

Appeal No: VA23/5/1093

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Belleck Ennis Limited

APPELLANT

and

Tailte Éireann

RESPONDENT

In relation to the valuation of

Property No. 1210200, Retail (Shops) at 36 Abbey Street, Ennis, County Clare (“the subject”)

B E F O R E

Dairine Mac Fadden - Solicitor
Gerard O’Callaghan - MRICS, MSCSI
Killian O’Higgins - FSCSI, FRICS

Deputy Chairperson
Member
Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF OCTOBER 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th day of October 2023 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value ‘(the NAV)’ of the subject was fixed in the sum of €36,200.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the subject is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

“I believe the valuation of the subject property is excessive and does not accord with Section 19(5) of the Valuation Act, 2001 as amended by the Valuation (Amendment) Act, 2015 (the Act) as in my opinion it does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list.

More particularly, I do not believe that equity and uniformity of value have been achieved between comparable properties as I believe the subject property has unique considerations which differentiate it from similarly categorised properties in the List including peripheral retailing location within the town, excessive frontage, size, awkward configuration, quality of the building and the general rental levels in the area. In consideration of these specific matters, I believe a lower valuation as set out herein is more representative of a reasonable Net Annual Value in accordance with Section 48 of the Act.

1.3 In the Notice of Appeal, the Appellant considered that the valuation of the subject ought to have been determined in the sum of €25,000 but amended the figure to €20,300 at the hearing before the Tribunal.

2. REVALUATION HISTORY

2.1 On the 23rd day of September 2022 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 as amended (“the Act”) in relation to the subject was sent to the Appellant indicating a valuation of €55,200.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the subject was reduced to €36,200.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €36,200.

2.4 The date by reference to which the value of the subject, was determined is the 1st day of February 2022 (“the valuation date”).

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 23rd day of September 2025. At the hearing the Appellant was represented by Claire Mason B.Sc (Surv) Associate Director, Avison Young, and the Respondent was represented by Kathy Farrelly, B.Sc.(hons) Real Estate Management of the Valuation Office.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the affirmation, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

3.3 As 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), the parties representatives agreed at the commencement of the hearing that the title of the Respondent should be amended to Tailte Éireann.

4. FACTS

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

4.2 The subject is a two and three-storey double frontage retail unit on a large corner site on Abbey St. in Ennis, at its junction with Francis Street and separated from the rest of Abbey St. by Post Office Lane. The subject has five large display windows and the benefit of two access points onto Abbey St. The subject comprises a ground floor retail unit with changing room and store at the rear, storage area, kitchen and bathroom on the first floor and storage/ office accommodation, on the 2nd floor. It is occupied by the Woollen Market.

4.3 The agreed floor areas are as follows:

Description	Floor Area m²
Ground floor - Zone A (Retail)	73.78
Ground floor – Zone B (Retail)	3.02
Ground – Store/Office	5.2
First - Kitchen	2.34
First - Store	7.28
Second – Office/Store	34.2
Total	125.92

4.4 The subject has a frontage of 12.1m and a retail depth, at front, of 6.4m as per the plan provided by Ms. Farrelly.

5. ISSUES

The subject has been entered on the Valuation List with a total NAV of €36,200 (Zone A retail at €450/m² and Zone B at €225/m²).

The principal issue in this appeal is the quantum of the valuation. It is the Appellant's assertion that the subject should be valued at a reduced rate of €300/m² for Zone A and at the reduced rate of €150/m² for Zone B. Ms. Mason, for the Appellant, accepts the valuation of the kitchen area at €65/m² and the store valuation at €65/m² on the first floor. In respect of the office areas on the second floor, she accepts that offices with an area of 34.2m² entered on the valuation certificate at the rate of €45.50/m² is correct but contends that another area designated as offices by Ms. Farrelly and storage by Ms. Mason with an area of 5.2m², should be designated as a store at a valuation level of €30/m². The Appellant also contends for a further 20% end allowance applied to the overall

