012 specifically to page 5 of that appeal record which confirms that Mr McCarroll as agent in that case, acknowledged in cross examination that "*Teac Jack may be primarily trading as a Public House, even though registered as a hotel*". As a result, this comparison is not comparable to the subject which is a ground floor restaurant and B&B

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
4	200599 6 VA10/1 /012	Beach Hotel 3* Downings	328.00	Hotel	GF 246.2 4 FF 213.8 0	27.34

7.3.8 **Mr. McCarroll's comments:** The property is a 3* Hotel. It is located in the established seaside resort of Downings. It has the benefit of a caravan park adjoining this property. It has the benefit of substantial infrastructure including golf, caravan parking in immediate area. The trade is seasonal. It has a high standard of fit out. The accommodation comprises Bar, Function room (120 people), Bedroom accommodation (30 ensuite), 7-day licence.

Mr. McCarroll references VA10/1/012, referring to Para 12 of Tribunal judgement: "*The Tribunal was not given any evidence to suggest that the 'tone of the list' for 3-star hotels revised under the 2001 Valuation Act is other than €27.34 per sqm in the coastal region of north-west Donegal.*" In contrast, Mr. McCarroll contends that the subject property is fulfilling the role of a hotel. It has a restaurant. It has accommodation - 8 en-suite bedrooms. It has a licence (restaurant) BUT it is not registered as a Hostel. It operates on a smaller scale. It does not have a full 7-day licence. Accordingly, to ensure uniformity and equity the subject property should command a lower rate per square metre; however, allowing for its size it is Mr. McCarroll's considered opinion that a rate of €27.34 per square metre is the appropriate rate applicable to the subject property.

7.3.9 **Mr. Cremin's comments on Mr. McCarroll's comparator 4:** Hotel situated in centre of Downings seaside resort. 3* Hotel with function rooms, licenced house, restaurant, and caravan park. 40 bedrooms and a floor area of 2,170 sqm. This property is not comparable to the subject as the subject is a restaurant and B&B.

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
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5	501149 1 VO comp 5	River View Dungloe	66.00	Guesthouse/ Hostel	1,015.09 47.04	28.70
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7.3.10 **Mr. McCarroll's comments:** The property is also one of the VO's comparisons - No. 1 (erratum - reference should read No. 5). It is located in the town of Dungloe. It has single and double bedrooms. It has a self-catering unit. It was only inspected externally by agent.

7.3.11 **Mr. Cremin's comments on Mr. McCarroll's comparator 5 :** This is also a comparable used by the valuation office in regard to the subject property. Comprises 460 sqm bed and breakfast over two floors with 10 bedrooms. This comparison has been used to assist with the valuation of the Bed and Breakfast rooms of the subject property which is located on the main retail street in Carndonagh.

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
6	2214127 VO Comp 6	Errigal Hostel, Dunlewy, Gweedore, Dunfanaghy	160.00	Hostel	120.00	30.75

7.3.12 **Mr. McCarroll's comments:** The property is also one of the VO's comparisons - No. 2 (erratum - should read No. 6). It is in an outstanding tourism location. It is described as "Luxury Errigal Hotel". It is Failte approved. It is an An Oige Hostel. It is custom-built. It has had €3m invested in recent years. External inspection only by agent.

7.3.13 **Mr. Cremin's comments on Mr. McCarroll's comparator 6:** This comparable property was also used by the Valuation Office in its list of referenced comparables. Mr. Cremin noted that it is a luxury hostel, comprises 1,152 sqm, comprises 15 bedrooms and a conference room. This comparison has been used to assist with the valuation of the Bed and Breakfast rooms of the subject property which is located on the main retail street in Carndonagh

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
7	2003859 VO Comp 7	Castlebane Dunfanaghy	25.00	Hostel	120	30.75

7.3.14 **Mr. McCarroll's comments:** The property is also one of the VO's comparisons - No. 6 (erratum - should read No. 7). Not inspected by agent.

7.3.15 **Mr. Cremin's comments on Mr. McCarroll's comparator 7:** This comparable property was also used by the valuation office in its list of comparables referenced. This property is a hostel accommodation, comprising of 120 sqm and 15 bedrooms.

