

Appeal No: VA23/5/1207

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

COLTARD LTD.

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 526462, Retail (Shops) at Unit 117-119 Dun Laoghaire Shopping Centre, Dun Laoghaire, County Dublin ('the Property')

B E F O R E

John Stewart - FSCSI, FRICS, MCI Arb

Deputy Chairperson

Ken Enright - Solicitor

Member

Killian O'Higgins - FSCSI, FRICS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF NOVEMBER 2025**

1. THE APPEAL

1.1 By Notice of Appeal received on the 18th 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 **€369,000**.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because: *"Without Prejudice" - The proposed valuation is considered to be excessive and inequitable having regard to market dynamics and transactions, the location, quality and physical circumstances of the subject property, title and relativity to other properties. Opinion of value is based on current available information.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €150,000.

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 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of €441,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €369,000.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €369,000.

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

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely via Zoom, on the 3rd day of October 2024. At the hearing, the Appellant was represented by Mr Adrian Power-Kelly FRICS, FSCSI, ACI ARB, RICS REG. VAL., Director at Power Kelly Property Consultants and the Respondent was represented by Mr John Shaughnessy MSCSI, MRICS, 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 oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

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

4.2 The Property is located within Dún Laoghaire Shopping Centre (‘DLSC’) which is situated on the corner of Marine Road and George’s Street Upper in Dún Laoghaire, South County Dublin.

4.3 DLSC is split level as the ground falls away from George’s Street Upper along Marine Road towards Dún Laoghaire Harbour. The main entrance to DLSC is the entrance at George’s Street Upper. Marine Road is a narrow secondary tunnel style entrance. The property is accessed from Marine Road via the tunnel style entrance, and from George’s Street Upper via a travelator. From George’s Street Upper the Property is at a level below ground floor – a basement level, whereas from the Marine Road entrance the property is essentially at grade.

4.4 The floor areas agreed between the parties is:

Description	M²
Supermarket	1,780.40
Stores	596.80
Total	2,377.20

4.5 Although the parties disagree on the descriptive floor level of the Property, it is agreed that the ‘Stores’ are a level below the ‘Supermarket.’

4.6 The property is categorised as ‘Retail – Supermarket 2 (500m² to 2,500m²) by Tailte Éireann.

4.7 The property is held under lease between Ardcolt Limited (tenant) and Coltard Limited (landlord and Appellant) dated 16th November 2011, for a term of 15 years at an initial rent of €300,000pa. There were rent review provision and the end of the tenth and fifteenth years. The tenant is responsible for internal repairs, rates, service charge, and outgoings. The landlord and tenant are connected parties.

5. ISSUES

5.1 Quantum

5.2 The Appellant’s grounds of appeal in the Notice of Appeal to the Tribunal was:

“.....The proposed valuation is considered to be excessive and inequitable having regard to market dynamics and transactions, the location, quality and physical circumstances of the subject property, title and relativity to other properties.....”

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 Mr. Power-Kelly stated that he was hampered by the fact that he had only received the Précis presented, by Mr. John Shaughnessy of Táiite Éireann, the previous day but wanted to indicate that he had little time to study the Précis. Mr. Power-Kelly indicated that he was not seeking an adjournment and confirmed to the Tribunal that he was prepared to proceed with the hearing.

7.2 Mr. Shaughnessy clarified that his Précis was sent to the Tribunal in time as directed by the Tribunal following an extension of time granted to the Appellant.

7.3 In adopting his Précis Mr. Power-Kelly advised that his Appendix 2, the appeal form, referred to the car park of DLSC which was not the subject of this appeal – it was a separate appeal. Mr. Power-Kelly advised the Tribunal that he would forward the correct form after the hearing and Mr. Shaughnessy confirmed that he had no issue with the replacement of the Mr. Power-Kelly's Appendix 2.

7.4 Mr. Power-Kelly stated that the Property is at basement level of DLSC although it might also be described as lower ground floor level. Tesco pulled out of this store, circa 2009/2010 and was now operating from Bloomfield's Shopping Centre, nearby.

7.5 The centre dates from circa 1977 but the environment and trading conditions are entirely different at the date of valuation. Mr. Power-Kelly said that the Property, a SuperValu outlet, had a chequered history and the reason it is there, open and trading at the moment, is because it is still trying to serve as an anchor store for the wider shopping centre, which has had a consistently high level of vacancy, currently 10 units, most of which had remained vacant post Covid-19. Mr. Power-Kelly estimated that 30% of the basement or lower ground floor units were vacant now and at the date of valuation – and without the SuperValu unit the centre would have no anchor and no draw to attract shoppers.

7.6 An allied problem in the shopping centre is that the car park, which was built the 1970s with deck loads, access, and space sizes for 1970's cars. The access lane way ramps are tight. Accordingly, Mr. Power-Kelly stated that there was less of an appetite for people to park in that shopping centre. Mr. Power-Kelly said that he parks his own car on the street given the challenges of parking at the shopping centre. Vacancy, car parking, centre environment, and trading are all challenging issues.