NAV for frontage to dept ratio and the variation in ceiling height in the main retail areas. The Respondent seeks to uphold the valuation entered on the Valuation List.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value (“NAV”) of the subject 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 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 Ms. Mason for the Appellant said that the €450/m² Zone A level applied to the subject was the second highest Zone A level within the town of Ennis, with retail units at the prime location of O’Connell St. being valued at a Zone A level of €600/m². She submitted that the commercial centre of Ennis town is located on an axis from O’Connell Square, O’Connell St., High St., Parnell St. and the Market St. Area. The subject was situated in a peripheral location and was one of the last retail units at the end of Abbey St., far removed from Ennis’s retail core. Due to the topography of Abbey St., there is no line of sight from O’Connell Square beyond the mid-point of Abbey St., so the subject lacks both visibility and profile, unless you were directly next to or in front of it. Having reviewed the public realm spend of the Local Authority, and the County Development Plan 2023-2029, she said that Abbey St. did not feature in respect of any enhancement works, upgrading works or substantive public investment. She submitted that due to this lack of investment, vacancy rates on Lower Abbey St. continued to rise and tenant covenant strengths had diminished. She said that there was a level of dereliction on the lower half of the street and that this all indicated that Abbey St. should be regarded as a tertiary street in the context of the retail hierarchy in Ennis.

7.2 Although it could be argued that with frontage to the Abbey St. Car park, there would be improved visibility and profile as there were two exits from that car park, she said that the quickest pedestrian exit was via Bank Place which would result in pedestrians bypassing Abbey St. in its

entirety. Further, in the long term, she said that the Local Authority planned on removing Abbey St. carpark to develop offices, which she said would have a further detrimental effect.

7.3 She submitted that there were serious and significant traffic issues arising from the physical narrow width of the turn at the Abbey St./Francis St. junction where the subject is located and the restrictions placed on it in respect of larger vehicles.

7.4 She was of the opinion that due to their proximity to O'Connell St., retail units on O'Connell Square and Bank Place, High St. and the top of Parnell St. were correctly identified as secondary retail locations. Although the Local Authority spent over €1.5m enhancing Market St. in 2015, which she said was reflected in footfall and passing rents for properties in that area as evidenced in the commercial leases register, and its proximity to O'Connell Street, its Zone A level of €350/m² was assessed at €100/m² less than the subject, suggesting she said that Tailte Éireann believed it was an inferior location compared to the subject.

7.5 She was of the opinion that Abbey St. should have been assessed in a similar way to Parnell St/ High St. where the properties located closest to O'Connell Square had been valued at €450/m² to reflect their more prominent locations but beyond this point, the Zone A was reduced to €300/m² to reflect their inferior location.

7.6 She said that the subject was in a block which was physically separated from the rest of Abbey St. by Post Office Lane and that that properties beyond Post Office Lane were valued at a Zone A of €300/m² (one by VT agreement) and other properties located near the subject were valued at €160/m², €220/m² and €300/m² respectively, She saw no reason why the subject was valued any differently to these retail units as they all shared a similar peripheral location and arguably the worst retail pitch on Abbey St.

7.7 The subject had a narrow staircase from the ground floor to the upper floors. Internally, the retail unit has painted and plastered walls and ceilings with laminate flooring at ground floor. The kitchenette and bathroom fittings were dated but still functioning. The store rooms were fitted with basic shelving and the office was painted with plastered walls and ceilings and wooden floors throughout. The subject is over 100 years old, and no significant refurbishment works had been carried out other than cosmetic works and the demolition of a ground floor wall between the subject and a neighbouring property, 34 Abbey St., both of which are in the same family ownership. At this time a steel beam was also installed. The subject's upper floors were previously in use as an apartment in the 1990's but due to the night-time economy in the area it was no longer suitable for residential use. It is now used as a retail store however, there is no fire cert in place, and no planning was sought for this conversion.

7.8 She said that due to the topography on this part of Abbey St., the floor level between the two sections of the retail unit and the decision was made by the owners to introduce a sloped floor as a physical step was not feasible. There was a noticeable difference in ceiling height between the

two sections of the retail unit, and she said that the difference in ceiling height was so significant that it would not meet the needs of a modern retailer (3.07m v 2.33m).

