Appeal No: VA23/5/1131

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

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

FOX'S PUB LTD	**APPELLANT**

and

COMMISSIONER OF VALUATION	**RESPONDENT**

In relation to the valuation of

Property No. 497303, Hospitality at Glencullen, Kiltiernan, County Dublin.

B E F O R E

Mr John Stewart - FSCSI, FRICS, MCI Arb	**Deputy Chairperson**
Mr Thomas (TJ) Kearns - B.Sc. (Surv), MRICS	**Member**
Ms Mema Byrne – BL	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF AUGUST, 2025

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 **€338,000.**

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: *"(a) The Valuation is Incorrect.*

The Valuation is excessive, inequitable and it does not achieve correctness of value, equity and uniformity as between it and comparable properties

The Valuation is incorrect based on the Annual Rent(s) of Comparable Properties.

The Golden Ball (now Farmer Brownes), Kilternan, Co. Dublin 9,900 sq. ft (6765 sq. ft on ground and 3150 sq. ft at first). Leased for 10 years from 11/07/2019 at €88,000. Similar offering to subject Property with being a destination venue with strong food offering. Higher population within the pedestrian catchment than the subject Property however car park is significantly smaller.

Myos, Castleknock, Dublin 15 a 5,625 sq. ft. over two floors with large car park. Let on a 6 year 2-month lease from 22/07/2022 at €156,000. Similar to the subject Property as it is a large, licensed premises with extensive car parking. Car Park is a significant advantage as enables business to attract food custom from outside the immediate pedestrian catchment area.

Flash Harry's, 20-22 Temple Rd, Blackrock, Co Dublin 4,324 sq. ft (1,918 sq. ft Ground, 1,779 First and 627sq.ft Basement). Ground floor bar, kitchen and rear yard, First floor fully fitted seating area and stores to basement level. Includes a beer garden of 1,237 sq. ft (leased separately). Offered to lease in December 2019 and had agreed terms until the pandemic put it on hold and eventually caused it to fall. Agreed again in early 2021 but ultimately the vendors decided to continue to operate it themselves. Both times the lease offers were €70,000 (+ assignment of beer garden lease of €15,700 so €85,700 for the entire) for a 20-year lease with no breaks.

The Valuation is incorrect having regard to the Audited Accounts and/or Trading Data

The most recent full year end trading (without restrictions) available for the premises was 2019 with a turnover of €4,525,000 which was broken down with €1,575,000 in drink sales and €2,950,000 in food sales. We have reduced the 2019 turnover when arriving at our opinion of the *fair maintainable turnover (FMT) a hypothetical tenant would expect to achieve to reflect the higher than usual operational cost the subject premises has. In 2019 the entertainment expense was €317,655 or 6% of turnover, the premises is responsible for its own sewerage which cost €107,781 or 2% of turnover in 2019. In addition, payroll cost at 39% and repairs and maintenance cost at 3% are higher than industry standards for similar businesses. Our opinion of FMT therefore is €4,100,000 with 35% drink sales and 65% food sales. We have applied 7% to drink sales and 4% to food sales after deducting €100,000. The percentiles we applied were reduced to reflect the rural destination location compared to businesses located within built up residential districts. Our opinion of the NAV therefore is €203,500.*

Valuation percentiles applied to drink and food turnover in most of Dun Laoghaire Rathdown were 10% and 7% respectively. A 1% discount on the drink sales reflecting a reduction of €15,000 in the valuation was applied to the subject Property which we do not believe is an adequate discount to reflect the significantly higher overheads in the subject Property compared to the majority of other licensed premises in DLRD, the specialised skillset required to operate an entertainment and food driven business in comparison to drink led business and the isolated destination location vs premises in built up areas."

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of **€203,500.**

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 €450,000.

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 €338,000.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €338,000.

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

3. THE HEARING

3.1 The Appeal proceeded by way of a remote hearing held via Zoom, on the 29th day of May 2025. At the hearing the Appellant was represented by Mr Shane Markey MRICS Lisney Commercial Real Estate, and the Respondent was represented by David Colhoun MSc 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

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

4.2 The Property was located in Glencullen Co. Dublin at the junction of Ballybetagh Road and Ballyedmonduff Road. It is located approx. 2.7km from Kilternan, 4.1km from Stepaside and 6km from Enniskerry.

4.3 The Property comprises a large detached two storey building with masonry and traditional brick walls under and a pitched and ridged natural slate roof together with a single storey extension to the side and rear which are of modern concrete block construction which has a part pitched tiled roof and part flat roof. The Property currently trades as a seven-day licenced premises incorporating a public bar, restaurant, function room as well as ancillary toilet accommodation, storage accommodation with separate office and storage accommodation at first floor level. There are three car parking areas one of which is held under a licence on the opposite side of the road to the Property.