7.7 Mr. Power-Kelly said that SuperValu is the tenant at the Property and that the lease is between connected parties. The tenant was some €1,500,000 in arrears on rent. The landlord is not collecting rent as to do so would close the business which would negatively impact on DLSC. He said that the management agents for the centre, Murphy Mulhall had approached several potential operators - Musgraves, Aldi, Lidl, and Dunnes Stores. They got and were getting, zero response - nobody wanted or wants the Property. Accordingly, the only person interested in operating the Property is the Landlord, because it must do so to protect the overall asset. The SuperValu unit is a poor relation in every regard compared too other supermarkets in Dún Laoghaire and Dún Laoghaire-Rathdown.

7.8 Modern supermarkets like Tesco at Bloomfield Shopping Centre and all the locations mentioned in Mr. Shaughnessy's précis, are at ground floor level, with shoppers accessing directly off a street. Referencing his précis Mr. Power-Kelly said that DLSC would have been a prime retailing environment in the 1970's and into the 1980's but it had suffered much since.

7.9 Access is via two entrances, the main entrance off George's Street Upper and a subsidiary entrance off Marine Road which provides access to the basement/lower ground floor which Mr.

Power-Kelly referred to as to as a small narrow tunnel, behind a bus stop which attracts congregation by certain members of the public creating a difficult atmosphere. Mr. Power-Kelly said that he had avoided the tunnel the previous evening when he went to inspect the property before the hearing, albeit he used the tunnel to exit.

7.10 By contrast, since the 1970's several supermarket sites have been developed and the Frascati Centre ('Frascati') and Blackrock Shopping Centre ('Blackrock') have been significantly redeveloped in recent years. Blackrock and Frascati centres support each other with significant footfall between both centres. At Frascati ALDI and Marks and Spencer are at street level within the centre and similarly SuperValu at Blackrock is at grade level off the carpark adjoining the Blackrock By-pass. The development of Dundrum Shopping Centre ('Dundrum') also had a significantly negative impact on DLSC.

7.11 Essentially the Property is a reinforced concrete shell box with no natural light although Mr. Power-Kelly acknowledged that natural light could be an issue for many supermarkets. The floor is a concrete slab, originally finished with terrazzo tiles but now with a small tile linoleum type finish. Mr. Power-Kelly said that the profile of SuperValu unit is limited externally to a sign on Marine Road which is 3feett deep and 5feet or 6feet wide. Internally there are two small signs at the entrance, and one on the bulkhead between the lower ground floor and ground floor decks. There is a similar sign between the ground floor and first floor decks. Mr. Power-Kelly outlined that the arrangement of the escalators and travelator meant that visitors could not come in off the street and visit the Supervalu unit directly but had to circumnavigate to the rear of the travelator void, when approaching from Upper George's Street. A second set of escalators is only positioned at the rear of the centre and of little value to the SuperValu unit. In most other shopping centres, there were multiple access opportunities.

7.12 Mr. Power-Kelly said that the lease was held by Ardcolt Limited trading as SuperValu and dated from the 16th day of November 2011 after Tesco had departed the Property. It was a 15-year lease from 2011 until 2026, with rent reviews in 2016 and 2021 which were not implemented. A break option also was not exercised as it would be self-defeating from the overall shopping perspective. The tenant has rent arrears of €1,500,000 as evidenced by a letter from the managing agent at Appendix 6 of his précis.

7.13 Mr. Power-Kelly went into great detail about locational factors affecting the NAV – the one-way traffic system and lack of direct vehicular access to DLSC as outlined on page 9 of his précis. Flexibility that would been there in the 1980s, which was all two-way streets, no longer exists and impacts on both the shopping centre and the car park making visiting DLSC a difficult experience.

7.14 The opening of Bloomfield Shopping Centre('Bloomfield') lured Tesco away from DLSC – they saw it as a much better option compared to the Property. Access is from grade level in Bloomfield and Tesco has extensive window frontage. There has been continuous refurbishment of Bloomfield to improve visitor's experience. There is a much better car park, wider spaces, and a travelator directly from the car park to the retail areas. Mr. Power-Kelly stated that he had measured the various dimensions in this car park given engagement in the DLSC car park appeal. Both the car park and car park spaces at Bloomfields are much more accessible. All the smaller retail units are occupied compared to the 30% vacancy at DLSC.

7.15 DLSC was built in 1970s, some 50 years ago with no substantial refurbishment since. There are a large number of vacant units and problems with access to the centre and the physical characteristics of the car park. Level 3, never worked as retail and is now a primary care centre. DLSC provides a poor visitor experience and a customer looking for a day out would prefer other shopping centres, for instance Dundrum Town Centre.

7.16 Despite the retail rebound since the end of Covid-19 restrictions evidence at DLSC indicates that the annual footfall of 3,033,117 in 2019 has not recovered and in 2022 was 2,560,890 an almost 16% reduction. CSO figures indicate that in March 2020 that the retail sales index on volume was running at approximately 120 and in April 2020 dropped to 90 and by 2022 back to 130. So, whilst retailing has recovered DLSC has not seen that same level of bounce back and reflects the environment of the centre and the negative impact of competition.

