

**Appeal No: DS20/0/0001**

**VALUATION TRIBUNAL  
AN BINSE LUACHÁLA**

**DERELICT SITES ACT, 1990  
AN tACHT UM LÁITHREÁIN THRÉIGTHE, 1990**

**GEHAD EL BASTAWISY**

**APPELLANT**

**AND**

**CORK CITY COUNCIL**

**RESPONDENT**

**In relation to the market valuation of 36 Dominick Street, and adjacent site on the corner of Dominick Street and Shandon Street (accepted by the parties in evidence as 37 and 38 Shandon Street, Cork)**

**TRIBUNAL**

**Hugh Markey - FRICS FSCSI**

**Deputy Chairperson**

**Caroline Murphy – BL**

**Member**

**Killian O’Higgins -FRICS FSCSI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL ISSUED ON THE 18<sup>TH</sup> DAY OF  
DECEMBER, 2024**

**Appearances**

**For the Appellant: Damien O’Mahony BCL, LLM, MPRII (Observer)  
Shane Finn, BSc (Hons) MIPFMA, MIPAV, TRV,**

**For the Respondent: Mark Gosling, MIPAV REV,  
John Crotty, Cork City Council (Observer) Stephen Fox, Cork City Council (Observer)**

**THE APPEAL**

1. In December 2019 a copy of Notice of Determination of Market Value (“the Notice”) issued in accordance with s. 22 of the Derelict Sites Act, 1990 Act (‘the Act’) was sent to the Appellant (who received the Notice on the 6<sup>th</sup> day of January 2020 indicating a market value of €250,000 in respect of urban land situated at 36 Dominick Street, and adjacent site at 37 and 38 Shandon Street, Cork) (hereinafter referred to as ‘the Derelict Site’) on the date the property was entered in the Cork City Council’s Derelict Site Register (“the Register”) on the 2<sup>nd</sup> day of December 2019 (Cork City Council reference: registry entry number 305 DSP1749).

2. By Notice of Appeal received on the 21<sup>st</sup> day of January 2020 the Appellant appealed against the Respondent's determination of value. The only ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Derelict Site is incorrect because: The Market Value is too high.

3. The Appellant did not indicate the level at which the market value of the Derelict Site ought to have been determined in the Notice of Appeal but contended for €110,000 at the hearing but with a valuation date of the 17<sup>th</sup> Day of November 2022.

## **THE HEARING**

4.

4.1 The appeal proceeded by way of a remote hearing held via Zoom platform, on the 15<sup>th</sup> day of September 2023 and the 14<sup>th</sup> day of August 2023. On the earlier date, the Tribunal sat but the Appellant's valuer was unable to join the hearing. The hearing was adjourned to the 15<sup>th</sup> September 2023, and on that date the Appellant, Dr El Bastawisy, was represented by Mr. Shane Finn of DNG Creedon; the Respondent, Cork City Council, was represented by Mr. Mark Gosling of Behan Irwin & Gosling. Mr. Damien O'Mahony, Keystone Planning Consultants for the Appellant attended in an observation capacity as did Mr. John Crotty Vacant House Officer, and Mr. Stephen Fox Senior Executive Estates Officer, both of Cork City Council, the Respondent.

5.

5.1 In accordance with the Valuation Tribunal (Appeals) Rules 2019 the parties' valuers exchanged their respective valuation reports prior to the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having made an affirmation, adopted their valuation report as their evidence-in-chief in addition to giving oral evidence.

## **RELEVANT STATUTORY PROVISIONS**

6.

6.1 A local authority is required by s. 22 of the Act to determine, after a derelict site has been entered on the derelict sites register maintained under s. 8 of the Act, unencumbered market value of that site in such manner and by such means as they think fit. In that regard, a local authority may authorise a person suitably qualified to inspect the site and report to them on the site's market value.

7.

7.1 Under s. 2 of the Act 'market value' means the value of the relevant urban land assessed in accordance with s. 22. That assessment is undertaken by

*"by estimating or causing to be estimated the price which the unencumbered fee simple of such land would fetch if it was sold on the open market on the valuation date in such manner and in such conditions as might reasonably be calculated to obtain for the vendor the best market price for the land."*

7.2 The Act does not mandate a specific date of valuation however Section 22 (1) of the Act states:

*“A local authority shall determine, as soon as may be after it is entered on the register, and at least once every five years thereafter, the market value of urban land by estimating or causing to be estimated the price which the unencumbered fee simple of such land would fetch if it was sold on the open market on the valuation date in such manner and in such conditions as might reasonably be calculated to obtain for the vendor the best market price for the land.”* (Tribunal’s emphasis).

