

**Appeal No: VA19/5/0208**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**William Neville & Sons Properties  
Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 2116301, Hospitality at Riverside Park Hotel, The Promenade, Enniscorthy,  
County Wexford.

**B E F O R E**

**Eoin McDermott - FSCSI, FRICS, ACI Arb**

**Kenneth Enright - Solicitor**

**Killian O'Higgins - FSCSI, FRICS**

**Deputy Chairperson**

**Member**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 6TH DAY OF JULY, 2022**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 3<sup>rd</sup> day of October, 2019 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the above relevant property (“the subject property”) was fixed in the sum of €521,000.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: The “Valuation is Incorrect” particularly in the context of ;

- (a) The opening of the Enniscorthy by-pass (Summer 2019),
- (b) The imminent commencement of flood relief works in the Slaney,
- (c) Exceptional food trade due to the proprietor’s acumen
- (d) Trading figures being considered should represent the average of three years financial statements
- (e) laundry receipts are not income.

1.3 The amount the Appellant considers that the valuation of the subject property ought to have been determined was revised from €348,000 to €400,000 at the hearing.

## **2. REVALUATION HISTORY**

2.1 On the 29<sup>th</sup> 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 subject property was sent to the Appellant indicating a valuation of €512,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation, proposing €348,000. Following consideration of those representations, the valuation of the subject property was increased from €512,000 to €521,000.

2.3 A Final Valuation Certificate issued on the 17<sup>th</sup> day of September, 2019 stating a valuation of €521,000. The valuation list for the rating authority area of County Wexford (‘the List’) was published on the 15<sup>th</sup> of September 2019 and the date upon which the List became effective for rates purposes was the 31<sup>st</sup> of October 2019.

2.4 The date by reference to which the value of the subject property, the subject of this appeal, was determined is the 15<sup>th</sup> day of September 2017.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing, held remotely, on the 29<sup>th</sup> day of April, 2022. At the hearing the Appellant was represented by Mr. Eamonn S. Halpin B.Sc.(Surveying) M.R.I.C.S. M.S.C.S.I. Ms. Olivia Bellamy attended on behalf of the Respondent for the purpose only of moving an application for an adjournment but did not remain either to give evidence or cross-examine the Appellant’s representative.

3.2 In accordance with the Rules of the Tribunal, Mr. Halpin for the Appellant had submitted his report and précis of evidence prior to the commencement of the hearing and submitted it to the Tribunal and the Respondent.

3.3 Ms. Bellamy, for the Respondent, formally requested an adjournment, apologising for the circumstances which related to the pressure on staff resources at the Valuation Office. The Tribunal asked Mr. Halpin for his observations. Mr. Halpin, whilst sympathetic to the challenges in the Valuation Office stated that the Appellant had complied with all directions issued by the Tribunal and was ready to proceed, that a date had been assigned at the callover and he wished the hearing to proceed to avoid prejudicing the Appellant.

3.4 Having considered the request, the Tribunal rejected Ms. Bellamy’s application for an adjournment. The Tribunal stated it was most regrettable but that a date had been set and in the interests of fairness to the Appellant, the Appeal should proceed. The Tribunal asked if Ms. Bellamy wished to take the opportunity to hear Mr. Halpin’s evidence and cross-examine but Ms. Bellamy declined, thanked the Tribunal and Mr. Halpin for considering the adjournment request and departed the remote hearing. Accordingly, the hearing proceeded *ex parte* as the Respondent was not represented and did not submit evidence.

3.5 The Tribunal reminded Mr Halpin that despite the fact that a representative of the Respondent was not present, the onus of proof lay with the Appellant.

3.6 Mr. Halpin, having taken the oath, adopted his précis as his evidence-in-chief (subject to amending a typographical error.)

3.7 In the absence of a representative for the Respondent, the Tribunal asked Mr. Halpin to clarify the position adopted by the Respondent in relation to matters in dispute. Mr. Halpin stated that the issues related to the FMT set under the headings of Food and Sundry Income and, separately, to End Allowances. Otherwise, he was not disputing the valuation set by the Valuation Office. Mr. Halpin stated the Respondent was contending for FMT for Food of €3.2m @ 5% and Sundry €140,000 @ 15% as outlined on page 24 of his précis. Mr Halpin was not challenging the other percentages applied to the respective FMTs.

#### **4. FACTS**

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

4.2 The subject property is located at Enniscorthy, Co. Wexford. It borders the Slaney river and is situated close to the centre of Enniscorthy. On occasion, in bad weather, the rise in the level of the waters of the River Slaney has a negative impact the subject property.

