

Appeal No: VA21/4/0064

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

DLA Piper Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 5024854, Office(s) at 40 Molesworth Street, Dublin 2
(‘the Property’)

B E F O R E

**Hugh Markey, FSCSI, FRICS
Fergus Keogh, MSCSI, MRICS
Úna Ní Chatháin, BL**

**Deputy Chairperson
Member
Member**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF OCTOBER, 2023**

1. THE APPEAL

- 1.1 By Notice of Appeal received on the 8th day of December 2021 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 €292,000.
- 1.2 The sole ground of appeal as set out in the Notice of Appeal by the Appellant’s agent is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 28(4) of the Act because:

“(a) The Valuation is incorrect;

I believe the valuation of the subject property is excessive and does not accord with Section 49 of the Valuation Acts 2001-2020 as in my opinion it does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list as

previously detailed to the Valuation Office, through the Representations stage. In consideration of these specific matters, I believe a lower valuation as set out herein is more representative of a reasonable Net Annual Value in accordance with Section 49 of the Act.”

- 1.3 The Appellant considers that the valuation of the subject Property ought to have been determined in the sum of €270,000.

2. VALUATION HISTORY

- 2.1 On the 30th day of August, 2021 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (‘the Act’) in relation to PN 839434, the Property, was sent to the Appellant indicating a valuation of €765,000.
- 2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation wherein the appellant sought subdivision of the Property. Following consideration of those representations, PN 5024854 was created and valued at €292,000 and PN 839434 was valued at €451,000.
- 2.3 A Final Valuation Certificate issued on the 11th day of November 2022 stating a valuation of €292,000.
- 2.4 The relevant valuation date is 7th April 2011.

3. THE HEARING

- 3.1 The Appeal proceeded by way of an oral hearing held remotely on the 19th day of January 2023, (‘the Hearing’). At the Hearing the Appellant was represented by Ms. Claire Mason, B.SC (Surv) Associate Director, Avison Young and the Respondent was represented by Mr. John Shaughnessy, BSc Management & Law, PgDip in Education, MSc Real Estate of the Valuation Office, (‘the Parties’).
- 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.

4. FACTS

- 4.1 From the evidence adduced by the Parties, the Tribunal finds the following facts.
- 4.2 The subject Property is located on the corner of Molesworth Street and Dawson Street and occupies the section of Molesworth Street between Dawson Street and Molesworth Place. There is an extensive frontage to Molesworth Street and lesser frontages to Dawson Street and Molesworth Place. The location is well served by public transport links including the Luas, DART and Dublin Bus and by nearby retail amenities. The Property lies within what was described in evidence as being within the 'Central Business District' and is a location favoured by neighbouring occupiers including AIB, Barclays Bank, Maples Group and Standard Chartered Aviation.
- 4.3 The Property comprises the first and second floors of a five-storey over basement Grade A office building. Pedestrian access is from Molesworth Street with vehicular access to the building and to basement car parking via Molesworth Place.
- 4.4 The overall building underwent extensive redevelopment works which were completed in Q3 2017 entailing the building being brought back to its construction frame and being re-built with an emphasis on sustainability and energy efficiency resulting in a building that has:
- LEED Gold Accreditation
 - an A3 BER Certificate
 - 2.55m floor to ceiling height
 - floors that are column free providing flexibility for open plan offices
 - 1:10 base occupancy per person per m²
 - Energy efficient LED lighting
 - a VRF heating & cooling system
 - 24 hour water storage
 - 2 no. x 13 no. person capacity high speed lifts
 - 17 no. car parking spaces
 - a 'green' roof and
 - a rainwater harvesting system

- 4.5 The floor areas have been agreed by the Parties to comprise a net combined area of 1,125.62 m² over two floors as follows;

Floor Level	Use	Area M²	Area Sq. Ft.
First floor	Office(s)	562.81	6,058
Second Floor	Office(s)	562.81	6,058
Total		1,125.62	12,116

5. ISSUES

- 5.1 The issue is one of quantum of the valuation of the Property and more particularly the rental rate per square metre to be applied to the office accommodation. The Appellant argued for the NAV to be reduced to €270,000 whereas the Respondent requested the Tribunal to affirm the List valuation of €292,000.

6. RELEVANT STATUTORY PROVISIONS

- 6.1 All references hereinafter to a particular section of the Valuation Act ('the Act') refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act 2015.
- 6.2 Section 3(1) of the Act in relevant part defines "material change of circumstances" as meaning a change of circumstances that consists of:
- (a) the coming into being of a newly erected or newly constructed relevant property or of a relevant property.
- 6.3 If a revision manager is satisfied that a material change of circumstances as defined by section 3(1) of the Act has occurred since a valuation under section 19 of the Act was last carried out in the rating authority area in which the property is situated, the revision manager has power under section 28(4) (b) of the Act, if the property does not appear on the List and is relevant property, to do both of the following:
- (i) carry out a valuation of that property and
 - (ii) include the property on the List together with its value as determined on foot of that valuation.

