**Appeal No: VA19/5/1441**

**AN BINSE LUACHÁLA**
**VALUATION TRIBUNAL**

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

| | |
|---|---|
| **Easons** | **APPELLANT** |

**and**

| | |
|---|---|
| **Commissioner of Valuation** | **RESPONDENT** |

**In relation to the valuation of**
Property No. 2110811, Retail (Shops) Abbeylands, Watergate Street, Navan, County Meath (the Property).

B E F O R E

| | |
|---|---|
| **John Stewart - FSCSI, FRICS, MCI Arb** | **Deputy Chairperson** |
| **Barra McCabe - BL, MRICS, MSCSI** | **Member** |
| **Killian O'Higgins - FSCSI, FRICS** | **Member** |

**JUDGMENT OF THE VALUATION TRIBUNAL**
**ISSUED ON THE 20TH DAY OF NOVEMBER 2023**

## 1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 €236,000.

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 determination of valuation is deemed incorrect having regard to the quantum and nature of the property as an external unit removed from the main Shopping Centre and by reference to the emerging tone of the list of similarly circumstanced properties."*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €146,342 (amended to €154,243 at the hearing).

**2. REVALUATION 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 €329,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation suggesting a level of €146,342 which was increased to €152,000 at the hearing. Following consideration of those representations, the valuation of the Property was reduced to €236,000.

2.3 A Final Valuation Certificate issued on the 10th day of September 2019 stating a valuation of €236,000, reduced to €231,900 at the hearing.

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 8th day of November 2022. At the hearing, the Appellant was represented by Mr. Niall Brereton MRICS, MSCSI, Dip ARB LAW of Bannon and the Respondent was represented by Mr. Andrew Cremin 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 précis as his evidence-in-chief in addition to giving oral evidence.

**4. FACTS**

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.

4.2 The Property is part of the Navan Town Centre retail development in central Navan, in an area within the boundary of Kennedy Road (south), Abbey Road (north and west) and

Watergate Street (east). It was developed in or around 1980 and has been extended on a number of occasions. Navan Town Centre comprises a total of approximately 65 internal and external mall units with anchor tenants that include Dunnes Stores, Penneys and Tesco. The total floor area is approx. 15,800 $m^2$ or 170,000 $ft^2$., with approximately 1,450 car spaces in two multi-storey car parks.

4.3 Navan is the principal town in County Meath and the location of the administrative headquarters of Meath County Council. Navan Town Centre is the dominant retail scheme in County Meath

4.4. The Property is located to the east side of the service multi-storey car park entrance and forms the ground floor retail element of one of the multi-storey car parks adjacent to the main retail area and opposite the rear wall of the Penney's store. A first-floor pedestrian bridge at the multi-storey car park links it to the main shopping centre.

4.5 Following a direction of the Chairperson at the conclusion of the hearing, by email from Mr. Brereton, copied to Mr. Cremin, dated 15 November 2022 the floor areas mutually agreed between the parties are set out below.

| **Level** | **Zone** | $m^2$ |
|---|---|---|
| 0 | Zone A | 351.3 |
| 0 | Zone B | 351.3 |
| 0 | Zone C | 162.1 |
| 0 | Store | 11.3 |
| | **Total** | **876.0** |

The Property has an unusually large linear frontage of 57m and shallow depth providing a frontage to depth ratio of approximately 1.00: 0.26.

4.6 The premises is held under lease dated 20th day of October 2000 and described as *Multi-storey Car Park 1-6, Navan Shopping Centre, Co. Meath*. The term is 35 years from 1st June 1999, without break and with 'upward only' rent reviews at the end of each fifth year. The initial rent was IEP£ 168,750pa and the current rent is €250,000pa, a rent dating from the first review in 2004. The tenant is responsible for repairs and service charge. As of the date of valuation the service charge was approximately €15,500pa plus VAT.

4.7 The Property is a retail store selling books and stationery, with finishes including plastered and painted walls, fitted shelving, suspended acoustic tiled ceiling and laminate floor coverings. The floor to underside of ceiling height is approximately 2.95m

**5. ISSUES**

5.1 The Appellant appealed the determination of the revaluation of €236,000 in the Final Valuation Certificate on the grounds that the valuation was incorrect stating in the Notice of Appeal to the Valuation Tribunal –

*"The determination of the valuation is deemed incorrect having regard to the quantum and nature of the property as an external unit removed from the main shopping centre and by reference to the emerging tone of the list of similarly circumstanced property."*

**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 Brereton is a Chartered Surveyor with experience in rating and valuation. He confirmed that he was instructed by the Appellant. He provided amended floor areas (agreed with Mr Cremin) in his Précis of Evidence at Pages 5, 9, 10 and 18 to reflect a total floor area of 876 $m^2$ with Ground Floor Retail of 864.70 $m^2$ and a Storeroom of 11.30 $m^2$ (see paragraph 4.5 above). Accordingly, Mr. Brereton revised his ITZA NAV to €275 psm (reduced from €300 psm) – with a 40% (increased from 33%) discount on an ITZA NAV rate of a €460 psm. Accordingly, Mr. Brereton amended the NAV in his Précis from €151,620 to €154,243. Thereafter, he adopted his revised Précis of evidence subject to these corrections.

7.2 Mr. Brereton stated that the Shopping Centre is fifty meters from the Property which, in addition is linear in shape with a frontage or width of approximately 57m and a depth of approximately 15m providing a frontage to depth ratio of 1.0: 0.26.

7.3 Mr. Brereton referenced a Society of Chartered Surveyors Ireland Information Paper entitled "Retail Zoning for the Chartered Surveyor" (SCSI Information Paper) and enclosed a copy at Appendix 4 of his Précis (n/a to public). Mr. Brereton suggested that, based on guidance in the paper, the optimum frontage to depth configuration was 1:3. In this case this would suggest 5m would be the ideal frontage given the 15m depth, whereas the Property, at 57m frontage, was more than ten times the 5m ideal frontage. In addition, Mr. Brereton provided the following quotation from the SCSI Information Paper: *"It is felt that in the region of 1,000 Sq. M of a single level unit should be the limit for the application of zoning"* As the property at 876 $m^2$ was within what he described as "*touching distance*" of this advised limit, Mr. Brereton said that the Property should be considered borderline and a unit unsuitable for zoning.

7.4 Mr. Brereton stated that from an economic perspective, as at the date of valuation the economy was on an upward trajectory however this was tempered by uncertainty as to the impact of Brexit on the Irish economy.

7.5 In the absence of letting evidence for similarly sized external units, not within the main mall, Mr. Brereton said that he had regard to the "Emerging Tone of the List" for other large retail stores in the locality.