7.9 Further, although she noted that both entrances on to Abbey St. are still in situ and still in use. that unfortunately, due to the topography of Abbey St. and the subject being at the lower end of the street, during spells of rain, water pooled at the second entrance and the Council was unable to remedy this ongoing issue.

7.10 The SCSi retail zoning guidelines state that a frontage to depth of 1:3 is felt to be ideal, but a discount should be applied to units with a frontage to depth ratio of less than 1:2 or for particularly wide and shallow units such as the subject, a substantially larger discount may be applied. It is also suggested that a loading for deep units with a frontage to depth ratio in excess of 1:4 could be loaded by 10% or more. At the hearing, she said that the subject had a frontage of over 12m and a depth of 6m and that she was not raising any issue as regards the frontage/depth ratio recommendations in the SCSi Retail Zoning Guidelines but was of the view that the shallow nature of the unit did merit an allowance.

7.11 Ms. Mason had undertaken an analysis of the overall rate/m² applied to ground floor retail units on Abbey St. which had been valued at the same level as the subject, and she said that this showed an average rate of €305/m² which was significantly less than the €371/m² applied to the subject on overall basis. She said that this was disproportionate when compared with the other retail units which were longer and narrower and significantly larger than the subject. On her further analysis of the other neighbouring retail units with lower Zone A at €160 - €300/m², she said that the overall rate /m², applied to the ground floor ranged from €115 - €300/m², depending on the location. She said that no discount or loadings were applied at Revaluation to account for the differences in configuration of the retail units and differences in the frontage to depth ratios, which in many cases she said was significant.

7.12 As regards the tenure of the subject, she said that this was an interconnected arrangement between the Woollen Market and the landlords and that due to this, she did not believe that much weight should be placed on the 'rent' payable as it could not be viewed as an open market letting.

7.13 She submitted the following by way of NAV comparisons:

NAV 1: PN 1210215 – 36 ABBEY STREET, ENNIS, CO CLARE

NAV: 2 PN 1210207 – 2A POST OFFICE LANE, ENNIS, CO CLARE

She said that both these properties were located in proximity to the subject and comparable in terms of size and layout. Zone A Retail was assessed at €300/m² in contrast to the subject at

€450/m², which she believed was an appropriate assessment given its poorer, peripheral location in the broader context of Ennis town centre.

NAV 3 PN 2206228 – EBS CENTRAL BUILDINGS, ABBEY STREET CAR PARK, ENNIS

Located on the opposite side of Abbey Street with profile to the Abbey Street car park, in proximity to the subject and comparable in terms of size and layout. Zone A Retail assessed at €300/m² in contrast to the subject at €450/m², which she believed was an appropriate assessment given its poorer, peripheral location in the broader context of Ennis town centre.

NAV 4 PN 2160542 – O'BRIENS CAFÉ, ABBEY STREET, ENNIS, CO CLARE

Located in close proximity to the subject but significantly larger than the subject and benefits from food use. Modern ground floor retail unit with residential accommodation overhead. Assessed at a Zone A Retail of €160/m², which differed greatly in comparison to the €450/m² applied to the subject.

NAV 5 PN 1210205– 1 FRANCIS STREET, ENNIS. CO CLARE

Located less than 50m from the subject and comparable in terms of size and layout. Valued at a Zone A Retail of €220/m², which is less than 50% of the Zone A applied to the subject. Other retail units on Francis Street are valued at the same level.

NAV 6 PN 1209954– CORNER OF PARNELL/ HIGH ST & SALTHOUSE LANE, ENNIS

She said that this property benefited from a corner location and was similar in size to the subject, but the layout differed. Superior location on High St/ Parnell Street located less than 70m from O'Connell Square. Centrally located in the town and benefits from being next to the pedestrianised section of Parnell Street and has easy access to O'Connell Street. Valued at a Zone A Retail of €300/m², in contrast to the subject at €450/m².