4.4 The agreed floor areas measured on a gross internal basis are as follows:

Description	**M_2**
Ground floor-Bar/ lounge/ snug/ toilet accommodation/ function room/ restaurant/ kitchen/ cold room/ stores	820
First floor Office /stores	103.3
Total	**923.3**
External	
Ground floor storage	140
First floor storage	107
Front storage shed	140
Car parking	20 cars

4.5 The Property is freehold with one car park held under a licence.

5. ISSUES

5.1 This case is an issue 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 represented by Mr Markey provided a summary of the location which he regarded as rural and noted the population in 2022 was 376. He stated that the surrounding land is predominantly agricultural, and that Glencullen is located approximately 18 kilometres from Dublin City Centre. He noted that public transport to Glencullen was provided by a single bus route 44 B with 5 daily services Monday to Friday from Dundrum LUAS stop and no services at the weekend.

7.2 The description was common to both parties. The Property comprises a large detached two storey premises comprising masonry and traditional brick walls under a pitched and ridged natural slate roof together with a single storey extension to the side and rear which are of modern concrete block construction which has a part pitched tile roof and part flat roof. The Property currently trades as a seven-day licenced premises incorporating a public bar, restaurant, function room as well as ancillary toilet accommodation, storage accommodation with separate office and storage accommodation at first floor level. There are three car parking areas one of which is held under a licence. The floor areas were agreed as above.

7.3 The Appellant's case was that the valuation determined by the Revaluation Manager does not "achieve both (insofar as is reasonably practicable) a) correctness of value and b) equity and uniformity of value between properties on that valuation list" as required under Section 19 (5) of the Valuation Acts. He submitted that the valuation fails to properly account for two major influences on value namely the full impact of the much higher running costs on the rental value in comparison to other properties on the valuation list and the impact of the reduced occupier demand due to the rural location and management intensive operation of the valuation in comparison to other properties on the valuation list.

7.4 He claimed that the Property employs a very different business model to all of the other properties on the valuation list, and it generates significantly higher running costs to achieve turnover. He stated that the net income as a percentage of turnover is far less than other high value properties on the list and that valuation therefore has not adequately accounted for the level of increased expenses required. The Appellant claims that he has access to a significant amount of detailed trading account data for high volume large, licenced premises in the Dun Laoghaire Rathdown area. However, he cannot provide this information under GDPR regulations.

7.5 He provided a receipts and expenditures schedule for the subject Property compared with another large high volume suburban licenced premises based on data from 2019 to 2022. The Appellant has taken averages of the revenue split between food and drink gross profit percentages and principal expenses as a percentage of turnover (see appendix, N/A to public). The Appellant acknowledged that it was unable to provide data to support these figures but requested that the Respondent verifies this trading information from information for properties on the list with valuations above €200,000. He have argued that there is a total of €747,781.00 in extra expenses generated by the subject Property emanating from sewerage, wages, and entertainment applicable to the subject Property which would not normally occur in comparison properties. He argued that these extra expenses are required to generate the revenue and if the subject Property was to operate on the same level as comparable properties on the list. the turnover would be significantly reduced. He stated that the profitability at Johnnie Fox's at 9% is less than half that which would be expected from a large typical suburban premises with a high-volume turnover. He acknowledged that the Property enjoys a higher gross profit but that it has additional costs for wages 8%, 4.9% for entertainment and 2.2% for sewage costs.

7.6 He showed the valuation of the subject Property and how it had been arrived at based on the following methodology.

FMT	**€**	**NAV/unit**	**NAV**
Drink sales	€1,500,000	10%	€150,000

Drink sales	€1,500,000	(-1%)	-€15,000
Food sales	€2,900,000	7%	€203,000
Total	€4,400,000		€338,000

He claimed that the Commissioner has accounted for these increased costs by reducing the FMT from €5,000,000 to €4,400,000. He stated that suburban properties on the list do not have to pay for their own sewage costs which would reflect an additional €107,000 in profit. He claimed that it is generally acceptable that achievable rent for performing going concern licenced premises ranges from 40% to 50% of profit and that therefore the reduction applied only covers the additional sewage expense that is unique to this property and consequently the valuation has not taken account of the significantly higher wage and entertaining costs.

7.7 The Appellant states that the proposed NAV represents 75% of EBITDA and based on his experience of leasing licenced premises that it is not realistic to expect a willing tenant to pay that proportion of the net income on a licensed premises as this would make it close to a loss-making endeavour. Additionally, the level of return for an operator at €112,500 would be insufficient to justify the risks of a lease and the considerable investment in time and expertise. He argued therefore that the valuation does not accord with Section 19 (5) of the Valuation Acts. He further states that methodology employed by the Commissioner results in a valuation which has not achieved correctness of value and equity and uniformity of value between properties on the valuation list.