7.6 In supporting his contended valuation, Mr. Brereton provided details of four properties, details of which are contained at Appendix 1 (n/a to public), which he considered comparable to the Property and in his opinion, represented the 'emerging tone of the list'. He stated that the comparative properties in his evidence had larger floor areas compared to the Property but similar or lower valuations. He further stated that the exercise starkly demonstrated the disparity caused by a failure of the Valuation Office to apply a substantial discount to the property to reflect what he considered to be the highly unusual frontage to depth ratio.

| PROP NO. | SQ M | RATEABLE VALUATION | | NAV/ Sq. M | COMMENTS |
|---|---|---|---|---|---|
| 2181699 | 442.3<br><br>539.0<br>981.3 | Ground - Retail<br><br>First - Store | €68,405<br><br>€40,025<br>€108,400 | €460<br>ITZA | Same scheme as subject<br>Larger in size than the subject<br>NAV represents 46% of that applied to the subject. |
| 2181698 | 597.3<br><br>288.8<br>1,193.7<br>331.0<br>2,410.8 | Ground – Shop<br><br>Ground – Store<br>First – Shop<br>Mezz- Office | €71,680<br><br>€34,656<br>€143,244<br>€15,888<br>€265,468 | €120<br><br>€120<br>€120<br>€48 | Same scheme as subject<br>Floor area is 2.75 times that of the subject however NAV is only approx. 10% more. |
| 1943385 | 1,887.2<br><br>272.1<br>124.9<br>2,284.2 | Ground – Shop<br><br>Ground – Store<br>Mezz - Office | €226,464<br><br>€32,647<br>€5,997<br>€271,000 | €120<br><br>€120<br>€48 | Same scheme as subject<br>Floor area is 2.6 times that of the subject however NAV is only approx. 15% more. |
| 1943281 | 1,123.0<br>165.9<br>330.6<br>467.0<br>2,086.5 | Ground – Supermarket<br>1st floor office<br>1st floor store<br>2nd store | €106,685<br>€7,880<br>€15,703<br>€22,182<br>€165,600 | €95.00<br>€47.55<br>€47.50<br>€47.50 | Situated on Trimgate Street in the town centre.<br>Floor area is 2.4 times that of the subject however NAV is almost 30% less |

7.7 In summarising his contentions, Mr. Brereton stated:

i. The property has suffered an exorbitant increase in rates liability of 276% based on the revaluation proposed.

ii. The property is an external unit and has an unusual frontage to depth ratio compared to that anticipated in the SCSI Information Paper.

iii. A substantial discount is warranted based on the emerging tone of the list, which indicates that the Property is not sufficiently discounted to reflect its highly unusual configuration.

7.8 Mr. Brereton stated that a fair and reasonable assessment of the NAV was:

| Floor | Area $m^2$ | NAV P.S.M. ITZA | NAV P.A. |
|---|---|---|---|
| Ground Floor ITZA | 567.475 | €275* | €153,725 |
| Storeroom/Ancillary | 11.30 | €46 | €518 |
| **Total** | 578.775 | | €154,243 |

* Approximately 40 % discount off the €460psm Zone A rate

Albeit acknowledging that Mr. Brereton is contending for an amount of €154,243, based on the agreed floor areas provided by Mr Brereton and agreed with Mr. Cremin (paragraph 4.5) the Tribunal's analysis of Mr Brereton's evidence based on the revised floor areas and his NAV psm ITZA of €275psm is:

| Floor/Use/(Level) | Area $m^2$ | Zone | NAV P.S.M. | NAV P.A. |
|---|---|---|---|---|
| Ground Retail (0) | 351.3 | A | €275.00 | €96,607.50 |
| Ground Retail (0) | 351.3 | B | €137.50 | €48,303.75 |
| Ground Retail (0) | 162.1 | C | €68.75 | €11,144.38 |
| Ground Store (0) | 11.3 | n/a | €46.00 | €519.80 |
| **Total** | **876** | | | **€156,575** |

In calculating the €275 psm NAV Zone A, Mr Brereton applied an allowance of 40% against the Zone A rate of €460 by reference his comparative evidence at PN 2181699.

7.9 Under cross examination by Mr. Cremin, Mr. Brereton stated that only his first comparative PN 2181699, was assessed on a zoned basis. None of the others were calculated on a zoned basis. PN 2181699 was an external unit – ground and first floor. NAV's applied to ground and first floors were €68,400 and €40,000 respectively based on a €460 psm Zone A basis. Mr.

Brereton accepted that 55% of the overall accommodation at PN 2181699 was on first floor and was storage, not retail. He also accepted that the first floor had a NAV of only €8 psm and is an irregularly shaped unit. He said that the lower total NAV was only partly as a result on of a lower valuation being applied to first floor – but also stated that if the ground floor area of this unit at 442 $m^2$ was doubled in size it would provide an area of approximately 880 $m^2$ (similar to the 876 $m^2$ at the Property) – a doubling of the NAV would provide a NAV figure of €216,000, less than that proposed for the Property for similar space. Mr Brereton stated that he considered the NAV for this comparative property, PN 2181699, at €108,000 offered much better value for the occupier compared to NAV proposed for the Property. In response Mr. Cremin indicated that the selection of a unit to occupy was simply a matter of tenant's choice.

7.10 Mr. Brereton confirmed that the approximate floor areas of his second comparative, PN 2181698, were 886 $m^2$ at ground floor, 1,193 $m^2$ at first floor, and a mezzanine of 331 $m^2$. Mr Brereton stated that the ground floor of this unit was not zoned and suggested that this was because the overall area of the unit significantly exceeds the 'in the region of 1,000 Sq. M' threshold suggested in the SCSI Information Paper. He agreed that the overall size of this unit was approximately 2.7 times the size of the Property.

7.11. Mr Brereton agreed with Mr Cremin that the NAV for the ground floor of this unit was €120 psm and that a similar NAV applied to the store at Ground Floor and the first-floor retail area. The mezzanine office area was valued at €48 psm.

7.12 Mr Brereton agreed that the NAV for stores in excess of 1,000 $m^2$ at Navan Town Centre, where zoning did not apply, was consistent at €120 psm.

7.13 Mr Brereton agreed with Mr. Cremin that the third NAV comparative, PN 1943385, which extended to 2,284 $m^2$, was 2.6 times larger than the Property, which was not zoned, The ground floor alone of this comparative property extended close to 2,000 $m^2$. Mr Brereton posited that if a hypothetical tenant (retailer) was looking for a unit with a similar NAV that this NAV comparative illustrated the disparity for a unit that was 2.6 times larger than the Property, The NAV of the comparative property was only 15% more at €271,000, compared to the Property, which the Respondent contended had a NAV of €236,000. In reply Mr Cremin stated that occupiers look at rent before rates and pointed out that three of the comparative units introduced by Mr. Brereton were department stores that were not subject to zoning.

7.14 In relation to Mr. Brereton's fourth comparative unit, PN 1943281, Mr Cremin pointed out this unit was not part of Navan Town Centre, had a double frontage onto Trimgate Street, but the rear opened on to a plaza south of Kennedy Road, adjacent to Navan Town Centre. In reply, Mr. Brereton provided details of the individual floor areas confirming an overall area of 2,086 $m^2$. He contended that the Ground Floor of this unit, which extended to 1,123 $m^{2,}$ should be compared with the Property which had a ground floor area of 876 $m^2$. The NAV for this Ground Floor comparative was €95 psm or a total of €106,685 compared to the €236,000 NAV proposed for the property, more than twice the level of NAV of comparative 4.

7.15 In response to Mr. Cremin stating that the level of rent applying for a zoning approach was 1,000 $m^2$, Mr Brereton referenced the SCSI Information Paper which stated, 'in the region of 1,000 Sq. M' and that 1,000 $m^2$ and 876 $m^2$ were 'not a million miles away'. Accordingly, Mr. Brereton argued that the Property was close to a department store size and a department store NAV psm should be adopted. Mr Cremin said that he and Mr. Brereton would have to agree to differ and wondered, in the context of the 1,000 $m^2$ stipulated where would 'in the region of'' start and stop. Mr. Cremin's view was that this might be somewhere in the 990 $m^2$ to 999 $m^2$ bracket.

