

Appeal No: VA23/5/0466

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

NA hACHTANNA LUACHÁLA, 2001 - 2015

VALUATION ACTS, 2001 - 2015

QUILLS RETAIL LTD

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 20984, Retail (Shops) at 1 Main Street, Kenmare, County Kerry.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF OCTOBER 2025

BEFORE

John Stewart - FSCSI, FRICS, MCI Arb

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on the 16th 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 €170,300

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 (b) Details stated in the relevant Valuation List are incorrect (c) Other grounds. The valuation has to be incorrect; how can the rates go from €16,100.43 for 2023 to €38,658.10 for 2024. This is an increase of €22,557.67. The property use is stated as a convenience store which it is not. Floor level 0 is stated as a shop which is correct, Floor level 1 states office which*

is wrong, it is retail/storage and floor level 2 is wrong, it is storage and not offices. 80% of the stores turnover is done between April to September, the off season is very quiet. My business would not sustain this increase in rates.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €72,000.

2. RE-VALUATION HISTORY

2.1 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 €170,300.

2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €170,300.

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

3. DOCUMENT BASED APPEAL

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

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

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 Following an initial disagreement the parties agreed the following floor areas.

FLOOR	DESCRIPTION	SQM
Ground floor	Retail	470
1 st Floor	Retail	402
1 st Floor	Storage	44
2 nd Floor	Storage	356
Total		1,272

The Respondents argued for a zoning basis for the ground floor calculations which were not objected to by the Appellants and are as follows.

FLOOR	DESCRIPTION	SQM
Ground floor	Retail Zone A	38.96
Ground floor	Retail Zone B	59.22
Ground floor	Retail Zone C	104.72
Ground floor	Remainder	267.10
Total		470

The use of the zoning methodology was not agreed.

4.3 The parties generally agreed on the location and the description of the subject property.

5. ISSUES

5.1 The issue is one of quantum and methodology

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 Appellants were represented by Mr Declan Hickey of Casey & Kingston.

7.2. Mr Hickey confirmed that the property was located in Kenmare on the town's Main Street. He stated that Kenmare was a small town located in Kerry approximately 32 kilometres south of Killarney. He said the population was 2,566 according to the 2022 Census having a similar population to Castleisland and Killorglin. He stated that the town had a number of businesses that serve the local population such as Centra, Supervalu ALDI, Lidl, Kenmare Credit Union, AIB and Bank of Ireland. He stated that the town was highly reliant on tourism noting that during the autumn and winter months economic activity was significantly reduced.

7.3 He said that Main Street, Henry Street and Shelbourne Street formed the triangle in the centre of the town and noted that the subject property was located on the northern corner of Main Street however the majority footfall was located south of the subject property.

7.4 He stated that the subject property comprised a three-storey mid terraced corner property which had a very irregular shape. The ground floor had a retail area, fitting rooms, a good lift, toilet accommodation, and a loading bay area. The first floor comprised a retail area with fitting rooms maintenance room and storage

accommodation and the top floor comprised a storage area for stock and two small offices.

7.5 He provided the basis of calculation as issued by the Valuation Office on 15th September 2023 as follows:

Level	Use	Area M ₂	NAV/€/M ₂	NAV €
0	Shop	471.2	€252.00	€118,742.40
1	offices	464.2	€70.00	€32,522.70
2	Offices	390.1	€49.00	€19,114.90
Total				€170,380
			Say	€170,300

7.6 He stated that in his opinion the Valuation Certificate was excessive and failed to achieve correctness of value or equity and uniformity of value between properties on the Kenmare valuation list. He stated that he would rely on open market comparable evidence and the emerging tone of the list to demonstrate that the NAV issued was not equitable or uniform. He stated that it cannot be correct that rates can increase from €16,100.43 in 2023 to €41,723.07 in 2024. He added that the property was stated as comprising a convenience store which was not correct and that the first floor comprised retail/storage accommodation and the second floor comprised storage accommodation only. He stated that the key point he would rely on related to the incorrect characterization of the floors and that the rates applied were neither reflective of the open market or the emerging tone the list. He stated that the operators of the premises claimed that 80% of the stores turnover was done between April and September and that the business would not sustain this increase in rates.

