

Appeal No: VA19/5/0240

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Paschal Bermingham

APPELLANT

and

Commissioner of Valuation

RESPONDENT

**In relation to the valuation of
Property No. 651554, Retail (Shops) at 88 Main Street Lower, Arklow, County Wicklow,**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17th DAY AUGUST OF 2023**

BEFORE

DONAL MADIGAN - MRICS, MSCSI

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 7th day of October, 2019, the Appellant, who is the owner of the Property, 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 €14,320.

1.2 The grounds of appeal as set out in the Notice of Appeal are 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:

“Estimated rental value is way too high. The actual rent currently is €800/ month (€9600 p.a.) and tenant is struggling to pay at this level.

The shop was vacant for circa 2 years before existing tenant moved in due to lack of demand. The proposed valuation, based on estimated market rental value is way above the actual market rental for this property. If the current business closed it would be very difficult to find a

replacement tenant as there are many vacant shops in Arklow at present. The cost of rates annually is a huge burden on business.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,600.

2. RE-VALUATION HISTORY

2.1 On the 15th 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 €15,350.

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 €14,320.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €14,320.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th day of September 2017. (Wicklow County Council Valuation Order).

3. DOCUMENT BASED APPEAL

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

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

3.3 As this appeal was received after 16th September, 2019, the Valuation Tribunal (Appeals) Rules 2019 apply.

4. FACTS

From the evidence submitted the following are the basic facts relating to this appeal:

4.1 The subject property is centrally located in Arklow on Lower Main Street at the intersection with Bridge Street.

4.2 The property comprises a retail unit on the ground floor of a main street shop building with display frontage to Lower Main Street and Bridge Street.

4.3 The accommodation is as follows:

Ground Floor

Retail	Zone A	33.37m ²
	Zone B	59.85m ²
	Zone C	<u>37.86m²</u>
	Total:	131.08m ²

4.4 The Property is let under a lease the details of which are set out in Section C of the Appendix to this Determination (N/A to public)

5. ISSUES

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

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references hereinafter to a particular section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, modified, or re-enacted by the Valuation (Amendment) Act, 2015 and other statutes.

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 Section 19(5) inserted by section 7 of the of the Valuation (Amendment) Act 2015 as follows:

“The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and 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 (the **NAV**) of the Property must be determined in accordance with the provisions of section 48 (1) of the Act as amended 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 expected to let from year to year, on the assumption that the probable average 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. Paschal Bermingham, the Appellant, submitted a detailed precis of evidence citing comparable rental comparisons in Arklow and also supplementary information to verify the details provided in a very thorough and precise manner.

7.2 Mr. Bermingham had grounded his appeal in the Notice of Appeal received by the Tribunal on 7th October 2019 as set out in section 1 above.

7.3 His precis of evidence dated 16th May, 2022 had submitted, in summary, the following points:

- (a) the valuation proposed by the Valuation Office is excessive because it does not reflect the true market rental value of the property and that he is providing actual rents for this property and similar properties in Arklow to demonstrate his case;
- (b) he is not examining the method of calculation adopted by the Respondent's Valuer [that being the use of zoning analysis] but to offer the comment that this gives rise to an excessive valuation;
- (c) he described the property and location by reference to photographs confirming the corner location and that the shop is "L" shaped with the main retail area being long and narrow with a section amounting to approx.. 40m² on the back at the right hand side which is used for storage and which he maintains should be classified as Zone C;
- (d) he confirmed that there is no outdoor space with the unit nor is there any other access into it other than by the front door;
- (e) he then outlined an occupational history of the property stating that it had been a bookshop for a few years up until that business failed in 2008, with a vacancy occurring until it was re-let as a Polish food shop in 2009, with that business failing in 2010, followed by a further vacancy until July 2012 when a Husqvarna outlet opened but then closed in 2013, culminating in the letting to the current occupier in April 2014 after a further vacancy period;

- (f) he submitted that the rent has always been € 9,600 p.a, since 2015 and that he considers that the occupier could not afford to pay any increase in rent and that he has granted reliefs to the Tenant in the past including full relief during the Covid-19 pandemic in order to sustain the business and maintain occupancy;
- (g) he submits that were this business to close, that it would be very difficult to secure a replacement at the current rent of € 800 per month;
- (h) he contends that the rates based on the NAV of € 14,320 are a substantial burden on the tenant (of some € 3,265 on his calculation) and represent 34% of the actual rent payable which he deems to be excessive and unjustified and that, by contrast, rates based on his rental of € 9,600 would give rise to rates payable of € 2,189;
- (i) he contends that the vacancy rate in Arklow is the highest in County Wicklow being 16% contrasted to Greystones at 7% ;
- (j) it has been his priority [as Owner/Landlord] to charge a fair rent and maintain occupancy in business premises, and
- (k) that it is incumbent on the rating authority and the local authority to do (as per (j) above) likewise.