7.17 In Dun Laoghaire other than SuperValu, there is no supermarket that is at lower ground floor or basement level. Every other supermarket was at ground level. Home Store & More at Frascati Centre was the only example of a basement retail outlet of size. It had a substantial reduction from €360 per square metre down to €147 per square metre by negotiation between Táilte Éireann and the occupier. Accordingly, Mr. Power-Kelly focussed on Frascati Shopping Centre for comparative data stating it was a ‘majorly redeveloped shopping centre. Ten comparisons were provided by Mr. Power-Kelly as ‘Market Rental Evidence and Tone of the List.’

(1) PN5028811 – Home Store + More, Frascati Shopping Centre, Rock Road, Blackrock, Co. Dublin, A94 C1H3

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
-1	Department Store	2,247.9	€147	€330,441.30
0	Department Store	158.4	€147	€ 23,284.80
			Rounded RV	€354,000

7.18 Frascati Shopping Centre (‘Frascati’) was first built early 1980’s however since then has been redeveloped into a modern centre. DLSC was built in 1977 and has not been upgraded. There is easy access into Frascati Shopping Centre, which is well located on the corner of Mount Merrion Avenue and the Blackrock by-pass. Frascati also “twins” with Blackrock Shopping Centre directly opposite via the pedestrian crossing between the centres.

PN5028811 is located at basement level similar to the Property and access is via a traveller, it was listed for Valuation Tribunal appeal, but the NAV was reduced from €360 per sq. m to €147 per sq. m. by agreement, between Tailte Éireann and the occupier, before the appeal hearing took place.

(2) PN526507 – Chemist Warehouse, U220/222 Dun Laoghaire Shopping Centre, Dun Laoghaire, Co. Dublin, A96 Y772

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
1	Store	13.92	€40	€556.80
1	Retail Zone A	29.85	€400	€11,940.00
1	Retail Zone B	63.65	€200	€12,730.00
1	Retail Zone C	137.86	€100	€13,786.00
1	Retail Zone Remainder	286.97	€50	€14,348.50
Mezz	Store	228.63	€40	€9,145.20
			Rounded RV	€62,500

7.19 Large retail unit with an NAV of €62,500. Let on a 10-year lease from the 16th day of July 2021. Rent Yr 1-3 was €100,000 per annum; Yr 4-5 is €110,000 per annum. Six-month rent free at lease commencement. Effective rent equates to €94,000 per annum. The NAV is 33.5% less than effective annual rent indicating, according to Mr. Power-Kelly no correlation between NAV and annual rent. It is a smaller unit than the Property and also located at Georges Street - the ground floor level. The NAV equates to €100.25 per sq. m. overall on the ground floor level (aka level 1).

(3) PN5022428 – Unit G16, Frascati Shopping Centre, Blackrock, Co. Dublin, A94 K7K7

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
0	Retail Zone A	64.66	€850	€54,961.00
0	Retail Zone B	48.72	€425	€20,706.00
			Rounded RV	€75,600

(4) PN5019089 – Unit F24, Frascati Shopping Centre, Blackrock, Co. Dublin, A94 Y6E5

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
1	Retail Zone A	170.97	€500	€85,485.00
1	Retail Zone B	177.28	€250	€44,320.00
1	Retail Zone C	88.02	€125	€11,002.50
1	Retail Zone Remainder	22.01	€62.50	€1,375.62
			Rounded RV	€142,100

(5) PN5019090 – Unit F21, Frascati Shopping Centre, Blackrock, Co. Dublin, A94 F9C1

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
1	Shop	25.69	€125	€3,211.25
1	Retail Zone A	49.08	€500	€24,540.00
1	Retail Zone B	74.28	€250	€18,570.00
1	Retail Zone C	56.01	€125	€7,001.25
			Rounded RV	€53,300

(6) PN5017446 – Unit G26, Frascati Shopping Centre, Blackrock, Co. Dublin, A94 VR70

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
0	Supermarket	1,221	€360	€439,560.00
1	Store	364	€180	€65,520.00
	Additional Items			€45,355.60
			Rounded RV	€550,000

7.20 In his comparable analysis of units at Frascati, Mr. Power-Kelly sought to highlight the relativity between Zone A rents and the Home Store & More unit - his comparable No.1.

7.21 At Frascati Level 0, Zone A is valued at €850 per sq. m. and at Level 1, Zone A is valued at €500 per sq. m. The Level 0, Supermarket is valued at €360 per sq. m. PN5028811 – Home Store + More, Level -1 is valued at €147 per sq. m.

7.22 The relativity between floor levels - Level 0, Zone A and Level -1, Department Store is 17.29% (€147/€850) of Zone A. The relativity between Level 0, Zone A and Level 0, Supermarket is 42.35% (€360/€850) (both at ground floor level). The relativity between floor levels - Level 0, Zone A and Level 1, Zone A is 58.82% (€500/850)

7.23 Applying relativity to the Property, Zone A at ground floor level in Dun Laoghaire Shopping Centre is €400 (PN526507), therefore a supermarket at ground floor level should equate to €169 per sq. m. (42.35% of €400) using the data from Frascati. However, Mr. Power-Kelly argued that a further allowance for the Property being at basement level is required to reflect the inferior location. Applying above relativity to the Property equates to €99 per sq. m. (58.82% of €169) at best.

