

Appeal No: VA19/5/0948

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**NA hACHTANNA LUACHÁLA, 2001 - 2020
VALUATION ACTS, 2001 - 2020**

Enniscorthy Carpet Centre

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2097407, Retail (Shops) at 5.6.6a/Unit 19 Abbey Quay, Enniscorthy, County Wexford.

B E F O R E

Stephen J. Byrne - BL

Deputy Chairperson

Raymond J. Finlay – FIPAV, MMII, ACI Arb, TRV, PC

Member

Gerard O'Callaghan – MRICS, MSCSI

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17th DAY OF JANUARY, 2022**

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th day of November, 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 €23,000.

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:

“1. The property is a former grain store in use as a carpet showroom. Property should not be zoned, completely unsuitable for same. Zoning model places higher value on this property than

the majority of unit in the town, completely unsustainable. Should be valued overall as industrial showroom, such as PN 2202255.

2. The property has been flooded twice in recent years and contents completely destroyed. It is no longer possible to insure the property. Minimum end allowance 10% - as now applied by the Commissioner.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €7,200.

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 €28,100.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €23,000.

2.3 A Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €23,000.

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 5th day of November, 2021. At the hearing the Appellant was represented by Mr. Eamonn Halpin B.Sc. (Surveying), MRICS, MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Patrick Nolan 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

The property comprises an end of terrace retail unit within the Abbey Centre with a carpet showroom on the ground floor with overhead storage at first floor level. The property is held on a Freehold Title by the Owner Occupier.

The floor areas are agreed at 123.8 square meters at ground floor and 122.8 square meters at first floor level.

5. ISSUES

In determining this Appeal the Tribunal is required to decide whether the Rateable Valuation of €23,000 as determined by the Commissioner of Valuation has been shown to be excessive and if so by how much.

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

It is the Appellant's case as represented by Mr. Halpin that applying a Retail Zoning Method is inappropriate for the subject property due to the shape and configuration of the floor area and the location within the Abbey Quay Centre or that in applying a retail zoning method of Valuation, the Commissioner did not make an appropriate allowance given the wide frontage and lack of depth of 19 Abbey Quay. The Appellant, whilst acknowledging the high profile of the building to passing vehicular traffic, further states that the property is situated in a low footfall area at the end of a carpark and adjoins a church building. The Appellant also claims that the Commissioner did not make any allowance for the fact that the property is subject to flooding and is a converted former grain store and not a modern purpose built retail unit such as the comparable properties cited by the Commissioner. Mr. Halpin also stated his belief that properties cited by the Commissioner of Valuation as comparable in support of the Rateable Valuation were superior to the subject property in terms of location, passing footfall and structure. The Appellant states that a Zone A value of €160 per sq.m is not appropriate given the shape, size and location of the property and in particular the width of the frontage, almost all the subject property floor area is zoned A.

Mr. Halpin cited the SCSI Guidance paper entitled "Retail Zoning for the Chartered Surveyor", the paper makes several points in regards to retail zoning:

a) Where zoning is applied, it is also recommended that the premises be considered on an overall basis as there are instances where zoning can produce an anomalous result.

b) 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.

Mr. Halpin also referred to Bond and Brown (Rating Valuation Principles and Practice, 3rd Edition), makes the following commentary on frontage to depth (page 210): *The zoning approach is designed to allow for depth in a shop but makes no allowance for a shop having excessive frontage and therefore excessive Zone A in relation to its depth. If a shop has a long frontage but depth of little more than 6.1m, virtually all of it will be Zone A. If the standard Zone A value derived from the evidence of shops with a normal ratio of frontage to depth is used it is likely the shop will be overvalued. An allowance will need to be made as the basic zoning method does not cope with this problem. This can be done by an end allowance, or by some recalculating of adjoining shops onto an overall value per square metre basis and making a direct comparison adjusted for the advantage of a long and prominent frontage. The typical ratio of frontage to depth for standard shops is 1:2.5 or 1:3 on sales space.*

Mr. Halpin stated that, the frontage to depth for the subject is 1:0.35 and referred to cases in Athlone and Kilkenny where he believed sufficient adjustments to Valuations had been made where properties had a similar frontage to depth ratio.

Mr. Halpin outlined a case for a Valuation NAV as at September 15th 2017 calculated as follows;

Retail valued overall Retail 123.77m² @ €72/m² = €8,911

First Floor 122.8m² @ €20/m² = €2,456

Total NAV €11,367 say €11,360

Mr. Halpin also outlined 3 further methods as a check for the above;

1. Valued as a Showroom

Showroom 123.77m² @ €38.40/m² = €4,753

First Floor 122.8m² @ €38.40/m² = €4,715

Total NAV €9,469 say €9,470

2. Zoned with end allowance

Zone A 111.58m² @ €160/m² = €17,853

Zone B 12.19m² @ €80/m² = €975

Less 50% end allowance for frontage to depth/shape = - €9,413

First Floor 122.8m² @ €20/m² = €2,456 Total NAV €11,869 say €11,860

3. Alternative zoning (Y – Axis) i.e deeming that the property fronts onto Abbey Quay and not the Abbey centre carpark.

Zone A 41.48m² @ €160/m² = €6,669

Zone B 41.48m² @ €80/m² = €3,318

Zone C 40.81m² @ €40/m² = €1,632

First Floor 122.8m² @ €20/m² = €2,456.