7.16 Mr Cremin asked Mr. Brereton if there was ever an issue with frontage to depth in relation to Department Stores comparatives he had introduced. Mr Brereton stated that he was not aware of any such issue but agreed that they were not currently designated as retail units, but he was not familiar with previous history of the comparative units.

7.17 Mr Cremin referenced s.7.2 of Mr. Brereton's Précis and quoted from the final bullet point: *"The evidence adduced from the 'Emerging Tone of the List' indicates that the current NAV applied to the subject property is not discounted sufficiently to reflect it's highly unusual configuration and in particular the unusual frontage to depth ratio."*

7.18 Mr Cremin said that he struggled to see any emerging tone of the list in the comparative evidence provided by Mr. Brereton. Mr Brereton stated that this boiled down to an inadequate allowance for the frontage to depth issue, and that the valuation scheme was too rigid in respect of a highly unusual unit.

7.19 In response to a query raised on sourcing comparative information, Mr. Brereton said that it had not been possible to find a retail unit with similar characteristics in the Co. Meath list or elsewhere. Mr Brereton advised that he had never seen the Property's configuration in a property previously and Mr Cremin agreed that he had not experienced such a configuration either.

7.20 Mr Cremin queried Mr. Brereton on the SCSI Information Paper and the fact that he and Mr. Brereton never had a reason to differ on the matter previously. Mr Brereton agreed but neither he nor Mr. Cremin had ever been involved in a property where the frontage to depth ratio was so extreme. He also stated that the SCSI Information Paper did not specify 1,000 $m^2$ but 'in the region of 1000 $m^2$' and Mr. Brereton contended that the 876 $m^2$ at the Property was 'in the region of 1,000 $m^2$.'

7.21 Responding to Mr. Cremin's query on how he calculated the allowance for disparity, Mr. Brereton referenced the SCSI Information Paper, which suggested that the allowance should reflect +/- 10% if the frontage to depth ratio was less than 1: 2, whereas 1: 3 was stated to be the ideal configuration. Mr Brereton pointed out that the SCSI Information Paper stated that if a unit was particularly wide and shallow, a substantially larger discount may be appropriate. Mr Brereton agreed with Mr. Cremin that the SCSI Information Paper was not prescriptive because it did not specify a specific front to depth discount and left it to the valuers' judgement.

7.22 Mr Cremin put it to Mr. Brereton that he (Mr. Brereton) had applied 33% discount (amended to 40% at the hearing) and Mr Cremin asked for comparable evidence for the 33% discount. Mr. Brereton said the discount was applied to try to be fair to the unit. Comparative PN 2181699 was on the ground floor and if it was doubled in size (884.6 $m^2$) it would be equivalent to the Property and doubling the NAV would produce a figure of close to €140,000 NAV compared to the €236,000 NAV proposed for the Property.

7.23 A dispute arose between the two valuers over the allowance applied by the Valuation Office with Mr. Brereton contending that the valuation office had reduced the allowance to 10% in the Final Certificate from 15% in the Draft Certificate. Mr. Cremin stated that a 10% allowance had applied since the Property was first listed. Mr Cremin said that following representations the Zone A rate of €700psm was reduced to €460psm. Mr. Brereton acknowledge that the Zone A was reduced but that the allowance had been reduced from 15% to 10%.

7.24 Following directions by the Chairperson at the conclusion of the hearing, the position was confirmed by email by Mr Brereton, which was copied to Mr Cremin, on 15 November 2022. Mr. Cremin confirmed: "*I have checked through the original valuation notes and found a reference I had not spotted previously. The original draft does indeed refer to a 15% allowance along with the higher value at that time of €700psm in Zone A. When they opted to reduce the draft valuation at REPs stage, it was reduced overall in a split manner. The ZA value psm was reduced to €460psm while also applying the lower 10% reduction to the allowance for a combined lower total NAV valuation.*"

7.25 In response to queries from the Tribunal Mr. Brereton said that both he and Mr Cremin would confirm the agreement on floor areas in writing. Mr Brereton confirmed that his application of frontage to depth allowances was between 5% and 20% but he had never been involved with a property offering such disparity between frontage and depth, and in his experience the unit was truly unique. Mr Brereton also provided examples of the type of units to which the SCSI Information Paper in the region of 1,000 $m^2$ threshold applied, which were department stores, but also supermarkets and other uses. He said that retail units where the floor area was less than 1,000 $m^2$ would be zoned ITZA. Mr Brereton could not offer a precedent for a 33% (amended to 40% at the hearing) allowance, but he observed that neither could he provide an example of a property with such a disparity between frontage and depth. The unit was designed as six individual units but amalgamated into a single unit.

7.26 Mr Brereton confirmed that in terms of the current configuration, the retail frontage is 46 metres with a further 11 metres of frontage, which formed part of the storage area where the window display was occluded. Mr Brereton explained the difference between 'Guidance Notes' and 'Information Papers,' issued by the Society of Chartered Surveyors Ireland and the Royal Institution of Chartered Surveyors. Mr. Brereton advised that an Information Paper suggested best practice in approaching valuations providing useful parameters but were not prescriptive. Mr. Brereton stated that the SCSI Information Paper did not envisage the extreme disparity evident in this instance.
Mr Brereton confirmed that PN 2181699 had return frontage and the remaining comparative evidence was either department stores or supermarkets.

The Tribunal pointed to small discrepancies in comparative evidence NAV's compared to that on the public list. PN 2181699 was NAV €65,455.13 at Ground floor and €43,123.20 at first floor – total €108,500. In relation to PN 2181698 has €13,250 in additional items and the NAV was €278,000 as opposed to the €265,468 quoted by Mr. Brereton.

**8. RESPONDENT'S CASE**

8.1 Mr. Cremin stated that the Property was a wide and large, single storey, retail unit located outside the main Navan Town Centre building. It forms the ground floor area below a multi-storey car park adjacent to the rear of a department store (PN 1943385) which lies within the main Navan Town Centre building. Frontage was 57m but internal shelving had reduced visibility into the unit to 22m. The staff area, office and store are separated from the main shop by a stud partition, and a concrete block storeroom adjoins the external gable at one end of the building.

8.2 Floor areas provided by Mr. Cremin were:

As outlined in Paragraph 4.5 the following floor areas were agreed between the parties:

| **Level** | **Zone** | **m²** |
|---|---|---|
| 0 | Zone A | 351.3 |
| 0 | Zone B | 351.3 |
| 0 | Zone C | 162.1 |
| 0 | Store | 11.3 |
| | **Total** | **876.0** |

8.3 Mr Cremin helpfully provided a detailed block and (separate) Navan Town Centre plan indicating key occupiers and Navan Town Centre's main building's relationship with the Property. Internal and external photographs were referenced, and details of tenure were provided indicating a lease of 35 years from 01 June 1999 and a Lease Commencement Date of 20 October 2000, five-year rent reviews, and a current rent of €250,000pa.