7.4 In his reply, dated 24th January, 2023 to the Respondent's precis, Mr. Bermingham had indicated that he did not wish to add anything further but to confirm that he had already submitted detailed information and comparables to support his view and to restate that the property is occupied by Joe's Bike Shop at the rent of €800 per month (€9,600 / year). He outlined that this rent had not changed since the shop opened after multiple business failures in these premises; that the occupier had informed him that his business for the 2022 year was way down on the previous year and that he required relief, by way of a rent reduction, in order to stay open.

7.5 He further asserted in his response to the Respondent's precis that he could not understand how the NAV proposed could be a figure of €14,320 when the current rent is €9,600 and that, consequently, that this is a serious burden and may have to be reduced further. He further submitted that there is very little demand for retail property in Arklow and that his main objective is to try to keep the current tenant trading, because, he maintains that, if this tenant closes it is likely that he will face a long period of vacancy. He concluded by asking the Tribunal to reduce the valuation and support small business.

7.6 The Appellant contended for a valuation of € 9,600 on the basis that this is the actual current rent for the property, and he submitted the following six comparable properties to support his view, redacted summaries of which appear here with more precise details set out in Section A of the Appendix to this Determination (N/A to public), such Appendix being for the parties only:

1. Lower Main Street, Arklow.

Shop of c.230m² currently trading as a clothes & wool outlet in the same location being much larger than the subject property with rear yard and rear access.

The rent for this shop has been € 11,440 per annum for over 5 years.

2. Main Street, Arklow.

Shop on Main Street and trades as a clothes/fashion outlet with area of c. 93m² with rear yard and rear access. Previously a hair salon let at the rent of € 800 per month. Lease states rent is € 900 per month but this was reduced to € 800 per month in an effort by the Landlord to support the business. The rent has been € 800 per month both before/ after the valuation date.

3. Main Street, Arklow.

This is a shop of c. 72m² trading since 2018 and rent has remained at € 650 per month and rent review forgone to facilitate tenant's business.

4. Main Street, Arklow.

This is a shop of c. 62m² which was previously let at € 650 per month in 2018 but following closure was re-let at € 600 per month with rent reviews not being implemented and full relief granted during the Covid-19 pandemic. A further reduction granted recently to € 400 per month for a period of six months to assist the Tenant.

5. Main Street, Arklow.

This is a shop of c. 130m² which has been let to the same Tenant on a rolling annual basis for in excess of ten years at the rent of € 650 per month up until it closed with no rent increases over that period.

6. Main Street, Arklow.

Shop adjacent to the above unit which is c. 93m² in area and let at € 650 per month.

8. RESPONDENT'S CASE

8.1 Mr. David Maguire, Valuer for the Respondent, submitted a detailed precis of evidence which contained the standard Declaration and Statement of Truth in accordance with Rule 41 of the Valuation Tribunal (Appeals) Rules 2019, in which he outlined, with reference to maps, a block plan and photographs, the characteristics of the Property encompassing location, description, accommodation, condition, valuation basis etc in addition to statistics on the Wicklow rating area and an explanation of the valuation process.

8.2 Mr. Maguire also addressed the issues raised in both the original Representations to the Proposed Valuation Certificate as well as in the Notice of Appeal to the Final Valuation Certificate, as further developed also in the Appellant's Precis.

8.3 Mr. Maguire contended for a Net Annual Value of € 14,320 as the valuation of the Property as at the valuation date of 15th September 2017. He calculated this as follows:

<u>Ground Floor</u>			€
Retail	Zone A	33.37m ² @ € 180.00	6,006.60
	Zone B	59.85m ² @ € 90.00	5,386.50
	Zone C	37.86m ² @ € 45.00	<u>1,703.70</u>
			13,096.80
	+ addition for return frontage		<u>1,230.79</u>
			14,327.59
Net Annual Value rounded to			€ 14,320.