- 6.4 Where a property falls to be valued for the purpose of section 28(4) of the Act that value is ascertained in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

7. APPELLANT’S CASE

- 7.1 Ms. Mason is an Associate Director with Avison Young with 10 years’ experience in the commercial property industry specialising in the areas of rating and valuation. Having made her affirmation she made some small amendments to her Précis of evidence which she then adopted as her evidence in chief. Ms. Mason submitted that the Property should be valued at the rate of €240 per m². In her Précis she appended a property location map, building floor plans and external and internal photographs of the Property.
- 7.2 Ms. Mason described the Property and its location in detail and said that the key features of the building included;
- LEED Gold Accreditation
 - an A3 BER Certificate
 - 2.55m floor to ceiling height
 - floors that are column free providing flexibility for open plan offices
 - 1:10 base occupancy per person per m²
 - Energy efficient LED lighting
 - a VRF heating & cooling system
 - 24 hour water storage
 - 2 no. x 13 no. person capacity high speed lifts
 - 17 no. car parking spaces
 - a ‘green’ roof and
 - a rainwater harvesting system

- 7.3 Ms. Mason relied on six office buildings in the Dublin 2 postal area that were valued by the Respondent at the rate of €240 per m² and one valued at €220 per m² to support the figure for which she was contending.

	PN Number	Property Address	NAV € per m²
1.	PN 5014496, 5014497, 5014498 & 5014499	One Molesworth Street.	€240
2.	PN 5008667	Aercap House, 65-68 St. Stephen's Green.	€240
3.	PN 5016873	The Sharp Building, 10-12 Hogan Place.	€220
4.	PN 836921, 836923, 836922 & 5010677	1 Cumberland Place, Fenian Street.	€240
5.	PN 5021570	Miesian Plaza, 50-58 Baggot Street Lower.	€240
6.	PN 839409 & PN 5011941	32 Molesworth Street.	€240
7.	PN 5010921	LinkedIn HQ, Lad Lane, Wilton Place.	€240

She stated that the Property should be assessed in line with the Tone of the List for offices in the vicinity of the Property that are finished to a high specification and share similar LEED accreditation.

- 7.4 Ms. Mason said that the seven comparison properties submitted set the tone of the list. Each comparison, she said, was in the vicinity of the Property and she drew similarities between the Property and her comparisons. She described each comparison as follows;
- (i) PN 5014496, 5014497, 5014498 & 5014499, One Molesworth Street, is situated on the corner of Molesworth Street and Dawson Street, directly opposite the subject Property and is a rectangular shaped six storey building over a double basement, the construction of which was completed in the first quarter of 2018. The four property numbers were added to the List in late October 2018. It is a LEED Platinum Certified building with a BER rating of B1. The ground and lower ground floor areas of 2,145 m² are occupied by two restaurants that are valued separately.

The upper floors offices of 6,611 m² are all valued at € 240 per m². The building is built to the same specification and finish as the subject Property with four high quality passenger lifts, raised access floors, suspended ceilings, LED light fittings, 4-pipe fancoil high efficiency air conditioning, air handling units and energy recovery systems, rainwater harvesting and a green roof. It has high quality finishes both externally and internally with extensive use of natural stone floors and walls. There are 27 secure basement car spaces accessed via a car lift, 4 motorcycle spaces and 100 bicycle parking spaces. Ms. Mason said that she could see no distinction between this building and the subject Property that would support the application of a higher rate of €260 per m² to the subject Property. She said that the floor to ceiling height of One Molesworth Street was significantly greater at 2.8m and that arguably, One Molesworth Street was superior to the subject property based on that and its higher LEED Platinum rating.

- (ii) PN 5008667, AerCap House, 65-68 St Stephen's Green South, is situated on the corner of St. Stephen's Green and Earlsfort Terrace and is a six storey Grade A office building over a double basement that was constructed in 2015. It is a LEED Platinum Certified property. The ground floor includes a reception area, gym, kitchen and restaurant with upper floor offices and 42 car parking spaces in the basement. The office accommodation extends to 5,935 m². The fifth floor roof terrace has views across St. Stephen's Green. It is built and finished to a high specification with passenger lifts, raised access floors, suspended ceilings, LED light fittings, four pipe fancoil high efficiency air conditioning, air handling units, energy recovery systems and a 'green roof'. The property is in single occupation and was included in the List as a Third Generation Office on the 13th March 2017 valued at €240 per m². Ms. Mason stated that this property was also superior to the subject Property based on its floor to ceiling height of 2.8m and its superior LEED Platinum rating.
- (iii) PN 5016873, The Sharp Building, 10-12 Hogan Place, is a six storey over basement Grade A office building the construction of which was completed in 2018. The office accommodation extends to 4,157 m². It is a LEED Platinum certified property and has a BER A3 rating. The ground floor accommodation comprise a reception area, offices and a separately valued retail unit. There are open plan offices on the upper floors. There are roof terraces at fourth and fifth floor levels with views across the city centre. Staff amenities provided at basement level include a self-contained shower unit, bathrooms, changing rooms, lockers and drying room facilities. There are 40 car parking spaces and 56 bicycle space also at basement level. It is built to a high specification and finishes with passenger lifts, raised access floors, suspended ceilings, LED light fittings, four pipe fancoil units coupled with fresh air handling throughout, energy recovery rainwater harvesting systems and a solar shading trellis system. This property was entered on the List on the 21st October 2019 as a Third Generation office valued at €220 per m². Ms. Mason stated that this property was comparable to the subject property.