PN5028811 – Home Store + More is located at basement level and valued at 17.29% of Zone A. Applying this relativity to subject property equates to €69 per sq. m. (17.29% of €400)

(Not numbered) Unit 34/35, Blackrock Shopping Centre, Blackrock, Co. Dublin, A94 TP21

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
1	Retail Zone A	98.2	€850	€83,470.00
1	Retail Zone B	56.89	€425	€24,178.25
1	Retail Zone C	9.8	€212.50	€2,082.50
			Rounded RV	€109,700

(7) Unit 17, Blackrock Shopping Centre, Blackrock, Co. Dublin, A94 AE48

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
0	Retail Zone A	22.2	€750	€16,650.00
0	Retail Zone B	20.6	€375	€7,725.00
0	Retail Zone C	0.36	€187.50	€67.50
			Rounded RV	€24,400

(8) Unit 46/48, Blackrock Shopping Centre, Blackrock, Co. Dublin, A94 ET85

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
-1	Store	434.77	€160	€69,563.20
0	Loading Bay	52	€32	€1,664.00
0	Supermarket	2,605.48	€320	€833,753.60
1	Office(s)	343.81	€160	€55,009.60
	Additional Items			€35,012.60
			Rounded RV	€995,000

(9) PN519926 – Unit 41/42, Blackrock Shopping Centre, Blackrock, Co. Dublin, A94 XH96

Floor Level	Floor Use	Floor Area Sq. M.	@ € psm	NAV
1	Retail Zone A	73.85	€850	€62,772.50
1	Retail Zone B	15.39	€425	€6,540.75
2	Shop	170.74	€175	€29,879.50
2	Store	22.65	€155	€3,510.75
			Rounded RV	€102,700

7.24 In his comparable analysis of units at Blackrock Shopping Centre (comparable numbers 7,8 and 9 and an un-numbered comparable before No. 7, similar to the comparisons made with Frascati, Mr. Power-Kelly sought to highlight the relativity between Zone A rents and the Supermarket at Blackrock Shopping Centre, and argued that it provided further evidence to support his approach at DLSC.

7.25 Mr. Power-Kelly clarified that Blackrock Shopping Centre's ground floor level is the level that customers access from the bypass straight into the SuperValu supermarket. Mr. Power-Kelly stated that SuperValu is on level 1 whereas the list states level 0. Mr. Power-Kelly stated that the list is incorrect as level 0, is the level below the level on which Supervalu is situated.

At Blackrock Shopping Centre, Level 0, Zone A is valued at €750 per sq. m. Level 1, Zone A is valued at €850 per sq. m. Level 2 shops are valued at €175 per sq. m. and the Level 0, Supermarket is valued at €320 per sq. m.

The relativity between floor levels - Level 1, Zone A and Level 2, Shop is 20.58% ($\frac{€175}{€850}$). The relativity between Level 0, Zone A and Level 0, Supermarket is 42.66% ($\frac{€320}{€750}$).

7.26 Applying relativity to the Property at DLSC, Zone A at ground floor level is €400. (PN526507), therefore a supermarket at ground floor level equates to €170 per sq. m. (42.66% of €400). As the Property is located at basement level, therefore a discount should be applied to reflect inferior location. Applying this relativity to subject property equates to €35.11 per sq. m. (20.58% of €170).

7.27 Mr. Power-Kelly stated that there was only one direct basement comparison – Home Store & More in Frascati. Anything else was either superior in a better shopping centre or located at ground floor level. Mr. Power-Kelly said that he had taken into account that this is a 50-year-old shopping centre which is just not performing.

7.28 Mr. Power-Kelly offered the following analysis in contending for a NAV of €153,750.

Floor Level	Floor Use	Floor Area (Sq. M.)	NAV € per sq. m.	Total NAV €
-1	Stores	596.80	€35	€20,888
0	“Supermarket”	1780.4	€69	€122,847
	Off Licence			€10,000

Total NAV				€153,735
Total NAV (Rounded), say				€153,750

7.29 In his cross-examination Mr. Shaughnessy referred Mr. Power-Kelly to Page 27 of his (Mr. Shaughnessy's précis) illustrating that at representations stage Mr. Power-Kelly inserted a NAV valuation of €323,643. Mr. Power-Kelly agreed that this NAV was provided at Representations stage but that the representations was submitted at a time when many representations had to be delivered and it was only afterwards that he was in a position to properly assess the Property.

7.30 Mr. Power-Kelly said that he had used that intervening time to do a more in-depth exercise and subsequently he was in a position to provide a more considered opinion of value while bearing in mind that there was no market for the property. He could not indicate how he calculated the figure at representations stage.

7.31 Mr. Power-Kelly confirmed that DLSC was close to the DART station and that there is a bus stop outside the door of the centre, at Marine Road. He agreed that the tunnel at Marine Road could lead directly to the Property.

7.32 Mr. Power-Kelly stated that he had no rental value evidence of rental transactions up to January 2022, as there was no evidence of lettings of basement supermarkets.

7.33 Mr. Power-Kelly confirmed that the lease was a related party transaction, signed in 2011 and stated that there was €1.5 million outstanding in rent. It had to be a related party transaction as nobody else wanted the property.

