

Appeal No: VA23/5/1231

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Sean Kirrane

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 2169559, Unit 18 Floor 1, Briarhill Business Park, Ballybrit, County Galway.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF MAY, 2025**

BEFORE

Thomas J Kearns – B.Sc. (Surv), MRICS

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th 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 €28,400.

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 unit has been vacant for over 10 years and we recently had an enquiry from a prospective tenant. We engaged O Donnellan & Joyce to do a review of the value and they recommend a rental valuation of €20,000 (€5.50 per square foot). We are happy to send you a copy of this valuation document. The rates value is shown on your cert is €28,400 which is higher than the rental value.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €20,000.

2. RE-VALUATION 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 €28,400.

2.2 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €28,400.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st day of February, 2022.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 The property is located in the Briarhill Business Park, close to the Bothar na dTreabh and Monivea road in Ballybrit on the outskirts of Galway city.

4.3 The Property comprises a modern first floor, former timber flooring showroom which has been vacant since 2009 and was available to let on a shell and core basis for a period of c 15 years.

Access to the property is achieved via a narrow concrete staircase from ground floor level, which leads onto a communal customer car parking area to the front of the retail warehouse.

4.4 The property was fully fitted out as a Gymnasium during 2024 by a new tenant, following an agreement to let the property under a 4 year 9mth lease arrangement commencing September 2024.

4.5 The total gross floor area agreed between the parties is as follows,

Level 1	Office (Industrial)	396.88 m2
Level 0	Office (Industrial)	32.44 m2
Total		429.32 m2

5. ISSUES

5.1 The issue is one of quantum.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

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

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses

(if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

7.1 The Appellant did not submit a Precis of Evidence in this case. Mr John Walsh, on behalf of the Appellant and in response to a Valuation Tribunal “Precis Non Compliance (WL2)” notification, described the property as been “a first floor unit accessed by a long steep stairs up a narrow stair corridor” and that the unit was occupied by a flooring company until March 2009.

7.2 Mr Walsh stated the unit had been vacant for a period of c 15 years since 2009 despite “having the unit with two firms of Auctioneers” and was only leased for a period of 4yrs and 9 mths from Sept 2024 to a Gym Operator.

7.3 Mr Walsh attached agreed Heads of Terms, Draft Lease and a Rental Valuation letter dated 22nd August 2024 from O’Donnellan and Joyce Auctioneers in relation to the subject property.

7.4 The O’Donnellan and Joyce letter stated that “the property has been advertised and available to let from Feb 2022 with a quoting price of €24,000 per annum. Interest was limited due to poor access and lack of lift service to the first floor”. In addition, the property was presented on a shell and core basis and required a full fit out at the tenant’s cost and the Agents also made a clarification in relation to the description of the property as been warehouse/bulky retail as opposed to ”Office/Warehouse”.

7.5 The O’Donnellan and Joyce letter confirmed that following on from a previous report “ we subsequently have agreed Heads of Terms and Conditions with a prospective tenant and have a lease signed at a quoting price of €24,000 pa”

7.6 The letter also stated that the valuation of €28,400 per annum placed on the property is based on a unit fully fitted out and ready for occupation, which is not the case with the subject property which requires full fit out.

7.7 The O'Donnellan and Joyce letter also referred to the difficulty in obtaining direct comparable evidence and stated that the open market letting of the subject property is "the most factual evidence that can be relied upon"

7.8 Two additional properties available to let in the immediate vicinity were also provided for comparison purposes in the O'Donnellan and Joyce Auctioneers letter in support of their opinion of "the open market rental value of the subject property" of €24,000 pa. These are two properties which are available to let on the open market at the Racecourse Business Park and Briarhill Business Park, Ballybrit with quoting rents of €6.33 and €9.10 per sq.ft. respectively.

8. RESPONDENT'S CASE

8.1 Mr James Slevin, on behalf of the Respondent, described the property as a first floor vacant office, which he understood to be of shell and core specification while vacant and at the "end stages of being fitout as a gym/martial arts training centre on his inspection date 19th of Sept 2024. The condition of the property was described as good while in the process of fitout completion.