8.4 Mr. Cremin outlined the process following the issuing of the Draft Certificate in March 2019 and advised that following representations received on behalf of the occupier, the proposed NAV was reduced from €329,000 and amended to €236,000, effected by the reduction in Zone A rent psm, from €700 to €460 with an allowance of 10% in recognition of the front to depth ratio.

8.5 Mr. Cremin noted that the Appellants opinion of NAV was €146,342 at Representation Stage and in the Notice of Appeal. At the hearing Mr. Brereton for the Appellant was contending for a NAV of €152,000 (amended to €154,243 at the hearing).

8.6 By reference to the Table of Comparative Evidence in Mr. Brereton's Précis, Mr Cremin provided a plan of the locations of the four occupiers relative to the Property, and provided the following commentary in relation to the Comparative evidence provided by Mr. Brereton:

**Appellant Comparison 1 – PN 2181699** – an irregularly shaped unit on the ground floor, narrow at front and rear, wide in the centre;

- unit is trading in a prime, favourable position enjoying wrap around frontage onto Abbey Road and the same access street as the Property, which connects to Kennedy Road.
- The valuation of this unit ITZA is €460 psm, the same as the subject unit.
- Ground Floor retail area is 442.3 Sq. M – only 45% of floor area. First Floor is 55%
- First floor had a much-reduced NAV value of €80psm, hence overall lower NAV.
- Not a correct/appropriate comparison to illustrate an over valuation of the Property.
- Total Floor area is 981 Sq. M, closest in area size to the Property.
- Total NAV €108,500 - overall NAV value is primarily influenced by the extensive first floor storage area valued a €8 psm.
- Closer to 1,000 $m^2$ threshold but still treated as retail subject to zoning as a comparison unit; treated similarly to the Property.

**Appellant Comparison 2 – PN 2181698**

- Department store and accordingly is not zoned.
- Large size in floor area 2,080 Sq. M, 2.4 times that of the Property
- No zoning applied - argued is not comparable.
- NAV €120 psm in line with the emerging tone of the list for department stores in this centre. The total NAV is €278,000

**Appellant Comparison 3 – PN 1943385**

- Department store and accordingly is not zoned.
- The total floor area is 2,159 sqm, 2.46 times larger than the Property.
- Ground floor is 1,887 Sq. M – no zoning applied, not comparable.
- The NAV level €120psm throughout ground floor incl. stores and a mezzanine office
- The total NAV is €271,000.

**Appellant Comparison 4 – PN 194328**

- Main entrance is located some distance away on Navan's primary street - Trimgate Street, close to the junction with Canon Row and Brews Hill. The rear of this store also has a frontage onto Kennedy Plaza, opposite the shopping centre.
- a 55-year-old Department Store, built decades before the shopping centre behind it;
- This unit is not Zoned – the total ground floor area is 1,123 Sq. M
- Total floor area is 2,087 $m^2$.
- The NAV level is €95psm on the ground floor.
- The total NAV is €165,600.

8.7 Mr Cremin stated that the three Department Store/Supermarket comparisons (Mr. Brereton's comparative properties 2, 3 and 4, were all over 1,000 $m^2$ were not relevant or reliable relative to the Property. Mr. Cremin accepted that Comparative 1 PN 2181699 was relevant and provided the best evidence of ITZA zoning. Mr. Cremin stated that there was no evidence supplied by Mr. Brereton to demonstrate a frontage to depth allowance. Mr Cremin said that if Mr. Brereton's argument was accepted the entire emerging tone for shopping centres and peripheral prime retail in Navan would be turned on its head and would fail to achieve equity and fairness.

8.8 Mr Cremin stated that the emerging tone of the list was quite clear - retail units less than 1,000 $m^2$ valued at €700 psm ITZA and the large department stores, over 1,000 $m^2$ valued at €120 psm with no zoning. External and peripheral units were valued at €460 ITZA and Mr Cremin had adopted this rate in his valuation of the Property.

8.9 Mr. Cremin was adamant that a floor area of 876 $m^2$ was neither 'in touching distance' of 1,000 $m^2$ nor was it in the region of 1,000 $m^2$. If the area was between 990 $m^2$ and 999 $m^2$, Mr. Cremin believed Mr. Brereton's argument might have some validity. Mr. Cremin said that the Property must be treated as a retail shop subject to the usual zoning.

8.10 In advancing his comparative evidence, Mr. Cremin said that *'similarly circumstanced'* properties are considered comparable, and he was supplying appropriate comparators as evidence of correctness, equity, and uniformity of value for the NAV at the Property. Mr Cremin stated that he had researched the Navan list to identify the properties on the list with the widest frontage but had not found any as extensive as the Property.

**Respondent's Comparison 1**

| | |
|---|---|
| **Property Number** | 2181699 |
| **Total Floor Area** | 981.31 $m^2$ |
| **NAV** | €108,500 |

| **Description** | **Size ($m^2$)** | **NAV psm** |
|---|---|---|
| Retail Zone A | 55.66 | €460.00 |
| Retail Zone B | 76.66 | €230.00 |
| Retail Zone C | 77.47 | €115.00 |
| Remainder | 232.81 | €57.50 |
| Store | 539.04 | €80.00 |
| **Total** | **981.31** | **€108,500** |

- Unit is peripheral and external to the shopping centre, just down the street from the Property.
- An irregular shaped unit on the ground floor, narrow at front and rear, wide in the centre – more difficult and costly in terms of fit out than the Property;
- Trading in a prime, favourable position enjoying wrap around frontage onto Abbey road and the same access street as the Property, which connects to Kennedy Road.
- The valuation of this unit ITZA is €460 psm - the same as the Property.
- Ground Floor retail area is 442.3 $m^2$ (45 % of entire) valued at €460 psm ITZA.
- First floor is 539 $m^2$, 55% of the total floor area of this unit. (No first floor at the Property);

- Total Floor area is 981 $m^2$, closest in area size to the Property;
- Total NAV €108,500. The overall NAV value is primarily influenced by the extensive first floor storage area;
- The occupier did not challenge the valuation at REPs stage or appeal the valuation.

**Respondent's Comparison 2**

| | |
|---|---|
| Property Number | 1944418 |
| Total floor area | 899.6$m_2$ |
| NAV | €108,400 |

| **Description** | **Size ($m^2$)** | **NAV psm** |
|---|---|---|
| Office(s) | 10.75 | €46.00 |
| Retail Zone A | 67.73 | €460.00 |
| Retail Zone B | 61.83 | €230.00 |
| Retail Zone C | 45.45 | €115.00 |
| Remainder | 276.30 | €57.50 |
| Store | 30.87 | €46.00 |
| Office(s) | 6.93 | €80.00 |
| Shop | 373.12 | €100.00 |
| Store | 26.98 | €80.00 |
| **Total** | **899.96** | **€108,400** |

- The property is located on Trimgate Street, a prime retail area;
- Trimgate street is a peripheral prime retail area similar to the Property with a NAV of €460 psm ITZA;
- The floor area total is very similar to the Property, albeit divided between two floors with retail on both floors.
- This is a substantially deep unit from front to back on the ground floor;
- This unit enjoys dual frontage on two separate streets – Trimgate Street and Railway Street.