7.7 He argued that the subject property was regarded by the operators as a department store and that the description as a convenience store with first and second floor offices was incorrect. He calculated the floor areas extracted from floor plans provided by the operators as follows:

FLOOR	DESCRIPTION	SQM
Ground floor	Retail	470
1 st Floor	Retail	402
1 st Floor	Storage	44
2 nd Floor	Storage	356
Total		1,272

7.8 Mr Hickey argued that the town had a small population which had only grown by 9.3% between 2016 and 2022 and that it was not attractive to large scale national and international fashion retailers. He stated that the largest non-grocery retailers that are on the expansion trail for provincial towns is very limited and was probably restricted to discount stores. He noted that these stores prefer out of town locations with access to parking. He stated that in his opinion the ceiling rent for these stores in provincial locations was €100,000pa.

7.9 He argued that the low growth population rate meant that towns such as this where significantly reliant on tourism to sustain their businesses. He noted that the highest rent achieved in Kenmare during the revaluation period as evidenced by the PSRA commercial register was €20,800pa for 21 Henry Street and that in his opinion any rent in excess of €50,000pa was unsustainable in Kenmare. He stated that 2 Park Street which had a ground floor area of 3,500sq. ft and car parking has been vacant and to let since 2009 and is now for sale. He also noted that 9 Main Street which comprised 5,000sq. ft was also vacant since 2009 and was for sale.

7.10 He stated that the shape of the subject property was unique with a narrow entrance which negatively impacted the display and consequently would limit demand from fashion retailers.

7.11 He added that the subject property had a history of flooding, and he included photographs to support this claim and consequently the operators could not obtain flood insurance. This was confirmed by GMIB insurance brokers who stated that the subject property had no flood insurance since 12th December 2020. He stated that in his opinion it would be very difficult for the property manager of any large-scale retailer to secure board approval for a letting where the property did not have flood cover.

7.12 He provided five Kenmare rental transactions extracted from the PSRA register in panel below.

No.	Property	Date	Rent Lease	Type	Size SQM Sq. Ft	PSF €
1 ¹	21 Henry St	20/01/22	€20,800 4 years 9 months			
2	24 Henry St	10/06/22	€7,200 4 years 9 months			
3	18 Henry St	24/10/22	10,800 4 years 9 months			
4	8 The Square	20/04/22	€13,000 4 years 11 months	Cafe	91.26 982	€13.00
5	23 Main St.	01/03/22	€16,800 4 years 6 months	Art Studio		

He stated that there were no open market letting comparables in Kenmare in terms of size and shape and noted that the highest rent in Kenmare in 2022 was €20,800pa.

No.	Property	Date	Rent Lease	Type	Size SQM Sq. Ft	PSF €
1 ²	Church St. Castleisland	01/07/22	€90,000 25 years	Retail Store	128.76 1,386	€65.00
2	Former LIDL Arbutus Drive Killarney	01/10/22	€135,000 10 years FRI	Supermarket	136.91 1,345	€100.00
3	Fair Green Macroom	Q4 24	€123,648 15 years	Post office	1641 17,706	€75.00
4	Unit A Fota Business Park Carricktwohill	Q2 22	€150,000 20 years	Tesla	1390 15,000	€108.00

¹ All of these five were extracted from Commercial Lease Register.

² He provided two other Kerry transactions sourced from Lavelles Auctioneers. He also provided four Cork based transactions from BNP Paribas, two from Cushman & Wakefield and another one from BNP Paribas.

5	Unit A Fota Business Park Carricktwohill	Q4 22	€153,000 15 years	Padel	1390 15,000	€110.00
6	Former LIDL Mallow	Q2 23	€110,000 20 years	Chemist Warehouse	1252 13,475	€88.00

7.13 He provided eight emerging tone of the list comparables for Kenmare.

No.	Property Prop. No	Tenant Use	Size SQM	NAV/SQM	Total NAV
1	Kenmare SC 2197852	SuperValu Supermarket	2,079.5	€79.00	€164,500
2	Railway Road Kenmare 5005435	LIDL Supermarket	1,440.4	€86.00	€123,900
3	Killowen Kilmurray Kenmare 5010942	ALDI Supermarket	1,557.7	€87.00	€135,000
4	Gortamullin Bus Pk Kenmare 2197851	Topline McCarthy's Showroom Industrial	1,931	€28.00	€54,100
5	The Square Kenmare 20855	Kenmare Butter Market Industrial uses showroom	658.0	€27.00	€17,620
6	16 Main St Kenmare 20935	Daybreak Retail shops) Off-licence Supermarket	661.9	€70.00	€46,525
7	Henry St Kenmare 2175773	Weavers of Ireland Retail Shops	285.2 G	€119.00 based on psm across the board	€34,000
8	Killarney Road Kenmare 2171102	Kenmare Furniture & Bedding Centre Showrooms/offices	1,577	€15.00	€23,600

