

Appeal No: VA23/5/1219

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

J.B. Barry

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2198014, Office(s) at Unit 6 Classon House, Dundrum Business Park, Dundrum Road, County Dublin.

B E F O R E

Michael Brennan, BL, MSCSI

Thomas (TJ) Kearns, BSc (Surv.), MRICS

Avril Sheridan, Solicitor

Deputy Chairperson

Member

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JANUARY, 2025**

1. THE APPEAL

1.1 By Notice of Appeal received on the 18th day of October, 2023 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 €106,800.

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 valuation is excessive and inequitable.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €82,000.

2. REVALUATION HISTORY

2.1 On the 23rd day of September, 2022 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 €106,800.

2.2 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €106,800

2.3 The date by reference to which the value of the property, the subject of this appeal, was determined is the 15th day of September, 2019.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely via Zoom, on the 21st day of October, 2024. At the hearing the Appellant was represented by Fodhla Gallagher, BSc, RICS, SCSi of Business Rates and Compulsory Purchase in CBRE and the Respondent was represented by Jonathan Sharkey Assoc SCSi, B.Sc. (Hons) Property Studies, B. Sc. Real Estate Valuer, of Tailte Éireann.

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 their précis as his/her evidence-in-chief in addition to giving oral evidence.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts pertaining to the property, hereinafter referred to as “the subject property”:

4.1 The subject property comprises of part of a ground floor office in a building known as Classon House. Classon House is located within Dundrum Business Park. The subject property is amalgamated with PN 2198013 which is also subject to appeal in VA23.5.0872.

4.2 Classon House was constructed circa 2008 and comprises of a purpose built office building with basement car parking and a common reception area in the form of an atrium. Classon House is located at the entrance to Dundrum Business Park.

4.3 The subject property comprises of ground floor offices extending to 411.11 sq. m. and is fitted out to a relatively high standard and incorporates raised access floors, suspended ceilings, recessed light fittings and air conditioning. The subject property is laid out to provide a canteen, meeting rooms and open plan offices.

4.4 The subject property is let under a 15 year occupational lease from 22nd November 2013 at a current passing rent of €211,000.

5. ISSUES

5.1 The issue in dispute is whether the subject property has been correctly valued at €260 per sq. m. pursuant to its categorisation by the Respondent as ‘3rd Generation’ offices. The Appellant contends that it should be valued at €200 per sq. m., the established tone of the list for the categorisation as ‘Office – Business Park’

6. RELEVANT STATUTORY PROVISIONS:

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

6.2 In Revaluation type appeals, as in this appeal, section 37 provides that the Valuation Tribunal must reach a determination having regard to the provisions of Section 19(5) inserted by section 7 of the Valuation (Amendment) Act 2015, as follows:

“19. - (5) The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data

available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,

and so that (as regards the matters referred to in paragraph (b) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.”

6.3 The Net Annual Value of the Property must be determined in accordance with the provisions of section 48 (1) of the Act as amended which provides as follows:

“48. – (1) The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the basis in calculating the net annual value:

“48. – (3) Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year, on the assumption that the probable average annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT'S CASE

7.1 Ms Gallagher, for the Appellant, contended for a valuation as follows:

Floor Level	Use	Area (Sq. m.)	Rate per Sq. m.	NAV
Ground	Office	411.10	€200	€82,220
			Total NAV	€82,200

7.2 Ms Gallagher confirmed that the subject property is located in Dundrum Business Park and is located in close proximity to the entrance. She stated that the subject property comprises of part of a ground floor office and is occupied under a single common lease with PN2198014. PN 2198013 and PN 2198014 comprises of an amalgamated open plan office albeit that they are valued separately for the purposes of the Act.

7.3 Ms Gallagher confirmed that the property benefits from raised access floors and suspended ceilings and is finished with carpet floor coverings and recessed light fittings. She stated that there is a shared reception, canteen, toilet facilities and meeting rooms in addition to the open plan offices. Ms Gallagher confirmed that the property is held under a 15 year lease from 2013.

