

Appeal No: VA23/5/0259

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

**O’ROURKE’S SUPERMARKET LIMITED T/A
THE DIAMOND STORE**

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2003326, Shop at The Diamond, Donegal Town, County Donegal.
(‘the Property’).

B E F O R E

Una Ni Chathain - BL

Deputy Chairperson

Raymond J. Finlay - FIPAV MMII ACI Arb TRV PC

Member

Fergus Keogh - MSCSI MRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF OCTOBER 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 11th 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 €173,200.

1.2 The grounds of appeal as set out in the Notice of Appeal are 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:

1. *“The subject property's valuation is incorrect owing to valuation approach. The subject property is a former supermarket, last used for this purpose in 1999. The property ceased to trade as a supermarket owing to the fact it had no carpark and as such, demand for a town centre supermarket had declined significantly. The approach to value the entire at 60% of the Zone A is at complete variance with the nature of the property and even the valuation applied to other supermarkets if that category was appropriate.*
2. *The subject property now sells souvenirs and though oversized for the use, the property could be valued zoned (165m2 ITZA) with an end allowance or by direct reference to the largest retail in the town such as Magee's (PN 2094058) and Supervalu (PN 2003496). Ultimately, the subject has narrow frontage and cannot be of a higher value per m2 than Magee's.*
3. *Consideration should be given to sub-dividing the basement and valuing separately. The basement has not been occupied since 1999 and has a separate access. It is very unlikely that the basement will ever be used for any commercial activity ever again.”*

1.3 In the Notice of Appeal the Appellant considered that the valuation of the Property ought to have been determined in the sum of €45,000.

2. REVALUATION HISTORY

- 2.1 This is a Revaluation appeal arising from the Donegal County Council revaluation which was undertaken as a result of the Donegal County Council Valuation Order 2022, that was signed by the Commissioner of Valuation on 6th September 2022 and is for the Valuation List published on 22nd September 2023.
- 2.2 The functions of the Commissioner of Valuation are now performed under the authority of Tailte Éireann with effect from 1st March 2023 (S.I. No.58/2023 - Tailte Act 2022 (Commencement) Order 2023).
- 2.3 On the 25th day of May 2023 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 €173,200
- 2.4 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €173,200.
- 2.5 The date by reference to which the value of the Property, the subject of this appeal, was determined is the 01st day of February 2022.

3. THE HEARING

- 3.1 The Appeal proceeded by way of remote hearing on the 18th day of November 2024. At the hearing the Appellant was represented by Mr. David Halpin M.Sc (Real Estate) Ba. (Mod) of Eamonn Halpin & Co Limited and the Respondent was represented by Mr. Ian Power B.Sc. (Hons) of Tailte Eireann, ('the Parties').

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 made an affirmation 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 is located in the Diamond in Donegal town adjoining the Abbey Hotel. This is a central location in the established commercial trading area within Donegal town centre.

4.3 The Property comprises a two storey over basement level terraced building with a 10m street frontage to The Diamond. The accommodation comprises as follows;

- Ground floor retail: 665.43 m²
- First Floor Stores: 275.00 m²
- Basement / Lower gr. floor stores: 276.00 m²

4.4 The Property previously traded as a supermarket and photographs included in the Parties' précis indicate that the Property now trades as a department store type shop with fashion and household goods on display.

4.5 Photographs indicate that the upper floor is used for storage purposes and that the lower ground floor / basement level, which is at ground floor level when accessed from the rear is unused.

5. ISSUES

5.1 The issue arising in this appeal is one of the quantum of the valuation only. The Final Valuation Certificate issued states a valuation of €173,200 and calculated the NAV of the Property as follows;

Floor level	Use	Area m²	NAV € per m²	NAV €
0	Supermarket	674.76	€216.00	€145,748.16
1	Store	275.00	€50.00	€13,750.00
-1	Store	276.00	€50.00	€13,800.00
			NAV say,	€173,200

In his précis Mr. Halpin contended for a valuation of €45,000 subsequently amended to €44,600 following the correction of a typographical error. In his précis, Mr. Power changed the method of valuation adopted in the valuation of the Property as calculated in the Final Certificate from an overall rate per m² to a zoned rate per m² and contended for a revised valuation of €87,000. The Parties agreed that the correct area of the ground floor of the Property to be valued was 665.43 m².