7.34 Mr. Power-Kelly did not have evidence to confirm the rent sought by the agents Murphy Mulhall representing the Landlord.

7.35 Mr Shaughnessy questioned Mr. Power-Kelly's comparisons one of which was 97% smaller than the Property and there was no evidence of a comparable of similar size, nature, and type. Mr Power-Kelly responded that there is no comparable supermarket at basement level in Dún Laoghaire-Rathdown. He had used his professional experience as a valuer for 45 years to try and get to a fair valuation. Mr. Power-Kelly said that Mr. Shaughnessy's précis contained no evidence of a basement supermarket.

7.36 Mr Shaughnessy pointed to page 51 of his précis which contained a list of all supermarkets between 500 sq. m and 2,500 sq. m in Dún Laoghaire-Rathdown and pointed to property number 340899 - Lidl Dundrum, valued at €234 per square metre and that is at a lower level 1. Mr. Power-Kelly did not accept it was comparable as it was in the Old Dundrum Shopping Centre and the main shops are all at car park grade level, with access to the supermarket directly from the car park.

7.37 Mr. Shaughnessy referenced the Home Store & More (PN 502881107) unit at Frascati. Mr. Power-Kelly agreed that this unit did not have dock levellers or storage areas at rear. He also

agreed it was the only basement unit at Frascati and accessed by a travelator from the ground level mall.

7.38 Mr. Power-Kelly agreed with Mr. Shaughnessy that the landlord controlled the car park and could reline the parking area to provide more width but said that he had been advised that such an exercise would reduce the number of spaces by 20%, but it could not improve ramp widths and access. Parking facilities would still be inferior to comparable shopping centres.

7.39 Mr Power-Kelly agreed that there were 13 ground floor units on the same level as the Property but said that 30% of the units were vacant. He agreed that there was direct access from Marine Road to the level on which the Property was located but pointed out that the width of the access was limited, it was an 8-foot-wide tunnel like corridor.

7.40 In response to questions from the Tribunal Mr. Power-Kelly confirmed that the break clause was 2021 and not 2011. Mr. Power-Kelly did not know why the tenant did not exercise the break clause but assumed that in the absence of other interest in the property, given the connected nature of the parties, it would have been a pointless exercise as it would have had a negative impact on the remainder of the centre. He confirmed that he was acting on behalf of the landlord in the appeal.

7.41 Asked about the hierarchy of five centres he had mentioned, Mr. Power-Kelly said that he would categorise them as follows in order of importance from a retail perspective:

1. Dundrum
2. Frascati
3. Blackrock
4. Bloomfields
5. Dun Laoghaire

8. RESPONDENT'S CASE

8.1 Mr. Shaughnessy said there was no difference between the parties on the location of DLSC. It was on the corner of Marine Road. and George's Street. Upper, very close to the pier and the train station and there is bus stop outside the Marine Road access. There were offices on Level 4, and a Health Centre on the third level.

8.2 In relation to description, he said that he and Mr. Power-Kelly would disagree primarily because this the site is "on a slant." As you go in from Marine Road the Property is on ground level and from George's Street Upper it is on the lower ground level. The stores element is below the shopping centre, so this is the basement area below the Property which Tailte Éireann classified as the basement. Mr Shaughnessy said Tailte Éireann deems the supermarket element of Property as "ground floor zero" in its categorisation of floor levels. The floor areas are agreed between the parties.

8.3 There are 13 units on the same level of the Property which are much smaller than the subject property and are valued at €400 per square metre Zone A.

8.4. The Property is categorised by Taité Éireann as ‘Supermarket 2’ (500 Sq. M to 2,500 Sq. M). Mr. Shaughnessy stated that Taité Éireann had valued the Property in line with all the ‘Supermarket 2’ properties that are on the valuation list.

8.5 Mr. Shaughnessy referred to photographs on Pages 11 to 19 in his précis describing storage areas, dock levellers, ramps, and staff amenity areas associated with the Property. By reference to photographs he provided a description of malls, signage, and access to the various levels. The internal views of the supermarket were on page 14 of his précis at section 1.10.

8.6 Mr. Shaughnessy stated that the appearance of the Property was equal to that of any other SuperValu outlet and similar to modern Aldi, Lidl, or Tesco stores. He did not recognise any equipment from the Tesco era and provided historic photographs of the Tesco fitout to prove his point. He illustrated that the escalator from the George’s Street Upper brings customers almost to the door of the Property. As for signage, Mr. Shaughnessy said that as the tenant and landlord were connected parties, he was sure additional signage could be facilitated if the tenant wanted more signage.

8.7 Clarifying levels, Mr. Shaughnessy stated that Level 1 is where the Property is located. Level 2 is the entrance from George’s Street Upper St. with the mezzanine above. Level 3 is where the Health Centre is situated, and Level 4 is the Tesco offices.

8.8 Mr. Shaughnessy said that it was agreed by Mr. Power-Kelly that the Appellant and the tenant were connected parties. From his perspective the arrangements between the parties were the lowest order of evidence and rents or NAV from comparable properties should provide appropriate competitive evidence.