**Respondent's Comparison 3**

| | |
|---|---|
| **Property Number** | 1944427 |
| **Total Floor Area** | 950.19 m$^2$ |
| **NAV** | €91,700 |

| Description | Size m$^2$ | NAV psm |
|---|---|---|
| Office(s) | 3.48 | €46.00 |
| Retail Zone A | 42.82 | €460.00 |
| Retail Zone B | 56.59 | €230.00 |
| Retail Zone C | 64.80 | €115.00 |
| Remainder | 245.49 | €57.50 |
| Store | 118.27 | €46.00 |
| First Floor Office(s) | 12.68 | €80.00 |
| First Floor Store | 347.27 | €80.00 |
| Second Floor Store | 58.79 | €53.00 |
| **Total** | **950.19** | **€91,700** |

- This property is located on Trimgate Street, close to the church and former post office, now a McDonalds outlet.
- Directly across the street is a connecting pedestrian walkway through to Kennedy Plaza and the shopping centre.
- Floor area is quite similar in total to the subject unit.
- Property comprises, ground floor, first floor and second floor.
- Retail floor area comprises 410sqm.
- Zone A value is €460psm.

8.11 Mr Cremin provided details of Key Rental Transactions (KRT) and pointed out that both KRT's were within sight of the Property.

**KRT 1 (see Appendix 2 – n/a to public)**

- No break option in lease; 6 month- rent free incentive;
- NER Zone A judged to be too high. Strong rent agreed for this unit.

- Zone A rent value adjusted to €460 psm for Zone A.
- Modern building, superior position to the subject.
- Peripheral to the shopping centre, across the street facing it;
- Superior trading position with strong brand neighbouring units such as Dunnes Stores, Expert Electrical, EBS Bank and Elvery's Sports.
- Convenient pedestrian access not only from the shopping centre but also from Trimgate Street.
- Surface car parking out front and multi storey parking across the street,

**KRT 2 (See Appendix 2 – n/a to public)**

- No break option; No incentives;
- Rental value adjudged to be low for this size of shop and location;
- Modern building, superior position to the subject;
- Peripheral to the shopping centre, across the street facing it;
- Superior trading position with strong brand neighbouring units such as Expert Electrical, EBS Bank, Elvery's Sports, and Navan credit Union.
- Convenient pedestrian access not only from the shopping centre but also from Trimgate Street.
- Surface car parking out front and multi storey parking across the street

8.12 Mr Cremin referenced the SCSI "Information Paper" *Retail Zoning for the Chartered Surveyor"* (Appendix 3 – n/a to public), which had been referred to by Mr. Brereton as having relevance to the assessment of the Property's NAV by virtue of the width to depth ratio.
Mr Cremin stated that this document is classified as a *"Practice based information paper that provides users with the latest information and/or research."* The Status is further clarified as an information and/or explanatory commentary by Mr. Cremin who stated that the SCSI Information Paper recorded that it was not introduced as a change to the Code of Practice nor was it an SCSI Guidance Note, both of which would have higher level application and more serious status for practitioners. They would carry the added importance of being 'Mandatory' or 'Recommended' good practice, which was recorded in the *SCSI Information Paper* according to Mr. Cremin. He said that the 'Introduction' to the SCSI Information paper stated:"

It *is apparent that while in general Zoning remains useful, there are a number of areas where clarification and guidance would be beneficial."* Mr Cremin stated that the Information Paper is prefaced *"<u>Suggested approaches</u> are as follows …."* and further qualified - "*The following sections in this document, therefore, are broad outlines which do not follow through with specific direction or proposed procedures in regard to dealing with zoning challenges."*

The draft revaluation certificate in the case of the Property, included a reduction allowance in recognition of the unusual characteristics of this unit in so far as the width to depth ration was obvious and accordingly a 10% allowance was applied.

8.13 Mr Cremin provided the following rationale in reaching his NAV of €231,900.

| **LEVEL** | **USE** | **AREA m²** | **NAV psm** | **TOTAL NAV** | **Tribunal Corrected Calculation** |
|---|---|---|---|---|---|
| 0 | RETAIL ZA | 351.42 | €460.00 | €160,699.34 | €161,653.20 |
| 0 | RETAIL ZB | 351.42 | €230.00 | €76,617.83 | €80,826.60 |
| 0 | RETAIL ZC | 173.41 | €115.00 | €19,882.47 | €19,942.15 |
| 0 | STORE | 11.27 | €46.00 | €518.42 | €518.42 |
| 0 | ALLOWANCE - 10% | -1 | -€25,771.81 | -€25,771.81 | -€26,294.04 |
| | **Total Area** | 887.52 | **Total NAV** | **€231,946.25** | **€236,646** |
| | | | **NAV Say** | **€231,900.00** | |

8.14 The calculations in the table were inaccurate and in reviewing the evidence the Tribunal has calculated the resultant NAV based on the correct calculations (table above) at €236,646, nevertheless, Mr. Cremin's contention was for a NAV of €231,900.

8.15 However, based on the agreed floor areas provided by Mr Brereton and agreed with Mr. Cremin (paragraph 4.5) the Tribunal's analysis of Mr. Cremin's evidence based on the revised floor areas and his NAV psm, as per Mr. Cremin's NAV psm above is:

| **Floor/Use/(Level)** | **Area Sq. M.** | **Zone** | **NAV psm** | **NAV pa.** |
|---|---|---|---|---|
| Ground Retail (0) | 351.3 | A | €460 | €161,598.00 |
| Ground Retail (0) | 351.3 | B | €230 | €80,799.00 |

| | | | | |
|---|---|---|---|---|
| Ground Retail (0) | 162.1 | C | €115 | €18,641.50 |
| Ground Store (0) | 11.3 | n/a | €46 | €519.80 |
| Subtotal | | | | **€261,558.30** |
| Allowance 10% | | | | **-€26,155.83** |
| **Total** | **876** | | | **€235,402.47** |

8.16 In concluding, Mr. Cremin said that the Zone A level of €460 psm was applied to all peripheral units at Navan Town Centre and that higher Zone A's of €700 psm applied to internal mall units at the centre. Department stores were €120 psm based on floor areas of more than 1,000 $m^2$, and accordingly the emerging tone of the list was clear and evident. Mr Cremin submitted that Mr. Brereton had listed no comparative properties with similar frontage to the Property. Mr. Cremin completely rejected Mr Brereton's contention that 876 $m^2$ was 'in the region of 1,000 $m^2$' or 'in touching distance' of 1,000 $m^2$. He said the SCSI Information Paper was not prescriptive and did not offer a solution outside the 10% allowance. Mr Cremin pointed out that the SCSI Information Paper suggested that where a unit was particularly wide and shallow a substantially larger discount may be appropriate (above 10%) however he stated that the SCSI Information Paper neither defined the meaning of substantial nor how much more is appropriate if circumstances are met. Other than referencing the configuration of the unit Mr Cremin stated that there was no evidence presented to justify a reduction of the NAV, albeit Mr. Cremin's valuation was less than the NAV in the Final Certificate.

8.17 Mr. Cremin stated that the valuation is arrived at under s. 49 of the Valuation Act 2001 (as amended), which provides that a valuation is determined by reference to values appearing on the list relating to other similar type properties in the same rating area in which the subject property is situated. Mr Cremin said that to amend the valuation, the onus was on the Appellant to provide evidence by reference to comparable properties appearing on the list and Mr. Brereton had failed to do so. Mr Cremin referenced VA 09/2/032 Proudland Ltd. t/a Plaza Hotel, VA07/3/054 William Savage Construction and VA 09/1/018 O'Sullivan's Marine Limited, in support of his contention that the onus of proof had not been met by the Appellant.