Emerging tone of the list comparables Co. Kerry

No.	Property Prop. No	Tenant Use	Size SQM	NAV/SQM	Total NAV
9	1.4.5 High St Killarney 66042	Quill's Woollen Market Department Store	G. 1121.3 1 st 540.79 2 nd 180.89 Add items	€95.00 €66,50 €46.55 €14,248.50	€165,100
10	14 Bridge Street Tralee 69912	Shaws Department Store	2,310.5	€97.00	€224,000
11	Liberty Pl. Killorglin 2204654	ALDI Supermarket	1,355	€58.00	€114,70
12	Laharn Killorglin 2197851	Richard Boyle & Sons Retail warehouse	10,703	€27.00	€289,563

7.14 He stated that there is a long-standing principle in rating valuation that reliable rental evidence should be accorded more weight than rating assessments unless there is an established tone of the list which would have been derived from rental evidence. In this case he claims that neither the rental evidence nor the emerging tone of the list supports a NAV close to the NAV placed on the subject property by the valuation manager. He claims that the Valuation manager has failed to achieve correctness of valuation based on a rate of €252/sqm when a rate of €65/sqm was established in Castleisland a similar sized town and a unit in Killarney which is a superior town achieved only €100/sqm. He refers to units outside Kerry where the rate of €75/sqm has been established.

7.15 He states that the NAV placed on the property has no relationship to fairness in terms of any other property on the valuation list in the town and that the largest NAV is €46,525. This property has a larger ground floor area and designated car parking and has an average NAV per square metre on the ground floor of €70. He adds that Topline extends to 2,000sqm and is a modern regular shaped building with a total NAV of €54,100 and an NAV/sqm of €28.00. The three largest grocery stores in town SuperValu, ALDI and LIDL have lower NAV's than the subject

property based on a range of €80-€85/sqm. They comprise modern stores on the outskirts of the town and have extensive car parking.

7.16 He stated that the subject property should be categorised as a department store in line with the Quills Store in Killarney which comprises 1,900sqm and is rated as a Department Store, with a ground floor rate of €95.00/sqm for 1,121.3sqm. In Tralee which he claimed is ten times larger than Kenmare the Shaws Department store has a rate of €97.00/sqm. He argued that the rate for the subject property should be €75.00/sqm which is higher than Daybreak but reflects its corner location but is less than the rates applied to the supermarkets in Kenmare.

7.17 He concluded by stating that his assessment achieves correctness of value, equity and uniformity of value at €74,000.

Floor	Description	Area SQM	Rate €/SQM	Total
Ground	Retail	470	€75.00	€35,250
1 st Floor	Retail	446	€55.00	€24,530
2 nd Floor	Storage	356	€40.00	€14,240
		1272		€74,020
			Say	€74,000

8. RESPONDENT'S CASE

8.1 Mr Murphy for the Respondents confirmed the location and described the subject property with frontage to the Square and Fair green and also frontage to Main Street and Henry Street. He said it had access to the N71 Killarney Road and Bantry Road to the south. He added that Kenmare was a popular tourist location on the Ring of Kerry and the Wild Atlantic Way. A site plan identified the location at the northern end of the triangle made up of Main Street, Shelbourne Street and Henry Street.

8.2 He described the subject property is comprising a large three storey corner retail building with a large open plan retail area on the ground floor, additional retail and storage accommodation on the first-floor level and storage accommodation on the second floor. He stated the retail unit had an 8-metre frontage to Main Street and

an extensive return frontage to East Park Lane. He noted that there was lift access between the floors which is primarily used for stock. He said Kenmare had a population of 2,566 according to the 2022 Census and benefitted from large numbers of tourists annually. He added the subject property was located at the junction of Main Street and East Park Lane and that Henry Street and Main Street were the main retailing streets in the town. He provided one external photograph taken in November 2024 and a number of ground floor, 1st floor, and 2nd floor internal photographs taken on the same date. He confirmed that the property appeared to be in good condition throughout.

8.3 Mr Murphy provided a schedule of floor areas which agreed with the Appellants schedule of areas though reserving the right to analyse the ground floor on a Zoning basis.

FLOOR	DESCRIPTION	SQM
Ground floor	Retail Zone A	38.96
Ground floor	Retail Zone B	59.22
Ground floor	Retail Zone C	104.72
Ground floor	Remainder	267.10
1 st Floor	Retail	402
1 st Floor	Storage	44
2 nd Floor	Storage	356
Total		1,272

8.4 Mr Murphy reiterated the grounds of appeal on an itemised basis and commented as follows.

Use of the property: He acknowledged that the property had been incorrectly categorised as a convenience store and argued that it should be regarded as Retail (Shop). He referred to the claim by the Appellants that the floor uses and areas were incorrect and in his proposed update the floor areas reflected the factual position on the ground.