The Tribunal has adopted the date of entry in the Cork City Council’s Derelict Sites Register (the 2<sup>nd</sup> day of December 2019) as *“the valuation date...”*. The date of valuation of the Respondent’s valuer was the 4<sup>th</sup> day of December 2019.

## THE FACTS

8.

8.1 On the basis of the evidence adduced by the parties, the following facts in respect of the physical condition of the Derelict Site were agreed or proved to the satisfaction of the Tribunal:

8.2 The property under appeal comprises properties at 37/38 Shandon Street and 36 Dominick Street. It was noted that Shandon Street is an established retail street on the north side of Cork City. The immediate area has a mix of residential and commercial users. The overall site area is 162 Sq. M and the Property is zoned for mixed use in the Cork City Development Plan 2015 - 2021.

8.3 No. 36 Dominick Street comprises a 3-storey terraced residential property of traditional construction. All doors and windows have been boarded up and the property is in a derelict condition.

8.4 Nos 37 & 38 Shandon Street is a site, with no buildings, having its primary frontage to Shandon Street and a secondary frontage to Dominick Street which extends to approximately 120 sq. m and adjoins Nos. 37&38 Shandon Street.

8.5 No direct evidence was offered as to title but the Appellant did not object to the Respondent’s characterisation as *“...good and marketable title.....without any restrictions, encumbrances, or unusual outgoings which may affect value.”* The Appellant assumed freehold or long ground leasehold title with no development impediments.

8.6 Neither party was aware of any:

(a) impediments to development such as contamination, flood zones, subsoil ground conditions insofar as such conditions might require piling or otherwise negatively impact on development costs.

(b) negative impact on development arising out of the provisions of the Cork City Development Plan 2015 - 2021. Also, neither party was aware of any proposals negatively impacting on the property, including road widening, pedestrian, or cycleways nor proposals by statutory or other utility undertakers including enforcement notices or compulsory purchase proposals.

(c) matters at (b) above affecting adjoining or contiguous lands

(d) evidence of a “*special purchaser*” being considered in arriving at market value of the Property or in relation to comparable evidence submitted.

8.7 Planning permission was in place to demolish the existing dwelling at 36 Dominick Street and to re-develop No. 36 Dominick Street and No’s 37/38 Shandon Street into 4 x 1-bedroom apartments and 1 x 1 retail unit.

## APPELLANT’S CASE

9.

9.1 Mr. Finn, the Appellant’s valuer, noted that the property was a “brownfield” site and while the properties have an extant planning permission for redevelopment of 4 apartments and a retail unit, the location on a busy street would cause difficulties with construction – a ‘stop/go’ system would have to be put in place during construction. He suggested this part of the city suffered from a high level of vacancies of both retail and residential units. He also noted that building costs are ‘extremely high’ and the return would be low. He said that units in the area were being sold below cost and that an Approved Housing Body would only have interest in apartments, not the ground floor retail unit which would certainly return a loss. He further noted that demolition costs would be high – he estimated €100,000.00. He explained how the site is in an Architectural Conservation Area (ACA) in the Cork City Development Plan 2015 – 2021 which added to the difficulties and the relatively small scale of the site would present difficulties in construction particularly as bracing and support might be required for the house at 35 Dominick Street adjoining 36 Dominick Street. Mr. Finn stated that No. 36 was a dangerous building with no floors, partial roof and part collapsed rear wall. Mr Finn was strongly of the view that No. 36 Dominick Street was more valuable as a cleared site.

9.2 The witness adopted ‘end values’ for the ‘finished product’ as per the planning permission of €120,000 to €130,000 per residential unit in arriving at his estimate of value of €110,000. This schedule is set out below:

Description	Apt Type	G.I.A	Value
Apartment 1	1 Bedroom	49.75 sq. m or 536 sq. ft	€25,000
Apartment 2	1 Bedroom	57 sq. m or 614 sq. ft	€25,000
Apartment 3	1 Bedroom	50.4 sq. m 543 sq. ft	€25,000
Apartment 4	1 Bedroom	50.4 sq. m 543 sq. ft	€25,000
Ground Floor	Retail Unit	44.5 sq. m or 479 sq. ft	€10,000

9.3 The Tribunal noted that Mr. Finn’s valuation was addressed to the Appellant and not the Tribunal. The Tribunal directed the witness to readdress his report to the Tribunal. On the 28<sup>th</sup> day of September 2023 Mr. Damien O’Mahony forwarded Mr. Finn’s re-addressed valuation to the Tribunal.