NAV 7 PN 1209755– LIFESTYLE SPORTS, 2 PARNELL STREET, ENNIS. CO CLARE

Occupied by Lifestyle Sports. Significantly larger than the subject but included as a comparison to demonstrate that despite its larger size, the end NAV was not too dissimilar to that applied to the subject. Valued at a Zone A Retail of €300/m². Far superior location at the beginning of Parnell Street and located less than 50m from O'Connell Square and the beginning of O'Connell Street. The laneway to the side of the property also provides pedestrian access to the Market Square area.

NAV 8 PN 1210729– 9 O'CONNELL STREET, ENNIS, CO CLARE

In a prime location on O'Connell Street in the heart of the commercial centre, occupied by Supermacs and benefits from planning for food use. Not too dissimilar in size to the subject but has a narrower frontage and extends back further. Valued at Zone A Retail of €600/m² but on an overall basis, analyses back to a rate of €390/m².

7.14 Ms. Mason gave her opinion of value as follows:

Floor Level	Floor Use	Area (M ²)	NAV (€ per M ²)	NAV (€)	
0	Zone A	73.78	€ 300.00	€ 22,134	
0	Zone B	3.02	€ 150.00	€ 453	
0	Store	5.2	€30	€156	
1	Kitchen	2.34	€65	€152.10	
1	Store	7.28	€65	€473.20	
2	Offices	34.2	€45.50	€1,556.10	
	Allowance 20%	- 1.00	€ 4,548.60	- €4,548.60	
Total (€):					€20,375.80

Say

€20,300

7.15 On cross examination, as regards her NAV comparisons, Ms Mason confirmed that her NAV comparisons 1 and 2 were located at the entrance of the car park and that NAV comparisons 4 and 5 were located towards the rear of the car park but believed that they were still very relevant given their close proximity to the subject. In relation to NAV comparison 4, she accepted that the lower valuation was appropriate. She accepted that Abbey St. had a better profile compared to Francis St. In relation to her NAV 7, she accepted that it was much larger than the subject. She confirmed that the upper floors of the subject were in occupation on the valuation date. In reference to the SCSI Guidelines, she accepted that under those Guidelines ceiling heights over 1.5 metres were valued and she had no issue with that and had made the point merely to demonstrate that there was a significant difference in ceiling height in the main retail area at ground floor.

In relation to her submission that there was water pooling at one of the entrances, she accepted that she had not submitted any evidence of to demonstrate such pooling.

As regards her submission that there had been public monies paid for the enhancement of areas other than Abbey St., she could not say on what date but believed it was in the region of 2020.

In relation to her submission about vacancy rates continuing to rise on Abbey St. she accepted that she did not have evidence of that but that having inspected the properties on Abbey St., the retail mix was of more independent retailers, without the same covenant strength which would be found on O'Connell Street. She accepted that she had not submitted evidence of her submission that there was a high turnover of tenants on Market Street.

She agreed that the subject was located on a large corner site, had double frontage, advertising on the gable end and was also visible for all incoming traffic heading up Abbey St. but that it was located at the lower end of Abbey St., at the furthest point away from the main retail centre area. She believed that the subject occupied one of the poorest retail pitches given its separation from the main retail core within Ennis.

She would agree to a certain extent that it had much more exposure than many of the other 30 units on Abbey St. but said that due to its shallow nature of just being just over 6 metres in depth and the large number of windows, that this presented physical limitations as to what a retailer could actually do with the space. While accepting that its large frontage would be quite attractive to an occupier for visibility on the street compared to other units, the shallow nature she believed put it at a disadvantage in comparison to some regular retail unit shop configuration.

Questioned on her submission that there was dereliction on the lower end of Abbey St, she accepted that it was probably incorrect to have used that description and was more so to do with, the condition of the properties relative to those on O'Connell St. given that a lot of them were owner occupied and might not have had the same interest in the upkeep or the aesthetics of the street.

In relation to future plans for further investment and pedestrianisation, she accepted that the subject had to be valued on the valuation date.

The subject was the only property within the block separated from Abbey St. by the Post Office Lane which was assessed at a €450 Zone A.

It was put to her that there were 31 units on the whole of Abbey St. and that only 5 of those had appealed to the Tribunal which she accepted. She was not aware that in two of the appeals, there was no challenge to the level of valuation.

