

Appeal No: VA23/5/1479

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

DEALZ

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 400379, Retail (Shops) at Unit 15-17, Stillorgan Shopping Centre, Kilmacud Road Lower, Stillorgan, County Dublin.

B E F O R E

Eoin McDermott-FSCSI, FRICS

Deputy Chairperson

Orla Coyne-Solicitor

Member

Liam Daly-FSCSI, FRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 1ST DAY OF SEPTEMBER 2025

1. THE APPEAL

- 1.1 By Notice of Appeal received on 19th 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 €352,000.
- 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:

‘The passing rent (which was also the initial rent from 2013) is €250,000 per annum. The landlord, knowing there to be very limited operators in the market seeking this quantum of space in a neighbourhood shopping centre, has agreed to maintain the rent at the current passing level in 2018. The next rent review does not fall due until 2023 - the date by which the FINAL CERTS will be issued.

** Unit 47-49 Donnybrook Fair is a full profile external unit (with longer opening hours) that agreed a rent review in 2019 at €197,000 for 3,702 sq ft and 347 store. That rent breaks back to €50.87 per sq ft (€25 per sq ft on store). Conversely, the subject proposed RV equates to €52.80 per sq ft but, to this, we should apply a 10% discount for quantum; 10% for compromised profile and 10% for hidden location and internal mall unit (reduced opening hours). This break back to €397.84 per sq m (€36.96 per sq ft), or an RV of €258,000. Noting that the landlord has agreed to a rent from 2018 (pre-Covid 19) of €250,000 per annum, my opinion of RV is €250,000’*

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €250,000.

2. REVALUATION HISTORY

- 2.1 On 23rd 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 €400,000.
- 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 €352,000.
- 2.3 A Final Valuation Certificate issued on 15th September 2023 stating a valuation of €352,000.

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

3. THE HEARING

- 3.1 The Appeal proceeded by way of a remote oral hearing held remotely via zoom, on 1st July 2025. At the hearing the Appellant was represented by Mr Ollie Conway MSCSI, MRICS and the Respondent was represented by Mr Anthony Mulvey Executive Valuer with 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 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 (hereinafter called “the Subject Property”) forms part of the Stillorgan Shopping Centre, Stillorgan, Co. Dublin. The centre was constructed approximately 60 years ago and was the first of its kind in Ireland. It comprises of approximately 50 units of varying sizes, mainly located on two malls in an “L” shape with further units facing the surface car parking.
- 4.3 The Subject Property is located at the intersection of the two malls. It previously comprised four separate units, but these were merged into one unit in 2012. The Subject Property now comprises a large, irregularly shaped ground floor retail unit with a relatively narrow frontage in relation to its overall size. The profile of the unit is poor, with a large stairwell and lift lobby being located directly in front of the main access to the unit.

4.4 The floor area is agreed by the parties' valuers as set out below.

Description	Area (M2)
Net Internal Area	695.05
Gross Internal Area	717.66

4.5 The Subject Property is held under an occupational lease for a term of 15 years from 9th August 2012 with five yearly reviews. The User clause allows the use of the property as a Variety Store, which use encompasses a wide range of listed items including toys, home and garden goods, books, pet care and pet food, newspapers and magazines, groceries, toiletries and clothing. It is specified that the use of the entire or a substantial amount of the demise for the sale of only one listed item is prohibited.

4.6 The initial rent was set at €250,000.00 per annum and has remained unchanged since then. Under the terms of the lease either party may trigger the rent review clause but only the Landlord has the ability to seek the appointment of a third party to determine the rent.

5. ISSUES

The issue in this Appeal 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.”

6.3 Section 19 (5) of the Act provides:

“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 ...”

7. APPELLANT’S CASE

7.1 Mr. Conway opened his case by providing a brief summary of the previous rating history on the property. He went on to describe the Subject Property and its location, using photographs and maps contained in his précis. It was noted that the property is located at the furthest point from the surface car park and that the property suffers from a very poor profile due to its narrow entrance and location obscured by a stairwell and lift lobby. He also noted that the inner mall units such as the Subject Property had restricted trading hours compared to the units that faced directly onto the carparks.