7.8 He claims the valuation has not had regard to the specific characteristics of the Property which differ significantly from other properties on the list and has not considered how demand and net annual value would be affected by those characteristics at the valuation date. He acknowledges that the Property is arguably the most well-known licenced premises in Dun Laoghaire Rathdown, however, he claims that there are a number of characteristics which would affect the valuation negatively.

7.9 The Appellant claimed that the catchment population for the Property was 376 which was not enough to sustain the business. He claimed that the vast majority of customers arrived by private bus or car whereas in the majority of suburban licenced premises, customers can walk to the equivalent properties. He argued that the trade in other suburban premises when compared to the subject Property is much more sustainable and predictable.

7.10 He argued that a significant proportion of the trade in the Property was transient tourist trade that would not return whereas suburban licensed premises have a regular local business. He added that a regular trade is a lot more sustainable than a tourist trade in a remote destination venue.

7.11 He argued that a destination venue was more at risk from increased competition from larger geographical areas whereas traditional suburban premises were only concerned about new venues in their immediate vicinity of their locations.

7.12 He stated that at the date of valuation the 1st February 2022 the subject Property had a turnover of €3.38m and had not achieved turned over a €5.0m for two years. He argued that there would have been a significant level of uncertainty amongst market participants at the valuation date as to whether the previous level of turnover would return and how long it might take as it was reliant on the full recovery of the international travel markets.

7.13 The Appellants claimed that there were established business models for suburban licenced premises whereas the skill set required to operate a facility such as the subject Property was significantly more complicated. He stated that the food operation which was at a high volume and that the quality of the food product expected by customers was much higher than other suburban locations which meant that the Property would require restaurant quality chefs. He added that the scale of the entertainment offered at the Property was materially in excess of levels which might have been experienced in other suburban licenced premises. The Property had music daily from Monday to Friday with three performances on Saturday and Sunday and the quality of the live performances was more akin to theatre with music, dancing and the associated costumes.

7.14 Referring to the overflow car park he confirmed this property was owned by a third party and occupied under a licence and not a lease and that this presented a significant risk that the owner could terminate the licence at short notice with significant impact on the Property. He argued that the withdrawal of the licence could cause irreparable damage to the business and that as a rolling licence this element of the Property did not fall under the definition of s. 19 (5) as it is not let 'one year with another'.

7.15 The Appellant postulated that any suburban licenced premises could fail due to poor management however due to the benefits of the suburban location a new operator could rebrand and reposition a business. He stated that the Property survives on its name and should something happen to the name Johnnie Fox's it would be extremely difficult to replicate the business model noting that a similar fate had a occurred in another licenced premises known as Poly Hops in Newcastle which ceased to trade and was left vacant for years before being converted to an alternative use and he also referred to the Golden Ball in Kiltiernan which suffered a similar fate and ceased trading for a period until the area experienced significant residential growth. He argued that being unable to assign the lease should the business fail would be a consideration as to the level of rental potential or hypothetical tenant will be prepared to pay. He argued that the valuation scheme which applied 10% to drink sales and 7% to food sales does not consider the exceptional costs and issues inherent in the Property including sewage, additional staff costs and the scale of the operation as well as the uncertainty created by the licensed car parking facility. He argued for the Wicklow scheme to be applied due to the rural location adjacent to the Wicklow border which applied rates of 7%-8% on drink and 5% on food.

7.16 Addressing the valuation methodology, the Appellant noted that licenced premises such as the subject one are in a category of properties which are seldom let on the open market and there is limited direct rental information available on such properties. He acknowledged the shortened Receipts and Expenditure method adopted by Tailte Eireann and added that due to the unique nature of the Property and the additional expenses required to operate it, he would have utilised the expanded Receipts and Expenditure method. He noted that both methods require the availability and analysis of detailed financial information for the subject Property which was provided by the Appellant's accountant. He summarised the shortened R & E method which states.
1. Identifying the fair maintainable income split between drink food and other sales to be derived from the Property.
2. Applying a percentage to each income stream after considering the occupier demand for the location together with the costs required to generate the income.

A summary of the expanded R & E states

1. Identifying the fair maintainable income split between drink food and other sales to be derived from the Property.
2. Identifying the maintainable level of gross profit and expenses to determine the net operating income.

The Appellant claimed that the valuation put forward by the Commissioner of €338,000 has been estimated without considering the increased expenses required to generate the income from the subject Property. He argues that the valuation therefore does not conform to S 19 (5) of the Valuation Acts.

7.17 The Appellants provided two letting comparisons as follows:

Address	**The Golden Ball Public House Kilternan Co. Dublin**
Use	Public house
Transaction	New Lease
Date	20/03/2019
Rent	€88,000pa or 8% of annual sales whichever is higher
Rent free	N/a
Lease	10 years FRI
Break option	Mutual after 4years 9 months
Floor areas	Ground floor: public bar/lounge bar/stores/toilets -6,765sq. ft First floor: Stores former residence-3,153sq. ft Outside: hardcore covered car park-23 cars & storage yard.
Headline rent	€8.87per sq. ft.
Rent analysis	Ground floor €12.26/sq. ft First floor €1.58/sq. ft.
Comment	New letting for 10 years with mutual break at year 4-9 months. Location in a rapidly expanding built-up area superior to the Property.