8.9 The case history is that the Proposed Valuation Certificated stated €441,000. Representations from Mr. Power-Kelly stated a NAV of €323,643. The Valuation Certificate stated €369,000. On lodgement of the appeal, Mr. Power-Kelly had a NAV of €150,000 and €153,000 in his précis.

8.10 Although a claim for 30% vacancy was made by Mr. Power-Kelly, no evidence of occupancy of this floor level at the date of valuation was provided. The primary care centre on Level 3 provided a good draw for customers.

8.11 Mr Shaughnessy parked in the car park, and it was quite comfortable from a width perspective.

8.12 The outstanding rent is not relevant to an NAV assessment. The connected nature of the interests means that common directors can decide to pay or not to pay rent- it is not an arm’s length situation. Directors of one company decide not to pay themselves in another company.

8.13 Mr. Power-Kelly’s evidence is solely based on the relativity to Zone A and Mr. Shaughnessy asserted that none of the evidence stated as comparable and offered by Mr Power-Kelly, was in fact comparable. Out of the 17 supermarkets on the list, Mr. Power-Kelly only picked one of them – PN 5028811 Home Store & More at Frascati Shopping Centre.

It is the only basement unit at Frascati, but it does not sell food or have an off licence. It does not have a shop front presence. The only signs are the ones that are at the travelator. It was reduced to a NAV of €354,000 by agreement prior to a scheduled hearing of the Tribunal. Mr. Shaughnessy stated that it was not a comparable property as it was not a supermarket.

8.14 In relation to Mr. Power-Kelly's other evidence Mr Shaughnessy offered the following observations, and in most comparable information presented by Mr. Power-Kelly, they were offered with Net Internal Area (NIA) measurement basis as opposed to the Property which is measured on a Gross Internal Sarea (GIA) basis. He denied Mr. Power-Kelly's claim of comparability in relation to the evidence advanced by Mr. Power-Kelly and responded to his evidence of comparability as follows:

PN 526507 Unit 220/222 Dun Laoghaire Shopping Centre, Co Dublin

This property is valued on a zoned basis where the subject property is valued on an overall SQM basis. At 532.25m² it is 77% smaller than the subject property.

PN 5022428 Unit G16 Frascati Shopping Centre, Co Dublin

This property is valued on a zoned basis where the subject property is valued on an overall SQM basis. At 113.38 m² it is 95% smaller than the subject property.

PN 5019089 Unit F24 Frascati Shopping Centre, Co Dublin

This property is valued on a zoned basis where the subject property is valued on an overall SQM basis. At 458.28 m² it is 81% smaller than the subject property.

PN 5019090 Unit F21 Frascati Shopping Centre, Co Dublin

This property is valued on a zoned basis where the subject property is valued on an overall SQM basis. At 205.06 m² it is 91% smaller than the subject property

PN 5017446 Unit G21 Frascati Shopping Centre, Co Dublin

See comments below under KRT 2 to which Mr. Shaughnessy referred.

PN 519961 Unit 34/35, Blackrock Shopping Centre, Co Dublin

This property is valued on a zoned basis where the subject property is valued on an overall SQM basis. At 164.89 m² it is 93% smaller than the subject property.

PN 519956 Unit 17, Blackrock Shopping Centre, Co Dublin

This property is valued on a zoned basis where the subject property is valued on an overall SQM basis. At 43.16 m² it is 98% smaller than the subject property. This property was subject to an appeal and based on rental information an agreement was reached prior to hearing to reduce the NAV from €24,400 to €17,920.

PN 519935 Unit 46/48, Blackrock Shopping Centre, Co Dublin

This property is classified as a Supermarket 3 (2,500m² or greater). It is larger than the subject property by 30% but is similar in operations and fitout. This property is measured on a GIA basis and has a fit-out allowance of 3% applied due to its age. This property is in a better location and in a more recently developed shopping centre and as such this accounts for its higher value

compared to the subject. This property had representations made following the issue of the provisional certificate and was represented by an agent. No appeal was lodged to the Valuation Tribunal.

PN 519926 Unit 41/42, Blackrock Shopping Centre, Co Dublin

This is measured on a NIA basis where the subject property is measured on a GIA basis. This property is valued on a zoned basis where the subject property is valued on an overall SQM basis. At 164.89 m2 it is 91% smaller than the subject property. This property is subject to an appeal to the Valuation Tribunal.

8.15 Mr Shaughnessy acknowledged that the Blackrock Shopping Centre was in a better location which was taken into that account by applying a rate of €170 per square metre to the Property. Mr. Shaughnessy stated that there is an obligation to look at properties that are similarly characterised relative to use, size, location, and construction. Mr. Shaughnessy provided his comparable information as follows:

Comparison 1	
Property Number and Occupier	331617 – LIDL
Address	Bakers Point, Pottery Road, Dun Laoghaire, Co Dublin. A96 H395
Total Building Floor Area	1,617.60 M2
Total NAV of Building	€339,000

Comparative Analysis of NAV

Level	Description	Size	NAV per sqm
0	SUPERMARKET	1,617.60	€200.00
	OFF LICENCE	1	€10,000.00
	FIT OUT (2%)	1	€6,470.00
	Total		€339,990.40

8.16 Mr. Shaughnessy said that this was classified as a Supermarket 2 – size 500m² to 2,500m² - with similar size and fitout compared to the Property, constructed c.2004 and added to the valuation list in 2006. It was in a more secluded area with offices and industrial centres close by. No passing trade compared to the Property in the centre of Dun Laoghaire. There was a fit-out allowance of 2%. Supermarket NAV €200/m². Representations were received, the occupier was represented by an agent, but there was no appeal to the Tribunal.