7.2 Mr. Conway stated that the Subject Property had previously been valued on the basis of its overall floor area but that the Respondent was now adopting a retail zoning approach in calculating the value. He gave his opinion that this was not a suitable approach to be taken and was of the opinion that the property should be valued in line with the Supermarket 2 (500 – 2,500 sq.m.) category used by the Respondent elsewhere in the Local Authority area. In addition, and notwithstanding that he disagreed with the use of zoning to value the

property, he disagreed with the actual zones adopted by the Respondent in this case and set out an alternate zoned scheme, noting the narrow frontage and extent of shadow areas.

7.3 Mr. Conway put forward 3 NAV comparisons to justify his position and contrasted the approach with the subject property as follows: -

PN	Occupier	GF Area	Total Area	Retail Frontage	Use	GF Rate/psm
400382	Dunnes Stores	736.87	1,473.87	38m	Department store	€280
5025389	Tesco	543.50	1,295.60	21m	Department store	€280
400368	Tesco	1,690.50	2,390.46	45m	Supermarket	€280
400379	Dealz (subject property)	717.66	717.66	11.9	Retail Shop	€1,100 Zone A

Occupier	Overall NAV	Overall NAV psm	% of Subject Property overall psm
Dunnes Stores	€433,000	€293.78	59.90%
Tesco	€398,000	€307.19	62.63%
Tesco	€667,000	€227.61	46.41%
Dealz) (subject property	€352,000	€490.48	

Mr. Conway also noted that the Dealz unit in the old Dundrum SC, measuring 1,185 sq.m., had been valued on an overall basis at €210 psm, although he said he was not introducing this as a comparison.

7.4 Mr. Conway gave his opinion that the property should be valued on the basis of the gross internal area, in line with the approach taken for supermarkets and department stores. He adopted the rate of €280 psm used by the Respondent for supermarkets and department stores in Stillorgan SC and applied a discount of 10% to allow for poor retail frontage, layout and profile, giving a rate of €252 psm.

7.5 Mr. Conway contended for a net annual value of €180,850 calculated as below.

Floor	Description	Area (M ²)	NAV (€ per M ²)	NAV
0		717.66	€252	€180,850.32
			Say	€180,850

7.6 In response to cross examination by Mr. Mulvey for the Respondent, Mr. Conway accepted that neither the lease nor the planning permission for the subject property allowed it to trade as a supermarket but noted that it traded as a variety store, stating that there was little to no difference between the two categories. He confirmed that he was aware that the SCSi Information Paper on Retail Zoning stated that 1,000m² of single level unit should be the limit for the application of zoning but queried whether this was standard practice for the Respondent. Mr. Mulvey confirmed that it was and said that Respondents policy was that irregularly shaped properties or single level properties over 1,000m² were valued at 60% of the Zone A rate. Mr. Conway accepted that his comparisons were all two storey units but noted that the subject property was the largest single storey unit in the Centre, and the only one over 500 sq.m. Mr. Conway accepted that he had originally sought a revised NAV of €250,000 in his initial appeal but said that he was now seeking €180,850 having had time to consider other evidence and the tone of the list. Mr. Conway confirmed that there had been no discussions on the rent reviews due in 2017 and 2022, stating that the Landlord had not sought to trigger them.

- 7.7 In response to queries from the Tribunal, Mr. Conway accepted that €250,000 was the passing rent on the property but noted that this dated to 2102 and explained that the rent review clause did not allow the tenant to refer a rent review to a third party. He accepted that properties valued as supermarkets in the Valuation List had a fit out allowance applied but had not applied one in this instance as the fit out was of a very poor quality.

8. RESPONDENT'S CASE

- 8.1 Mr. Mulvey opened his case by explaining how he had approached his valuation of the Subject Property. He explained that the Respondent had valued all retail properties of less than 1,000m² in the Local Authority area on a zoned basis, except for those which were irregularly shaped which were valued on an overall basis at 60% of the Zone A rate. He had considered that approach but discounted it because in his opinion the result would have been too high. He described the Subject Property as highly unusual and agreed with Mr. Conways opinion that the property had a poor profile. He had sought to reflect this in his valuation by making an allowance of 32% on the zoned approach, including an allowance of 20% for the poor frontage. He cited his Belarmine comparison as an example of his approach, which he described as being both objective and subjective.
- 8.2 Mr. Mulvey noted that his valuation of €250,000 was in line with the figure sought in the Notice of Appeal and the passing rent. He expressed some surprise that the Appellant had not sought to have the rent reviewed in 2017 and 2022 and gave his opinion that this meant that both the Landlord and Tenant were happy with the passing rent.
- 8.3 Mr. Mulvey put forward seven Key Rental Transactions in support of his case. One dates from 2017, three from 2018, one from 2020 and two from 2021. The areas involved range from 324.54 m² to 48.3 m². Zone A devaluations were between €1,415.50 (an 89.93 m² unit let in September 2018) and €720.42 (a rent review on a 306.67 m² unit in December 2017 and a letting in December 2018 on a unit of 324.54 m²).