4.3 The subject property is a 100-bedroom, 4-star hotel, with function room, leisure centre, restaurant and bar. Twenty-two of the bedrooms were opened in the 2017 Summer season.

#### **5. ISSUES**

5.1 The issue is one of quantum.

#### **6. RELEVANT STATUTORY PROVISIONS:**

6.1 The net annual value of the subject 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” (NAV) means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

#### **7. APPELLANT’S CASE**

7.1 Mr Halpin stated that the hotel was located in Enniscorthy Co. Wexford and could be considered a good quality 4\*, town centre hotel, with sufficient bedrooms and ancillary facilities to serve customers. Turnover indicated at Page 9 of his précis did not reflect income from 22 bedrooms completed in 2017, and sales income for these bedrooms was first reflected in the accounts for the financial year ending 30th April 2018. Photographs at pages 10/11/12 of the précis were referenced.

Apart from minor elements of trade in Conference, Leisure and Sundry income, the hotel revenue demonstrated strong growth trends reflecting the Appellant's proficiency. Mr. Halpin acknowledged that turnover growth also reflected the upward trend in the general economy at that time.

7.2 Mr. Halpin submitted that Enniscorthy was generally regarded as one of the poorest secondary towns in Co. Wexford and offered evidence of Retail Zone A rents from the List, positioning Enniscorthy as fourth among five prominent Co. Wexford towns - Wexford Town, Gorey, New Ross, Enniscorthy and Bunclody (in descending order). Mr. Halpin said that Enniscorthy was not regarded as a high value town and best compared with New Ross as opposed to Wexford Town or Gorey. Mr Halpin was not seeking to use Zone A data as evidence, merely to present the hierarchy of Zone A values to illustrate how the Respondent's ranks potentially comparable towns in terms of trading potential.

7.3 Mr Halpin was seeking to address three issues.

- a) That the valuation reflects:
  - (i) the trading during the relevant period
  - (ii) the bypassing of Enniscorthy in 2019
- b) That the figure for sundry items is corrected to exclude laundry receipts.
- c) That the end allowance for flooding, previously granted by the Commissioner, be carried over

7.4 Mr Halpin contended that the Food/Drink fair maintainable trade (FMT) was excessive relative to similar 4\* hotels of similar bed numbers in County Wexford, referencing Tribunal decisions on the subject of excessive food trade in pub premises VA17/5/075, VA 17/5/118, VA17/5/243 and VA 17/5/579. Mr Halpin stated that other 100 bed hotels in County Wexford did not sustain €3.2m in Food Sales, as he contended his evidence demonstrates, and he attributed the high level of Food Sales to the Appellant's exceptional expertise.

7.5 Mr. Halpin contended that the Sundry income included 'laundry receipts' – which are not income, but an internal tracking indicator and the accounts should be adjusted accordingly. A letter from the "occupiers accountants" was provided, referring to the property trading as The Riverside Park Hotel, Enniscorthy and stating that the figure of €146,488 recorded as "laundry" in the 2017 accounts did not properly represent the income of the company and should be set off against the figure recorded for laundry expenses of €151,975. Mr Halpin stated that Sundry Income should be assessed at €40,000.

7.6 Mr. Halpin stated that the latest section of the M11 motorway had opened in July 2019, bypassing Enniscorthy and therefore the subject property. Mr. Halpin submitted that at the time of relevant trading, the subject property stood with full profile to the N11 with immediate access to all traffic to and from Wexford Town and Rosslare Europort, via Gorey. Mr. Halpin maintained that the effect of the main road, now deprived to the subject property, must be stripped out. He accepted that this was a delicate exercise and that trading following the completion of the bypass was artificially cut short due to COVID-19 but stated that the implication could not be ignored. Mr. Halpin's was of the view that the hypothetical tenant must take the physical property as it was in September 2017 and hence, it is a "bypassed hotel" being evaluated on "non-bypassed" figures. Mr Halpin stated that the absolute maximum value is based on average trade as the hypothetical tenant could not possibly take an aggressive view due to the potential for substantial disruption to trade. Direct traffic volumes through the town

were reduced by up to 60% following the opening of the bypass (2018 – 16,000 cars per day, reduced to 6,500 per day in 2019). Mr. Halpin maintained that the only objective measure a hypothetical tenant could use to assess potential was the reduction in traffic which suggested that 6,500 traffic movements were local and 10,000 were national traffic moving between Dublin and Wexford/Rosslare.

7.7 Mr Halpin referred to VA 19/5/0376, Ferns Co. Wexford (heard by Tribunal, decision awaited). He stated that the Commissioner had accepted the principle of a 20% bypass allowance, and he believed that a Bypass Allowance for the subject property at 10% would be relative and appropriate. The bypass impact was expected to impact negatively on food and rooms but not on drink, or conference and leisure sales, which are considered more local.