8.4 In support of his valuation, Mr. Maguire relied on three Key Rental Transactions (KRTs) and a further five NAV comparables drawn from the Valuation List. Suitably redacted summaries are set out hereunder with more precise details, for the benefit of the parties only, are provided in Section B of the Appendix to this Determination (N/A to public)

1. KRT Number 1. Off Lower Main Street, Arklow.

This property comprises a shop and store comprising a total floor area of 30.14m² which was let on a one year lease from 1st December 2015 at the rent of € 5,100 per annum reflecting a net effective rent of € 4,808.53 at the valuation date. This is assessed at the NAV of € 4,370 and the rent analysis and NAV breakdown are as follows:

<u>Ground Floor</u>	NER per m ²	NAV per m ²
Retail Zone A	19.53m ² @ € 187.80 per m ²	€ 180.00 per m ²
Retail Zone B	9.29m ² @ € 93.90 per m ²	€ 90.00 per m ²
Store	1.32m ² @ € 20.00 per m ²	€ 20.00 per m ²

2. KRT Number 2. Lower Main Street, Arklow.

This property comprises a ground floor shop with a total floor area of 120.87m² which was let on a one year lease from 15th July 2018 at the rent of € 11,400 per annum reflecting a net effective rent at the valuation date of € 10,270.42. This property is assessed at the NAV of € 11,250 and the rent analysis and NAV breakdown are as follows:

<u>Ground Floor</u>	NER per m ²	NAV per m ²
Retail Zone A	30.61m ² @ € 164.00 per m ²	€ 180.00 per m ²
Retail Zone B	42.96m ² @ € 82.00 per m ²	€ 90.00 per m ²
Retail Zone C	36.35m ² @ € 41.00 per m ²	€ 45.00 per m ²
Remainder	10.95m ² @ € 20.50 per m ²	€ 22.50 per m ²

3. KRT Number 3. Main Street, Arklow

This property, located diagonally opposite the subject property, comprises of a ground floor shop with a total floor area of 55.18m² which was let on a 4 year & 9 months' lease from 23rd February, 2018 at the rent of € 7,800 per annum reflecting a net effective rent of € 7,243 at the valuation date. This property is assessed at the NAV of € 7,710 and the rent analysis and NAV breakdown are as follows:

<u>Ground Floor</u>	NER per m ²	NAV per m ²
Retail Zone A	31.23m ² @ € 170.00 per m ²	€ 180.00 per m ²
Retail Zone B	22.51m ² @ € 85.00 per m ²	€ 90.00 per m ²
Retail Zone C	1.44m ² @ € 42.50 per m ²	€ 45.00 per m ²

4. NAV Comparable Number 1. Property Number 651423 Main Street Arklow.

This property comprises of a ground floor shop with a total floor area of 105.37m² which is assessed at the NAV of € 12,210 that is calculated as follows:

<u>Ground Floor</u>	NAV per m ²
Retail Zone A	36.60m ² @ € 180.00 per m ²
Retail Zone B	32.20m ² @ € 90.00 per m ²
Retail Zone C	35.57m ² @ € 45.00 per m ²

Addition for return frontage € 1,126.66

5. NAV Comparable Number 2. Property Number 651552 Lower Main Street, Arklow.

This property comprises of a ground floor shop with a total floor area of 267.87m² which is assessed at the NAV of € 15,310 that is calculated as follows:

<u>Ground Floor</u>	NAV per m ²
Retail Zone A	35.72m ² @ € 180.00 per m ²
Retail Zone B	25.65m ² @ € 90.00 per m ²
Retail Zone C	33.72m ² @ € 45.00 per m ²
Remainder	91.20m ² @ € 22.50 per m ²
Office	5.60m ² @ € 20.00 per m ²
Store	78.98m ² @ € 20.00 per m ²
Addition	€ 1,398.71

6. NAV Comparable Number 3. Property Number 651376 Main Street, Arklow.

This property comprises a ground floor shop with stores on two floors overhead with a total of 168.19m² which is assessed at the NAV of € 13,690 that is calculated as follows:

<u>Ground Floor</u>	NAV per m ²
Retail Zone A	32.12m ² @ € 180.00 per m ²
Retail Zone B	31.11m ² @ € 90.00 per m ²
Retail Zone C	31.72m ² @ € 45.00 per m ²
Remainder	3.64m ² @ € 22.50 per m ²

First Floor

Store	42.40m ² @ € 60.00 per m ²
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Second Floor

Store	27.20m ² @ € 39.00 per m ²
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7. NAV Comparable Number 4. Property Number 651728 Main Street, Arklow.

This property is assessed at the NAV of € 7,710 that is calculated as follows:

<u>Ground Floor</u>	NAV per m ²
Retail Zone A	31.23m ² @ € 180.00 per m ²
Retail Zone B	22.51m ² @ € 90.00 per m ²
Retail Zone C	1.44m ² @ € 45.00 per m ²

8. NAV Comparable Number 5. Property Number 651467 Lower Main Street, Arklow.

This property comprises a ground floor shop which has a total floor area of 59.99m² that is assessed at the NAV of € 7,770 which is calculated as follows:

<u>Ground Floor</u>	NAV per m ²
Retail Zone A	28.60m ² @ € 180.00 per m ²
Retail Zone B	28.52m ² @ € 90.00 per m ²
Store	2.87m ² @ € 20.00 per m ²

9. SUBMISSIONS

There were no legal submissions in this case.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the Property to achieve, insofar as is reasonably practical, a valuation that is correct, equitable and uniform 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 Wicklow County Council.