	Long established public house with limited beer garden and limited parking. External area reduced for residential development which impacted trading potential. Formerly a popular destination venue similar to the Property that ceased trading for a long period due to poor management which highlights the risks with destination venues versus suburban premises.
Source	Lisney
NAV	€100,000

Address	**Conway's 3 Main Street 2 George's Avenue Dun Laoghaire**
Use	Public house
Transaction	Rent review
Date	11/07/2022
Rent	€80,000pa
Lease	15 years FRI lease from July 2017 with 5-year rent reviews
Floor areas	Ground floor: bar/lounge bar/cold room & stores -1,748sq. ft First floor: lounge/ kitchen/ cold room/ staff room/ toilets/ office -1,917sq. ft
Headline rent	€20.04per sq. ft.
Rent analysis	Ground floor €31.00/sq. ft First floor €13.00/sq. ft.
Comment	Rent review 11th of July 2022 Village location with built up affluent area which would be more sought after then a rural destination venue.
Source	Lisney
NAV	€65,000

7.18 Valuation list comparisons

Brady's Shankill Co. Dublin			
NAV Description		€330,000 Substantial 2 storey over basement licensed premises on a large corner site on Dublin Road Shankill	
	Est Units	**Est NAV /unit**	**Total NAV**
Est drink sales	€2,500,000	0.09	€225,000
Est food sales	€1,400,000	0.07	€98,000
Off licence sales	€700,000	0.01	€7,000
Total	€4,700,000		€330,000
Est EBIDTA		€752,000 (16%)	
NAV as a % of EBIDTA		43.8%	
Comment		This property represents a standard suburban business model with the addition of off-license sales. It has 40%/60% food and drink sales expected gross profit 65% (lower than standard suburban due to off sales) (40% in the Property) entertainment less than 2% (6.5% in the Property) and no sewage costs (2% in the Property) The NAV as a % of the estimated EBITDA is 43.5% whereas in the Property it is 75%. The Appellant states that the calculations are an estimate based on his knowledge of the past performance of this property.	

Leopardstown Inn Leopardstown Co. Dublin			
NAV Accommodation		€315,000 Ground floor 735sqm. First floor 460sqm Cellar 158sqm Total 1,358sqm	
	Est Units	**Est NAV /unit**	**Total NAV**

Est drink sales	€2,275,000	0.09	€205,000
Est food sales	€1,500,000	0.07	€105,000
Off licence sales	€500,000	0.01	€5,000
Off licence sales	€4,275,000		€315,000
Est EBIDTA		€685,000 (16%)	
NAV as a % of EBIDTA		46%	
Comment		This property represents a standard suburban business model with the addition of off-license sales. It has 45%/55% food and drink sales expected gross profit 65% (lower than standard suburban due to off sales) (40% in the Property) entertainment less than 2% (6.5% in the Property) and no sewage costs (2% in the Property) The NAV as a % of the estimated EBITDA is 46% whereas in the Property it is 75%. The Appellant states that the calculations are an estimate based on his knowledge of the past performance of this property.	

The Goat, Goatstown Co. Dublin			
NAV Accommodation		€305,000 Well-appointed and substantial licenced premises which occupies a prime site fronting Goatstown Road in Taney Road. And benefits from 170 space car park. Laid out over 2 floors with public and lounge bar on the ground floor and function space to the first-floor level. The entire is serviced by the requisite kitchen and storage facilities. Ground floor 824.48sqm First floor 385.53sqm Total 1,210.01sqm	
	Est Units	**Est NAV /unit**	**Total NAV**

Est drink sales	€1,800,000	0.09	€180,000*
Est food sales	€1,500,000	0.07	€105,000
Total	€3,800,000		€305,000*
Est EBIDTA		€700,000 (17.5%)	
NAV as a % of EBIDTA		43.5%	
Comment		This Property represents a standard suburban business with a higher than usual proportion of food sales, expected gross profit 68%, wages less than 33% (40% in the subject Property) entertainment less than 2% (6.5% in the subject Property) and no sewage costs (2% in the subject Property) The NAV as a % of the estimated EBITDA is 43.5% whereas in the subject Property it is 75%. The Appellant states that the calculations are an estimate based on his knowledge of the past performance of this Property.	

* This figure of €180,000 when added to the estimated food sales of €105,000 does not add up to €305,000 -perhaps the est. drink sale should be €2.22m.