7.4 Ms Gallagher stated that the property has been categorised by the Respondent as 3rd Generation offices but prior to the revaluation it was categorised as 'Office - Business Park'. She stated that there are 18 other offices in the Dundrum Business Park categorised as 'Office - Business Park' and are valued at €200 per sq. m. She referred to sections 14 – 18 of her précis, which contained details of a substantial number of NAV comparisons and are set out in detail in **Appendix 1**, hereto (N/A to public).

7.5 Ms Gallagher provided details of 17 NAV comparisons within Dundrum Business Park that are valued at €200 per sq. m. She stated that the subject property is the only property valued above this level. It was her view that all the offices within the business park had similar specifications and levels of fit-out.

7.6 Ms Gallagher also provided details of 25 NAV comparisons located within Beech Hill Office Campus that are also valued at €200 per sq. m. She confirmed that these 25 NAV comparisons

were categorised as ‘Office - Business Park’. She stated that Beech Hill Office Campus is a modern development and is similar to the subject property. Ms Gallagher as relied on 16 NAV Comparisons in Blackrock Business Park. She stated that this comprised of “Grade A” accommodation and also appears on the valuation list valued at €200 per sq. m. and is categorised as ‘Office - Business Park’.

7.7 Ms Gallagher also referred the Tribunal to 12 NAV Comparisons located in Bracken Business Park and confirmed that these comparisons are categorised as ‘Office - Business Park’ and are also valued at €200 per sq. m.

7.8 She also relied upon 18 NAV Comparisons on Richview Office Park that are categorised as ‘Office - Business Park’ and valued at €200 per sq. m. She stated that Richview Business Park is in close proximity to the Dundrum Business Park and that specification was similar in the offices within Richview Business Park also benefitted from air-conditioning, suspended ceilings, LED lighting, raised floors, kitchen facilities, passenger lifts, reception area and a mix of open plan and cellular offices.

7.9 Ms Gallagher also referred the Tribunal to 10 NAV comparisons located in four buildings in Clonskeagh Square that are categorised as ‘Office - Business Park’ and valued at €200 per sq. m.

7.10 Ms Gallagher also submitted seven NAV comparisons in Deansgrange Business Park which she stated had a mix of purpose built office and industrial properties. She stated that the offices were categorised as ‘Office - Business Park’ and are valued at €200 per sq. m. She stated that there was one property valued at €230 per sq. m. and it was in her opinion an anomaly and had been incorrectly valued. She stated that the office specification within Deansgrange Business Park includes air conditioning, raised access floors, suspended ceilings, LED lighting, basement parking, double glazing, open plan offices and passenger lifts.

7.11 Ms Gallagher also submitted details of 12 NAV comparisons within Pottery Business Centre. She stated that two buildings located off Pottery Road within this business center, share similar specification to the subject property. She stated that both of these buildings are categorized as ‘Office - Business Park’ and are valued at €200 per square metre. She stated that the specification included double glazing, raised access floors, suspended ceilings, air conditioning, basement parking and passenger lifts.

7.12 Ms Gallagher referred the Tribunal to 45 NAV Comparisons across Sandyford business district in buildings contained within Leopardstown Office Park, Sandyford industrial Estate, Sandyford Business Centre and within some standalone office blocks. She stated that the specification and finish varies from building to building but irrespective of this, a tone of €200 per sq. m. has been set with 43 of these NAV comparisons valued at €200 per sq. m. and two valued at €180 per sq. m.

7.13 Ms Gallagher also referred to an additional 57 NAV comparisons with the categorisation 'Office - Business Park' located within Avondale Business Park, Bellfield Innovation Park, Central Park, Courtyard Business Centre and Nutgrove Enterprise Park. She stated that out of those 57 comparisons only two have been valued above €200 per sq. m. She stated that one is located within Central Park, which she described as a '3rd Generation' office development and superior to the subject property. She confirmed this was valued at €280 per sq. m.