10.2 As is the case in many rating appeals before the Valuation Tribunal mounted by lay Appellants confusion can sometimes arise in the understanding of the role of the Tribunal and its scope of power. A rates bill/invoice 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 bill, i.e. the amount 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. 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, which in this case is as at 15th September, 2017. Notwithstanding this, the Tribunal understands what will ultimately concern any Ratepayer (or Owner/Landlord, as is the case here) after a Revaluation, is the change in his/her monetary liability (indirectly, too) from the previous position. The scope of authority for the Tribunal in dealing with rating appeals is clearly set out in section 37. of the Valuation Act 2001, as amended. In the case of revaluation type appeals, this is concerned only with the valuation of the Property, and that scope is limited to achieving a determination of value that accords with section 19(5) as set out in section 6. above. The Tribunal does not have authority to amend/reduce a rates bill, as such, but is **only** concerned and empowered to deal with ascertaining the correct, equitable and uniform **valuation** (net annual value) of the Property. The Tribunal has no other discretionary power in addition to that dictated by sec. 37.

10.3 The Valuation Tribunal is an independent body separate from the rating authority, who collect, receive, and apply the rates income, and is also separate from the Commissioner of Valuation (Valuation Office/Tailte Eireann) who value the various commercial properties for rates purposes.

10.4 Accordingly, the exercise in this Determination requires the Tribunal to examine and review the evidence put forward by the Appellant and to ascertain if this persuades it, on valuation grounds, that the NAV proposed by the Respondent is to be changed, because the onus in rating appeals rests with the Appellant to prove their case.

10.5 The matters in dispute in this appeal relate only to quantum of the valuation (NAV) and particularly the relevance of the actual passing rent as well as rents quoted from other transactions and how the comparable properties are to be interpreted or analysed, because the floor areas and other basic facts regarding the subject Property are not being challenged.

10.6 The assembly of comparable information by both Appellant and Respondent will involve investigating transactions leading up to the valuation date of 15th September, 2017 and the inclusion of data after the valuation date is also necessary, in the absence of sufficient information leading up to that date, and this approach is indeed sanctioned by sec. 19 (5) of the Valuation Act 2001 in that it provides that:

(5) The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned,

The Final Valuation Certificate in this appeal issued on 10th September, 2019. Taking account of the time usually required to complete the negotiations and, subsequently, the ensuing legal formalities, (if Solicitors engaged) for a commercial property lease or letting agreement, it does not seem logical or realistic to dismiss the value indicators from transactions that are completed within a reasonable time after the valuation date, especially if:

- (a) they relate to bargains being struck/agreed at the valuation date and/or
- (b) they endorse a trend of values that would have been apparent to both the hypothetical landlord and the hypothetical tenant envisaged in the rating hypothesis, at the valuation date.

10.7 The fact that the Appellant can point to the actual rent of the Property as his primary basis of appeal (but not limited to this information in isolation) makes a persuasive argument for questioning the level of the net annual value, considering the rent is at € 9,600 versus the net annual value at € 14,320. However, it is long established in rating that one rent cannot be conclusive until it is weighed against the other rents available from which to ascertain a pattern

of values. The Appellant's other rents were not readily challenged as to their veracity by the Valuer for the Respondent but mainly declined on the grounds of the timing of transactions when contrasted to the valuation date. Whilst the Appellant put forward rents of comparable properties, he did not reference their precise floor areas which are clearly available on the Valuation Office (now Tailte Eireann) website nor did he make reference to their corresponding net annual value assessments (NAVs) and how these were computed.