Comp	Prop No.	Occupier	Valuation €	Desc.	Area M2	Rate € per sq.m
8	2005407 VA15/4/014	Terence Molloy, Largymore, Killybegs	357.00	Hotel	2,613	27.33

7.3.16 **Mr. McCarroll's comments:** This property is close to Killybegs. It has a full 7-day licence. The accommodation comprises a Restaurant, Function Rooms, Bedrooms (15). The witness references VA15/4/014, attaching an extract from the Determination of that case, seemingly indicating that it supports his content for an NAV of €27.33 per sqm. as he has assessed for the Subject.

7.3.17 **Mr. Cremin's comments on Mr. McCarroll's comparator 8:** This is a hotel located 4 miles from Killybegs, in a rural location. It is primarily used as a wedding venue and doesn't open during the week. Property consists of 24 acres, 15 bedrooms and 2 function rooms. The floor area is 2,613 sqm. I consider that this property is not a suitable comparable as it operates as a hotel, specialises in functions, primarily weddings and small concerts and is located in a rural area. As a result, this property is not comparable to the subject property as the subject is a restaurant and B&B.

7.4 **Mr. McCarroll's counter-submission to Mr. Cremin's Precis of Evidence and comments.**

7.4.1 **Re: Subject Property:** Mr. McCarroll draws attention to the following – The Appellants are Sandra and Kevin Miller, not 'the Butterbean'. The property is described as "... holds a full licence" yet in the comments section, the subject property is described as restaurant and bed and breakfast with no mention of the licence.

In the photographic section, (3.7) the bottom photograph clearly shows a bar/counter, and the presence of this bar is again ignored in the comments section.

7.4.2 **Re Mr. Cremin's comments on Appellant Comp No. 2 PN1912919 - 'The Point Lodge'.** Mr. McCarroll refers to VA01/3/057 which confirms that in that Tribunal case dated 28.2.2002 the property is clearly described in the determination as a "Licenced Guesthouse" - not a hotel as described by the Valuation office. He also states that the accommodation of this property comprises 15 bedrooms, Bar/restaurant and function room. The subject property has 8 bedrooms, bar/restaurant and a licence.

7.4.3 **Re Mr. Cremin's comments on Appellant Comp No. 3** Teac Jack. Valuation Tribunal determination VA10/1/012. In that case the property is described in the Valuation Office records as a:

Hostel, land, licenced house. Mr. McCarroll thus contends that he is being quoted out of context. He states that on 1.6.1999 he forwarded details of the turnover for year ending 30.4.1998 as follows:

Bar	£365,136	66%
Restaurant	£139,530	25%
Accommodation	£56,818	10%

In the above context, Mr. McCarroll does not dispute that the licenced turnover was a substantial part of the overall turnover. This property had 26 bedrooms, function room, bar and restaurant. The subject property has 8 bedrooms, bar/restaurant and a licence.

7.5 Mr. McCarroll's further observations on Mr. Cremin's comparisons.

7.5.1 **Comp 1. PN 2004195** The photo shown is not a photograph of PN2004195, and witness states that the picture is actually a photo of the witness's former office

7.5.2 **Comp 2 PN 2198694** This is not comparable to the subject property.

7.5.3 **Comp 3 PN1900484** This was an appeal to the Valuation Tribunal VA01/3/053. The valuation as determined by the Valuation Tribunal was €72.00. It was revised in 2004 and the valuation is €55.00. It is not comparable to the subject property. It is not in close proximity to the subject property - in Mr. McCarroll's submission to the Valuation Tribunal in that appeal he described it as "...some 300 metres from the town centre..." There is a separate entrance to the upper floors and at the time of the Appeal to the Valuation Tribunal there was no connection/association between the ground and first floor. In both submissions to the Valuation Tribunal there was no mention of "... rooms above ..."

7.5.4 **Comp 4 PN 2004228** Mr. McCarroll states that it is misleading as being across the street from the subject property. At the time of the subject valuation, the property across the street, McDonagh's, a substantial premises was and is still vacant. The property PN 2004228 occupies the best location in the centre of the town and is in an area known as "The Diamond." It is in single occupancy and there is extensive residential accommodation at first and second floor level. It is not comparable to the subject property.

7.5.5 **Comp 5 PN5011491** Also in the Valuation Office's valuation report as Comparison No. 5, Mr. McCarroll contents that to describe this property a "located in a somewhat rural location" is misleading, as it is within walking distance from Main Street, Dungloe.

7.5.6 **Comp 6 PN 2214127** Mr. McCarroll asserts that the photo shown is NOT of Errigal Youth Hostel and that to suggest that the building in the photograph has an area of 1,062 sqms is difficult to comprehend. In contrast he states that the comments in his own report are valid and describe the property correctly.