The Graduate, Killiney shopping Centre Co. Dublin			
NAV Accommodation		€239,000 Substantial licenced premises occupying a prime corner trading location at Rochestown Roundabout Killiney. Laid out over 2 floors over basement, the entire is of modern construction having been completely refurbished approximately 15 years ago.	
	Est Units	**Est NAV /unit**	**Total NAV**
Est drink sales	€1,800,000	0.10*	€172,530*
Est food sales	€750,000	0.07	€51,240*
Other	€75,000	0.10	€7,500
Est EBIDTA		€472,500 (18%)	

NAV as a % of EBIDTA	50.6%
Comment	This property represents a standard suburban business model trading figures per LP! (see appendix 2, N/A to public). Gross profit 68% wages 34.5% (40% in the Property) entertainment 2% (6.5% in the Property) and no sewage costs (2% in the Property). The NAV as a % of the estimated EBITDA is 50.6% whereas in the Property it is 75%.

* The figure of €172,530 and €51,240 are incorrect and should read €180,000 and €52,500 respectively.

The Step Inn, Stepaside Co. Dublin			
NAV Accommodation		€200,000 Well-appointed licenced premises laid out over 2 floors to contain multiple bar lounge and fan zone areas with a newly constructed kitchen area. The entire benefits from requisite storage facilities with a large, enclosed car park to the rear. Ground floor 532sqm. First floor 271sqm	
	Est Units	**Est NAV /unit**	**Total NAV**
Est drink sales	€1,450,000	0.09	€130,000*
Est food sales	€1,000,000	0.07	€70,000*
Total	€2,450,000		
Est EBIDTA		€465,500 (18%)	
NAV as a % of EBIDTA		46.5%	
Comment		This property represents a standard suburban business model with a higher than usual proportion of food sales, expected gross profit 68%, wage is less than 30%, entertainment less than 2% and no sewage costs.	

	The NAV as a percentage of estimated EBIDTA is 46.5% where it is 75% in the Property. The above is an estimate however trading particular released to the market in 2024.

* This figure should read €130,500.

7.19 The Appellant disputes the proposed NAV of €338,000 stating that it does not achieve equity and uniformity with other properties on the valuation list as it fails to account for the significantly higher expenses required to generate the turnover compared to other similar properties on the list; the FMT does not account for the level of extra turnover required to cover the extra expenses when compared to other properties on the valuation list and the impact on demand of the Property due to its unique characteristics namely rural location, increased risk to viability risk of losing a large portion of the car park and the bespoke skillset required to sustain the current business model.

7.20 The Appellant claims that the Respondent has not properly regarded the increased expenses in their valuation having only reduced drink sales by €100,000 and food sales by €400,000 based on the pre pandemic level of €5 million. He states that adopting the same approach but accounting for the level of increased expenses results in a lower NAV of €201,000. He argues that there is approximately €750,000 of additional expenses incurred in the subject Property when compared to other suburban premises on the list with the same level of turnover. He argues that without these extra expenses the turnover would fall dramatically so he had estimated the reasonable level of reduction a hypothetical tenant would apply to the FMT. He states that the gross profit level of 71% would require an extra €1.056 million in additional turnover to produce enough gross profit to cover the extra expenses. He has made a deduction to the FMT of €1.8m to reflect the level of turnover required to cover the additional expenses reducing drink sales by €700,000 and food sales by €1.1 million. He has adopted the NAV figures for Bray and Greystones in his calculation.

	Units	**NAV/unit**	**Total NAV**
Drink sales	€900,000	0.08	€72,000
Less entertainment * R & M cost allowance	€900,000	-0.01	-€9,000

Food sales	€2,300,000	0.06	€138,000
		Proposed Valuation	€201,000

8. RESPONDENT'S CASE

8.1 The Respondent were represented by Mr. David Colhoun who adopted his precis of evidence.

8.2 The Respondent confirmed that the valuation date for Dun Laoghaire Rathdown County Council was the 1st February 2022 and that the revaluation was completed to bring greater equity, uniformity fairness, and transparency into the local rating authority system, resulting in a more equitable distribution of the overall commercial rates burden among ratepayers.

8.3 He confirmed that net annual value in relation to Property means 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 repairs, insurance and other expenses (if any) that would be necessary to maintain the Property in that state, and all rates and other taxes and charges (if any) that would be necessary to maintain their Property in that state, and all rates and other taxes and charges (if any) payable by or under any enactment in respect to the Property, are borne by the tenant.

8.4 The Respondent confirmed that the subject Property was located in Glencullen at the junction of the R116/Ballybetagh Road and Ballyedmonduff Road. He stated the location was a 5.8KM drive from the nearest M50 access at Carrickmines in a peripheral location within Dun Laoghaire Rathdown. He provided a location map which indicated the Property and its proximity to the M50 and Bray.