7.14 Mr Sharkey questioned Ms Gallagher about the specification of the subject property. She was asked if the subject property had raised access floors, air conditioning, lift access and a B2 energy rating. She confirmed that it did, but that other properties valued at €200 per sq. m. had the equivalent specification. She did not know the BER rating but accepted that it was B2 as per the property brochure and also stated that the building was 12 to 13 years old

7.15 Mr Sharkey put it to Ms Gallagher that the property had all the benefits of floor to ceiling glazing of approximately 2.7 metres and that the building was constructed in 2008. Ms Gallagher stated that the specification was similar to Blackrock Business Park which has been advertised as Grade A office accommodation and had a BER rating of B1 and that the subject property was no different than other business parks valued at €200 per sq. m. Ms Sharkey agreed that the property was located near Windy Arbour Luas stop and that pursuant to a rent review which is effective from 21st November 2018, the passing rent is €211,000 equating to a net effect of rent of €295 per sq. m.

7.16 When it was put to Ms Gallagher that the valuation had to obtain correctness and uniformity, she stated that she agreed with the levels that were applied to '3rd Generation' offices and 'Office - Business Park' but the crux of her argument was that the subject should be valued as 'Office - Business Park'. Mr Sharkey put it to her that the subject property is the only property under appeal out of 29 office properties on the valuation list that were valued as '3rd Generation'

notwithstanding that they were located within a business park. In response, Ms Sharkey maintained that the property should be valued as 'Office - Business Park'.

7.17 Mr Sharkey asked Ms Gallagher what was her best comparison and Ms Gallagher referred to page 28 and 29 of her précis of evidence and stated that BlackRock Business Park were her best comparisons and that Deansgrange Business Park and Pottery Business Centre were all of a good specification. Mr Sharkey then asked if there was any warehouse or industrial content within the comparisons that Ms Gallagher relied upon and confirmed that and NAV comparisons 12 and 13 within Dundrum Business Park appeared to have warehouse content but are on the list as offices. Ms Gallagher was unable to confirm if there was lift access to the other floors within the building but was able to confirm that the property was held leasehold. She also stated that Dundrum Business Park comprised solely of offices when she was asked if there was much warehouse accommodation in the subject business park. Upon further examination she stated that NAV Comparison 15 in the Dundrum Business Park, also had warehouse content.

7.18 When the tribunal asked Ms Gallagher if she was relying on actual rental evidence for the subject property, she stated that she was not contending the NAV levels but was contending the classification or categorisation and was relying on the tone of the list for that reason. She stated that she was not debating the rental levels as a reason for not including key rental transactions. When asked about whether there was a difference in the accommodation standards between the comparisons, she stated that Blackrock Business Park, Pottery Business Centre and Deansgrange Business Park were of a higher standard but were still valued at €200 per sq. m. She stated that she had no opinion of the market rental value at the relevant valuation date when asked by the Tribunal.

7.19 In summarising her evidence, Ms Gallagher stated that several offices in the Dundrum Business Park are arguably '3rd Generation' specification. She stated however, that they are similar to the subject property and valued at €200 per sq. m. She stated that there was no reason to isolate the subject property by categorising it as '3rd Generation' as there were no changes or improvements to the subject property. She stated that there was no merit for the subject property to be considered in a categorisation outside of 'Office - Business Park'.

8. RESPONDENT'S CASE

8.1 Mr Sharkey, for the Respondent, contended for a valuation as follows:

Floor Level	Use	Area (Sq. m.)	Rate per Sq. m.	NAV
Ground	Office	242	€260	€106,800
			Total NAV	€106,800

8.2 Mr Sharkey commenced his evidence by stating that the subject property was located on the ground floor of a purpose built, five storey modern office building. He stated that this office buildings contained a double basement car park and was constructed pursuant to design and build contract and completed in approximately 2008. He stated that it was designed by Henry J Lyons and had a BER rating of B2 and ‘very good’ BREEAM rating. He stated that the specification included air conditioning, raised access floors, lift access, central atrium and benefited from lots of natural light. He stated that the building comprised of 27 own door offices extending to 10,000 sq. m. overall. He stated that it was a very visible office development located 600 metres from the Windy Arbour Luas stop and approximately 2 km from Dundrum Town Centre.