The Tribunal noted that the valuation date adopted by Mr. Finn was the 17<sup>th</sup> day of November 2022 and not the date of entry in Cork City Council’s Register of the 2<sup>nd</sup> day of December

2019. When this was pointed out to him, after some reflection, Mr. Finn altered his valuation for the entire to €160,000 as at the 2<sup>nd</sup> day of December 2019. His only reason to add any value for the retail unit was “hope value” that this unit might receive planning permission for a change of use to residential. He confirmed that this figure would remain unchanged in December 2019/January 2020.

9.4 Cross Examination of Mr. Finn. In response to questioning by Mr Gosling, Mr. Finn defended his approach to valuing the Property on the basis of the finished development by saying that there was planning in place and there were no comparable sites on which he could rely to inform his opinion of market value.

9.5 In answer to a query from the Tribunal, he said that he was unaware of any impediments to development – that would only be established when work began. He said the gable wall of No. 36 Dominick Street was missing, there was a front wall but the back wall was partly missing. Redevelopment retaining 36 Dominick Street was not an option as the building had deteriorated too much to support an economic refurbishment option. He said he was unaware whether the property was located in an area covered by a Local Area Plan (LAP). He had presumed freehold or long leasehold title, at a nominal ground rent without development restrictions.

## **RESPONDENT'S CASE**

10

10.1 Mr. Gosling, valuer for the Respondent, adopted the comparable method of valuation in arriving at his estimate of value of No. 36 Dominick Street in its current condition and Nos. 37 and 38 Shandon Street on a market value “as is” basis . The comparables on which he relied in arriving at his valuation of No. 36 Dominick Street are included at Appendix 1 to this judgment (N/A to public). Mr. Gosling was happy that there was no difference between a valuation in December 2019 or January 2020.

10.2 Mr. Gosling included three sales of 2/3 bedroom houses in the immediate vicinity which he considered comparable for the purposes of valuing 36 Dominick Street. All needed full renovation and the sale prices varied between €110,000 and €130,000. Two of these sales took place in 2020 and one in 2022. One was a 2-bedroom, mid terraced, property in Shandon which sold for €110,000 in January 2022. The second was a mid-terrace 3-bedroom house in Blackpool which sold for €130,000 in May 2020. His final comparison was a 3-bedroom, mid terraced, house, also in Blackpool, which sold for €120,000 in March 2020. This property adjoins the second comparison property.

10.3 Mr. Gosling introduced two sales which he considered comparable and on which he relied in valuing the site at 37/38 Shandon Street. Each house needed complete renovation and thus he regarded the sale prices as representing the site value. These comparisons are included at Appendix 2 (N/A to public).

One was a house in need of complete renovation on a site of 48 Sq. M. situated approximately 170m from the subject Property. He suggested the sale price of €80,000 represented the site value due to the condition of the house. The sale took place on the 18<sup>th</sup> day of December 2019.

His second comparison is located in Sunday's Well and comprised a 1-bedroom, mid terraced, house of 52 Sq. M in need of complete renovation. He suggested the sale price of €90,000 also represented the site value. This property was sold on the 16<sup>th</sup> day of July 2019.

Mr Goslings respective valuations were:

36 Dominick Street -	€150,000
37/38 Shandon Street -	<u>€100,000</u>
Total	<u>€250,000</u>

#### 10.4 Cross examination of Mr. Gosling.

In cross examination of Mr. Gosling by Mr. Finn, regarding the condition of his comparables, the witness responded that his first residential comparison for 36 Dominick Street had walls and floors but the stairs were dangerous. He said it was significantly smaller than No. 36 Dominick Street. He said his second and third comparisons were effectively a 'builder's lot,' such was their poor condition.

The Tribunal noted from photographs adduced that the subject Property was on the market for sale by DNG Creedon Finn O'Connor, the company in which the Appellant's valuer was a partner. Mr. Finn responded that the quoting price was €250,000 in December 2019. Mr. Finn told the Tribunal that the property had been on the market for 6 months and the market considered it to be 'overvalued' at that level. He said developers considered that it was not worth developing the site.

Mr. Finn responded that he had not considered the residual approach when valuing the properties, instead used the comparative method.

## 11 FINDINGS AND CONCLUSIONS

11.1. On this appeal the Tribunal is required to determine the market value of the Derelict Site as defined in s. 2 of the Act assessed in accordance with s. 22 of the Act.

11.2 The Appellant's valuer originally adopted the 17<sup>th</sup> day of November 2022 as the date of valuation. At the resumed hearing, Mr. Finn revised his valuation figure to €160,000 as of December 2019/January 2020. The Tribunal relies on Mr. Finn's oral evidence as to his revised valuation of the Property. Mr. Finn offered no comparable properties to support his opinion of value. Mr. Finn's description of the derelict condition of No. 36 Dominick Street was not challenged by Mr. Gosling, valuer for the Respondent.