6. RELEVANT STATUTORY PROVISIONS

6.1 All references hereinafter to a particular section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, modified, or re-enacted by the Valuation (Amendment) Act, 2015 and other statutes.

6.2 In Revaluation type appeals, as in this appeal, sec. 37 of the Act provides that the Valuation Tribunal must reach a determination having regard to the provisions of section 19(5) inserted by section 7 of the of the Valuation (Amendment) Act 2015 as follows:

“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 or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.”

6.3 The net annual value of the Property (the NAV) 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.”

6.4 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 Mr. Halpin contended for a valuation of €44,600 by applying rates of €50, €27.50 and €13.75 per m² respectively to the ground first / lower ground / basement levels as follows;

Floor level	Use	Area m ²	NAV € per m ²	NAV €
Ground Floor	Retail	665.43	€50.00	€33,271.50
First Floor	Store	275.00	€27.50	€7,562.00
Basement	Store	276.00	€13.75	€3,795.00
			Total	€44,628.50
			NAV say,	€44,600

He said that he considered that the appeal was a very straightforward issue in that the Property could be valued either on an overall basis in a similar manner as his comparison Number 1, PN2094058 (*Magee's Department Store*) a nearby landmark building and the largest building in the Diamond or it could be valued on a zoned basis in line with PN2003460 (*Triona*) also a nearby shop with appropriate adjustments made having regard to the size of the zoned Remainder Area.

In support of his opinion of value Mr. Halpin included the following three comparison properties in his précis;

Comparison No. 1 - PN2094058 (*Magee's Department Store*)

Floor level	Use	Area m ²	NAV € per m ²	NAV €
0	Department Store	868.95	€55.00	€47,792.25
1	Store	44.16	€27.50	€1,214.40
-1	Department Store	299	€38.50	€11,511.50
				€60,518.15
			NAV say,	€60,500

In relation to this comparison Mr. Halpin said that it was the most significant comparison, by far the best retail property on The Diamond and the only retail property larger than the subject Property with a street frontage of almost 40 m, being four times that of the subject Property. He said that it had to be more valuable than the subject Property, given its superior size and frontage, and so its valuation of €60,500 NAV acts as a highwater mark for the subject. Given this property's superior retail area, the valuation of the subject Property could not exceed €50/m² if valued overall.

Comparison No. 2 - PN2003460 (*Triona*)

Floor level	Use	Area m ²	NAV € per m ²	NAV €
0	Retail Zone A	91.50	€360	€32,940.00
0	Retail Zone B	89.42	€180	€16,095.60
0	Retail Zone C	36.73	€90	€3,305.70
0	Remainder	41.00	€45	€1,845.00
1	Offices	108.00	€50	€5,400.00
2	Offices	56.45	€35	€1,975.75
				€61,562.05
			NAV say,	€61,500

In relation to this comparison Mr. Halpin said that it had the highest NAV of any retail property on the Diamond other than the subject Property. He said that the valuation of this property acts as the example for the zoning model on The Diamond with a €360 per m² Zone A and that traditionally the Commissioner zones properties under 500 m² but it does not mean that the subject property cannot be zoned and an end allowance applied to make it relative. He said that the subject would need a 40% end allowance to arrive at the rate contended for on an overall basis.

Comparison No. 3 - PN2003496 (*Supervalu*)

Floor level	Use	Area m ²	NAV € per m ²	NAV €
0	Supermarket	1,300.65	€55	€71,535.20
	Additional items			€10,000
				€81,535.20
			NAV say,	€81,500

In relation to this comparison Mr. Halpin said that it was one of the main supermarkets in Donegal town and one of the main reasons the subject no longer trades as a supermarket. This property has a full supermarket carpark with which the subject could no longer compete. He said that that the subject was poorer than this property and hence a maximum level of €55 per m² should apply.