- (iv) PN 836921, 836922, 836923 & 5010677. One Cumberland Place Fenian Street, is a remodelled office building with 10,500 m² of Grade A offices over 5 floors and 2,500 m² of basement car parking. The remodelling works were completed in 2016 and the property was added to the list in June 2017. It was the first refurbished office building to be awarded LEED Platinum Certification. For rating purposes, it comprises four Relevant Properties. The offices are described as Third Generation offices valued at €240 per m². Ms. Mason stated that the property was arguably superior to the subject having regard to its ceiling height of 2.85m and higher platinum LEED rating.

- (v) PN 5021570, Miesian Plaza, Block 2 50-59 Baggot Street Lower, is part of the former Bank of Ireland Head Quarters and is a refurbished five storey building over double basement with 3,008 m² of Grade A office accommodation. The refurbishment works were completed in 2016. It is a LEED Platinum Certified property and built and finished to a high specification with passenger lifts, raised access floor, suspended ceilings, LED light fittings, four pipe fancoil units coupled with fresh air handling throughout, energy recovery systems, rainwater harvesting, solar shades and a green roof. There are 16 car parking spaces and 100 bicycle space at basement level. This building was entered on the List on the 19th November 2020 as Fourth Generation offices valued at €260 per m² but on appeal to the Tribunal (VA20/4/0080) the rate per m² was reduced to €240 per m².

- (vi) PN 839409 & 5011941, 32 Molesworth Street, is a renovated four storey over basement Georgian building with a new four story over basement building constructed to the rear and is located close to the subject Property. The works were completed in 2017. This property is a LEED Gold Certified property. The front and rear buildings are linked via a three storey glazed atrium. It is built and finished to a high specification with passenger lifts, raised access floors, suspended ceilings, four pipe fancoil units coupled with fresh air handling throughout, energy recovery systems, and LED lighting. Amenities include an internal courtyard and rooftop terrace and staff shower and changing room facilities. The basement provides 10 car parking spaces accessed via a car lift, 4 motorcycle spaces and 40 bicycle parking spaces. This building comprises two Relevant Properties with the newly constructed office accommodation valued at €240 per m².

- (vii) PN 5010921, LinkedIn HQ, Lad Lane / Wilton Place, is a 12,083.50 m² six storey over basement Grade A office building that was constructed in 2017. It is a LEED Gold Certified property. The property is laid out with a central atrium core linking all floors. It is built and finished to a high specification with passenger lifts, raised access floor, suspended ceilings, four pipe fancoil units coupled with fresh air handling throughout, energy recovery systems, LED lighting, rainwater harvesting, automatic blinds for solar control and a building management system. There are roof terraces on the second and fifth floors. It has 35 basement car parking spaces and a gymnasium and changing rooms at basement level. This property was entered on the List as a single Relevant Property

in October 2019 as Third Generation offices. The ground to fifth floor offices are valued at €240 per m².

- 7.5 Ms. Mason stated that the Respondent categorised office buildings in Dublin City as Fourth Generation / Grade A for the first time in November 2020. When representations were made to the Respondent there were no Fourth Generation / Grade A offices on the List but by the time the Property was included on the List on the 18th November 2021 eight such properties had been included. She pointed out that Grade A offices including some with LEED Platinum and LEED Gold accreditations are on the List categorised as Third Generation before the Fourth Generation / Grade A sub-category was created by the Respondent.

Ms. Mason stated that the difficulty now is that there are countless Grade A offices including those with LEED Platinum & Gold accreditations categorised as Third Generation before the new subcategory was created and despite the new categorisation, the Valuation Office are continuing to value other new Fourth Generation offices under the Third Generation category. While there is no industry standard definition of Fourth Generation or Grade A offices, it refers to 'best in class' office accommodation either newly built or recently refurbished with high specification, raised access floors, air conditioning and accommodation that meets and exceeds the requirement of demanding modern occupiers.

Ms. Mason said that she considered that little weight should be applied to the sub-categorisation of the offices given the inconsistent approach adopted by the Valuation Office in valuing Fourth Generation offices and the lack of an industry definition and she said that this has been affirmed in the recent Valuation Tribunal Determination VA20/4/0080 Colliers International -v- Commissioner of Valuation where *'the Tribunal notes that while there is a broad general industry understanding of what the terms 'third' and 'fourth' generation buildings mean, there is no set definition for those terms and therefore little weight can be attached to them'*.