Floor Areas: He agreed with the Appellants stated floor areas but argued that the ground floor retail area should be subject to zoning.

Kenmare as a town: He said that the growth in the population of Kenmare from 2016 to 2022 exceeded the national growth rate of 8% and the growth in Kerry of 5.9%. He took issue with the Appellants claim that the rental ceiling for provincial towns was not supported by evidence.

Local Market Review: He said that the variance in size of retail units was typical to cater for different uses, and the Appellants use of Commercial Lease Register extracts lacked sufficient detail to analyse the transactions.

Shape of Shop: The Respondent does not agree that the shape of the shop is disadvantageous as it has an extensive frontage to East Park Lane, but it should be zoned from Main Street.

Flooding and consequences: The Respondent does not accept that the history of flooding should impact on the value of the subject property uniquely as the same issues affect all of the other properties in the Kenmare flood plain.

8.5 The Respondent addressed the various comparable evidence provided by the Appellants. He took issue with very limited information provided by the Appellants in relation to identification of the properties and the details some of which were publicly available.

Referring to KRT Comparison 1-21 Henry Street Kenmare: He noted that neither the floor areas, the property number nor the Eircode was provided by the Appellants. Having investigated the available details he said the property referred to PN 21032 which had an NAV of €11,850 based on a Zone A rent of €420/sqm for 24.86sqm and a Zone B rate of €210/sqm for 6.71sqm. This analysis showed that the analysis of the letting showed NER rate of €737.06/sqm Zone A and a Zone B rate of €368.53/sqm Zone B substantially higher than the NAV levels adopted.

Referring to KRT Comparison 2 24 Henry Street Kenmare: He noted that neither the floor areas, the property number nor the Eircode was provided by the Appellants. Having investigated the available details, he said the property referred to PN 21018. He stated that this property had been subdivided, and it was not possible to analyse the letting transaction, but he did note that the overall property

had been valued to establish the NAV based €420/sqm Zone A and €210/sqm Zone B.

Referring to KRT Comparison 3 18 Henry Street Kenmare: He noted that neither the floor areas, the property number nor the Eircode was provided by the Appellants. Having investigated the available details, he said the property referred to PN 1136882 Lorge Chocolatier and this property was under appeal. He stated that the passing rent was 1.29 times the NAV. The NAV was based €420/sqm Zone A for 17.7sqm and €42/sqm for the store of 6.3sqm whereas the analysis of the rent provided a Zone A rent of €589.20 and a rent for the store of €42/sqm.

Referring to KRT Comparison 4 No. 8 the Square Kenmare: He noted that neither the property number nor the Eircode was provided by the Appellants. Having investigated the available details, he said the property referred to PN 20924. He said the NAV was based €420/sqm Zone A - 32.26sqm; €210/sqm Zone B - 46.66sqm and €42/sqm for the store of 12.34sqm. He noted that the NAV exceeded the rent of €13,000 by 83% based on €231.23/sqm Zone A; €115.61/sqm Zone B and €23.12/sqm for the store but the property had not been subject to appeal.

Referring to KRT Comparison 5 23 Main Street Kenmare: He noted that neither the floor areas, the property number nor the Eircode was provided by the Appellants. Having investigated the available details, he said the property referred to PN 20949. This property had a ground floor area of 37.12sqm and had been valued at €250/sqm to establish an NAV of €9,280 whereas the rental transaction at €16,800 was analysed at €452.59/sqm substantially higher than the NAV rate of €250/sqm.

Referring to KRT Comparison 6 Woodhaven Stores Castleisland: He noted this refers to Mr Price in Castleisland and he states that it is not relevant as it comprises an industrial showroom not a high street retail premises. The rent was €90,000 but the nav was €37,700 comprising showroom at €26.40/sqm; stores at €22.00/sqm; warehouse at €22/sqm; yard at €2.20/sqm.

Referring to KRT Comparison 7 Former ALDI Arbutus Drive Killarney: He noted this refers to a former ALDI supermarket in Killarney and he states that it is

not comparable as it comprises a supermarket valued on an overall basis at €95.00/sq. plus a canopy at €14.25/sqm and is not a high street retail premises. The rent was €135,000 and the nav was €140,100.

8.6 Referring to the Appellants NAV comparisons the Respondents made the following comments.

NAV Comparison 1: SuperValu Kenmare SC: The Respondent stated that this property was not comparable as it comprises a supermarket outside the town centre and was valued on an overall basis. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis.