8.3 Mr. Sharkey submitted eight key rental transactions (“KRTs”) and five NAV Comparisons in support of his valuation and are set out in detail in **Appendix 2** hereto (N/A to public). These comparisons can be summarized as follows:

KRT 1

Address	Classon House, Dundrum Business Park, Dundrum Road, Dublin 14, D14W7X9
Lease Commencement Date	1st June 2017
Lease Term	4 years and 9 months
Rent per annum	€30,940

NER @ Valuation Date			€30,011.80	
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
3	Office	85.13	€323.17	€260
-1	Car spaces	2 spaces		€1,250 per space
	Total per annum	85.13	€30,011.80	€24,600

KRT 2

Address			Beaver Row, Belfield Office Park, Clonskeagh, Dublin 14	
Lease Commencement Date			2nd November 2018	
Lease Term			15 years	
Rent per annum			€493,740	
NER @ Valuation Date			€478,927.80	
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
-1	Car spaces	60 spaces		€1,250 per space
0	Office	386.13	€367.84	€260
1	Office	386.13	€367.84	€260
2	Office	325.83	€367.84	€260
	Total	1,098.09	€478,927.80	€360,000

KRT 3 – Subject Property

Address		Unit 5 and 6 Classon House, Dundrum Business Park, Dundrum Road, Dublin 14, D14 T9T0
Total Floor Area		653.10 sqm
Lease Commencement Date		22nd November 2013 (Rent Review at 21st November 2018)
Lease Term		15 years
Rent per annum		Rent at review €211,000

NER @ Valuation Date		€198,691.67		
NAV		€169,600		
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
0	Office	653.10	€304.23	€260
	Total	653.10	€198,691.67	€169,700

KRT 4

Address		The Chase Building (, Carmanhall Road, Sandyford Industrial Estate, Sandyford, Dublin 18, D18Y3X2.		
Total Floor Area		1,023.05		
Lease Commencement Date		20th June 2014 (Rent reviewed 20th June 2019)		
Lease Term		20 years		
Rent per annum		€341,767		
NER @ Valuation Date		€313,767		
NAV		€305,204		
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
0	Car spaces	15 spaces	€1,250 per space	
1	Office	1,023.05	€306.56	€280
	Total	1,023.05	€313,626.20	€305,204

KRT 5

Address		The Chase Building (5th Floor), Carmanhall Road, Sandyford Industrial Estate, Sandyford, Dublin 18, D18Y3X2.		
Total Floor Area		1920.82 sqm		
Lease Commencement Date		15th January 2010 (Rent reviewed 31st December 2020)		
Lease Term		20 years		

Rent per annum		€657,387		
NER @ Valuation Date		€594,387		
NAV		€582,829.60		
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
0	Car spaces	36 spaces	€1,250 per space	
5	Office	1920.82	€309.44	€280
	Total	1920.82	€594,387	€582,829.60

KRT 6

Address		FIRST FLOOR, DUNDRUM BUSINESS PARK, DUNDRUM ROAD, DUNDRUM, DUBLIN 14, D14NX47.		
Total Floor Area		175.75 sqm		
Lease Commencement Date		10th January 2019		
Lease Term		10 Months		
Rent per annum		€38,000		
NER @ Valuation Date		€36,530.47		
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
1	Office	175.75	€158.07	
0	Car spaces	7 spaces		€1,250 per space
	Total per annum		€36,530.47	€43,900