8.18 Under cross examination Mr. Cremin and Mr. Brereton differed on the allowance applied to the NAV in the Draft Certificate with Mr. Brereton stating that a 15% allowance was provided in the valuation certificate with a NAV of €387,579 reduced by 15% or €58,050 and rounded to €329,000. Mr Cremin did not have the information to refute the point but stated that

10% was the maximum allowance allowed. (Subsequently Mr. Cremin agreed that a 15% allowance had been applied initially but reduced to 10% following an overall reduction in NAV after representations from the Appellant).

8.19 Addressing Mr. Cremin's comparable properties, Mr. Brereton stated if the ground floor in Respondent's Comparison 1 (PN2181688) of 442 $m^2$ which had a NAV of €65,455 was doubled it would produce an almost identical (in size) ground floor of 884 $m^2$ if compared to the Property's 876 $m^2$; a similar doubling of the NAV would produce a NAV of approximately €130,000 and compared this with the NAV of €236,000 in the Property's Final Certificate. Mr. Cremin disagreed and stated that in this hypothetical situation zoning would be required which would produce a different and higher result. Mr Brereton said that the Property was being treated unfairly given the 57 M frontage, for which an inadequate allowance was being applied.

8.20 On the Respondent's Comparison 2 (PN1944418) Mr Brereton asked Mr. Cremin to account for the fact that the ground floor of this unit was almost 900 Sq. M, close to that of the Property at 876 Sq. M but had a NAV of €108,400 which was less than 50% of that recorded in the Final Certificate issued for the property at €236,000. Mr Cremin responded that the reason why it was a substantially lower NAV was because the frontage is narrow and the shop is very deep In applying a NAV ITZA of €460psm, this aligned with the approach at the Property. The different configuration was key to understanding the NAV at this comparison.

8.21 In relation to Respondent's Comparison 3 (PN1944427) Mr. Brereton asked Mr Cremin if he accepted that the ground floor area was 531 $m^2$ with a valuation of €59,000 and provided a more regular frontage to depth ratio. Mr Cremin acknowledged the figures and the difference between the Property and this comparison's frontage. The NAV was a product of a Zone A NAV of €460 psm and correctly applied across the other zones/floors. Mr. Cremin also acknowledged that the overall NAV was less than 50% of the NAV proposed for the Property. Asked if a retailer would pay over double in rates to get same floor area Mr Cremin responded that a retailer would consider many things before the retailer considered rates values. He accepted that 57 m is significantly more than is required for a retail outlet. The occupier chose the unit but Mr. Cremin agreed that if a retailer had a choice between two similar units, one with a NAV of €236,000 and the other with a NAV of €108,000 the retailer would pick the one with the lower NAV.

8.22 Mr Cremin could offer no insight into how the KRT 1 and KRT 2 evidence of transactions producing Zone A results of €912 psm and €166 psm respectively – were adjusted to arrive at a common Zone A rate of €460 psm. Mr Cremin said that the Valuation Office made various adjustments and calculations to arrive at a Zone A rate of €460 psm. Mr Cremin stated that KRT 2 with a floor area of $668m^2$ was closest in size to the subject property and Mr. Brereton pointed out the significant discrepancy between the €236,000 NAV in the Final Certificate at the Property compared to the NER at KRT 2 of €28,000 pa, which he described as a fraction of that proposed for the Property. Mr Cremin responded that KRT's were not comparisons but simply illustrated that €460 psm was applied to Zone A after adjustments. Mr. Cremin considered neither KRT ideal and acknowledged the divergence between the Zone A analysis of the transactions and the €460 psm Zone A applied after adjustments.

8.23 Mr Cremin agreed he could not find a comparable property in Navan with 57 M frontage. He doubted if a retail property (as opposed to a department store) with 57m frontage existed elsewhere in Co. Meath. On that basis, according to Mr. Brereton, the norm appeared to be to make a 10% allowance and given the extreme nature of the frontage to depth ratio accepted by Mr. Cremin, a deviation from norm should apply and a much higher allowance should be allowed.

8.24 Responding to Mr. Brereton, Mr. Cremin stated that if the department store level of €120 psm was applied to the Property, the NAV would be a little over €100,000 but he did not accept this approach. If a NAV of €120 psm was applied this would affect every county. He accepted the 'wide unit' challenge existed but submitted that the established approach should not be changed. Mr Brereton said that the difference between €120 psm and €460psm highlighted the disparity.

8.25 Mr Brereton referred to the SCSI Information Paper and said that it was clear that it provided that a larger discount may apply above the 10% reference for a relatively small deviation (1.0: 2.0) to the suggested norm of 1.0: 3.0. Mr Cremin was happy to agree that the SCSI Information Paper was relevant to the case but said that the key word was 'substantial.' He could not find a comparison with a 57m frontage. Mr Cremin could not offer a view on the meaning of 'substantial' and stated it was a matter left to the valuer's judgement. Mr Cremin observed that as neither he nor Mr. Brereton had any previous experience of the circumstances presented, this was the reason that the case had been appealed to the Tribunal.

8.26 Responding to questions from the Tribunal, Mr Cremin believed that the storage use at first floor of PN 2181699 was defined by planning and it is how the occupier operates. Mr Cremin stated that the NAV assessment was based on tenant's use of the space. If he had a choice between the Property and PN 2181699 Mr. Cremin said that most retailers did not like split floors such as the configuration at PN 2181699 but acknowledged that it had good visibility on two sides. In relation to the SCSI Information Paper, Mr Cremin confirmed he would take the Information Paper into account in assessing NAV's, stating that such SCSI Information Papers were always helpful. In the context that both parties evidence before the Tribunal which accepted that the frontage to dept ratio was absolutely unique in their experience, and the content of the SCSI Information Paper, the Tribunal asked Mr. Cremins if an allowance beyond the +/-10% mentioned in the Information Paper could be considered. Mr. Cremin responded he had sought out precedents but was unable to find one with an end allowance higher than 10%. He also stated that he had checked other Rating Authority areas but was unable to identify a frontage to depth allowance above 10%. Mr. Cremin had no knowledge of any precedents in the UK. Mr. Cremin denied that the Valuation Office had a policy of restricting allowances to 10% and he believed that NAV values were applied correctly.

8.27 Mr Cremin said that anomalies arise, and the policy was to apply discounts so as not to upset overall scheme. Mr Cremin offered the example of 30/40 year old retail units with asbestos roofs would not be treated the same as modern units, albeit a similar Zone A might be adopted. In this case, his approach was to take the Zone rate of €460 psm and apply an allowance or discount overall. Mr. Cremin again denied that there was a maximum allowance policy of 10% was applied by the Respondent despite the SCSI Information Paper. Mr. Cremin stated that the Respondent was not rigid on a single allowance level and was flexible and could apply a higher discount. Mr. Cremin denied this was a situation where the Respondent could apply a higher discount, but notwithstanding the guidance provided in SCSI Information Paper, the Respondent would not apply a discount of greater than 10%. Mr Cremin responded that the SCSI Information Paper should go further but stops short of being sufficiently prescriptive and potentially leaves too many matters to be decided arbitrarily. Mr. Cremin denied that the Respondent was essentially ignoring the SCSI Information Paper. In response to the observation the Zone A analysis of one KRT was ridiculously high and the other ridiculously low in the context of arriving at a NAV of €460 psm, Mr Cremin was unable to provide any insight to the process and denied that such a discrepancy opened the assessment of NAV's to the accusation of being not fit for purpose.