Comparison 2	
Property Number and Occupier	5005581 – TESCO IRELAND LTD.
Address	Park Pointe, Glenageary Road Upper, Dun Laoghaire, Co Dublin. A96 P2R9
Total Building Floor Area	1,672.96 M2
Total NAV of Building	€428,000

Comparative Analysis of NAV

Level	Description	Size	NAV per sq.m
0	STORE	491.07	€240.00
0	SUPERMARKET	1,136.89	€240.00
	OFF LICENCE	1	€10,000.00
	FIT OUT (7%)	1	€27,349.67
	Total	303.10	€428,060.07

8.17 Mr. Shaughnessy said that this property was added to the valuation list in 2014 and is a much newer supermarket to the Property. It is classified as a Supermarket 2 and located within a 2.5km drive from the Property. Mr Shaughnessy said it was clear to see that this property was superior in terms of construction however, the Property has the added advantage of its location and more car parking spaces. This Tesco store has a reduced car parking area of only 108 spaces which is shared with another 8 retail units beside Tesco. There was a fitout allowance of 7%. Supermarket NAV €240/m²

Representations were received, the occupier was represented by an agent, but there was no appeal to the Tribunal.

Comparison 3	
Property Number and Occupier	5005677 – LIDL IRELAND
Address	Linden Court, Stillorgan Plaza, Lower Kilmacud Road, Stillorgan, Co Dublin. A94 T6K0
Total Building Floor Area	1,653.88 M2
Total NAV of Building	€452,000

Comparative Analysis of NAV

Level	Description	Size	NAV per sq.m
0	SUPERMARKET	1,653.88	€260.00
	OFF LICENCE	1	€10,000.00
	FIT OUT (3%)	1	€12,900.26
	Total	354.10	€452,909.06

8.18 Mr. Shaughnessy maintained that this property was the same type as the subject, with a similar size and off-licence attached. It is located within an older retail area called the Stillorgan Plaza off Lr. Kilmacud Road with a narrow entrance for cars and pedestrians. Although it has passing trade, it was not to the same extent as the Property in the centre of Dun Laoghaire. There was a fitout allowance of 3%. Supermarket NAV €260/m²

This property was appealed to the Valuation Tribunal, but a settlement was agreed without the need for a hearing. The agreement involved the reduction of the supermarket rate of €280/m² to €260/m².

8.19 Referring to Mr. Power Kelly's Chemist Warehouse comparison Mr. Shaughnessy said that was valued at €600 Zone A and that Tailte Éireann had examined 20 retail units in Dun Laoghaire Shopping Centre in establishing rent/m². No other unit had appealed its valuation.

8.20 Mr. Shaughnessy said that there were 18 properties in Dún Laoghaire-Rathdown that are classified as Supermarket 2's, of which 16 made representations and 12 were represented by agents. Five of the properties appealed their final valuation certificates with one of those five having reached a settlement prior to a hearing on that appeal. The Property was one of the remaining four properties that have appealed. Mr. Shaughnessy stated that this high level of acceptance of the NAV by occupiers on the valuation list is a clear indication of Tailte Éireann achieving the correct

tone at revaluation stage. A breakdown of these properties, supplied by Mr. Shaughnessy is provided below.

Detailed Table of Supermarket 2 (500m² to 2,500m²) within Dún Laoghaire Rathdown

PN	Publication Date	Total Valuation	Address	Eircode	Total Area M2	Retail Area M2	Main Nav Per M2	Occupier
5017446	22/09/2023	€550,000	Frascati Shopping Centre	A94VR70	1,585	1,221	€360	Aldi
519908	22/09/2023	€814,000	Frascati Shopping Centre	A94W2R8	2,216	1,976	€280	M&S
2195751	22/09/2023	€527,000	Nutgrove Avenue	D14F3P9	1,795	1,795	€280	Aldi
5004440	22/09/2023	€488,000	Nutgrove Avenue	D14VF97	1,659	1,659	€280	Lidl
5005677	06/09/2024	€452,000	Stillorgan Plaza	A94T6K0	1,654	1,654	€260	Lidl
310754	22/09/2023	€435,000	Blackrock	A94DA33	1,958	1,280	€250	Dunnes
5005581	22/09/2023	€428,000	Gleneageary Road Upper	A96P2R9	1,628	1,628	€240	Tesco
316266	22/09/2023	€381,000	Rathfarnham	D14X4H2	1,208	1,173	€230	SuperValu
329756	22/09/2023	€397,000	Blackrock	A94W9V6	1,941	1,351	€230	SuperValu
340889	22/09/2023	€338,000	Dundrum Shopping Centre	D14K3T7	1,560	1,223	€230	Lidl
2189878	22/09/2023	€538,000	Grange Road	D16PH21	2,358	2,105	€220	Lidl
2195198	22/09/2023	€279,000	Deansgrange	A94V103	1,200	1,200	€220	Lidl
5009392	22/09/2023	€523,000	Gleneageary	A96V2Y6	2,415	1,901	€220	Lidl
5012305	22/09/2023	€414,000	Pearse Road	A96AD99	1,717	1,717	€220	Aldi
331617	22/09/2023	€339,000	Pottery Rd	A96H395	1,618	1,618	€200	Lidl
5003304	22/09/2023	€364,000	Blackthorn Drive	D18VW81	1,720	1,720	€200	Aldi
5003491	22/09/2023	€365,000	Shankill	A98F3A8	1,728	1,728	€200	Lidl
526462	22/09/2023	€369,000	Dun Laoghaire Shopping Centre	A96X264	2,377	1,780	€170	SuperValu