NAV Comparison 2: LIDL Kenmare: This Respondent stated that this property was not comparable as it comprises a supermarket located outside the town centre and was valued on an overall basis. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis.

NAV Comparison 3: ALDI Kenmare: This Respondent stated that this property was not comparable as it comprises a supermarket located outside the town centre and was valued on an overall basis. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis.

NAV Comparison 4: Topline McCarthy's Kenmare: The Respondent stated that this property was not comparable as it comprises an industrial showroom located outside the town centre and was valued accordingly as a showroom, warehouse, store and yard. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis.

NAV Comparison 5: The Square Kenmare: The Respondent stated that this property Kenmare Butter Market was not comparable as it comprises an industrial showroom and was valued accordingly as a showroom, and stores. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis.

NAV Comparison 6: 16 Main Street Kenmare: The Respondent stated that this property Daybreak comprises a supermarket, off-licence and retail shops was

valued on a Zone A basis off €250/sqm, Zone A and not on an overall basis of €70/sqm as claimed by the Appellants. It was valued in line with other on the same street.

NAV Comparison 7: Henry Street Kenmare: The Respondent stated that he also relied on the comparable and agreed that it closely resembles the subject property. He showed that it was valued on a Zone A basis and not on an overall basis.

Level	Use	Area M ₂	NAV €/ M ₂	NAV €
0	Retail Zone A	31.72	€420.00	€13,322.4
0	Retail Zone B	34.68	€210.00	€7,282.80
0	Retail Zone C	36.6	€105.00	€3,843.00
0	Retail Zone remainder	182.21	€52.50	€9,566.02
				€34,000.00

NAV Comparison 8: Killarney Road Kenmare: The Respondent stated that this property Kenmare Furniture & Bedding was not comparable as it comprises an industrial showroom and was valued accordingly as a showroom and stores. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis.

NAV Comparison 9: 1.4.5 High Street Killarney: The Respondent stated that this property was subject to a Valuation Tribunal appeal so cannot be relied upon as an NAV comparison. He added that this property was classified as a department store with a retail area GIA of 1,662sqm -ground floor 1,121.03sqm and first floor 540.9sqm whereas the subject property comprised 872sqm NIA over two floors. This property was occupied by the same occupier as the subject property.

NAV Comparison 10: 14 Bridge Street Tralee: The Respondent stated that this property was subject to a Valuation Tribunal appeal so cannot be relied upon as an NAV comparison. He added that this property was classified as a department store with a retail area GIA of 2,310sqm -ground floor 1,147.63sqm and first floor 1,162.88sqm whereas the subject property comprised 872sqm NIA over two floors. This property was occupied by the same occupier as the subject property.

NAV Comparison 11: Library Place Killorglin: The Respondent stated that this property occupied by ALDI was not comparable as it comprises a supermarket and was valued accordingly. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis.

NAV Comparison 12: Laharn Killorglin: The Respondent stated that this property was occupied by Richard Boyle & Sons as a retail warehouse and consequently was not comparable. The floor area was calculated on a GIA basis whereas the subject property was calculated on an NIA basis. He noted that the Appellants had devalued the NAV at €28.00/sqm whereas the retail warehouse was actually valued at €80.00/sqm.

8.7 Mr Murphy relied on four Key Rental Transactions and details are included in the appendix (N/A to public).

8.8 Mr Murphy relied on five NAV comparisons and details are included below.

NAV Comparison 1

Property Number	63821
Occupier	Majella O’Sullivan
Address	2 Main Street Kenmare
Total Floor Area	14.85sqm
NAV	€6,230

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	14.85	€420
	Total	14.85	€6,230

Commentary. He noted that this property adjoins the subject property, and it was valued using the same Zone A level of €420/sqm. It refers to his KRT1 and from a comparable location, perspective only. Representations were received; there was no agent representation and no Valuation Tribunal Appeal.

NAV Comparison 2

Property Number	2175773
Occupier	Weavers of Ireland
Address	Henry Street Kenmare
Total Floor Area	285.21sqm
NAV	€34,000

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	31.72	€420
0	Retail Zone B	34.68	€210
0	Retail Zone C	36.60	€105
0	Retail remainder	182.21	€52.50
	Total	285.21	€34,000

Commentary. He noted that this property is located across the road from the subject property, and it was valued using the same Zone A level of €420/sqm. It refers to his KRT 2 which is a common comparison. The ground floor is 60% of the size of the ground floor of the subject property but devalues to €119/sqm as against €114.51/sqm for the subject property. No representations were received; there was no agent representation and no Valuation Tribunal Appeal.