In relation to the visibility of the subject, Ms. Mason said that when you walk up Abbey St. and you look back on the subject from beyond the midpoint, given the nature and topography of the street and the curved nature of it, there was no visibility from that point and you could not see it as such from the top of O'Connell Square.

She agreed that Ennis was a mediaeval town and that Abbey St. was typical of the typography of the streets.

In relation to the SCSi guidelines for frontage to depth and loading allowances, she accepted that she was unable to identify any properties where an allowance or loading had been applied.

Ms. Mason confirmed that all of the road from 34 Abbey Street across at the entrance of the car park, were valued at a level of €300/m².

7.16 Under questioning from the Tribunal, Ms, Mason confirmed that the area identified as the store in her Valuation was the changing room to the rear of the stairs and hallway. Ms. Mason confirmed that the stairs and hallway were not valued. Both parties agree that the changing room should be assessed at 10% of the Zone A rent.

7.17 In her summing up, Ms. Mason said that she was of the opinion that the Zone A valuation for the subject was excessive and that the subject also merited a 20% allowance for frontage to depth and differential ceiling height. Ms. Mason later accepted that the frontage to depth allowance should not apply but maintained that there should be a discount for differential ceiling within the main retail areas – Zones A and B.

8. RESPONDENT'S CASE

8.1 The subject was located on Abbey St., a one-way street that leads to Bank Street and the nearby pedestrianised zones of O'Connell Street and High Street, placing the subject in a highly accessible and central location. If approaching Ennis from a northly direction, you would need to go up Abbey St. to reach the town centre. There is parking available at Abbey St. car park, the Friary car park and the Cloister. In her opinion, the subject was located on one of the best pitches on Abbey St., due to its dual frontage and five large display windows. Properties in the Abbey St. car park were valued lower due to reduced visibility and limited street frontage and profile compared to those fronting directly onto Abbey St. There were a diverse range of occupiers on the street.

8.2 While there was no direct view from the subject on Abbey St. to O'Connell Street, this was due to the winding streets that reflect the town's medieval layout, with medieval streets and narrow laneways. Abbey St. is a key example of this with partial cobbled road and narrow lane ways off the street.

8.3 The subject had the benefit of two access points onto Abbey St. The retail area was bright and spacious with changing room and store at the rear on the ground floor, storage area on the 1st floor and storage/ office accommodation, kitchen and staff toilets on the 2nd floor. The ground floor offered a generous 76.8 m² of spacious retail space, which also benefited from prominent retail frontage of approximately 12.1 metres at a highly visible entrance onto the one-way system road of Abbey St.

8.4 As a result of representations made after the issue of the draft valuation certificate the valuation had been reduced from €55,200 to €36,200.

8.5 There were thirty-one retail properties on Abbey St. which were valued at €450/m² (Zone A); of these, five were appealed, one of which sought an end allowance for condition without challenging the Zone A level (VA23-5-1334), while another related specifically to a subdivision of the ground level and upper floors (VA23-5-1325). The other three referred to the subject and two other retail units. The remaining twenty-six retail properties, located on Abbey St. were not appealed, yet he said, the Appellant has not put forward any of these as comparable properties in her Précis.

8.6 Tailte Éireann gathered available rental evidence in and around the valuation date. This rental evidence was then assessed, and NAVs were determined in accordance with Section 48(1) and (3) and Section 19(5) of the Act. Rental evidence was requested from rate payers, the Revenue Commissioner and the Property Services Regulatory Authority.

8.7 No evidence had been submitted to support the Appellant's assertion that there was an issue with water pooling at the second entrance of the subject or of any dampness in the subject. There were five drains in proximity of the subject.

8.8 Proposals regarding the redevelopment of the Abbey St. Car Park had been paused but in any event the subject had to be valued at the statutory valuation date.