10.8 By consulting the Valuation List online the Appellant could have investigated the net annual values of the comparable properties cited in evidence because in the case of properties valued by the comparative method, such information is readily available unlike in the case of properties valued by reference to earning capacity where the trading information must be kept confidential. Accordingly, by examining the Valuation List for his comparables from the Property Numbers identified by the Valuer for the Respondent, it is clear that the unit value per square metre Zone A (with usual halving back for zones, B, C etc and lesser unit rates per square metre on ancillary areas) has been uniformly adopted by the

Commissioner of Valuation for the Appellant's comparables numbers 1-5 inclusive (no. 6 not traceable) namely:

Comparable Number 1 NAV € 15,310	Zone A € 180	
Comparable Number 2 NAV € 8,030	Zone A € 180	
Comparable Number 3 NAV € 7,710	Zone A € 180	
Comparable Number 4 NAV € 7,130	Zone A € 180	
Comparable Number 5 NAV € 13,420	Zone A € 180	(plus € 108 per m ² overall on large retail area)

It is also clear that, in the case of Comparables, 1, 3 & 4 above that these were, in fact, subject to representations with no further appeal and in the case of No. 3 & 4 those representations were made by the Appellant according to the precis prepared by the Valuer for the Respondent and not challenged in response by the Appellant. Whilst the rental evidence does not precisely match the net annual values, partly because of timing of transactions, the vast majority of the unit values endorsed by rents correspond, within normal valuation parameters, with the net annual values assessed on the properties.

10.9 The Valuer for the Respondent relies on three rental transactions which provide a rental range of Zone A € 164 to € 170 up to € 187.80 per m², the highest being for a much smaller unit and being somewhat removed from the subject Property. These relate to transactions occurring in 2015 and two in 2018. These three rental comparators are each assessed at the Zone A rate of € 180 per m². In the case of KRT No. 3 the Respondent Valuer adopted the current rent without regard to rent increases in the lease and therefore can be said to have been conservative in his stance. He has applied this unit value Zone A rate of € 180 per m² to value the subject property by use of Zoning and it is noted from the plan provided in his precis that his approach has used the correct configuration of zones from Lower Main Street. The rental evidence supports the revised valuation scheme of using a Zone A rate of € 180 per square metre and equity and uniformity has been demonstrated by his five net annual value comparables. He has added for return frontage a sum under 10% to reflect that this has been adopted in line with his 4th Comparable (NAV Comparable No. 1).

10.10 If preference is to be given to certain comparables, then, without declining the others adduced in evidence, the following are the most compelling:

- (a) the Appellant's Number 1 being close to the subject property but having been let in 2014, quite some time before the valuation date of 15/09/17 and adopting the Respondent Valuer's analysis of the NAV, this is very relevant as it had been the subject of representations;
- (b) Appellant Number 2, being smaller than the subject but in the same general area and adopting the Respondent Valuer's analysis of the NAV being lower than the rent;
- (c) Appellant's Number 3, being smaller than the subject property but being in close proximity to it, endorses the level of Zone A adopted by the Respondent Valuer, having been let within a short period of the valuation date and having been subject to representations;
- (d) the Respondent Valuer's KRT No. 2 being close to the subject property and very similar in floor area but less prominence/profile than it and having been subject to representations;

(e) the Respondent Valuer's KRT No. 3 & NAV No. 4 taken together are for a smaller property but close to the subject property and rent and NAV are very close in the analysis and the valuation was also subject to representations;

(f) Respondent Valuer's NAV No. 2 being relevant as per the comments in 10.10 (a) above;

10.11 The Appellant has made a comprehensive case with much supporting material to vouch his rental information. When this is properly analysed by reference to the floor area information provided by the Respondent Valuer it is found that this does not support a decrease in the valuation. What emerges from an examination of the rents and NAV assessments is that, taking account of the location, size, building and profile the subject Property has been correctly assessed, based on the adoption of a Zone A rate of € 180.00 per m², halving back for the other two zones and an addition for return frontage. The Tribunal does not consider that an alteration in the manner of how these zones are configured is required nor does it accept that the rear right hand side of the unit should be valued only as storage because, following the rating hypothesis of viewing the property being available "vacant and to let" at the valuation date, it is considered that this area would rank to be treated as retail by any landlord or tenant. Furthermore, it was not demonstrated by the Appellant how the absence of additional storage would prejudice normal use of the unit. Much information has been provided by the Appellant for the history of rents before and after the valuation date but the Tribunal is only concerned to determine a net annual value applicable at the one valuation date, and not to reflect changed circumstances such as the Covid-19 pandemic which could not have been anticipated back in 2017. All retail properties in the town that fall to be valued for rates will be subject to the vagaries of the market such as demand, vacancies and market movements and the purpose of the revaluation is to capture the effects of these in the level of rents prevailing at the time of valuation from which to base the NAV. Close examination of the Respondent Valuer's calculations indicate that he has approached the valuation of the Property fairly and therefore the Tribunal is not persuaded to alter the figure proposed by him as it cannot find grounds to do so.

DETERMINATION:

Accordingly, for the above reasons, the Valuation Tribunal disallows the appeal and affirms the valuation of the Property by the Respondent as stated in the valuation certificate.

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.