11.3 Mr Finn's evidence lacked substance insofar as unsubstantiated figures were adopted for capital site values of a potential development without supporting comparable data for similar apartment sites or evidence of construction or demolition costs.

From Tribunal questions related to photographs in Mr. Gosling's précis, it was established that the Property was on the market on the 2<sup>nd</sup> day of December 2019. The Property was for sale at a price of €250,000 with the vendor (the Appellant) represented by the Appellant's valuer's

firm, DNG Creedon Finn O'Connor. Mr. Finn stated that there was little or no interest in December 2019. This evidence was unchallenged by Mr. Gosling.

11.4 The Respondent's evidence was that the value of the appeal properties as at the 4<sup>th</sup> day of December 2019 was €250,000. Mr Gosling provided comparable evidence to support his conclusion of market value, however, in respect of 36 Dominick Street, the dates of sale (March and April 2020, and January 2022) are all later than the date of entry on Cork City Council's Register of 2<sup>nd</sup> day of December 2019. For 37/38 Shandon Street one comparable property provides evidence of sale on 18<sup>th</sup> day of December 2019, after the date of entry on the Register and one in July 2019 preceding the entry on the Register. Mr. Gosling's report is dated the 4<sup>th</sup> day of December 2019 and of the five comparable properties offered in evidence, only one would have been available at Mr. Gosling's valuation date, and the date of the 2<sup>nd</sup> of December 2019 adopted as the valuation date by the Tribunal.

11.5 Mr Gosling offered the view that his valuation would not have changed for any date in December 2019 or January 2020 and stated that the evidence offered could be considered relevant in relation to evidence of value of two storey terraced houses in December 2019/January 2020.

11.6 The Tribunal's view is that advancing two-storey terraced houses as comparable to a three-storey derelict property and ascribing the sale prices of the terraced, two storey houses, as "site value" is stretching tenability. Regardless of condition, each of these houses had four walls, supported by another house on each side, and a roof. The internal condition of each house was poor and described as requiring "full renovation." However, no evidence was presented of any structural deficiency in any of the comparable properties presented by Mr Gosling. The costs of remediating these properties would be far less than the cost of remediating 36 Dominick Street. In the Tribunal's experience, in many instances refurbishment of a derelict structure is more expensive than rebuilding.

11.7 Taking Mr. Finn's assessment of demolition cost at €100,000 (or €88,000 net of VAT at 13.50%, say €90,000) when added to Mr. Finn's valuation of €160,000 arrives at the same figure as Mr. Gosling- €250,000 suggesting that the essential difference in approach is one where, it could be concluded, Mr. Finn has allowed for demolition of 36 Dominick Street whereas Mr. Gosling 's approach is focussed on a refurbishment of this part of the Property. Although Mr. Finn's opinion on demolition costs was not supported with cost evidence, Mr. Gosling did not challenge his opinion.

11.8 The Tribunal found the evidence presented by both valuers to be of very limited assistance in its deliberations. Neither valuer had adopted the residual method of valuation on its own or as an alternative methodology to support their valuation. In addition, despite an agreement by both valuers that a planning permission for four x 1-bedroom apartments and a ground floor retail unit existed for the Property in December 2019, no further detail was advanced by either valuer.

11.9 Unchallenged, and perhaps the most relevant, evidence was that the Property was on the market at a quoting level of €250,000 on the 2<sup>nd</sup> day of December 2019 and there was little or no interest suggesting that a figure of €250,000 could not be achieved.

11.10 The derelict condition of 36 Dominick Street presented by Mr. Finn was not challenged by Mr Gosling. The Tribunal does not consider a refurbishment of the existing structure at 36

Dominick Street as an economic option and agrees with Mr. Finn that demolition is a more likely outcome. There is substantial risk and cost in demolishing what is now (following earlier demolition) an end of terrace building, and possibly sharing a structural wall with the adjoining property at 35 Dominick Street.

11.11 The Tribunal is not persuaded by Mr Gosling's approach in comparing small two storey terraced properties as comparable to 36 Dominick Street or describing prices achieved for such properties requiring full renovation as representative of "site value" and applicable as a suitable comparable sale price for 36 Dominick Street.

#### **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal allows the appeal and determines that the market value of the Derelict Site falls to be amended to €190,000 (One Hundred and Ninety Thousand Euro) as of the valuation date adopted of the 2<sup>nd</sup> day of December 2019.

#### **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.