8.5 He described the subject Property as comprising the of a licenced premises in a large two storey building which had been extended and it also includes former agricultural buildings to the rear in use as stores. It included a high-quality commercial kitchen, bakery as well as a function room area and the trading areas comprised a series of interconnected rooms. He stated that the Property benefitted from extensive car parking areas on the northern and eastern side of the site as well as a large overflow car park on the opposite side of the road held under licence. He stated that this is a landmark Property and one of the busiest and most well-known pubs in Dun Laoghaire Rathdown. It has a steady seven-day trading focus with food and daily traditional music performances. He added that the Property was located in the Dublin mountains and was more isolated than almost all of its peers however in had scenic views and good car parking. He added that the location is served by Dublin Bus with additional services provided by private operator to and from the city centre. He confirmed that the Property was in a good state of repair.

8.6 He confirmed that the ground floor areas comprising the trading areas at 538m_2 stores and toilets of 282m_2 and a total of 820m_2. He included a block plan for the ground floor. He included a number of external and internal photographs dated 31st January 2025.

8.7 He confirmed that the Property was freehold and noted that the overflow car park was held under a licence, but he had not been provided with details of the licence.

8.8 He provided the schedule of the valuation as determined following consideration of representations.

FMT	€1,500,000	10%	€150,000
Less TV/entertainment expenses	-€1,500,000	1%	-€15,000
Food sales (€3,000,000-€100,000)	€2,900,000	7%	€203,000
NAV			**€388,000**

He stated that the Appellants opinion the value of representation stage was €203,500; at notice of appeal stage €203,500 and Appellants submission was €201,000.

8.9 He stated that the fair maintainable trade represents the annual level of trade that can be achieved by a reasonably efficient operator of the business in the subject Property.

8.10 Addressing the Appellant’s evidence, he stated that in the Respondent’s opinion the hypothetical tenant or reasonably efficient operator could operate the premises in the same manner and just as successfully as the Appellant. He noted that the subject Property enjoys the highest total turnover and gross profitability levels of any pub analysed in Dun Laoghaire Rathdown. He took issue with the Appellant when highlighting that the high running costs of the subject Property had not been adequately accounted for in the valuation arguing that the current valuation did make sufficient allowance for these costs.

8.11 He acknowledged that the entertainment expenses were significant but must be viewed as part of the high turnover of the Property and argued that the subject Property incurs similar entertainment expenses as a proportion of turnover to other pubs generating additional trade from music sports and events. As with similar pubs entertainment expenses equating to more than 5% of turnover and a 1% discount to drinks FMT was applied.

8.12 The Respondent acknowledged that the subject Property had sewage costs which are unique to this Property however he stated that the reduction of FMT from €5,000,000 to €4.4 million took account of this disadvantage.

8.13 He acknowledged that the Property was in sparsely populated area and that the majority of customers travelled by bus or car to reach the Property. However, he argued that the subject Property except for the COVID years had enjoyed a consistent and increasing trade for which financial information had been provided and the Property's trade is both sustainable and predictable.

8.14 The Respondent did not accept that the trade in the Property was lessened due to its reliance on tourists and argued that the subject Property showed a consistent level of trade.

8.15 He did not accept the Appellant's argument that the Property was at increased risk of competition due to its geographical area and argued that the Property had been valued in line with other licenced premises in Dun Laoghaire Rathdown and added that a new licenced premises was unlikely to open in competition with the Property.

8.16 In relation to the date of valuation 1st December 2022 the Respondent acknowledged that COVID had been material issue affecting trading information and consequently the revaluation process examined longer periods of trade. He stated that hypothetical parties would have been fully aware that both the 2020 and 2021 trading figures were impacted by COVID and stated that the R

& E shortened approach assessment of the actual accounts of the subject Property are only a starting point. He added that it should be recognised that the actual trade of the valuation date may not be in all cases provide the best evidence of fair and maintainable trade and the hypothetical tenant would have considered 2019 figures and earlier dates which had been unaffected by the pandemic.

8.17 While agreeing with the Appellant that the subject Property had a different custom to the majority of other pubs in Dun Laoghaire Rathdown. being highly dependent on the tourist trade and a high level of entertainment, the Respondent disagreed that the skill set required would be significantly different to that required to run other high turnover premises. He stated that the current value is largely inherent to the Property which is a landmark pub.

8.18 The Respondent argued that the Property had significant car parking areas on the northern and eastern sides of the site even without the overflow car park and these provided larger parking facilities in most other pubs in Dun Laoghaire Rathdown. He noted that the overflow car park provided significant additional car parking facilities and that it was held under licence for a number of years and that a hypothetical tenant had a reasonable expectation that this arrangement would continue. He noted that the Appellant stated the site is owned by third party without indicating whether this was a connected party and no copy of any licence had been provided.

8.19 The Respondent did not accept that the risks of the viability to the Property were any different to than to other large, licenced premises in Dun Laoghaire Rathdown and suggested that the risk to its business viability was perhaps less than some of its peers.