8.2 Mr Slevin notes that properties that are "similarly circumstanced" are considered comparable. He defines this as meaning they share characteristic such as use, size, location and/or construction. Reference is made to relevant market evidence to demonstrate that both correctness and equity/uniformity of value being achieved in this case and Mr Slevin puts forward 3 NAV comparisons together with 3 Key Rental transactions which are set out in Appendix 1 (N/A to public).

NAV Comparison 1 , PN 2187586 Unit 15 Briarhill Bus Park, Ballybrit, Galway

Level	Use	Area m2	NAV € psm	Total NAV €
1	Offices	391.18	72	28,165
	Total say			28,100

NAV Comparison 2, PN 2169564 Unit 20C Briarhill Bus Park, Ballybrit Galway

Level	Use	Area m2	NAV € psm	Total NAV €
1	Offices	395.92	72	28,506
	Total say			28,500

NAV Comparison 3, PN 2169566 Unit 21B/22B Briarhill Bus Park, Ballybrit, Galway.

Level	Use	Area m2	NAV € psm	Total NAV €
1	Offices	790.02	72	56,881
	Total say			56,800

8.3 Mr Slevin seeks an increased valuation of €30,900 to reflect an increase in the floor area that is agreed between the parties following inspection of the property by the Respondent in Sept 2024, calculated as follows:

Level	Use	Area m2	NAV € psm	Total NAV €
1	Retail warehouse	396.88	€72	28,575.36
0	Retail warehouse Office(s)	32.44	€72	2,335.68
			Total	30,911.04
			NAV Rounded	€30,900

9. SUBMISSIONS

9.1 The Respondent included a copy of the Tribunal decision in VA/00/2/032 Proudlane Ltd case to support its contention that “the onus of proof lies with the appellant and in the absence of that type of evidence the valuation should stand”.

9.2 The Respondent also confirmed the use of the property as Office (Industrial) as per the Valuation Certificate by way of letter dated 20/May 2025 copied to the Appellant following further information/clarification sought by the Tribunal after initial 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 valuation list in the rating authority area of Galway City Council.

10.2 The Appellants case is that the valuation of €28,400 is excessive and having regard to the poor access and shell and core fitout, the subject property remained vacant for a 15 year period prior to the current letting by O'Donnellan & Joyce Auctioneers.

10.3 The Appellant's included a rental valuation of the subject property from O'Donnellan & Joyce Auctioneer dated 22nd Aug 2024 which refers to “ the open market rental value of the subject property in its current condition is €24,000 per annum”. The Auctioneers while acknowledging that direct comparable evidence may be difficult to obtain, they include two properties that are available for lease in the immediate area including a similar property in Briarhill Business Park which is seeking €6.33 per sq.ft. with limited market interest.

10.4 The Tribunal finds the comparison's referred to in the O'Donnellan & Joyce Auctioneers letter dated 22/Aug/2024 of little assistance in this case as they relate to quoting rents for properties available on the market and not primary evidence. The Tribunal finds that the Auctioneers rental

valuation of €24,000 per annum and supporting comparisons fall short of the burden of proof required from the Appellant in this case.

10.5 The Respondent has put forward three Key Rental transactions which informed the valuation scheme used to value the subject property. In addition, three pieces of NAV comparisons are put forward by the Respondent. The Tribunal finds NAV Comparison 1 Property No. 2187586 & 2 Property No.2169564 valued at €72 per sq. m. at first floor level in the same block in Briarhill Business Park, Ballybrit as the preferred direct comparable evidence available in determining this matter.

10.6 The Tribunal finds that the additional floor as agreed between the parties should be included in arriving at the NAV for the subject property.

10.7 The Tribunal finds in this appeal and in all appeals before the Tribunal, the onus of proof rests with the Appellant. This has been stated on multiple occasions and remains the guiding principles for the Tribunals determination.

10.8 The Tribunal finds that the Appellant has not been able to demonstrate that the valuation levels proposed by the Respondent are incorrect.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the valuation of the Respondent of €30,900 and the Valuation Certificate as issued on the 15th of September 2023 be amended to reflect the increased floor area of the property as below:

Level	Use	Area m2	NAV € psm	Total NAV €
1	Office(s) Industrial	396.88	€72	28,575.36
0	Office(s) Industrial	32.44	€72	2,335.68
			Total	30,911.04

			NAV (say)	€30,900
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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.