NAV Comparison 3

Property Number	21133
Occupier	John McCarthy
Address	2 Park Street Kenmare
Total Floor Area	664.22sqm
NAV	€78,7800

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	121.25	€420
0	Retail Zone B	56.25	€210
0	Store	31.22	€42
0	Less allowance for frontage to depth	0	-€6,273.75
1	Office	177.50	€70
1	Less allowance for large office size	-10	-€3,106.25
	Total	664.22	€78,800

Commentary. He noted that this property is next door to the subject property on East Park an inferior retail location. Lane, and it was valued using the same Zone A level of €420/sqm. The ground floor devalues to €142.28/sqm as against €114.51/sqm for the subject property. Representations were received; there was no agent representation and no Valuation Tribunal Appeal.

NAV Comparison 4

Property Number	2192916
Occupier	Kenmare Gift Store
Address	Henry Street Kenmare
Total Floor Area	55.31sqm
NAV	€17,060

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	29.42	€420
0	Retail Zone B	18.91	€210
0	Retail Zone C	6.98	€105
	Total	55.31	€17,060

Commentary. He noted that this property is across the street from the subject property and it was valued using the same Zone A level of €420/sqm. The ground floor devalues to €308.45/sqm as against €114.51/sqm for the subject property. No

representations were received; there was no agent representation and no Valuation Tribunal Appeal.

NAV Comparison 5

Property Number	64065
Occupier	Brosnan's Haven Pharmacy
Address	Henry Street Kenmare
Total Floor Area	407.94sqm
NAV	€62,400

Level	Description	Size SQM	NAV/SQM
0	Retail Zone A	66.98	€420
0	Retail Zone B	85.80	€210
0	Retail Zone C	86.03	€105
0	Retail remainder	13.86	€52.50
0	Store	155.27	€42
	Total	407.94	€62,431.74

Commentary. He noted that this property was located on Henry Street opposite KRT 1 170m from the subject property and it was valued using the same Zone A level of €420/sqm. The ground floor devalues to €153.04/sqm as against €114.51/sqm for the subject property. No representations were received; there was no agent representation and no Valuation Tribunal Appeal.

8.9 Mr Murphy provided his opinion of Valuation based on the amended floor areas as follows:

Floor	Use	Area M₂	€/ M₂	Total
0	Retail Zone A	38.96	€420	€16,363.30
0	Retail Zone B	59.22	€210	€12,436.20
0	Retail Zone C	104.72	€105	€10,995.60
0	Retail remainder	267.10	€52.50	€14,022.75

1	Shop	402	€80	€32,160.00
1	Store	44	€70	€3,080.00
2	Store	356	€49	€17,444.00
0	Return frontage addition 10%		1	€5,381.77
	Total			€111,883.52
	Total say			€111,800

8.10 In his summary Mr Murphy stated that the property is prominently located on Main Street Kenmare and benefits from dual frontage. The Appellants contended that reliable rental evidence should be accorded more weight than rating assessments unless there is an established tone of the list however it is his opinion that the Appellant has not provided reliable identifiable rental evidence. The rental transactions provided by the Appellant he states cannot be properly identified nor is there a suitable basis for analysis. He also claims that rental comparison stated by the Appellant which are located outside the rating authority should be disregarded. He stated that the Appellants provided a mix of different categories of property many of which are not compatible with the subject property. He stated that all of the Kenmare comparisons were subject to the same flooding issue and that the subject property could not be compared to a Department store and it was too small and had been measured on an NIA basis which did not apply to Department stores. He requested the valuation should be entered into the list at €111,800.

9. Counter-submission from the Appellant

9.1 The Appellants provided a commentary highlighting where they disagreed with the Respondents. They regarded the northern side of Main Street as less attractive with a limited retail offering. They accepted the property was in a good state of repair but only after repairs following the flooding. They disagreed with the use of Zoning in Kenmare. They referred to a legal opinion wherein they were advised that the Appellants could rely on comparable evidence from outside the County where it is relevant to the value of the property on the date of issue of the valuation certificate.

9.2 They disagreed with the recategorization from Convenience store to Retail Shops and sought to rely on Quills Department Store in Killarney to support this

claim. They also took issue with the relativity of population growth and argued that the Respondents has disregarded the number of vacant retail units including an adjoining one McCarthy's. They queried whether a retail clothes shop could pay a rent of €111,800pa based on a population of 2,566.