8.20 The Respondent did not accept the Appellant's argument that the current valuation scheme as it applied to Dun Laoghaire Rathdown was flawed and did not accept that it should be regarded as a rural Property. He confirmed that the Property was located in Dun Laoghaire Rathdown. and had been valued with reference to similar properties in the same rating area and that there was no justification to apply a different scheme to the Property. He disagreed that the Property should be classified as rural being only 3.5 kilometres from the edge of the largest metropolitan area in the country. He accepted that the location was different to other pubs in the area noting the Blue Light enjoyed a similar location with scenic views.

8.21 He provided a summary of additional accounting information for years 2018 to 2023 (See appendix, N/A to public). He also provide an R & E analysis of the information submitted (see appendix, N/A to public). The Respondents claimed that the R & E analysis had been included to address issues raised by the Appellant. He argued that current valuation scheme applied to licenced premises in Dun Laoghaire Rathdown did not necessitate a full R & E exercise being undertaken. He added that trading and rental information was analysed with due regard to tone and uniformity in line with S 19 (5) to arrive at appropriate FMT's and resulting NAVs. Nevertheless R & E analysis of the trading information provided by the Appellant would appear to largely support the current valuation arriving at a landlord's share/ available for rent figure of €331,997 versus a current NAV of €338,000 using the most reliable years of trading without covid restrictions.

8.22 The Respondent stated that properties which are similarly circumstanced are considered comparable. This means they share characteristics such as use, size, location and or construction. Details of comparison properties where provided. The first two rental comparisons are common to both parties.

Rental transaction 1

Address	**The Golden Ball Public House Kilternan Co. Dublin No 497827**
Occupier	The Golden Ball
Address	Enniskerry Road Kilternan Co Dublin.
Ground floor trading area	477sqm
Date	20/03/2019
Rent	€88,000pa or 8% of annual sales whichever is higher
Lease	10 years FRI
NER @ valuation date	€88,000 or 8% of turnover
NAV	€100,000 estimated
Comment	1. The closest pub to the Property being 2.4 KM NE of same. 2. A large pub with a commercial kitchen.

	3. Has traded with mixed success over recent years including periods of vacancy, unlike the Property which has consistently generated high revenues and profitability for many years reflected in the lower NAV. 4. Lacks the significant park facilities and scenic mount and setting of the Property. 5. Occupiers did not engage with Tailte during revaluation process valuation was therefore estimated. 6. No appeal made to Valuation Tribunal; occupiers would appear satisfied current valuation. 7. Lease details taken from a patent press a new copy of lease provided. 8. Worthwhile to note stated terms of €88,000 or 8% of turnover, Appellant proposed NAV for the Property would equate to 4% of his stated turnover. No representations received; not represented by an agent and no appeal to Valuation Tribunal.

Rental comparison 2

Address	**Conway's Main Street Blackrock 520002 ***
Occupier	Conway's
Address	Main Street Blackrock Co Dublin.
Ground floor reading area	108.7sqm
Date	July 2017
Rent	€62,500pa in 2017 €80,000pa after 2022 rent review.
Lease	15 years
NER @ valuation date	€62,500
NAV	€65,000 estimated

Comment	1. Substantially smaller pub in dramatically different setting to the Property. Numerous computing premises in immediate vicinity. 2. Subject is a destination pub in the Dublin mountains; this property is located on Blackrock Main Street 9.2 KM northeast on Property. 3. Rent review occurred after valuation date. 4. Did not engage with Tailte during revaluation process, therefore valuation is estimated. 5. No appeal to Valuation Tribunal. No representations received; not represented by an agent and no appeal to Valuation Tribunal

* This appears to be the incorrect Conway's when compared with the Appellant's submission which was in Dun Laoghaire

Key Rental Transaction 3 and 4 See appendix for details (N/A to public).

8.23 **NAV Comparisons see appendix (N/A to public).**

8.24 Of the six NAV comparisons provided only two had lower Drink FMT levels whereas the Property had the highest food turnover being more than double the highest of these comparisons.

8.25 The Respondents claim that as the subject Property is the last one outstanding for Dun Laoghaire Rathdown that the Tone of the List is almost fully established. He states that as a licensed premises with the highest turnover in the rating area and taking account of the particular circumstances, and having regard to uniformity and tone, that the valuation of €338,000 is correct according to Section 19 (5) of the Act.