8.9 Ms. Farrelly referred to the SCSi Retail Zoning Guidance which state that a frontage to depth of 1:3 is felt to be ideal, and a discount should be applied to units with a frontage to depth ratios of less than 1:2. She said that it was also suggested in the SCSi "Measurement Practice Guidance Notes" that premises with dual frontage should be zoned from the more valuable frontage with an appropriate loading to reflect the dual aspect. This approach, she said had not been applied to the subject. While the Appellant reflected the difference in ceiling heights (3.07m & 2.33m) and the sloped floor, the "Measuring Practice Guidance Notes" stated all areas exceeding 1.5 metres height were to be included in the measurements. The Appellant has not provided any evidence of allowances given to other properties.

8.10 Ms. Farrelly said that none of the Appellant's NAVs were on the main Abbey St. She further submitted in relation to those comparisons as follows:

NAV 1: She said that the rationale as to the rate/m² applied to this property in comparison to the subject, was due to it having a significantly lower profile at the entrance to the car park and with double yellow lines and bollards outside.

NAV 2: She said that this was of significantly lower profile and occupied a less dominant location relative to the subject.

NAV 3: She said that this property was in the Abbey St. car park and located in a lower profile position than the subject.

NAV 4: Located to the rear of the Abbey St. car park, she said that this property had a very limited profile as it was situated in the corner of the car park and very isolated.

NAV 5: Located on Francis St. which she said was a one-way street with yellow lines on either side of the road.

NAV 6: Located at the T- junction of High St, Parnell St. and Salt House in Ennis, with access via Salt House Lane, she said its location was less central than the subject.

NAV 7: Located on Parnell St. and much larger than the subject.

NAV 8: Much better profile than the subject.

8.11 She submitted two key rental transactions, details of which are contained in Appendix 1 (N/A to public) and indicating Zone A rental values of €405/m² and €880/m².

8.12 Ms. Farrelly submitted the following NAV comparisons:

	Address	NAV/m² Zone A	NAV
NAV 1 PN 1210091	16 Abbey Street, Ennis, Co. Clare, V95TK60	€450	€19,020
NAV 2 PN 1210032	19 Abbey Street, Ennis, Co. Clare, V95YA34	€450	€26,300
NAV 3 PN 1210015	27 Abbey Street (Ground Floor), Ennis, Co. Clare, V95K761	€450	€14,530
NAV 4 PN 1209999	15 Abbey Street, Ennis, Co. Clare, V95RP86	€450	€10,870
NAV 5 PN1209994	7 Abbey Street, Ennis, Co. Clare, V95HX53	€450	€16,080

8.13 Ms. Farrelly submitted that the onus of proof lies with the Appellant and that the Appellant, had not provided sufficient evidence to support any amendment to the valuation. Ms. Farrelly's opinion of value was as follows and as reflected in the final valuation certificate issued for the subject, which she asked to be upheld.

Use	Floor Areas (Sq. M)	NAV/m ²	NAV
Retail Zone A	73.78	€450	€33,201.00
Retail Zone B	3.02	€225	€679.50
0 - Office	5.2	€45	€234
1 - Kitchen	2.34	€65	€152.10
1 - Store	7.28	€65	€473.20
2 - Store	34.2	€45.50	€1,556.10
Total NAV			€36,295.90
NAV, Say			€36,200

8.14 On cross examination, Ms. Farrelly agreed that Parnell St. and High St. were similar to Abbey St., in the context of the retail hierarchy of Ennis and in terms of their proximity to O'Connell St. and that the subject was actually physically located at the furthest point from O'Connell St. She agreed that you could access the Ennis Town Centre otherwise than by passing through Abbey St.

In relation to the tenant covenant mix on Abbey St. Ms. Farrelly accepted that there were a lot of owner occupiers/family run businesses on the street but said that was and still is a nice tenant mix although not a lot of the branded High Street stores.

In relation to what she had stated in the Guidelines about loading, it was put to her that the highest Zone A level on the street had been applied, and she responded that in setting the valuation level, the Guidelines specify that you should go from the most valuable frontage.

In relation to the block in which the subject is located which is separated from Abbey St. by the Post Office Lane, she confirmed that the subject was the only property in that block which was assessed at the higher Zone A of €450/m² but that it was the only one also which was located on the main thoroughfare of Abbey St.