- 7.6 Ms. Mason included in her Précis a copy of a table of LEED Platinum & Gold accredited buildings which included the property numbers and the rate per m² applied to the office elements of the buildings and said that the schedule demonstrates that the prevailing tone of the list for LEED accredited offices in Dublin 1, 2 & 4 is €240 per m².
- 7.7 Ms Mason summarised by saying that she considered that One Molesworth Street, valued at €240 per m² is the most relevant comparison given its close proximity to the subject Property and the fact that it is a high specification Grade A new build office building constructed at the same time as the subject with little differentiation and having been designed by the same architect. She said that she considered that applying a rate of €260 per m² to the subject Property was excessive, having regard to the Tone of the List and believed that a rate of €240 per m² should be applied to the and contended for a valuation of €270,000.

- 7.8 In cross examination by Mr. Shaughnessy, Ms. Mason agreed that if the Fourth Generation category had been created in 2015 that her comparison of One Molesworth Street would have been classed as a Fourth Generation building. Ms. Mason said that, had the Revision process been completed at the time it was initially sought, the subject Property would have been classed as a Third Generation building and likewise for her comparison number 2.
- 7.9 Ms. Mason was asked if she would describe her comparisons numbers 1, 2 and 3 as Fourth Generation Offices and replied that she would class them as Grade A Offices and that the Fourth Generation category was determined by the Respondent.
- 7.10 Referring to comparison number 2 in his Précis (PN. Numbers 840708, 5024646, 5024647 & 5024648), Mr. Shaughnessy asked for Ms. Mason to consider that this building valued at €260 per m² had the same characteristics as the subject Property in having an A3 BER Rating, was re-developed and sub-divided. Ms. Mason said that it had similar attributes to the subject Property but was smaller. Ms. Mason noted that this property was not on the List when Representations were made in respect of the subject Property, having being added in November 2021.
- 7.11 Referring to comparison number 3 in his Précis (PN. Numbers 838436, 868426, 828425 & 828427), Mr. Shaughnessy asked Ms. Mason whether she agreed that this comparison and the subject Property were similar in terms of energy rating, location, re-development and having a WELL Accreditation. Ms. Mason said that the comparison is listed as a Third Generation Office, not Fourth Generation, with part being listed as a Georgian Office. The property has a Georgian façade and is quite different from the subject Property. She considered that the WELL Accreditation to be similar to that of LEED.
- 7.12 Referring to comparison number 4 in his Précis (PN. Number 839793), Mr. Shaughnessy asked Ms. Mason whether she agreed that this comparison was similar to the subject Property in terms of LEED Accreditation, BER A3 category, location and size. Ms. Mason said that this property was only added to the List on 10th June 2022 which is post the valuation date and did not deem it relevant in terms of this Hearing.
- 7.13 Referring to comparison number 6 in his Précis (PN. Numbers 5018640), Mr. Shaughnessy asked Ms. Mason whether she agreed that this comparison is similar to the subject Property in terms of LEED Accreditation, BER Rating and size all be it that it is slightly outside the CBD. Ms. Mason said that she considered that this property was within the CBD area and noted that it was subject to a Valuation Tribunal Decision at the rate of €240 per m² being reduced from €280 per m² which supported her opinion of value in relation to the subject Property. Ms Mason added that this comparison as

well as others supported her evidence that a rate of €240 per m² was the appropriate rate.

- 7.14 Mr. Shaughnessy asked Ms. Mason if she considered her comparison number 7 (PN 5010921) being a building of 12,000 m² to be a comparable property. She agreed that it was significantly larger than the subject Property and not comparable in that regard. She stated that she considered it to be comparable as it was on the List as a Grade A modern office building and that the building construction completion date was similar to that of the subject Property and it was assessed by the Valuation Office more recently at €240 per m².
- 7.15 Mr. Shaughnessy asked whether Ms. Mason agreed that there are properties on the Valuation List that are valued at the rate of €280 per m². Ms. Mason agreed and noted that neither valuer had included evidence in their respective Précis referring to this rate.

8. RESPONDENT'S CASE

- 8.1 Mr. Shaughnessy is a valuer within the Valuation Office since March 2020. He made his affirmation and adopted his Précis as his evidence in chief. Mr. Shaughnessy submitted that the Property should be valued at the rate of €260 per m². In his Précis he appended a property location map, building floor plans and both external and internal photographs of the subject Property.
- 8.2 Referring to his Précis Mr. Shaughnessy said that he agreed with the comments in the Appellant's submission in terms of the subject Property's location, description, accommodation, access, neighbouring occupiers and the building energy rating and noted that it was one of the top energy efficient buildings in Dublin city. It is a Grade A Office building. Mr. Shaughnessy recited the rating history in relation to the Property and the valuation timeline noting that the initial request to value the property was made by Dublin City Council in February 2017.
- 8.3 Mr. Shaughnessy said that he had conducted an analysis of the Valuation List for all offices within the Dublin City Council rating authority area as at the 12th September 2022 and a total of 7,587 unique office property numbers were returned. A further analysis which focussed on First, Second, Third and Fourth Generation / Grade A offices indicated a total of 2,008 properties out of the earlier total.