KRT 7

Address		Unit 12 Dundrum Business Park, Dundrum Road, Dublin 14, D14KX48.		
Total Floor Area		567.84 sqm		
Lease Commencement Date		28th November 2022		
Lease Term		15 years		

Rent per annum			€80,000	
NER @ Valuation Date			€76,618.93	
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
0	Office	81.04	€190	€15,397.60
0	Office Industrial	107.39	€95	€10,202.05
0	Warehouse	139.31	€95	€13,234.45
MEZZ	Store	60.99	€19	€1,158.81
MEZZ	Office	98.07	€38	€3,726.66
1	Office	81.04	€190	€15,397.60
	Car Spaces	14 spaces	€1,250 per space	€17,500
	Total per annum			€76,617.17

KRT 8

Address			Unit 13 Dundrum Business Park, Dundrum Road, Dublin 14, D14KX48.	
Total Floor Area			590.51 sqm	
Lease Commencement Date			1st October 2015	
Lease Term			10 years	
Rent per annum			€65,000	
NER @ Valuation Date			62,097.10	
Level		Size (sq.m)	NER per sq.m	NAV per sq.m
0	Office	78.4	€192.72	€15,109.39
0	Warehouse	240.24	€96.36	€23,149.53
Mezz	Warehouse	193.47	€19.27	€3,728.55
1	Office	78.4	€180.90	€15,109.36
	Car spaces	4 spaces	€1,250 per space	€5,000
	Total per annum			€62,096.86

NAV Comparisons

No	Address	Size (Sq. m.)	NAV per sq. m	NAV
1	Frankfort Court, Dundrum, Dublin 14	177.27	€260	€56,000
2	Unit 6 Belfield Office Park, Beech Hill, Clonskeagh, Dublin 14	734.84	€260	€227,000
3	Ballintaggart House, Clonskeagh Road, Dublin 14	1,090.22	€260	€329,000
4	Unit 22 Classon House, Dundrum Business Park, Dundrum Road, Dundrum, Dublin 14	85.13	€260	€24,600
5	Unit 13 Classon House, Dundrum Business Park, Dundrum Road, Dundrum, Dublin 14	371.00	€260	€96,400

8.4 Mr Sharkey stated that other offices in Dundrum Business Park do not have the same specification as the subject property and that some have industrial elements which accord a lower value as a result. He referred to his key rental transactions 6-7 and eight in support of this contention.

8.5 Mr Sharkey stated that key rental transactions as opposed to NAV comparisons, show what is happening on the ground and our vital consideration in the assessment of NAV. He stated that his KRT 3, which is the subject property letting, has a net effective rent of €304.00 per sq. m. He stated that there is no industrial or warehouse element to Classon House. He stated that KRT 1 has a net effective rent of €323 per sq. m.

8.6 Mr Sharkey referred to his NAV comparisons 4&5 which comprised of a ground of first floor offices and are valued at the same level as the subject property. He stated that there are 29 records

relating to Classon House and that 27 of these relate to own door offices with the two remaining records comprising of car parking spaces and a kiosk. He stated that out of the 27 own door offices with Classon House, two are under appeal comprising of this subject property in its amalgamated form which is rated as two separate properties. He stated that all of the evidence that he is submitted in support of his valuation, demonstrates correctness, equity and uniformity.

8.7 Mr Sharkey accepted that the subject property was located within a business park when asked by Ms Gallagher. When Ms Gallagher questioned as to the reason for the classification change from 'Office - Business Park' to '3rd Generation', Mr Sharkey stated that it was the purpose of a revaluation to maintain equity and uniformity and that the prior category was now irrelevant as it did not reflect the property on the ground. He stated that changes are natural and Classon House is located at the entrance to the business park and is visible from the Dundrum Road. He stated that in comparison to the other properties within the business park, the subject property was much bigger and looked different. He stated that in comparing '3rd Generation' to 'Office - Business Park', the following characteristics are apparent: 3rd generation is a more open plan format with minimum amount of pillars; it was constructed post 1990; it is purpose built and there was no warehouse element; it is solely in office use; the subject property had a penthouse with wrap around terrace which you would not be available in a business park specification; there is a high ground floor to ceiling atrium; the specification included raised access floors and air conditioning; and exterior cladding comprised of glazed walls whereas it was brick cladding in the business park. He referred to the photograph of his KRT 6,7&8 which showed red brick was uniform elsewhere in the business park. He also stated that the subject had a good BER rating and was modern specification overall.