7.5.7 **Comp 7 PN2003859** Mr. McCarroll contends that the photo shown in the VO precis is not of a property having a Total Floor area of 120 sqms, and that the NAV of €41.66/sqm reflects an area of 120 sqms.

7.6 Mr. McCarroll’s summary observations in his counter-submission

7.6.1 Mr. McCarroll contends that the Valuation Office has not produced one single comparison or valuation practice that this type of property is valued in the proposed manner. He refers to Mr. Cremin’s statement in the VO precis - citing Section 49 of the Valuation Act, 2001-2009 specifically the following *“The valuation of the subject property is determined by reference to the values, as appearing on the valuation list relating to the same Rating Authority area as the property is situate in, of other properties comparable to that property.”*

7.6.2 Mr. McCarroll, referring to Mr. Cremin’s evidence, states that:

1. VO Comparable 5 is comparable.
2. VO Comparable 6 is not as detailed in the photograph but is “comparable to the subject property” and reflect the established “Tone of the List.”
3. That the valuation submitted by the VO is a hybrid made up of two different types of hereditaments.
4. The subject property is a single hereditament in single occupancy, trading as The Butterbean.
5. The principal access to the upper floor is through the ground floor and can only be let as a single hereditament.
6. The Block Plan in the VO’s precis of evidence clearly shows the stairs to the bed and breakfast as being through the restaurant.
7. This property can only be valued as a single property.

7.6.3 In his concluding comments, Mr. McCarroll takes issue with some of the evidence introduced by the Valuation Office. He claims that some of the VO photographs do not give an accurate depiction of some of the properties and he questions whether the properties have been inspected by the Valuation Office.

8. RESPONDENT’S CASE

8.1 The Respondent’s witness, Mr. Cremin, states that the evidence provided in the Appellant’s representation was carefully considered. He has presented an assessment of the NAV of the subject as follows:

Floor	Description	Area m2	NAV per sqm	Total NAV €
0	Restaurant	164.84	63.48	10,464.04
0	Store	23.52	41.00	964.32
1	B & B	369.20	30.75	11,352.90
			Total NAV	22,781.26
			RV	113.91
			RV say	110.00

- 8.2 Mr. Cremin notes that the particulars relating to the subject property were not challenged {such as Floor areas or other matters of fact, rateability, subdivisions etc.}
- 8.3 He notes that the valuation level applied to the kitchen and store was disputed and a lower level was proposed.
- 8.4 He notes that the first-floor bed and breakfast valuation was not accepted, and it was proposed to be exempt from any valuation.
- 8.5 He notes that following examination of the evidence provided, and consideration of the grounds put forward by the occupier, the Valuation Manager decided to amend the valuation on the subject property. The valuation level applied to the kitchen and stores was reduced. The valuation manager responded that the bed and breakfast was valued in line with the “Tone of the List” and accordingly no change would be applied. The restaurant was assessed in line with retail tone.
- 8.6 He notes that a single Comparable property was provided by the occupier, which supported the valuation and accordingly no change was applied to the restaurant, but the identity of this single comparable was not cited.
- 8.7 Mr. Cremin describes the subject property as a restaurant with 8 bedrooms overhead on a busy street in a town centre.
- 8.8 He notes that the occupier’s own website refers to the property as the Butterbean Restaurant and B&B. As a result, he believes that the property must be valued in line with similar type properties in the general locality as per S49 of the Valuation Act 2001, as amended.
- 8.9 He notes that the ground floor of the property is retail in nature and must be valued as such.
- 8.10 He states that the subject property is not a hostel or hotel as per the appellants submission and cannot be valued as such.
- 8.11 He considers that the existing valuation reflects this retail use on the ground floor with the rooms above being valued at a comparable level for rooms of this type.
- 8.12 He states that Mr. McCarroll has offered no comparable evidence relating to retail property.
- 8.13 He notes that evidence of Equity and Uniformity Properties which are ‘similarly circumstanced’ are considered comparable. This means, he states, that they share characteristics such as use, size, location and/or construction. #
- 8.14 He notes that, in addition to the relevant market evidence which underpins the valuation scheme, this report also sets out comparative evidence to demonstrate that both correctness and equity & uniformity of value have been achieved in this case. He notes that the details of these Comparison properties are provided in his precis of Evidence. (see Appendix B – n/a to public)

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 Donegal County Council.