A breakdown of this sub-set indicated that there were 43 Fourth Generation / Grade A offices on the Valuation List. The number of Fourth Generation / Grade A office has increased from 43 to 59 in the period from September to December 2022. Those additional 16 property numbers consisted of 2 which are exempt by occupation and of the remaining 14, 11 were valued at €260 per m² and 3 were valued at €280 per m². He said that only 1 of these occupiers had made Representations and to date no appeals

have been recorded onto the Valuation Office computer system with 13 of the properties appeal dates having passed.

He said that this analysis put in context the values for superior quality buildings. He stated that the rates of €260 and €280 per m² had been on the valuation list since the revaluation in 2011. Mr. Shaughnessy said that the Fourth Generation rating classification was created in mid-2020 and the small number within this category is on account of the lateness in the creation of the category. Quoting from a paper titled '*An Empirical Analysis of Development Cycles In The Dublin Office Market 1976-2007*' by John McCartney in 2008 which described the emergence of an additional category of environmentally sustainable 'Fourth Generation' offices.

- 8.4 Mr. Shaughnessy said that there is no official industry definition of Fourth Generation and even the SCSi has described it differently in two different years. He said that it was necessary to look at buildings holistically and consider energy, location, size, awards and value them accordingly.
- 8.5 Mr. Shaughnessy introduced six office comparison buildings in the Dublin 2 postal area, that were valued by the Respondent at the rates ranging from €240 per m² to €260 per m² to support the figure of €260 per m² for which he was contending. He subsequently withdrew two comparisons, with the four comparisons relied upon set out below as they appeared in his précis.

Comp. No.	PN Property Numbers	Property Address	NAV € per m²
Comp 1.	5014496, 5014497, 5014498 & 5014499	One Molesworth Street	€240
Comp 3.	838436, 838436, 838426 838425 & 838427	47 - 49 St. Stephen's Green	€260
Comp 5.	839608, 5025496	19b Dawson Street	€240
Comp 6.	5018640	The Lennox Building, 47-51 South Richmond Street	€240

- 8.6 Prior to reviewing his comparisons Mr. Shaughnessy referred to the inclusion by him of No. 1 Molesworth Street (PN 5014496, 5014497, 5014498 & 5014499) in his Précis, which is a common comparison submitted by the Parties and is valued at €240 per m², the same rate sought by the Appellant for the subject Property. He said he included this comparison to show how it differed from the subject Property. He said that he considered it to be different from the subject Property on account of the accommodation

primarily extending upward from the first floor level with the ground floor occupied by separately assessed retail units, it has a lower energy rating, no ground floor office presence and a different profile with a small entrance area.

8.7 Mr. Shaughnessy described each of his comparisons as follows;

- (i) One Molesworth Street, this building extends to approximately 6,000 m² excluding the ground floor retail element and was sub-divided into a series of separate property numbers at revision stage. By location, it is the closest comparison property to the subject Property. It was appealed to the Tribunal with the appeal being subsequently withdrawn. Whilst there are a lot of similarities in terms of construction and energy ratings, the style and layout of both properties are different.
- (ii) 47-49 St. Stephen' Green, this property is located on St. Stephen's Green East at the junction of Hume Street and has been refurbished to a modern Grade A property standard while keeping the Georgian exterior façade. The property boasts being the first WELL V2 building in Ireland of which there were only three such buildings of this quality in 2021. It has achieved a BER of A3. There are descriptions of it as Third Generation only because it was put on the List prior to Fourth Generation. It is very high quality and comparable to the subject Property.
- (iii) 19b Dawson Street, this property is located very close to the subject Property on Dawson Street and adjacent to the Mansion House. It was built in 2002 and extends to 1,472 m². It was valued at €240 per m² in the Dublin City Revaluation in 2011. In the marketing information for the letting of the second floor in 2020 the BER rating of the building was stated as being C2. He said that as the energy rating and quality in the subject Property are better, there is a far greater chance the hypothetical tenant will pay the extra €20 per m² for the subject Property than for this property and valuing the subject Property at the same rate would be inequitable.
- (iv) The Lennox Building, South Richmond Street, Mr. Shaughnessy said that this building was added to the valuation list in November 2020 as a newly constructed property. It has a retail unit on the ground floor and a separate entrance to a lower basement gym area. Both the retail unit and the gym are valued separately. This building is a Grade A quality building and has won countless international awards for design, sustainability and wellness. It is the second WELL V2 building in Ireland and at the time of its inclusion on the Valuation List it was only one of 209 buildings to reach this quality standard in the world. It has a BER of A2 which is better than that of the subject Property.