8.4 Mr. Mulvey put forward four NAV comparisons to support his valuation as follows:

PN	Unit	Zone A Rate	NAV per m ²	NAV
400374	Unit 10, Stillorgan SC	€1,100	€652.39	€70,400
400411	Unit 56, Stillorgan SC	€1,100	€537.23 (GF)	€248,000
400383	Unit 21, Stillorgan SC	€1,100	€538.26	€127,100
2204978	Unit 18 Belarmain Plaza	€350	€165.29 (GF shop)	€110,900

Mr. Mulvey also provided a list of additional ground floor retail units within Stillorgan Shopping Centre not cited heretofore, which he said demonstrated the application of the valuation scheme in a fair and equitable manner. In relation to the Belarmine comparison he explained that the NAV on the property had included a 10% end allowance to the ground floor zoned area to allow for frontage to depth (1:0.54) and a further 10% to allow for the fact that the frontage was largely impeded by units running perpendicular to it. He noted that that the NAV had been agreed with an agent prior to a tribunal hearing.

8.5 Mr. Mulvey contended for a valuation of €250,000, calculated as follows:

Floor	Description	Area (M ²)	Rate	NAV
0	Retail Zone A	177.35	€1,100.00	€195,085.00
0	Retail Zone B	183.05	€550.00	€100,677.50
0	Retail Zone C	189.72	€275.00	€52,173.00
0	Remainder	144.93	<u>€137.50</u>	<u>€19,927.88</u>
		695.05		€367,863.38
		Less 32% allowance		<u>€117,716.28</u>
				€250,147.10
			Say	€250,000

8.6 In response to cross examination by Mr. Conway for the Appellant, Mr. Mulvey said that as far as he was aware this was the only unit in the Shopping Centre that proceeded to the Valuation Tribunal. He agreed that the original valuations were calculated using a Zone A rate of €1,250 per m² but said that this had reduced following the receipt of further information at Representations stage. He did not accept that the Subject Property sold all the items that one would normally see in a supermarket noting for example the lack of milk and fresh vegetables. He described the Supermarket 2 Category as an old category no longer used by the Respondent. He also noted that there were no supermarkets under 1,000 m² in the Local Authority area. He confirmed that the Respondent followed SCSi guidelines on retail zoning but added that they sometimes had to be adapted for uniformity and equality requirements. He was unaware of the restricted trading hours of the units in the inner malls as opposed to those facing the car parks and accepted that the outer malls had an advantage in that respect. In response to detailed questioning on his Key Rental Transactions he said that the Zone A rate was derived from a basket of comparables. When asked why the rents in his NAV comparisons 2 and 3 were significantly higher than the NAVs for those units he replied that the Respondent did not have access to that information but that if it was correct it would suggest that NAVs in the Centre should be higher.

8.7 In response to questioning from the Tribunal, Mr. Mulvey accepted that none of his evidence complied with the SCSi Retail Zoning guideline of being within 50% of the size of the subject property. He said that this was because none of the other single storey units in the centre was that big. On the issue of the Respondents approach to valuing irregularly shaped properties he accepted that the method of applying 60% of the Zone A rate to the entire could penalise larger units but noted that the application of the end use allowance had mitigated this.

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 County Council.
- 10.2 The Tribunal has found on several occasions that the onus of proof rests with the Appellant in an appeal (See *Proudlane Ltd. t/a Plaza Hotel* (VA00/2/032) and *AIB Group PLC v Commissioner for Valuation* (VA20/4/0053)). The position was expanded on in Tribunal decision *FGM Properties v Commissioner for Valuation* (VA19/5/1091) wherein it was held: “*The onus of proof rests on the Appellant to demonstrate, through cogent evidence that the Respondent has erred.*”
- 10.3 Arising from these decisions, in order to succeed in their appeal, an Appellant must demonstrate, through cogent evidence, that the Respondent has erred in their valuation of the property under appeal. In that respect, the Appellant was obliged to satisfy the Tribunal, through evidence, that the Respondent’s valuation was incorrect and failed to meet the requirements of correctness of value, together with equity and uniformity of value between properties on the valuation list required under S. 19 (5).
- 10.4 The Appellant advanced the appeal on two main grounds. Firstly, that the Respondent had erred in valuing the property on a zoned basis rather than on an overall basis as was generally applied to supermarket type properties and therefore the valuation failed to meet the requirements of equity and uniformity. Secondly, that the Respondent had failed to take sufficient account of the specific issues relating to the subject property such as the poor profile, irregular shape and restricted trading hours.
- 10.5 The Appellant cited three NAV comparisons in support of its case. All three are two storey units with ground floors valued at €280 per m². The ground floor area of comparison 1 is 736.87 m² and it adjoins the Subject Property to the east. It shares some, although not all