7.2 Mr. Halpin said that the Property had been valued as a supermarket by the Respondent at the rate of €216 per m² even though it had not traded as supermarket since 1999 due to a lack of on-site car parking and the introduction of paid on-street parking in The Diamond. He said that as a supermarket the ground floor of the Property should not be valued at more than comparison number three and the rate of €55 per m². Mr. Halpin considered that the subject Property to be inferior to his comparison number 3 and applied a rate of €50 per m² to the ground floor element.

- 7.3 Mr. Halpin said that the ancillary first floor should not exceed the rate applied to the first floor of the *Magee's* comparison of €27.50 per m² and lower ground floor / basement level should not exceed 50% of this level having regard to size and lack of daylight.
- 7.4 In relation to comparison number 1 Mr. Halpin said that it was 1.8 times the size of the subject Property and accordingly had to be more valuable and said that it was not correct that a larger and superior property should be valued at less than the subject Property.
- 7.5 Under cross examination by Mr. Power Mr. Halpin agreed that the Property could be valued either on a zoned basis or an overall rate however if zoned an end allowance was required otherwise the end result is far higher than the supermarkets in the town and a balancing exercise is required.
- 7.6 Mr. Power asked Mr. Halpin for the reasons and rationale of applying the rate of €27.50 per m² to the lower ground floor / basement area particularly having regard to this area having independent access from the rear. Mr. Halpin said that he had followed the principles applied in the valuation of the basement in the *Magee's* building (€38.50 per m²) with an allowance for a lack of daylight and note that there was a goods lift for access to the upper floor.

8. RESPONDENT'S CASE

- 8.1 Mr. Power contended for a valuation of €87,000. Referring to his précis he described the physical attributes and location of the Property which he supported with photographs, plans and maps. He described the Property as being a standard retail unit, centrally located in the heart of the commercial area, in good condition and well fitted-out.
- 8.2 Mr. Power said that whilst the Property was previously valued on an overall rate per square metre basis that he was now of the view that the Property was a standard unit similar to others in The Diamond and should now be valued on a zoned basis with a Zone A rate of €360 per m² applied.

8.3 In support of his opinion of value Mr. Power referred to the following seven NAV comparison properties in his précis five of which are located in The Diamond and in the case of comparison numbers six and seven are located nearby. He supported the details of each comparison with a photograph, a location map and an extract of the Valuation Report from the Tailte Eireann records as follows;

NAV Comparison No. 1 - PN2003460 (*Triona*)

Valuation Report - Property Number: 2003460				
Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	RETAIL ZONE A	91.5	€360.00	€32,940.00
0	RETAIL ZONE B	89.42	€180.00	€16,095.60
0	RETAIL ZONE C	36.73	€90.00	€3,305.70
0	RETAIL ZONE REMAINDER	41	€45.00	€1,845.00
1	OFFICE(S)	108	€50.00	€5,400.00
2	OFFICE(S)	56.45	€35.00	€1,975.75
Additional Items (€):				€0.00
Total (€):				€61,562.05
Rateable Valuation (€):				€61,500.00

NAV – Net Annual Value(Section 48 of the Valuation Act 2001)
 Date Published : 22/09/2023
 Valuation Date : 01/02/2022

This property is situated on The Diamond close-by to the subject Property and described as an older well-fitted out large three-storey end of terrace building trading as a fashion boutique. It has 15m frontage. The total floor area is 423.10 m², the ground floor extends to 258.65 m² with a remainder area of 41 sq. m². The retail Zone A area of 91.5 m² is valued at €360 per m². The total valuation is €61,500.