8.8 Ms Gallagher put it to him that Blackrock Business Park was similar and had an identical finish, fit-out and specification, superior BER rating; is advertised as 'Grade A' accommodation but was still categorised as 'Office - Business Park' and valued at €200 per sq. m. In response, Mr Sharkey stated that in his opinion it was '3rd Generation' offices and should be categorised as such and valued at €260 per sq. m.

8.9 When he was asked as to the relevance of the atrium, he stated that it gave an impressive feeling and was attractive to businesses and he claimed that it created a lot of natural light and was beneficial as a common space for networking. He stated that his KRT 6 does not have an atrium and does not have the same attractiveness as a result. When it was put to him that the subject property was larger than his KRT 1, he stated that there were 27 different floor plates within the building ranging from 85 to 400 sq. m. He stated that the subject was one of two amalgamated offices, with the subject extending to approximately 200 sq. m. and the other extending to approximately 400 sq. m.

8.10 He accepted that a comparisons from 2017 and 2018 did not reflect the value at the valuation date. Ms Gallagher put it to him that his KRT 4&5, were the subject of appeals to the Valuation Tribunal which resulted in the categorisation being changed from '4th Generation' to '3rd Generation' offices. He also agreed that the lease duration of his KRT 6 was of too short a duration to be relied upon. He agreed that his KRT 7&8 were located within the business park when asked but stated that they had industrial elements. It was brought to Mr. Sharkey's attention that the brochure of the subject property that he relied upon was approximately 12 years old and not reflective of the building now.

8.11 Mr Sharkey was questioned as to why this office was the only office within a business park location in the rating authority area that was valued as a '3rd Generation' office. Mr Sharkey stated that it is the only '3rd Generation' office in a business park but that the specification was the reason for the change in classification. He stated that buildings in other business parks that Ms Gallagher was relying upon, should have been valued as '3rd Generation' offices. He stated that the specification, design, build, BER rating, glazing and prevailing rents demonstrate the subject property stood out from competing properties within the business park. He stated that the classification prior to the revaluation was irrelevant

8.12 Mr Sharkey confirmed that his KRT 3, the subject lease, was his best comparison which was when he was questioned by the Tribunal. He also stated that he obtained the BER information from the John Paul construction website and in the property brochure when questioned by the Tribunal. He confirmed that his KRT 1 was the most recent rental transaction and stated that this rental level

would be the same or higher at the current valuation date when the question was put to him by the Tribunal. When the Tribunal asked if the subject property was the only ‘3rd Generation’ office within a business park location within the rating authority area, he confirmed that it was the only ‘3rd Generation’ office within Dundrum Business Park. He noted that his KRT 2,4&5 was valued as ‘3rd Generation’ offices and also had a business park location.

8.13 In summarising his evidence, Mr Sharkey stated that his KRT 2, 4&5 four were ‘3rd Generation’ offices in other business park locations that were located throughout the same rating authority area and are correctly valued as ‘3rd Generation’ offices. He stated that other offices in his opinion should have been valued as ‘3rd Generation’ as they all had ‘3rd Generation’ attributes. He stated that the subject property was not an isolated valuation and was correctly valued. He stated that the two KRTs that he relied upon, were located within Classon House and had net effective rents substantially higher than the NAV that was being applied by him.