of the profile issues that affect the Subject Property. The ground floor area of comparison 2 is 543.40 m² and it adjoins comparison 1 to the east. The third comparison is the main centre supermarket which has a significantly larger ground floor area than the subject property. It was the Respondents case that these properties are not comparable as they are two storey units and not single storey as is the Subject Property. The Tribunal does not accept this argument and considers that the Appellants comparisons 1 and 2 provide very useful evidence in assessing the NAV to be applied to the Subject Property.

- 10.6 The Respondent put forward seven rental transactions that were used to assess the level of Zone A rents that were applied in Stillorgan Shopping Centre. The largest unit was 324.54m² which is less than half the area of the subject. The Tribunal considers that these comparisons provide at best limited value. However, there is now an established Tone of the List for the Centre, at a level of €1,100 Zone A. The Respondent also put forward four NAV comparisons. Comparison 1 & 3 are too small to be of relevance. Comparison 2 is of interest. It comprises a McDonalds unit that is almost the same size as the subject property, albeit over two floors. The ground floor is zoned in the normal way. The first floor, which comprises just under half of the overall area, is valued at €175 per m², representing 15.91 % of the Zone A rate. The NAV of the property, which has a prime location, substantial frontage and benefits from extended trading hours is €248,000. The Tribunal has considered the evidence put forward in relation to NAV comparison 4 and notes that an end allowance of 20% was applied in that case.
- 10.7 The Tribunal sees some merit in the approach of the Appellant, although it considers that the 10% reduction in the €280 per m² applied by the valuer to take account of the various issues surrounding the property to be unsupported by his evidence, particularly in relation to his NAV comparison 1. Such an approach would indicate an NAV in the region of €216,000 inclusive of fit out. However, this ignores the Tone of the List that has become established in the Shopping Centre and the Local Authority area generally.
- 10.8 The Tribunal accepts the evidence of the Respondent that all single storey retail properties under 1,000 m² in the Local Authority area are valued on a zoned basis, save for those of

an irregular shape which are valued on an overall basis at the rate of 60% of the Zone A rate. The Tribunal notes that this approach was considered by the Respondents valuer but was disregarded as the valuer considered that its adaptation over valued the property. The Tribunal also notes the acceptance of the Respondents valuer of the possibility that the Respondents approach to valuing irregular units could inadvertently penalise larger units, and his position that such matters should be dealt with by way of end allowance, as he had put forward. The Tribunal finds that on the basis of the evidence put forward that a Zone A rate of €1,100 should be applied to the Subject Property.

- 10.9 It was agreed by both parties that that the Subject Property suffers from a poor profile, narrow frontage and less than ideal layout. It was also agreed that the Subject Property was the largest single storey unit in the Centre. The Respondent has accepted that an end allowance should be applied and has suggested 32%. The Tribunal considers that this does not fully represent the issues affecting the Subject Property and finds an end allowance of 40% to be appropriate in this case. This brings the valuation into line with the ground floor values attributable to the Appellants NAV comparisons 1 & 2 and also reflects the advantages enjoyed by the Respondents NAV comparison 2 over the subject property.

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 **€220,000**.

Floor	Description	Area (M ²)	Rate	NAV
0	Retail Zone A	177.35	€1,100.00	€195,085.00
0	Retail Zone B	183.05	€550.00	€100,677.50
0	Retail Zone C	189.72	€275.00	€52,173.00
0	Remainder	144.93	<u>€137.50</u>	<u>€19,927.88</u>
		695.05		€367,863.38
		Less 40% allowance		<u>€147,145.35</u>
				€220,718.03
			Say	€220,000

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 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.