Mr. Shaughnessy said that it should be noted that in VA 20/4/0069 Weston Office Solutions Ltd -v- Commissioner of Valuation, that the Valuation Tribunal in its Decision reduced the rate per m² from €280 per m² to €240 per m² and said that the

Tribunal noted in para 10.4 of its Decision that South Richmond Street is on the periphery of the Central Business District and not comparable to prime areas. He said that using this logic, the subject property is in the centre of the Central Business District and to keep with equity and fairness, if a new Grade A building on the periphery is valued at €240 per m², the subject Property is better located and this should be reflected in its value. Mr. Shaughnessy considered that this property was superior to the subject Property.

- 8.8 Mr. Shaughnessy contended for a NAV valuation of €292,000 based on a rate of €260 per m².
- 8.9 In cross-examination by Ms. Mason, Mr. Shaughnessy said that the initial request for the Property to be valued was made by Dublin City Council in February 2017 and that there were various delays encountered in valuing the Property relating to establishing ownership of the Property. He agreed that if the valuation of the Property had taken place in 2017 or early 2018 that it would have been listed as a Third Generation Office Building as the Fourth Generation category had not yet come into existence at the time as it did not come into existence until 2020. Ms. Mason put it to Mr Shaughnessy that as a result some property owners such as the Appellant were prejudiced by the timing of valuations in the amount of €20 per m² and that was not fair or equitable. Mr. Shaughnessy refuted this as some properties were valued at a higher rate per m² in 2011 and had not appealed.
- 8.10 Mr. Shaughnessy confirmed that of the six comparisons submitted by him, that two were listed as Fourth Generation Office Buildings being his comparisons numbers four and six. Comparison four was subsequently withdrawn.
- 8.11 Mr. Shaughnessy accepted that the valuation of offices should not be based on LEED awards only and should also have regard to other factors including size and location.
- 8.12 In relation to the research and analysis that he conducted of the Valuation List for all offices within the Dublin City Council rating authority area as at the 12th September 2022, Mr. Shaughnessy acknowledged that this exercise should have been undertaken up to the effective date of the subject Property being the 18th November 2021 as at the later date of 12th September 2022 it would include properties that were valued post the effective date of the valuation of the subject Property. He said that the logic of the September date was to put into context the location of the properties and their values and agreed that the analysis did not differentiate as to property size.
- 8.13 Mr. Shaughnessy acknowledged that the 2008 paper by John McCartney '*An Empirical Analysis of Development Cycles In The Dublin Office Market 1976-2007*' was now a dated document and he expressed the opinion that the then envisaged definition of a Fourth Generation Office building may not currently apply.
- 8.14 In reply to a question, Mr. Shaughnessy said that there was no set definition or practice guidance note available from the Respondent's office in relation to defined office categories and that appellants are directed to rely upon comparable properties in their valuations. He said that he considered that the subject Property was a better property than other properties valued at €240 per m².

- 8.15 Mr. Shaughnessy agreed that the common comparison of One Molesworth Street and the subject Property both have retail elements at ground floor level and that both have profiles onto Molesworth Street. He agreed that it was in a similar location, of a similar size in a high profile location and a similar standard building.
- 8.16 Mr. Shaughnessy did not agree that if the subject Property had been valued in 2017 at the same time as One Molesworth Street that a similar rate per m² would necessarily have been applied and did not agree that a differential of €20 per m² was incorrect for similar buildings developed at a similar time. Mr. Shaughnessy agreed that Ms. Mason's comparisons were all constructed or refurbished around the same time as the subject Property was re-developed.
- 8.17 In relation to his comparison number 5, 19b Dawson Street, Ms. Mason asked Mr. Shaughnessy to confirm his understanding as to the applicable BER Rating that applied as her understanding from a marketing brochure was a B2 rating as opposed to a C2 Rating. The Parties agreed to clarify the position.
- 8.18 In relation to comparison number 6, The Lennox Building, Mr. Shaughnessy did not accept that whilst he considered that the quality of the building was superior to the subject Property that on balance and having regard to its lesser quality location that a €20 per m² differential should not apply.
- 8.19 In relation to his evidence that the WELL Accreditation was an add-on to the LEED Accreditation Ms. Mason asked whether this was a correct statement as her understanding is that the LEED Accreditation relates to energy & sustainability whilst WELL Accreditation relates to occupiers wellbeing and asked whether his assertion is stated in any guidance note. Mr. Shaughnessy said that WELL took account of issues including thermal quality, air comfort, water quality and nutrition and quoted from a Deloitte published paper on this point.
- 8.20 Ms. Mason compared the floor to ceiling height of One Molesworth Street being 2.8 m to the subject Property and Mr. Shaughnessy accepted that that each of Ms. Mason's seven comparisons had a superior floor to ceiling height to that of the subject Property's of 2.55 m height. He said that in his opinion that the floor height alone would not be a deciding factor in choosing an office with different occupiers having varying views including some occupiers preferring exposed ceilings.
- 8.21 Ms. Mason asked Mr. Shaughnessy which of his comparisons he considered to be his lead comparison. Mr. Shaughnessy replied comparison number 3, 47- 49 St. Stephen's Green, with its WELL award, similar size and A rating. Ms. Mason then asked Mr. Shaughnessy to agree that of the total 12 comparators adduced, 9 were valued at €240 per m², 1 at €250 per m² (after the valuation date) and 2 at €260 per m². He accepted the figures but disputed the comparability of some of Ms. Mason's comparators, for example comparison 7.
- 8.22 The Tribunal sought confirmation from Mr. Shaughnessy as to the inclusion of his comparison number 2, 2-4 Merrion Row, in his evidence due to the date of its inclusion on the Valuation List. On reflection he confirmed that it was to be excluded and disregarded as it was not on the List when he valued the subject Property or when