9.3 The Appellants argued that the valuers must rely on market rental values, and the issue of flooding would be a central concern for all retailers and noted that the Respondents did not address the lack of flooding insurance.

9.4 In relation to KRT 1 the Appellants dismissed the lack of detailed information claim and stated that their intention was to show the quantum of rent per square foot and not the rates value. The same argument was adopted in KRT 3. In relation to KRT 6 Castleisland the Appellants claimed that this premises was comparable as the subject property which could be used as a bargain supermarket. In relation to KRT 7 they claimed that the subject property was less valuable than a supermarket.

9.5 In relation to the NAV comparisons they took issue with the different approaches to measurement from GIA for supermarkets and industrial units to the use of NIA for retail units. In relation to NAV comparison 6 wherein the Zone A rent was €250/sqm in line with other retail units on the same street and the Appellants had sought to apportion a rate of €70.00/sqm overall the Appellants argued that there was no established tone of the list. Addressing NAV 7 which is common to both parties the Appellants claim that this is a much smaller shop and will always be valued at a premium and argued that Zoning is irrelevant in the calculation of a rental value in provincial towns. Furthermore, they argued that it is more favourably located with a higher footfall. In relation to NAV comparison 8 the Appellants concentrated on the overall value whereas the Respondents disagreed with the analysis as it included the mezzanine and yard values. In relation to NAV comparisons 9 and 10 the Appellants did not accept that a property under appeal should be disregarded. In relation to NAV comparison 11 the Respondents did not accept that a supermarket was an acceptable comparison as it was valued on an overall basis using GIA measurements, however the Appellants did not accept either argument.

9.6 In response to the Respondents statement regarding 'Developing a Scheme' the Appellants argued that the adoption of the zoning methodology should be confined to retail businesses in large population centres and not utilised for provincial retail calculations.

9.7 Addressing KRT 1 the Appellant stated that this transaction was not comparable as it is dated prior to the Revaluation and Covid and was 3 years old, was for one year only and was not in a flood catchment area.

9.8 In relation to KRT 2 the Appellants stated that the transaction which referred to a rent review from 2019 pre-dated the valuation date by more than 3 years and was prior to Covid and made no allowance for quantum.

9.9 The third KRT which was under appeal to the Tribunal predated the valuation date by four years and the Appellants claimed that the rent was dated and referred to the entire premises not only the ground floor. This premises they claimed is not liable to flooding.

9.10 The final KRT was also objected to by the Appellants as it referred to a lease from 2016 more than 6 years before the valuation date. They also claimed that the tenant was a bookmaker who were at the time paying premium rents to secure properties. They concluded their response to the KRT's by stating that the KRTs were dated and none referred to 2022.

9.11 Addressing the Respondents NAV comparisons the Appellants took issue with NAV 1 as it was too small to be compared with the subject property. The Appellants did not regard NAV 2 as comparable due to quantum and took issue with the use of the Zoning approach. They stated that NAV 3 had been vacant for 10 years and NAV 4 they claimed was too small to be considered as a comparison. They also queried whether any of the occupiers had been professionally advised.

9.12 The Appellants argued that subject property due to its size, layout and diverse product range would have more in common with a department store. They stated that the subject property would have a lower NAV than a supermarket which they regarded as the most valuable retail use at present. They stated that none of the KRT

comparisons used by the Respondents where in anyway compatible in size and date to the revaluation and should all be disregarded. In response to the claim by the Respondents that the Appellants did not provide any reliable identifiable rental evidence the Appellants argued that the Respondents comparable evidence was even less reliable as they were very dated and were not contemporaneous to the valuation date 2022. They claimed that the comparable information provided by them was publicly available.

9.13 In response to the claim that the Appellants NAV comparisons were not comparable as they referred to industrial units, supermarkets, department stores and retail warehouses the Appellants claimed that these comparisons related to potential operators who would be likely candidates for the subject property.

9.14 Addressing the claim by the Respondents that the buildings in the centre of Kenmare as a flood prone town were equally disadvantaged by the proximity of flooding, the Appellants did not accept this claim noting that the operator of the subject property could no longer obtain flood insurance.

9.15 They concluded by reiterating tier claim that the NAV should be determined at €74,000.

10. SUBMISSIONS

10.1 There were no legal submissions. The legal opinion provided by the Appellants was noted.

11. FINDINGS AND CONCLUSIONS

11.1 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 Kerry County Council.

11.2 A large quantum element of the difference in the NAV values was resolved by the parties when they agreed the floor areas and descriptions. The Respondents

accepted the floor areas provided by the Appellants and this resulted in a reduction from €170,300 to €111,800.