She was asked for her view as to which location Abbey St or O'Connell St. would offer the best retail pitch and footfall and she responded that in her professional opinion, the subject had a very good retail pitch for all oncoming traffic coming into Ennis from that direction.

Ms. Mason put it to Ms. Farrelly that while she acknowledged that profile wise the subject had an attractive pitch, it was a particularly shallow unit relative to the other retail units on Abbey St., to which Ms. Farrelly responded that there were all different shapes and sizes on Abbey St.

She agreed that you would not have to walk past the subject to access the Abbey St. car park.

In relation to Ms. Farrelly's 2 KRT comparisons, Ms. Mason asked whether there were any others which formed part of the valuation scheme on Abbey St. or elsewhere in Ennis that she chose not to include. Ms. Farrelly responded that the KRT 1 for a property on Abbey St. was chosen

because it was the quantum level on Abbey St. that was being challenged. She confirmed that there were others in Ennis.

Ms. Mason asked Ms. Farrelly how the NER calculation for that KRT at €405/m² translated to an NAV of €450/m² for the subject given that the date of the lease for that KRT was in very close proximity to the valuation date, albeit 3 months in difference. Ms. Farrelly responded that this equated to approximately a 10% uplift.

In relation to the KRT2, Ms. Mason noted that the NER for that was reduced approximately by 30% to arrive at the NAV which she noted also was in a superior location on O'Connell St. Ms. Mason asked what the rationale for the downward adjustment was. Ms. Farrelly responded that similar to the subject, following representations, a downward adjustment had been made.

In relation to her NAV comparisons, it was put to her that the majority of them were located at the midpoint of Abbey St. as opposed to the lower end. She responded that she was trying to find units that were similar in size to the subject.

8.15 In response to questions from the Tribunal, she confirmed that most of the properties on Abbey St. had initially been assessed at the rate of €700/m² except for perhaps two which had been valued at the rate of €500/m².

8.16 In her summing up, Ms Farrelly said that the subject was located on one of the most prominent positions on Abbey St. with a large frontage of 12.1m. There was no evidence to show that a frontage to depth allowance was merited or that any should be given. She asked that her valuation be upheld.

9. SUBMISSIONS

There were no legal submissions.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the subject so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the subject as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Co. Clare.

10.2 The Appellant's representative incorrectly identified the subject's address in the covering page and at page 2 of her précis. The Respondent's representative incorrectly identified the subject's address in the covering page of her précis. However, it is clear that the subject was correctly identified by reference to the PN which relates to 36 Abbey St., Ennis and all the evidence given was clearly in relation to 36 Abbey St., trading under the name "The Woollen Market".

10.3 It is well established that in a rating appeal the onus of proof lies on the Appellant to show that the NAV is incorrect.

10.4 The Appellant's Representative said that due to the unusual nature of the interconnected arrangement between the landlord and occupier, she did not believe that much weight should be placed on the 'rent' payable as it could not be viewed as an open market letting. The Tribunal finds that no weight can be attached to that rental evidence. Further, the actual rent for any individual property is not in itself conclusive of the NAV in the context of section 48 and section 19(5) of the Act. The NAV is what a hypothetical tenant would pay by way of rent in accordance with section 48, which is not necessarily what any particular tenant is paying. There was no other rental evidence submitted by the Appellant.

10.5 The Respondent's representative submitted two KRTs. The first related to a property on the same street as the subject with a commencement date of approximately four months prior to the valuation date. It is larger than the subject but the rent per m² (October 2021) was adjusted upwards to establish the NAV for the subject on the valuation date. Ms. Farrelly was unable to offer an opinion as to why this adjustment had taken place. The second KRT is for a property on O'Connell St. and was furnished by the Respondent to show the valuation level of €600/m² for properties on that street. The KRT evidence was of no assistance to the Tribunal in considering whether or not the Appellant has discharged the onus of proof in relation to the subject.