Ms. Mason submitted her Representations and therefore could not have been considered at Representation stage by the Appellant.

The Tribunal also sought clarification from Mr. Shaughnessy in relation to his inclusion of comparison number 4, 5 Schoolhouse Lane. Mr. Shaughnessy said that this property was on the List and valued at €240 per m² at the valuation date of the subject Property. It was subsequently added to the List in June 2022 at €250 per m², post refurbishment works and post an increase in its size. He accepted that his evidence of €250 per m² contained in his Précis was not on the List as at the valuation date and withdrew this comparison from his Précis.

- 8.23 The Tribunal directed to Mr. Shaughnessy submit confirmation of the BER status of his comparison number 5, 19b Dawson Street which was queried by Ms. Mason and also a copy of the Deloitte paper referencing WELL Accreditations. The Tribunal also directed that Mr. Shaughnessy submit a schedule of properties valued at €280 per m² which were on the List up to the valuation date.

9. SUBMISSIONS

- 9.1 No legal submissions were made by the Parties.

10. FINDINGS AND CONCLUSIONS

- 10.1 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 Dublin City Council.
- 10.2 The Précis and the appendices submitted by the parties, the oral evidence adduced and the information submitted for clarification purposes have been all been considered by the Tribunal in arriving at this decision.
- 10.3 The Property is a modern building and a recently re-developed property. It is in a central and convenient location for both staff and visitors with easy access to good local transport links. As a recently developed property it possesses high quality finishes and attractive amenities and its design features are laudable in environmental terms.
- 10.4 Neither valuer relies on rental evidence as the Property is required to be valued in accordance with section 49 of the Act by reference to the values of other comparable properties on the Valuation List. It follows that the Tribunal must consider the nature of the comparative evidence adduced by the valuers and the additional evidence required by the Tribunal to determine whether it supports the argument advanced on behalf of the Appellant.

- 10.5 Before looking at the comparative evidence, the Tribunal considers that it should take the opportunity to make some general observations on the background to this appeal and the evaluation of comparative evidence when determining value in accordance with section 49 of the Act.
- 10.6 The List was published on the 31st December 2013 and as more than nine years has elapsed, the Tribunal finds as a fact that the Tone of the List is established. All valuations on the List were carried out by reference to a common valuation date of the 7th April 2011. When the List was published, there were 1,434 properties categorised as Third Generation offices entered on the List and no properties were categorised as Fourth Generation / Grade A offices. Subsequent to the publication of the List, recently constructed office buildings categorised as Third Generation were included in the List on foot of revision applications up until November 2020 and since November 2022 recently constructed office buildings have been included in the List categorised as Fourth Generation / Grade A.
- 10.7 A comparable property is seldom identical to the property being valued, so the closer a comparable is in nature, type, age, size, method of construction, condition and location the more appropriate it will be. Comparables have to be suitable as the valuer's duty is to compare 'like with like'. The more unlike a comparable is, the less useful it will be. On this appeal, there are several office properties which have reasonably similar characteristics to the appeal Property. In principle, similarly circumstanced office properties in the same general locality as the Property should carry more weight than those further away but that does not mean that the latter should be disregarded because nearby properties may attract less weight for one reason or another and so it may be necessary to consider similar properties elsewhere. On this appeal the Tribunal considers that regard should primarily be had to comparable properties located in the central part of the CBD within the Dublin 2 area.
- 10.8 Much emphasis was laid on the fact that the Property is categorised on the List as a Fourth Generation Office / Grade A building and valued at €260 per m² in circumstances where it is contended and accepted that other similarly circumstanced office buildings are entered on the List as Third Generation offices and valued at the rate of €240 per m².

Though categorised as a Fourth Generation / Grade A Office it does not necessarily follow that the Property merely on that account was valued incorrectly or unfairly. The characteristics of the Property must be looked at and if, after each property on the List which is said to be comparable to it is examined and the label or categorisation applied to it is irrelevant.