9. SUBMISSIONS

9.1 There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 In reaching a decision in this appeal, the Tribunal has had regard to the précis of evidence, the Appendices thereto (N/A to public) and the authorities of both parties. The fact that the Tribunal does not make specific reference to any particular document or submission does not indicate that it has not been taken into account.

10.2 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, uniform 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 Dun Laoghaire Rathdown County Council (“DLRCC”).

10.3 The relevant question on this appeal concerns the amount a hypothetical tenant would pay in rent for a tenancy of the Property on the terms set out in section 48 of the 2001 Act, as amended. The rent for which the Property might, in its actual state, be reasonably expected to let is measured by the rental value on a hypothetical tenancy of the subject property on a year on year basis.

10.4 The Tribunal has to consider whether the characteristics of the subject property align to ‘Office – Business Park’ or ‘3rd Generation’ offices. The Tribunal notes that the Appellant did not provide a detailed analysis of the types of factors that separate the two classifications. More so, the Appellant relied on the fact that all of the other offices within the subject business park (Dundrum Business Park) are categorised as ‘Office – Business Park’. It is the Appellant’s contention that they are of a generally similar specification, therefore the subject should be categorised as ‘Office – Business Park’. The Appellant has demonstrated that the established tone for ‘Office – Business Park’ is €200 per sq. m. This is well supported by NAV Comparisons within Dundrum Business Park and many other business park locations within the rating authority area of DLRCC.

10.5 However, at the heart of this appeal lies the question of what the subject property actually conforms to. The onus of proof is on the Appellant to establish that the subject property is not ‘3rd Generation’ offices. Whether the subject property comprises a ‘3rd Generation’ office or ‘Office – Business Park’ involves an analysis and assessment of relevant factors that primarily relate to the physical characteristics of the subject property. The location alone and status of adjacent occupiers nor that status of other business parks, are not alone, sufficient to establish this. Therefore, if the assessment of the physical characteristics of the property is incorrect, a natural consequence is that the valuation is incorrect.

10.6 Ms Gallagher in her evidence did not submit in any significant detail, an assessment of factors to demonstrate the subject was not ‘3rd Generation’ offices. Mr Sharkey in his evidence and under cross examination submitted that the following general characteristics were relevant for the ‘3rd Generation’ categorisation:

- it was a purpose built, five storey and modern office building constructed in 2008;
- it contained a double basement car park;

- it was constructed pursuant to design and build contract;
- BER rating of B2;
- ‘very good’ BREEAM rating;
- air conditioning;
- raised access floors;
- lift access;
- central atrium and benefited from lots of natural light;
- highly visible at the entrance to the business park; and
- has good profile to the Dundrum Road.

10.7 Ms Gallagher did not agree nor deny that these factors were appropriate for the classification as ‘3rd Generation Offices’. There is no doubt that many more offices within business parks are categorised as Office – Business Park’ and this was proven by Ms Gallagher. However, the starting point has to be an assessment of what the subject property actually is. The Tribunal considers that the subject property does conform to ‘3rd Generation’ offices and the photographs evidence a high-quality office building with the characteristics normally associated with this categorisation. The Tribunal agrees with Mr Sharkey’s assessment of the factors that are relevant to a ‘3rd Generation’ categorisation. The Tribunal notes that the building benefits from superior profile in comparison to the other buildings in Dundrum Business Park. The Tribunal also considers the subject property to be of superior design and construction in comparison to the adjoining offices as evidenced by the photographs.

10.8 The Tribunal considers that the categorisation of subject property as ‘3rd Generation’ is reflective of its actual state and has been correctly valued. The fact that the property is the only ‘3rd Generation’ office within the business park, is not adequate grounds to demonstrate the categorisation and subsequent valuation is incorrect. The levels applied accord to the levels that are applied to all ‘3rd Generation’ offices that are situated in business park locations in rating authority area of DLRCC. The valuation accords to relevant statutory provisions. The Appellant has failed to discharge the onus of proof that the subject property is not ‘3rd Generation’ offices.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

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.