NAV Comparison No. 2 - PN2003317 (The Four Masters Bookshop)

Valuation Report - Property Number: 2003317				
Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	RETAIL ZONE A	57.95	€360.00	€20,862.00
0	RETAIL ZONE B	39.25	€180.00	€7,065.00
0	RETAIL ZONE C	50.47	€90.00	€4,542.30
0	RETAIL ZONE REMAINDER	68.73	€45.00	€3,092.85
1	SHOP	73.32	€60.00	€4,399.20
2	OFFICE(S)	73.32	€35.00	€2,566.20
Additional Items (€):				€0.00
Total (€):				€42,527.55
Rateable Valuation (€):				€42,500.00

NAV – Net Annual Value ([Section 48 of the Valuation Act 2001](#))
 Date Published : 22/09/2023
 Valuation Date : 01/02/2022

This property is situated on The Diamond close-by to the subject Property and described as a large three-storey terraced building trading as a bookshop. The total floor area is 363.04 m², the ground floor extends to 216.40 m² with a remainder area of 68.73 sq. m² and a first floor retail area of 73.32 m². The retail Zone A area of 57.95 m² is valued at €360 per m². The total valuation is €42,500.

NAV Comparison No. 3 - PN2003331 (Begley's Pharmacy)

Valuation Report - Property Number: 2003331				
Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	STORE	79.2	€36.00	€2,851.20
0	RETAIL ZONE A	51.85	€360.00	€18,666.00
0	RETAIL ZONE B	46.39	€180.00	€8,350.20
0	RETAIL ZONE C	12.75	€90.00	€1,147.50
Additional Items (€):				€0.00
Total (€):				€31,014.90
Rateable Valuation (€):				€31,000.00

NAV = Net Annual Value([Section 48 of the Valuation Act 2001](#))
 Date Published : 22/09/2023
 Valuation Date : 01/02/2022

This property is situated on The Diamond close-by to the subject Property and described as a large three-storey terraced building trading as a pharmacy. The total floor area is 190.19 m² all at ground floor level. The is no remainder area but a storage area of = 79.20 m². The retail Zone A area of 51.85 m² is valued at €360 per m². The total valuation is €31,000.

NAV Comparison No. 4 - PN2003428 (Tots & Tassels)

Valuation Report - Property Number: 2003428				
Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	STORE	36	€36.00	€1,296.00
0	RETAIL ZONE A	31.72	€360.00	€11,419.20
0	RETAIL ZONE B	23.14	€180.00	€4,165.20
0	RETAIL ZONE C	30.5	€90.00	€2,745.00
0	RETAIL ZONE REMAINDER	52.5	€45.00	€2,362.50
1	STORE	110.52	€50.00	€5,526.00
Additional Items (€):				€0.00
Total (€):				€27,513.90
Rateable Valuation (€):				€27,500.00
NAV = Net Annual Value(Section 48 of the Valuation Act 2001)				
Date Published : 22/09/2023				
Valuation Date : 01/02/2022				

This property is situated on The Diamond, adjoins the subject Property and described as a large four-storey terraced building trading as a children's clothing shop. The total floor area is 284.38 m² including a first floor store of 110.52 m², a ground floor area of 173.86 m² and a remainder area of 52.50 m². The retail Zone A area of 31.72 m² is valued at €360 per m². The total valuation is €27,500.

NAV Comparison No. 5 - PN2003316 (Forget Me Not)

Valuation Report - Property Number: 2003316				
Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	STORE	25	€36.00	€900.00
0	RETAIL ZONE A	39.65	€360.00	€14,274.00
0	RETAIL ZONE B	45.71	€180.00	€8,227.80
0	RETAIL ZONE C	30.98	€90.00	€2,788.20
0	RETAIL ZONE REMAINDER	15.31	€45.00	€688.95
Additional Items (€):				€0.00
Total (€):				€26,878.95
Rateable Valuation (€):				€26,800.00
NAV = Net Annual Value(Section 48 of the Valuation Act 2001)				
Date Published : 22/09/2023				
Valuation Date : 01/02/2022				

This property is situated on The Diamond close-by to the subject Property and described as an older large three-storey terraced building trading as an interiors and crafts shop. The total floor area is 156.65 m² all at ground floor level with a remainder area of 15.31 m². The retail Zone A area of 39.65 m² is valued at €360 per m². The total valuation is €26,800.

NAV Comparison No. 6 - PN2212653 (Aldi Ireland Ltd.)