**9. CLOSING ARGUMENTS**

9.1 Mr Brereton stated that the highly unusual frontage of the subject property, which was eleven times what is considered to be an ideal frontage, required the valuer to take a step back and take a professional view on whether zoning was the appropriate way to value the property or whether it was solely a question about applying a discount. Mr Brereton was of the opinion that the Respondent was restricting itself by applying a valuation scheme, which cannot take account of a unique unit that requires a unique approach by applying an appropriate allowance reflecting particular circumstances. He also stated that the SCSI Information Paper cannot be ignored. Much of the frontage is not used and deemed surplus. He maintained that the Property is a square peg in a round hole and the (Respondent must look beyond a 10% or 15 % allowance and apply a higher 40% allowance to arrive at a NAV of €154,000

9.2 Mr Cremin stated that the Appellant had only produced a single relevant comparable which affirmed the €460 psm Zone A approach for external units at Navan Town Centre. The other three properties identified as comparatives were department stores or similar and valued consistently at €120psm based on a significantly larger multiplier in size than the Property. No rental evidence was introduced which supported an allowance of 33% or 40%. In relation to the SCSI Information Paper, Mr. Cremin denied that he was ignoring same, acknowledging that both the Respondent and Mr. Brereton's firm, Bannon, had representatives on the Working Group which produced the SCSI Information Paper. According to Mr. Cremin, the Information Paper while helpful provided no obvious solution as there was no suitable comparable market evidence to apply to the Property.

Finally, Mr Cremin stated that SCSI document was helpful, and the Respondent did not want to ignore it but it contained no solution, and no suitable evidence was available to apply a larger discount than 10%.

After hearing the evidence from both expert witnesses, the Tribunal issued directions to both parties to agree and submit floor areas applying the ITZA zoning approach and also to resolve the discrepancies between the parties relating to the allowance applied by the Respondent at Draft Certificate stage.

**10. SUBMISSIONS**

10.1 There were no legal submissions.

**11. FINDINGS AND CONCLUSIONS**

11.1 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 Meath County Council.

11.2 The floor areas were mutually agreed between the parties at 876 $m^2$ as indicated at paragraph 4.5. It was also agreed by the parties that the Valuation Office had initially made an allowance of 15% in the Draft Certificate of Valuation but reduced same to 10% following representations which reduced the NAV in the Draft Certificate of Valuation significantly.

11.3 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.

11.4 There was no available evidence of lettings of comparable premises in County Meath, or another rating authority, relevant to the subject property. Both Mr Brereton and Mr Cremin agreed that the Property was truly unique, with neither party having any previous experience with a retail property with such extensive frontage and such shallow depth.

11.5 The Tribunal found that the KRT's offered in evidence by Mr. Cremin to illustrate the development of the scheme of valuation applied by the Respondent for retail premises in Navan had significant adjustments made to them and particular views on the value of these properties had been made by the Respondent. The Tribunal found however, that Mr. Cremin was unable to explain precisely how the significant adjustments and professional views adopted by the Respondent, sufficiently explained the reduction of the KRT 1 Zone A NER of €912 psm to

€460 psm and the KRT 2 Zone A NER of €166 psm to €460 psm. In arriving at a €460 psm ITZA NAV as an appropriate level, KRT 1 required adjustments and judgements to arrive at a reduction of 50% whereas KRT 2 required an increase of 177%. No evidence was provided by the Respondent to demonstrate the adjustment performed and judgements made by which the Respondent arrived at a Zone A rate of €460psm. This rate of €460psm was not challenged by the Appellants.

11.6 As both parties made extensive references to the SCSI Information Paper *"Retail Zoning for the Chartered Surveyor"* and applied conflicting interpretations of same to support respective positions, the Tribunal presents the full section 2 (page 5) extract below:

*"2. Quantum discount for frontage to depth ratio*

*It has become apparent that the application of zoning can at times overvalue relatively wide premises and at the same time undervalue narrow deep premises.*

*In terms of frontage to depth a ratio of 1:3 is felt to be ideal.*

*For the purpose of discounting the Zone A rate it is suggested that a discount in the region of ±10% be applied to units with a frontage to depth ratio of less than 1:2.*

*This is a guideline figure only and will vary depending on the actual configuration of the unit. It is being suggested as a guideline figure and not as one to be applied rigidly.*

*For example, where a unit is particularly wide and shallow, a substantially larger discount may be appropriate.*

*In conjunction with this, it is suggested that particularly deep units with frontage to depth ratios in excess of 1:4 could be loaded by up to ±10%.*

*For the sake of clarity, it should be noted that the above suggests that where a particularly wide and shallow premises is being compared with a particularly deep premises the difference can be ± 20%."*

In relation to size limits for zoning the SCSI Information paper states (section 7, page 6)

*"7. Size Limit for Zoning*

*It is felt that in the region of 1,000m² of single level unit should be the limit for the application of zoning.*

*In exceptional circumstances up to 1,500m² on a single level can be considered but only when. compared with similar sized units also on a single level."*

The Tribunal references the above extracts below.

11.7 Turning to comparisons introduced by the Appellant the Tribunal considered Appellant Comparison 1 PN2181699 as helpful as it identified an ITZA accepted by Mr. Brereton as he based his claim for an allowance or discount of 40% (amended at the hearing from 33%) at the Property base on a Zone A NAV of €460 psm.

11.8 The Appellant Comparisons 2, 3 and 4 – PN 2181698, PN 1943385 and PN 1943281 respectively, which were irrelevant, and provided no assistance to the Tribunal as they related to a different class of retail premises with a separate valuation methodology. In this regard it was accepted by Mr. Brereton that these three comparative properties were either a department store or supermarket to which the 1,000 $m^2$ threshold applies. As such the comparative properties were not zoned based on the "Size Limit for Zoning" set out in the SCSI Information Paper (**Appendix 3** n/a to public). In addition, the Tribunal did not accept the Appellant's argument that the qualification of "in the region of 1,000 Sq. M" referenced in the SCSI Information Paper, would bring the Property out of the ambit of a zoning approach to establish an appropriate NAV.

11.9 The Respondent's Comparison No 1, PN 2181699, is the same as the Appellant's Comparison No.1. This property was an external unit on the periphery of Navan Town Centre with an ITZA NAV of €460 psm. No representations were received by the Respondent and the NAV of this comparable property was not appealed. In respect of the Respondent's Comparisons 2 and 3, Mr. Cremin stated that he had striven to find units with the widest frontage and nearest approximate comparable floor area in Navan, selecting PN 1944418 and PN 1944427, both in Trimgate Street. Mr Cremin accepted that the configurations of these two properties were significantly different to that of the Property. Both the Respondent's Comparisons 2 and 3 were helpful to the Tribunal in affirming the basis for the Respondent's applying a Zone A NAV of €460 psm to the Property. In relation to PN 1944418, representations had been made directly by the Appellant without representation, but no representation were made by an agent and no appeal was lodged. At PN 1944427 the Zone A NAV was €460 psm. No representations had been received by the Respondent; no appeal was lodged with the Tribunal.