Many factors influence valuation and no single factor is conclusive. All the characteristics of a property have to be evaluated and the eventual answer depends on the nature, location and quality of the property. There is a perennial difficulty in seeking

to achieve precision in the criteria to be applied to each sub-category of office and this appeal clearly demonstrates a need to re-formulate clear and practical guidance on the criteria by which modern Grade A offices are to be valued.

- 10.9 Both valuers agree that Grade A offices with LEED Platinum and Gold accreditation and high BER ratings were included on the List categorised as ‘Third Generation’ prior to the inclusion of the Property on the List on the 18th November 2021 as a ‘Fourth Generation / Grade A’. The Tribunal accepts the valuers’ caveats about the difficulty of analysing the comparative evidence. This difficulty is exacerbated by the absence of a clear and coherent classification system that differentiates between the quality of different office buildings according to location as well as building specifics such as construction, age, materials and finishes, layout, aesthetics, energy efficiency rating, amenities, access, physical site and transport links.
- 10.10 There is no industry definition of ‘Grade A Office Building’ but it is generally accepted to include buildings that share some or all of the following characteristics; being constructed within the past 10 years, possessing outstanding architectural interior and exterior design, large and well-designed office lobbies, mechanical systems and technology incorporating latest design efficiency standards, green building certification, floor to ceiling heights of at least 2.8 m and ancillary facilities such as canteen, gym bicycle racks and car parking spaces. As the Property is a Grade A office building of 1,125.62 m² it should be compared with similarly sized Grade A properties.
- 10.11 The Tribunal notes Mr. Shaughnessy’s agreement with Ms. Mason’s comment that there was a long delay in the Respondent undertaking the revaluation exercise from first being requested in February 2017 by Dublin City Council to the issuing of the Proposed Valuation Certificate in August 2021 and also noted his agreement that had the exercise been undertaken sooner that the subject Property would have been listed as a Third Generation Office Building and not a Fourth Generation Office Building.

Ms. Mason put in evidence seven Grade A Office properties, four of which, AerCap House, The Sharp Building, Miesian Plaza and The LinkedIn HQ were each considerably larger than the subject Property and although listed as being Third Generation Offices, valued at €240 per m² and in the Dublin 2 area are less comparable to the subject Property on account of their size. The three remaining comparisons One Molesworth Street, 1 Cumberland Place and 32 Molesworth Street are properties with multiple PN Numbers and mainly comprise suites within buildings and with areas that were more comparable in terms of scale to the subject Property.

- 10.12 Mr. Shaughnessy having withdrawn two of his comparisons from his Précis relied upon four comparisons - One Molesworth Street, 47-49 St. Stephens Green, 19b Dawson Street and The Lennox Building. Other than 47-49 St. Stephen’s Green which is valued at €260 per m², each is valued at €240 per m². The Lennox building is less comparable

to the subject Property on account of its location and size. Mr. Shaughnessy considered that 47-49 St. Stephen's Green to be his primary comparison. The Tribunal considers this to be a superior location to the subject and notes that the floor plates are considerably smaller than the subject Property.

- 10.13 In his evidence and valuation rationale Mr. Shaughnessy placed considerable emphasis on the energy rating status and the relevant accreditations achieved by his comparison properties and provided little evidence or commentary as to other important factors that influence value such as floor to ceiling heights, mechanical systems and technology, details of building finishes and specifications or details of ancillary facilities such as canteens, gyms, bicycle racks and car parking spaces. In the valuation of a property it is necessary to address and consider all the characteristics of the property with no single factor being conclusive.
- 10.14 The characteristics of the relevant comparisons submitted by both valuers are broadly similar being of a Grade A standard with LEED Gold or Platinum Accreditations and with BER Ratings of either A or B levels. The subject Property does differ from both sets of comparisons submitted by the Parties in that it has a floor to ceiling height of 2.55 m. The floor heights in Ms. Mason's comparisons range from 2.725 m to 3.3 m. Mr. Shaughnessy did not provide floor heights in his comparison information. The Tribunal does not accept his contention that floor heights are not an influencing factor in office occupation.
- 10.15 The Tribunal considers that the comparison of One Molesworth Street, which was adopted by both valuers in their respective Précis to be the most relevant and comparable property to the subject Property, (the respondent's witness calling it "the closest comparable property bar the rate per square metre"), being similarly circumstanced and sharing similar characteristics including location, age, size, specification and finishes and considers that its valuation rate of €240 per m² to be the most relevant comparison to be considered in the valuation of the subject Property. The Tribunal does not consider to be correct Mr. Shaughnessy's view that his stated physical differences between One Molesworth and the subject Property to be sufficiently material to merit an additional €20 per m² being applied in the valuation of the subject Property.

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 €270,000 as follows;

Floor Level	Area M²	NAV Per M²	NAV €
First floor	562.81	€240	€135,074.40
Second Floor	562.81	€240	€135,074.40
		Total	€270,148.80
		But say,	€270,000
		NAV	€270,000

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.