8.26 The Respondent stated that he had investigated all the particulars of the appeal and having considered the grounds of the appeal, and the evidence provided was of the opinion that the NAV of the Property was correct at €338,000. He provided a valuation which considers the particular circumstances and location of the Property and had regard to the above average costs of sewerage and advertising as follows:

FMT	€1,500,000	10%	€150,000
Less TV/entertainment expenses	-€1,500,000	1%	-€15,000
Food sales (€3,000,000-€100,000)	€2,900,000	7%	€203,000
NAV			**€388,000**

He also provided a calculation based on the end use allowance discounting drink and FMT food sales separately as follows:

FMT	€1,700,000	10%	€170,000
Less TV/entertainment expenses	-€1,700,000	1%	-€17,000
Food sales (€3,000,000-€100,000)	€3,500,000	7%	€245,000
Less 15% allowance-stand back and look	-€398,000	15%	€59,700
NAV rounded			€338,000

He concluded by stating that in his opinion the Appellant had not proved the current valuation was incorrect and that based on the trading information provided together with comparable properties and rental evidence outlined in his statement of evidence that this supports the valuation of €338,000. He states that the valuation proposed by the Appellant of €201,000 equated to 4% of an estimated FMT €5 million and argues that this was not in line with evidence gathered in relation to pub rents as a proportion of the total turnover in the rating area which are usually between 7% and 10%. He points to the Golden Ball where the rent is €88,000pa or 8% of turnover whichever is higher on the NAV equates to 6.7% of FMT assumed turnover. He states that the valuation proposed by the Appellants would undervalue the Property bearing in mind the Tone of the List has almost completely established and that the current valuation acknowledges the Property's status as a landmark pub with the highest recording trade in the rating area but has also taken account of the particular circumstances especially business model and location.

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 valuation list in the rating authority area of Dun Laoghaire Rathdown.

10.2 The Tribunal agrees that the established method for determining the NAV for licensed premises is based on the shortened R & E method. This method and its adoption is predicated on the requirement of the Act in relation to Revaluation to bring greater correctness of value, equity, uniformity, fairness and transparency into the local authority rating system resulting in a more equitable distribute of the overall commercial rates burden among ratepayers. The Appellants sought to have the Expanded R & E method adopted in this case, but the Tribunal finds that the shortened R & E method is the established methodology. This however must be conditioned by the requirements of correctness, equity, uniformity, fairness and transparency.

10.3 There are a number of significant and or unique issues affecting value which are exclusive to the subject Property. Consequently, any determination affecting this valuation is unique to it and does not apply to or establish a precedent for any other Property in the area.

10.4 The Tribunal has examined the extracts and trading information provided and while noting the lower figures for 2021 and 2022 it finds that the overall FMT should be €5 million before any discounts or allowances with drink sales of €1.7m and food sales of €3.3m.

10.5 This Property is in a peripheral location with effectively no local trade which is where the importance of retaining the largest car park resides. It is held a on a year-to-year rolling licence and the Tribunal find that it is seminal to the business which relies on car borne or bus transport noting the Dublin Bus service does not run at weekends which are regarded as the most important days for a business such as this. The importance of this facility cannot be disregarded however its legal status i.e. held under a rolling year to year licence would be regarded negatively by any hypothetical occupier due to the inherent uncertainty.

10.6 A second issue which appears unique to licenced premises in Dun Laoghaire is the lack of sewerage facilities serving the Property with the consequential additional cost of €100,000pa approx. to provide the service falling on the operator.

10.7 This Property has a significant food turnover more than twice the next highest level of the six comparisons provided, and the Tribunal finds that the discount provided to the Respondents FMT of €2.9m was too high under these unique circumstances. None of the NAV comparisons provided to the Tribunal exhibited FMT figures where the food FMT was twice the level of Drink FMT. However, the comparisons provided varied from 42% to 73% whereas in the subject Property the estimated Food FMT was 1.93 times higher than the drink FMT. Clearly this would involve the operator in significant additional costs to service such a large food offering.

10.8 The Tribunal does not accept the Appellant's contention that the rural location should allow for the Wicklow percentages to apply.

10.9 The Tribunal is aware of the possible subjective nature of any discounts which might apply in this case; however, it must be guided by the requirement for correctness of value, equity, uniformity, fairness, and transparency. This Property is unique in terms of location, the nature of its trade and reliance on car/ bus borne customers as well as the uncertainty attached to the licensed car park, the unique sewerage costs and the higher staff costs associated with the substantial food business and reliance on the tourist trade almost exclusively.

For these reasons the Tribunal has reduced the FMT from €5.0m to €4.0m, which reduces the respective food and drink FMT value as follows: €1.36m Drink FMT and €2.64m. We find that the discount to €4.4m adopted by the Respondent did not sufficiently account for the number of unique issues which applied to the Property. Adopting the same calculation matrix as adopted by the Commissioner the NAV has been determined at €300,000.

FMT	€1,360,000	10%	€136,000
Less TV/entertainment expenses	-€1,360,000	1%	-€13,600
Food sales (€2,640,000-€100,000)	€2,540,000	7%	€177,800
NAV			**€300,200** **Say €300,000**

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 €300,000.

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 <u>and</u> 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.