7.8 Photographic evidence of a flood impact in December 2021 was provided at Page 15 of Mr. Halpin's précis. Mr. Halpin stated that the Appellant cannot obtain flood insurance as insurance companies will not provide a quotation following a major flood in 2000. At revision in 2017-Mr Halpin stated that the Commissioner granted a 5% End Allowance for flood risk, accepting that the subject property was compromised due to its proximity to the river and a history of flooding. If an End Allowance for flood risk was allowed on revision which was to reflect the additional 22 rooms, it should be allowed at revaluation. Mr. Halpin stated that flood impact is not seen in turnover – the hotel is either open or closed. At the time of representations, it was anticipated that flood works would commence in 2020 leading to a reduction of trade as a result of disruption. Works did not commence as expected in 2020 due to COVID-19 and Mr. Halpin stated that the hotel was impacted by flood waters again in December 2021.

7.9 Mr Halpin stated that once appropriate allowances have been made, comparisons can be used for context only. He contended that a 4\* 100 bed hotel recently bypassed in Enniscorthy at a NAV of €400,000 is not out of line with the tone of the list.

7.10 In contending for a reduced NAV, Mr. Halpin analysed eight comparisons from the list, detailed at Appendix 5 (N/A to public). Mr Halpin was fortunate to be involved in another case where the Commissioner's Representative offered detailed evidence in another hotel case and much of the financial data was secured from that source.

#### Comparison 1

Mr Halpin stated that this property occupied a ring road location on the edge of very prominent town in Co. Wexford- it is on a tourist route with very good passing traffic and slightly more bedrooms. The primary difference, according to Mr. Halpin, was that Comparison 1 does not facilitate weddings. Nevertheless, Mr Halpin said it has a higher room FMT than the subject property but cannot translate this into food and drink. Mr Halpin accepted that the subject property is superior to the Comparison 1, however, not by the level of value implied by the Commissioner's valuations. Mr Halpin stated that Drink and food sales, in particular food, is less than the subject property

#### Comparison 2

Mr. Halpin stated that this is the largest hotel in prominent town in Co. Wexford, 3km outside the town, with bar, restaurant, function room and leisure centre, but fewer bedrooms, although a strong food trade. Mr Halpin contended that he would expect that the main hotel in a prominent Co. Wexford town and the main hotel in Enniscorthy would

have a similar value. Mr Halpin stated that the Appellant accepted the subject property is superior in terms of bedroom numbers.

### Comparison 3

Mr. Halpin stated that this is an hotel in a prominent Co. Wexford town and was Represented by Eamonn Halpin & Co. Ltd prior to revaluation. Mr Halpin observed that this is a good quality hotel with bar, restaurant function room and leisure centre and that the location of this property is superior to that of the subject property in Enniscorthy. Mr Halpin maintained that a 4\* hotel with 100 rooms in Enniscorthy with flooding problems and a bypass, would have similar valuation to a hotel with less rooms a prominent Co. Wexford town and that, in the light of this, their respective NAVs should be aligned

### Comparison 4

According to Mr. Halpin, this is a town-centre hotel in very prominent town in Co. Wexford With bar, restaurant, function room and leisure centre. Mr Halpin advised that this property had a similar number of rooms and star rating to the subject property. Mr Halpin stated that this property was superior or equal to the subject property in every sense - the main difference was that the location is a superior location to Enniscorthy. The subject property trades significantly better than the Food : Room Sales ratio of 1:1 at comparison No.4.

### Comparison 5

Mr. Halpin advised that this is a hotel on the outskirts (3km) of a very prominent town in Co. Wexford, well known for its wedding and tourist trades. Mr. Halpin stated that it had a similar number of bedrooms to the subject property and food marginally outrades the rooms at a Food: Room Sales Ratio of 1 : 0.92. in a location which Mr. Halpin contends is superior to Enniscorthy. Mr. Halpin observed that room sales at this property are higher than that of the subject property, as is the leisure income, but this property cannot deliver the level of food sales in the subject property.

### Comparison 6

Mr. Halpin stated that this is the largest hotel in a very prominent town in Co. Wexford. Despite being able to achieve almost double the room trade of the subject property, this comparison does not achieve the equivalent level of the food sales. Mr Halpin advised that food trade compared to room income at Comparison 6 is 1.00:1.38.