11.10 Accordingly, the Tribunal accepted Mr. Cremin's evidence that the appropriate Zone A NAV which was appropriate for the Property was €460 psm. In his analysis of the discount/allowance claimed, Mr. Brereton had based same on a Zone A NAV of €460 psm and accordingly had accepted the €460 psm Zone A rate. As highlighted at the hearing the particular point in contention was the allowance to be applied for the frontage to depth ratio.

11.11 With a focus on the SCSI Information Paper, Mr Cremin submitted that an end allowance of 10% was appropriate and this end allowance had been applied to the Property since it was first rated. This submission was made by the Respondent in the context of the draft certificate providing for an end allowance of 15%, Mr. Cremin could not explain the reason for this other than it was based on a much higher NAV Zone A of €700 psm. Mr. Brereton contended for a 40% end allowance (amended from 33% at the hearing) on the retail area only. Reflecting on their long professional engagement in rating, neither party was able to identify a comparative property with, which both accepted, a similarly extreme frontage to depth ratio. Other than referring to the SCSI Information Paper there was no other assistance either party could offer to the Tribunal, but each in his own way placed great emphasis on the Information Paper. Mr. Cremin could not offer an opinion as to how 'substantially' in the SCSI Information Paper could be defined other than offering the opinion that the authors could have been more prescriptive. The question arose in the context of the fifth paragraph of the extract quoted above: "*For example where a unit is particularly wide and shallow, a substantially larger discount may be appropriate.*" Mr Cremin maintained that the SCSI Information Paper supported his 10% allowance position in that it was not prescriptive as to any higher allowance.

11.12 The Tribunal understands the status of an 'SCSI Information Paper to a valuer as follows: SCSI Practice Statements are mandatory for all Surveyors. The application of the SCSI Code of Practice applies to valuers on a mandatory basis or as recommended good practice, depending on the status provided by the SCSI/RICS. A SCSI Guidance Notes is recommended good practice, and SCSI Information Papers are provided for information purposes or explanatory commentary. The SCSI Information Paper entitled- "Retail Zoning for the Chartered Surveyor," explains its particular standing and relevance for Surveyors:

> *"This is an information paper (IP). Information papers are intended to provide information and explanation to SCSI members on specific topics of relevance to the profession. The function of this paper is not to recommend or advise on professional procedure to be followed by members.*

*It is, however, relevant to professional competence to the extent that members should be up to date and have knowledge of information papers within a reasonable time of their coming into effect.*

*Members should note that when an allegation of professional negligence is made against a surveyor, a court or tribunal may take account of any relevant information papers published by SCSI in deciding whether or not the member has acted with reasonable competence.*

11.13 Given the focus by both parties on the SCSI Information Paper, and having considered same, the Tribunal is convinced that it should give weight to the Information Paper in reaching its conclusions. As previously outlined, the Tribunal rejects Mr, Brereton's contention that 'in the region of 1,000 Sq. M" (Section 7 of the Information Paper) could be read or understood to include a property of 876 Sq. M. The Tribunal also rejects Mr. Cremin's contention that the Information Paper supports only an allowance of 10% and cannot be interpreted otherwise. Both parties agreed that the property, in their experience, was unique. The Information paper clearly states: *For the purpose of discounting the Zone A rate it is suggested that a discount in the region of ±10% be applied to units with a frontage to depth ratio of less than 1:2.*
The 10% allowance reflects a 33% deterioration in the front to depth ratio whereas at the Property the frontage to depth ration is 1.0: 0.26 - a deterioration of more than ten times the stated ideal ration of 1:3. The Information Paper also states, in relation to the +/- 10% allowance for a 1:2 frontage to depth ratio "*This is a guideline figure only and will vary depending on the actual configuration of the unit. It is being suggested as a guideline figure and not as one to be applied rigidly."*

11.14 The information Paper also states (referring to the +/_10% allowance): *"For example where a unit is particularly wide and shallow, a substantially larger discount may be appropriate."* Mr. Cremin was of the view that if a higher allowance was anticipated the Information Paper would have been more prescriptive and was not able to offer a definition for the meaning of 'substantial' in the context of this extract from the Information Paper. The ordinary meaning of the word 'substantially' in the Collins dictionary defines the adverb '*substantially*' as: "*If something changes substantially or is substantially different, it changes a lot or is very different."*

11.15 It is clear that the frontage to depth ratio at the Property is 'materially different' to the 1:3 frontage to depth ratio considered for the 10% allowance in the Information Paper. Accordingly, the Tribunal considers that a substantially higher allowance in excess of the 10% outlined in the paper is required in order to provide a valuation that is correct and equitable and relative, and related to the value of other comparable properties on the valuation list having made 'allowance for shape'.

11.16 In the absence of information in Ireland the Tribunal considered a case at the England and Wales Lands Tribunal *WH Smith & Sons v Clee (VO) [1978] R. A. 93* in which a 14% end allowance was applied for a shop which was seven units wide with 137 ft (41.75m) frontage and 46 ft (14.02m) depth – a ratio of 1:0.34. At the Property, the subject of the hearing, the agreed frontage is 57 m (37% wider than that in the WH Smith & Sons V Clee (VO) case) and the frontage to depth ratio is 1.00: 0.26 – a shallower property compared to WH Smith & Sons v Clee (VO) case. The Lands Tribunal distinguished and defined an "allowance for shape" which it defined as an end-allowance relating to 'size along the frontage,' which is incapable of reflection in the values adopted for the sales area. It distinguished the "allowance for shape" from an end allowance for size or quantum.

11.17 The WH Smith & Sons v Clee VO case is referenced at pages 209/210 of *Bond and Brown – Rating Valuation - Principles and Practice fourth edition (2018)* under heading "10.7.1 *Frontage to Depth Ratio - "The factor* [front to depth ratio] *was particularly noted by the* [Lands] *Tribunal in WH Smith v Clee (VO) [1978] R. A. 93. The* [Lands] *Tribunal adopted a 14% allowance where the ratio was 1:0.34 (137ft* [41.76m] *frontage to 46ft* [14.02m] *depth) describing the allowance as 'an allowance for shape'."*

11.18 Having regard to the substantially larger (than 10%) discount which the Information Paper states may be appropriate for a property with a greater front to depth ration of 1.0:3.0, in respect of the Property, the Tribunal considers an end allowance of 20% appropriate in circumstances, which both parties agreed are truly unique, and in their experience, without precedent in Ireland. Both parties having accepted that the Zone A rate for peripheral external units at Navan Town Centre is €460 psm Zone A, the Tribunal's determination will have no impact on the tone of the list for Navan, Co. Meath.

**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 €209,000.

| **Floor/Use/(Level)** | **Area Sq. M.** | **Zone** | **NAV P.S.M.** | **NAV P.A.** |
|---|---|---|---|---|
| Ground Retail (0) | 351.3 | A | €460 | €161,598.00 |
| Ground Retail (0) | 351.3 | B | €230 | €80,799.00 |
| Ground Retail (0) | 162.1 | C | €115 | €18,641.50 |
| Ground Store (0) | 11.3 | n/a | €46 | €519.80 |
| Subtotal | | | | **261,558.30** |
| Allowance -20% | | | | **(52,311.66)** |
| **Total** | **876** | | | **209,246.64** |

**Say €209,000**