Valuation Report - Property Number: 2212653				
Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
0	SUPERMARKET	1455.1	€55.00	€80,030.50
Additional Items (€):				€15,602.00
Total (€):				€95,632.50
Rateable Valuation (€):				€95,600.00

NAV – Net Annual Value([Section 48 of the Valuation Act 2001](#)).
 Date Published : 22/09/2023
 Valuation Date : 01/02/2022

This property is a large purpose built modern supermarket situated off Main Street. The total floor area is 1,455.10 m² all at ground floor level and valued at €55 per m² overall. The total valuation is €95,600 to include Additional Items (fit out and office) of €15,602.

NAV Comparison No. 7 - PN2214777 (Manhattan Steakhouse.)

Valuation Report - Property Number: 2214777				
Level	Use	Area (m2)	NAV (€ per m2)	NAV (€)
1	KITCHEN	66	€90.00	€5,940.00
1	RESTAURANT	121.83	€90.00	€10,964.70
1	ALLOWANCE	-1	€4,140.00	-€4,140.00
2	RESTAURANT	54.27	€70.00	€3,798.90
Additional Items (€):				€0.00
Total (€):				€16,563.60
Rateable Valuation (€):				€16,560.00

NAV = Net Annual Value([Section 48 of the Valuation Act 2001](#))
 Date Published : 15/09/2023
 Valuation Date : 01/02/2022

This property comprises a restaurant at first and second floor levels in a three-storey terraced building located off The Diamond. The total floor area is 241.10 m². The first and second floor levels are valued at €90 and €70 per m² respectively. The total valuation is €16,560 to include an 20% Allowance of €4,140 to reflect size.

8.4 Mr Power analysed his valuation as follows;

Use	Floor Area m ²	€ NAV per m ²	€NAV
ITZA	164.183	€360	€59,105.88
Retail Zone A	62.22		
Retail Zone B	53.55		
Retail Zone C	51.85		
Retail Zone Remainder	497.81		
10% Add on			€5,910.58
First Floor Stores	275.00	€50	€13,750.00
20% Allowance			-€2,750.00
Basement Stores	276.00	€50	€13,800.00
20% Allowance			-€2,760.00
		Total NAV	€87,056.47
		NAV say,	€87,000

The 10% loading was standard for particularly deep units.

- 8.5 Under cross examination Mr. Halpin was asked Mr. Power if he believed that there was a conflict between the NAVs of PN2094058 (*Magee's Department Store*) and PN2203460 (*Triona*). Mr. Power said that *Magee's* was valued on an overall basis as a department store and was unique as it was the only property in The Diamond valued in this manner. Mr. Power said that there was a possible conflict and said that *Magee's* should possibly have been valued on a zoned basis however it is on the List in the manner that it is valued. Mr. Power agreed that the overall size of the subject Property and *Magee's* were almost identical.
- 8.6 Mr. Halpin asked Mr. Power if the subject Property was currently trading as a supermarket, referencing a national brand name, whether it would be valued at the rate of €55 per m². Mr. Power said that he would value on a zoned basis.
- 8.7 In reply to questions from the Tribunal as to the what was the minimum size of a retail unit was if it was to be valued as a super market / department store, Mr. Power said that it was generally properties in excess of 1,000 m² with some exceptions of between 500 m² - 1,000 m².
- 8.8 Mr. Power said that the Zone Rate of €360 per m² used in his valuation derived from his comparison properties which were also subject to the revaluation process and in turn derived from the analysis of rental transactions. He acknowledged that he had not provided evidence to the Tribunal of rental transactions on the basis that he understood that this rate was not in dispute. He said that of his five zoned comparisons none had been appealed but was unable to advise whether any of the five comparisons had increased, decreased or remained unaltered as a result of the revaluation process.
- 8.9 Mr. Power acknowledged that the initial valuation of €173,200 applied to the Property was incorrect.

9. SUBMISSIONS

9.1 No legal submissions were made in respect of this appeal.

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 Donegal County Council.

10.2 The précis, appendices, commentaries and oral evidence adduced by Mr. Halpin and by Mr. Power have all been considered in arriving at this Determination, which can only set out a summary of the evidence placed before the Tribunal. The fact that the Tribunal does not make specific reference to any particular document, argument, submission or piece of evidence does not indicate that it has not been taken into account.