Total NAV €13,875 say €13,870

8. RESPONDENT'S CASE

Mr. Patrick Nolan of the Valuation Office set out the case for the Commissioner that the Rateable Valuation of €19,970 was appropriate for the property. Mr. Nolan emphasised the dual frontage of the property with the front facing the Abbey Quay Centre Carpark and the gable end facing the Promenade with visibility to the N11 on the other side of the Slaney river.

Mr. Nolan states that there was flooding in Enniscorthy in 2010 and 2015 and that the level applied to the subject property is in line with the levels applied to the other units in Abbey Square Shopping Centre.

The Respondent also claimed that a sufficient deduction of 10% was allowed on the original Valuation to reflect the configuration of the space and wide frontage. Mr. Nolan referred to the SCSI Guidance information paper entitled “Retail Zoning for the Chartered Surveyor” and states the following in his Précis.

a. It is acknowledged that the information paper, in its ‘Introduction’ states that “Where zoning is applied it is also recommended the premises be considered on an overall basis as there are instances where zoning produces an anomalous result”. However, the paper provides “suggested approaches” when such an issue arises. I do not consider the approaches whereby the adoption of an overall level to be relevant in the subject case. Approach number 7 (Size

Limit for Zoning) is irrelevant as the subject property is considerably below the size threshold set down. Approach number 10 (User) suggests that some users do not use zoning such as pubs and large restaurants. There is no suggestion that the use as a carpet shop is unsuitable for zoning. Approach number 14 (Period Buildings / Non-Standard Shopfront) references the example of a traditional bank. The subject property is not a period building, nor could the shopfront be considered nonstandard.

b. Approach 2 (Quantum Discount for Frontage to Depth Ratio) suggests an end allowance may be applied where there is a large frontage relative to the depth, as highlighted in the agent's précis. It recommends a discount of 10% be applied to units with a frontage to depth ratio of less than 1:2. This is only a guideline figure, and a greater allowance may be applied where a unit is particularly wide and shallow. It also states, "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 $\pm 20\%$ ". This appears to indicate a maximum frontage to depth allowance of 20%.

Mr. Nolan stated that the above supported the case that a 10% reduction in the Valuation was a sufficient allowance for the shape and configuration of the subject property.

Mr. Nolan offered the following properties as relevant comparables for the subject property.

Property No. 2202422 15-17 Rafter Street, Enniscorthy.

Property No. 2097803, 6 Weafer Street, Enniscorthy.

Property No. 2097563, 2 Rafter Street, Enniscorthy.

Property No. 2098129, 58 Duffry Gate, Enniscorthy.

Property No. 2096957, 2 Slaney Street, Enniscorthy.

Mr. Nolan set out the calculation of the NAV for subject property at €19,970 arriving at the valuation on the following basis:

Ground Retail Zone A 111.58sq.m @ €160 = €17852.80

Ground Retail Zone B 12.2 sq.m @ €80 = €976

Allowance (Frontage to Depth @ 20%) 0 -€3,765.73

Store First Floor 122.80sq.m @ €50 = €6140

Allowance (First Floor @ 20%) 1 -€1,228.00

Total €19,974.91 Say - €19,970

9. SUBMISSIONS

There were no legal submissions made by either party in respect of this Appeal and the issues related to Quantum only.

10. FINDINGS AND CONCLUSIONS

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 Wexford County Council.

The Tribunal disregarded both parties' submissions in relation to quantum percentage adjustments to NAV based on the shape and size of the subject property. Instead, the Tribunal was mindful of the location of Enniscorthy Carpet Centre in relation to other properties in Enniscorthy and the lack of footfall benefitting the subject property.

The Tribunal also considered the flood risk and history attaching to the subject property which was acknowledged by both parties.

The Tribunal considered the comprehensive submissions from Mr. Nolan and Mr. Halpin and deduced that the NAV of €96 Zone A per square meter which is applied to the Abbey Cafe in the Abbey Centre was an appropriate comparable for the subject property and supported the Appellant case that a reduction in the Rateable Valuation is warranted. The Tribunal determined that an NAV of The Tribunal believed that the Key Rental Transactions offered as supporting evidence by the Commissioner were either located in superior trading locations to the subject property or were of a different nature and size to the subject property. The tribunal determined that an appropriate level for the first floor storage area was €40 per sq.m.

DETERMINATION:

From the evidence adduced by the parties, the Tribunal determines that the Rateable Valuation of the subject property be as set out below:

RV € 16200 Decrease

This is calculated as follows:

Area	Size	NAV per Sq.m	Amount
Ground Zone A	111.56 sq.m	€96	€10709.76
Ground Zone B	12.19 sq.m	€48	€585.12
First Floor Store	122.8	€40	€4912
TOTAL			€16206.88

SAY €16,200