11.3 The Appellants did not accept that Zoning methodology was appropriate for Kenmare as it comprised a small town. The Tribunal is aware that Zoning has become an accepted method of establishing rental values for many retail properties from its original use as a comparable or relativity checker. While not used to let retail properties it is well established in rating and valuation circles when analysing and comparing different shaped retail properties as it seeks to provide a comparative matrix to assist the valuer. The Tribunal finds that the use of Zoning methodology is acceptable but as cautioned in the Retail Zoning for the Chartered Surveyor Information Paper where Zoning is applied it is also recommended the premises be considered on an overall basis as there are instances where zoning produces an anomalous result.

11.4 The issue of flooding was raised by the Appellants, and the photographs clearly showed the effects, however the Appellants did not show to the Tribunal where a rental differential applied to differently affected areas.

11.5 The Appellants claimed that the subject property should be regarded and valued as a Department store but other than compare it to the Quills Store in Killarney and Shaws in Tralee which both had significantly larger ground floor retail areas the Tribunal cannot find any reason in this instance to reclassify the definition to that of Department Store. Furthermore, the Tribunal does not accept that the subject property can be valued by reference to supermarkets, retail warehouses or showrooms/industrial.

11.6 Of the five retail Kenmare Town comparables provided by the Appellants only one had sufficient details included to be of assistance to the Tribunal and all bar one post-dated the Valuation Date of 1st February 2022. The other Kerry comparisons referred to a quasi-industrial showroom in Castleisland and a supermarket in Killarney and as both referred to different asset classes the Tribunal finds that they were not of assistance. The Tribunal did not find that the Cork based comparables were of assistance due to the property types and sizes.

11.7 Of the 12 emerging tone of the list provided by the Appellants, only one Weavers of Ireland Henry Street was of assistance however the analysis provided by the Appellants based on an overall basis whereas the property was zoned and the proposal by the Appellants was not accepted as this property had been valued using zoning based on a Zone A rate of €420/sqm.

11.8 The Appellants stated that there is a long-standing principle in rating valuation that reliable rental evidence should be accorded more weight than rating assessments unless there is an established tone of the list which itself would have been derived from rental evidence. Unfortunately, the Tribunal finds, for the reasons stated above at 10.6 that the Appellants did not provide such satisfactory evidence in this case.

11.9 Equally the Tribunal finds that the standard of evidence in the Respondents' Key Rental Transactions was also limited as they referred to dated transactions from 2019, 2018, and 2016 all significantly before the valuation date and pre-covid. However as with all appeals the onus of proof lies with the Appellant and the Tribunal finds that the Appellant did not meet this standard.

11.10 Two comparisons 2175773 Weavers of Ireland, Henry Street and 21133 John McCarthy 2 Park Street were of particular assistance. Both referred to larger ground floor retail areas, and the values were based on a Zone A rate of €420/sqm in both cases. The Tribunal, in the interest of fairness and equity, takes particular note of the discounts of 10% allowed for 'frontage to depth' ratio on the ground floor and a second discount of 25%³ for 'allowance for large office size' on the first floor. In this instance the Respondents allowed for a 10% increase in the ground floor value to reflect the return frontage, however the Tribunal does not accept that this increase is warranted as it refers to a secondary street and the property adjoins a long vacant retail unit. The Tribunal does not seek to impose an allowance for a ground floor frontage to depth ratio however it is clear that such a discount should be applied to the first floor due to the significant size of secondary accommodation.

³ The discount of €3,106.25 appears to refer to 25% of the first-floor value whereas it states the discount is -10%.

11.11 The Appellants referred to the possible lack of professional representation in relation to some of the comparisons, however this is not relevant to this Tribunal. The properties subject to appeal to the Tribunal may change and consequently their evidential value is compromised.

11.12 The Tribunal notes that the extracts from the Commercial Lease Register provided by the Appellant provided very limited information and consequently these comparisons were of little use to the Tribunal .

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 €103,000.

<i>Floor</i>	<i>Use</i>	<i>Area M₂</i>	<i>€/ M₂</i>	<i>Total</i>
0	Retail Zone A	38.96	€420	€16,363.20
0	Retail Zone B	59.22	€210	€12,436.20
0	Retail Zone C	104.72	€105	€10,995.60
0	Retail remainder	267.10	€52.50	€14,022.75
1	Shop	402	€80	€32,160.00
1	Store	44	€70	€3,080.00
	Less allowance for large 1 st floor retail space -10%			-€3,116
2	Store	356	€49	€17,444.00
	Total			€103,385.75
	Total say			€103,000

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.