10.6 In relation to rental evidence generally and notwithstanding that the Respondent's representative did say that Tailte gathered rental evidence available in or around the valuation date from various sources including the rate payers, only 1 KRT for Abbey St. was made available by the Respondent. However, there was a consensus on the part of both representatives that in relation to Abbey St., because the properties there were mainly owner occupied, there was a dearth of rental evidence available. In a situation where there is very little rental evidence, the Tribunal must look to the NAV comparisons to ascertain whether what is known "the tone of the list" or an emerging tone has been established.

10.7 The Tribunal finds that the NAV comparisons submitted by the Appellant's representative are not comparable to the subject. In relation to the Appellant's NAV 1-6, the Tribunal accepts the Respondent's rationale for a lower valuation level for these due to significantly lower profiles, and being in less dominant locations compared to the subject as outlined by the Respondent's representative in evidence.

10.8 The Tribunal noted the Respondent valuer's evidence that there are thirty-one retail properties on Abbey St. which are valued at €450/m² (Zone A), that of these, five were appealed, one of which sought an end allowance for condition without challenging the Zone A level (VA23-5-1334), while another related specifically to a subdivision of the ground level and upper floors (VA23-5-1325). The Respondent's NAV comparisons were 16 Abbey St. (PN 1210091), 19 Abbey St., (PN 1210032), 27 Abbey St. (PN 1210015), 15 Abbey St. (PN 1209999) and 7 Abbey St. (PN1209994) all of which were valued at €450/m² Zone A.

10.9 As regards alleged traffic congestion in or around the location of the subject, the evidence given in relation to serious traffic difficulties in the vicinity of the subject was anecdotal only.

10.10 There was no independent evidence of any issue as regards pooling of water on the street outside the subject.

10.11 The Tribunal can place no weight on the planning and fire certificate issues referred to by the Appellant's representative in her submissions. No weight can be attached to the Appellant's submissions in relation to the public realm spend in other retail areas of Ennis in contrast to the subject.

10.12 The evidence given in relation to the Abbey St car park as regards whether the through road facilitated movement away from the location of the subject or future plans regarding its redevelopment, was speculative and no weight can be attached to it.

10.13 Notwithstanding that the subject is located in a block separated from Abbey St. by the Post Office Lane, the Tribunal accepts that the subject is located in a very prominent position and has a prominent profile. The Tribunal does not accept the submission of the Appellant's representative that it should be treated any differently to the valuation levels applied in the Respondent's NAV comparisons. These provided clear evidence that the tone of the list for Abbey St., Ennis, was established at €450/m² Zone A and €225/m² Zone B.

10.14 The Appellant's submissions as regards traffic congestion, the importance or otherwise of the Abbey St. car park, the alleged lack of public realm investment on the infrastructure on Abbey St., or the other issues raised as regards pooling of water or compliance issues, cannot displace that tone. Further and for the same reason, and notwithstanding the analysis on an overall basis conducted by the Appellant, the Appellant has not shown that the Zone A approach to the valuation of the subject at a Zone A level of €450/m² and at a Zone B level of €225/m², is incorrect.

10.15 In relation to the Appellant's submission that an allowance should be made for the difference in the ceiling heights in the ground floor area of the subject, the Appellant's representative accepted that all areas exceeding 1.5 metres height were to be included in the measurements. Further, there was no evidence put forward to support a finding that this was a unique and differentiating character of the subject in comparison to other properties on the list. The evidence of the Appellant's representative was also that she could find no evidence of discounts or loadings applied at Revaluation to account for the differences in configuration of the retail units.

10.16 In relation to the Appellant's submission that because of the shallow nature of the subject, a discount should be applied in accordance with the SCSI Retail Zoning Guidelines, it was agreed by the parties at the commencement of the hearing that the frontage/depth measurements were 12:1 to 6 resulting in a ratio, of approximately 1:2. The subject therefore does not come within the recommendation in the said Guidelines for a further discount to be applied for properties with a

frontage to depth ratio of less than 1:2. In any event, the Appellant's representative offered no evidence of discounts in Ennis for shallow units and many of the Respondent's comparable properties were of similar size to the subject. The Tribunal was not convinced by the argument offered by the Appellant's representative.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

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.