### Comparison 7

Mr Halpin offered details of a leased hotel in a town in Co. Wexford which he considered to be a more seasonal location compared to the subject property and reflected in the NAV - Eamonn Halpin & Co. Ltd. made representations in respect of this property. According to Mr. Halpin this property has a bar, restaurant and function room, but this is reflected in the NAV. Mr. Halpin advised that this comparison was advanced in the context of a hotel letting - vacant with no goodwill – and not comparable to the subject property Mr. Halpin stated that the Appellant accepted that the subject property is significantly superior in absolute value.

## Comparison 8

Mr Halpin offered details of an hotel in prominent town in Co. Wexford with bar, restaurant, function room and leisure centre, but fewer bedrooms. Mr Halpin said that this property is noted as a context comparison as the NAV is known to be under appeal to the Valuation Tribunal.

7.11 Mr. Halpin set out his valuation as per Appendix 2 (N/A to public), total €400,000.

7.12 In response to questions from the Tribunal

- a) Mr Halpin agreed that the kernel of his case was in relation to FMT on Food, adjusting the figure for Sundries, and End Allowances for the bypass, and flood risks.
- b) Mr Halpin confirmed that details of the bypass were well known and accepted that a hypothetical tenant would be properly informed
- c) Mr. Halpin acknowledged that the Appellant had constructed and opened 22 additional bedrooms in 2017, in full knowledge that a bypass would be completed. Mr. Halpin said he did not know why the rooms were constructed. Asked if this would impact on his request for an End Allowance for the by-pass, Mr. Halpin considered not, but accepted the point.
- d) Mr. Halpin said that the Commissioner does not identify specific allowances but applies discounts across sales elements as appropriate. Accordingly, Mr. Halpin could not identify a situation where a specific End Allowance was identified by the Respondent.
- e) In relation to the Comparisons identified, Mr. Halpin stated that only Comparison No.8 was under appeal to the Tribunal

## 8. RESPONDENT'S CASE

8.1 The Respondent did not submit a précis of evidence or provide oral evidence. Apart from the request for an adjournment from Ms. Spain, Director of Appeals, Valuation Office, for the Respondent, Ms. Spain declined the opportunity to cross examine Mr. Halpin, and having left the virtual hearing, the Respondent was thereafter not represented at the hearing.

## 9. SUBMISSIONS

9.1 There were no legal submissions.

## 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 List in the rating authority area of Co. Wexford.

10.2. In determining the rent at which it is estimated a relevant property might reasonably be expected to be let, the best evidence is lettings of comparable premises in the open market. Use of the rental method of valuation depends, however, on sufficient, appropriate, and reliable comparable evidence being available from the marketplace; if it is available then it is top of the evidential hierarchy.

10.3. There is limited evidence of lettings of comparable premises in County Wexford at or around the valuation date. Mr. Halpin's only rental comparison was his Comparison 7 but this property, in terms of its location, trading and size of accommodation is significantly inferior to the Property and accordingly this comparison is of little assistance to the Tribunal.

10.4 As per the practice for assessing the NAV for hotels, Mr Halpin proceeded to do so by reference to trading potential, similar in approach to the Valuation Office in the Representations phase and aligned with the scheme of valuation for Hotels in Co Wexford.

10.5 Mr. Halpin was challenging the Commissioner's assessment on the values attributed by the Commissioner to Food Sales, Sundry (laundry cost) and what End Allowances, if any, should be applied to take account of the bypass and potential for flooding. Mr Halpin was not challenging the overall scheme or the percentages to be applied to the values and nor was he challenging the values the Commissioner set for Room Sales, Drink Sales, Conference Sales and Leisure.

10.6 As at the Valuation date, Mr Halpin's evidence is that the additional 22 bedrooms had been completed and revenue realised over the summer of 2017, albeit evident only in the accounts for the year ending 30<sup>th</sup> April 2018. Accordingly at the Statutory Valuation Date, 15<sup>th</sup> September 2017, a hypothetical tenant would have had regard to the additional accommodation and consequent revenue potential.

10.7 Mr. Halpin put forward eight comparisons in support of his valuation. None of the Comparisons are of assistance in determining the issues of Sundry Items or End Allowances. In addition, the Tribunal considers that Comparisons 1, 7 and 8 are of little assistance relative to the matter of Food Sales. Comparison 1 derives the majority of its turnover from room sales and does not cater for weddings. Comparison 7 is a small seasonal hotel and no trading information is available for Comparison 8

10.8 Comparison 2 (NAV €368,000) is a 78-bedroom hotel in a prominent Co. Wexford town. The Appellant accepts that the subject property is superior but contends that the main hotels in Enniscorthy and Comparison 2 should have similar values. The Tribunal does not accept this view and notes that the turnover in Comparison 2 is approximately 74% of the average turnover of the subject property. The Tribunal also notes that turnover for Food represents 41.80% of overall turnover compared with 47.69% at the subject property. The Tribunal considers that this comparison is of assistance in relation to food sales.