10.3 Mr. Halpin contended that the Property could be valued either;

- (i) on an overall basis in a similar manner as his comparison Number 1, PN209405 (*Magee's Department Store*), which he described as necessarily more valuable than the subject Property, being the best retail property on the Diamond with a street frontage four times that of the subject Property and almost identical in size; or
- (ii) on a zoned basis in line with PN2003460 (*Triona*), a nearby shop and the property with the highest NAV on the Diamond apart from the subject Property, with appropriate adjustments made having regard to the size of the zoned Remainder Area, as PN2003460 is significantly smaller. Mr. Halpin said that the Property had been valued as a supermarket by the Respondent and that as a supermarket the ground floor of the Property should not be valued at more than comparison number three

(€55 per m²), which was clearly superior to the Property. Mr. Halpin submitted that the ancillary first floor should not exceed the rate applied to the first floor of the *Magee's* comparison of €27.50 per m² and lower ground floor / basement level should not exceed 50% of this level having regard to size and lack of daylight. Mr. Halpin contended for a valuation of €44,600 by applying rates of €50, €27.50 and €13.75 per m² respectively to the ground first/ lower ground / basement levels.

10.4 Mr. Power conceded that the List valuation was incorrect and instead defended a valuation of €87,000 having adopted and relied upon the zoning method of valuation in the preparation of his valuation of the Property based on adopting a Zone A Rate of €360 per m² which he said was used in other retail units in the Diamond. This rate he said was derived from rental evidence transactions however he did not provide details of these transactions to the Tribunal. He said that the use of this rate, which was also used in his five zoned comparisons and which were each also subject to the revaluation process, was supported by the fact that these valuations had been accepted by the rated occupiers as none had been appealed. He was unable to advise the Tribunal whether any of the five comparisons had increased, decreased or remained unaltered as a result of the revaluation process. The Tribunal considers that no inference may be taken from the fact that these five properties were not appealed.

10.5 The Tribunal considers that subject Property is unique in terms of its size relative to other properties in The Diamond, other than the *Magee's Department Store* which is of similar overall size though has a larger retail floor area, a superior trading configuration and a larger street frontage. Mr. Power advised the Tribunal that the Respondent considers that the minimum size of a retail property to be valued as a supermarket / department store was generally properties in excess of 1,000 m² with some exceptions of between 500 m² - 1,000 m². The Tribunal considers that having regard to the size of the subject Property that it falls within this range and should be valued on the basis of using an overall rate per square metre for the valuation of the ground floor element.

- 10.6 The Tribunal accepts Mr. Halpin's contention that having regard to uniformity, equity and fairness that the subject Property should not have an end valuation that is in excess of a larger and adjacent superior property. The Tribunal considers that the ground floor rate of €55 per m² should be applied to the ground floor element having regard to the rates per m² used by the Respondent in valuing PN2094058 (*Magee's Department Store*), PN2003496 (*Supervalu*) and PN2212653 (*Aldi Ireland Limited*) as they each appear on the Valuation List.
- 10.7 In his valuation of the subject Property Mr. Power applied an effective rate of €40 per m² to both the first floor and basement / lower ground floor levels in storage uses. This is in contrast to the rate of €38.50 per m² for a retail basement and €27.50 per m² for a small first floor store as applied by the Respondent in its valuation of *Magee's*. Mr. Halpin adopted rates of €27.50 per m² and €13.75 per m² respectively for the corresponding areas in his valuation. The Tribunal considers that the appropriate rates for these floors in the Property are €27.50 per m² and €30.00 per m² respectively having regard to their size, use and the benefit of the independent access that is available to the basement / lower ground floor area.

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 €52,440, calculated as follows;

Floor level	Use	Area m²	NAV € per m²	NAV €
0	Retail	665.43	€55.00	€36,598.65
1	Stores	275	€27.50	€7,562.50
-1	Stores	276	€30.00	€8,280.00
				€52,441.15
			NAV say,	€52,440

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.