9.2 It is noted that following an initial appeal by the Appellants, the Respondents amended the NAV of the subject property from €116 to €110 to reflect a reduction in NAV of Kitchen/Stores at G/F level. No reduction was conceded on the 1st floor bed and breakfast accommodation.

9.3 In arriving at this determination, I have taken into account the following evidence submitted by the parties:

9.3.1 ***Agreed size and use of the subject property.*** It is noted that both parties agree that the subject property is a building of 557 sqms. in size, comprising a ground floor restaurant/bar with first floor bed and breakfast/guesthouse accommodation. I note evidence submitted by the Respondent that the subject property has the benefit of a full licence to sell alcohol.

9.4 *Comparators.*

9.4.1 It is noted that the Appellant's witness has chosen to focus on hostels, hotels and guest houses at various locations in County Donegal. It is noted that he has not included any properties in Carndonagh. I attribute some weight to this omission since a central aspect of this appeal relates to the value of the ground floor retail.

9.4.2 The Respondent's witness has placed a primary importance on properties located in Carndonagh. However, he has included three further properties, all being hostels located in the wider County Donegal area, which are also included on the Appellants list of comparator properties.

9.4.3 It is noted that all of the Appellants comparators lie in an NAV range of between €27.33 and €30.75 per sqm. It is also noted that the Respondents comparators lie within a wide NAV range of between €28.70 and €129 per sqm.

9.4.4 It is noted that the majority of the Appellants' comparators range in size from approx. 1,000 to 2,500 sqms other than two, hostels at Dungloe and Dunfanaghy, which measure 460 and 120sqms respectively. Regarding the sizes of the comparators provided by the Respondents' witness, it is noted that the Carndonagh properties lie in a range between 95-278 sqms.

9.4.5 It is noted that there are 3 comparator properties which are referenced in both submissions. All three properties are all hostels in County Donegal, one in Dungloe and two others in Dunfanaghy. According to Mr. McCarroll's evidence they have NAVs of €28.70, €30.75 and €41.44 per sqm. It is noted that Mr. Cremin, whilst he also included these comparators, also stated that they are of assistance but only as

regards the 'tone' of the NAVs relating to the B & B use. He places most weight in his Carndonagh comparators in relation to the ground floor retail uses and related NAVs. I consider that the Respondent's Carndonagh comparisons are of significance and relevance.

- 9.4.6 It is noted that neither party makes any mention in their submissions apropos the three common hostel comparisons as to whether or not any of these has the benefit of a licence to sell alcohol. It was also noted that is some discrepancy between the two submissions on the identity and area details of the common comparator properties; however, I place limited weight on this.
- 9.4.7 It is noted that Mr. Cremin in his submission stated that Mr. McCarroll provided no comparable evidence for ground floor retail use and that the comparables that were submitted did not reflect the location or use of the subject. It was Mr. Cremin's contention that the retail use of the ground floor of the subject could not be ignored. I attribute weight to this omission on the part of Mr. McCarroll.
- 9.4.8 It is noted from the submissions that the parties do not agree on the nature/degree of the access to the first floor accommodation. Mr. Cremin asserts in his submission that the subject property has separate access. Mr. McCarroll contends that the subject property is a single hereditament in single occupancy, trading as The Butterbean, and that the principal access to the upper floor is through the ground floor and thus can only be let as a single hereditament. He states that a Block Plan in the VO's precis of evidence clearly shows that the stairs to the bed and breakfast is through the restaurant, which he says, supports his contention that the subject property can only be valued as a single entity. Whilst this may be a factor in terms of degree, I place little weight on this item.

10 DETERMINATION:

- 10.1 Given that the onus of proof rests with the Appellant, I have determined that this onus has not been discharged. Accordingly, I disallow the appeal and confirm that the net annual value '(the NAV)' of the above Subject Property should be fixed in the sum of €110.

RIGHT OF APPEAL

In accordance with section 39 of the Valuation Act 2001 any party who is dissatisfied with the Tribunal's determination as being erroneous in point of law may declare such dissatisfaction and require the Tribunal to state and sign a case for the opinion of the High Court

This right of appeal may be exercised only if a party makes a declaration of dissatisfaction in writing to the Tribunal so that it is received within 21 days from the date of the Tribunal's Determination and having declared dissatisfaction, by notice in writing addressed to the Chairperson of the Tribunal within 28 days from the date of the said Determination, requires the Tribunal to state and sign a case for the opinion of the High Court thereon within 3 months from the date of receipt of such notice.