10.9 Comparison 3 (NAV €405,000) is a 79-bedroom hotel in prominent Co. Wexford. The Appellant says that this town is a superior location to Enniscorthy for hotels but provides no evidence to support this contention. Turnover in Comparison 3 is approximately 87% of the average turnover of the subject property. The Tribunal also notes that turnover for Food represents 43.84% of overall turnover compared with 47.69% at the subject property. The Tribunal considers that this comparison is of assistance in relation to food sales.

10.10 Comparison 4 (NAV €552,000) is a 107-bedroom hotel in a very prominent Co. Wexford town. The Appellant says that this comparison is equal or superior to the subject property in every way. Turnover in Comparison 4 is approximately 114% of the average turnover of the subject property. The Tribunal also notes that turnover for Food represents 38.22% of overall



turnover compared with 47.69% at the subject property. The Tribunal considers that this comparison is of assistance in relation to food sales.

10.11 Comparison 5 (NAV €534,000) is a 102-bedroom hotel on the edge of a very prominent Co. Wexford town, with water views. It has substantial wedding and tourist business. The Appellant says that given a choice between this property and the subject property the hypothetical tenant would opt for Comparison 5 every time. Turnover in Comparison 5 is approximately 109% of the average turnover of the subject property. The Tribunal also notes that turnover for Food represents 37.53% of overall turnover compared with 47.69% at the subject property. The Tribunal considers that this comparison is of assistance in relation to food sales.

10.12 Comparison 6 (NAV €776,000) is a 160-bedroom hotel in a very prominent Co. Wexford town. The Appellant believes that this property is superior in terms of accommodation and location to the subject property. Turnover in Comparison 6 is approximately 143% of the average turnover of the subject property. The Tribunal also notes that turnover for Food represents 29.36% of overall turnover compared with 47.69% at the subject property. The Tribunal considers that this comparison is of assistance in relation to food sales.

10.13 In summary, the Tribunal finds that Comparisons 2 and 3 provide the most compelling evidence in assessing the Food Sales in the subject property. The Tribunal considers that analysing Food Sales as a percentage of turnover is the most appropriate method of assessing Mr. Halpin's claim of exceptional acumen in relation to Food Sales at the subject property.

10.14 The Tribunal notes that the NAV for Room and Drink Sales are agreed by the Appellant at levels in excess of the annual average of the three-year accounts for 2015, 2016 and 2017, although below the figures achieved in the 2018 accounts. The Respondent has applied €3,200,000 for Food Sales, again above the figure in the annual accounts but below the figure in the 2018 accounts. The Appellant contends for a figure of €2,500,000 in respect of food sales, on the grounds that no other hotel of this size has food sales of €3,200,000 and therefore this must be due to the exceptional expertise and business acumen of the operator. It is noted that the average food sales for the three-year period are some €2,945,000 and this rises to €3,450,000 in 2018.

10.15 The Tribunal accepts that Food sales as a percentage of Turnover is higher in the subject property than the comparisons put forward. However, the difference between the subject and Comparisons 2 and 3 is not significant. Other than the percentages referred to, no evidence was brought forward by Mr Halpin to support the argument that the Appellant has brought to the property and its food sales a business acumen that is "exceptional". The Tribunal also notes that the Appellant has also provided accounts for 2018 which show that the figure for food sales has dropped to 44.69% of Turnover. The Tribunal finds that the case for a reduction in the figure for Food sales is not sustained and makes no allowance for same.

10.16 The Tribunal accepts Mr Halpin's evidence in relation to Sundry Income (laundry receipts) in the light of the letter from B. J. Doyle & Co.(the Appellants auditors) and adopts Mr Halpin's approach of net income of €40,000 @ 15%.

10.17 In relation End Allowances, the Tribunal was not convinced that a 10% Bypass Allowance should apply. With a high percentage of function and therefore food/drink turnover, the Tribunal believes that a hypothetical tenant in September 2017 would not have considered

that the Property would be significantly adversely affected by the proposed (since opened) M11 motorway bypass. In addition, the construction by the Appellant of 22 bedrooms in 2017, indicated specific confidence in the future of the Property, despite the bypass development. Therefore, the Tribunal is not applying a Bypass Allowance. Mr. Halpin's evidence in relation to a Flood Allowance is convincing, not refuted, and accepted by the Tribunal. Therefore, the Tribunal is applying a 5% End Allowance for flood risk.

**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 **€480,700**.

The NAV calculation, is set out at Appendix 1 (N/A to public).