8.21 Only the Property is valued at a NAV of €170/m² – all others were higher. That is the only Supermarket 2 in Dún Laoghaire-Rathdown valued at that level, the lowest, the next lowest were three properties valued at €200/m².

8.22 Mr. Shaughnessy provided two Key Rental Transactions (KRT) outlined in Appendix 1 (N/A to public). KRT 1 indicated a NAV of €230/m² but the lease was signed in April 2022, after the valuation date of the 1st day of February 2022. KRT 2 had a NAV of €360/m² but was subject to an appeal before the Tribunal. Mr. Shaughnessy said the onus of proof was on the appellant to prove that Tailte Éireann had erred.

8.23 Mr. Shaughnessy provided his assessment of the NAV for the Property as follows:

Floor	Use	Area (m ²)	NAV €(m ²)	Total NAV €(m ²)
0	Supermarket	1,780.40	€170	€302,668.00
-1	Stores	596.80	€85	€50,728.00
	Fit Out Allowance (2%)	1	€6,409.44	€6,409.44
	Off Licence	1	€10,000	€10,000.00
		2,377.20		€369,805.44

Mr. Shaughnessy admitted that the 2% allowance should be marginally higher but as it would only make a €500/€600 difference to NAV, he preferred to leave it as it was presented in the table.

8.24 In summing up his case, Mr. Shaughnessy focussed on S.19.5 of the Act and believed that he had provided evidence which proved that Tailte Éireann complied with S. 19.5 of the Act.

8.24 Mr. Shaughnessy referenced the Tribunal decision in VA21/1/0008 – Aldi Stores Ireland Ltd. (PN 5017446), quoting the Tribunal under point 10.11 of that judgment which Mr. Shaughnessy quoted:

“The Tribunal further considered the Appellant’s comparisons. In particular, it considers SuperValu in the Dun Laoghaire Shopping Centre to be of most assistance. It is contained within a similar sized shopping centre and is similar in size to the Subject Property.”

8.25 In relation to fit-out, Mr. Shaughnessy, said that Mr. Power-Kelly had failed to provide any evidence as to the quality of the fitout to warrant any reduction in the value.

To adopt the rate per square metre or overall NAV proposed by the appellant, or anywhere near it, would not be in compliance with section 19 (5) of the Valuation Act 2001 as amended.

8.26 Under cross examination by Mr. Power-Kelly, Mr. Shaughnessy agreed that the Act states that NAV’s must be relative to the value of other properties in the interests of equity. Mr. Shaughnessy also agreed that Stillorgan Shopping Centre was opposite his comparison 3, Linden Court at Stillorgan Plaza and the main entrance was next to the AIB unit pictured.

8.27 Mr. Shaughnessy disagreed with Mr. Power -Kelly that this KRT 1 was not comparable to the Property, despite Mr. Power-Kelly stating that it was a ground floor property with very good frontage and visibility. Mr. Shaughnessy confirmed that adjoining units included a Post Office and two restaurants. Given a similar fit out and the off licence, Mr. Shaughnessy maintained that it had the same trade type, and he classed it as comparable, despite physical characteristics being different.

8.28 Queried about the Home Store & More unit, Mr. Shaughnessy said that it had deficiencies such as lack of storage and delivery challenges. Mr Power-Kelly said that as a comparable property the Home Store & More unit was unique it was the only basement comparable in Dun Laoghaire Rathdown. Mr. Shaughnessy agreed that it was originally valued at €360/m² and said that the owner had tried to lease the whole (formerly Debenhams) unit, which was over three floors, it was not able to, so it is subdivided the three floors and installed a travelator to the basement.

8.29 Mr. Shaughnessy agreed the Comparison 1 was a stand-alone property. Mr. Shaughnessy was unsure as to the uses surrounding the area at Baker’s Point, Pottery Road and did not agree with Mr. Power-Kelly’s description as surrounded by residential estates and some commercial uses immediately adjoining.

8.30 Mr. Shaughnessy confirmed that his Comparison 2 PN 5005581 Park Pointe was a ground floor unit with direct road frontage, good visibility and was not sub ground floor. Mr. Shaughnessy said that it was comparable because someone can park a car and walk up to both his Comparison 2 and the Property without having to use a lift or meet a step. Mr. Shaughnessy agreed that there was a travelator in DLSC, but it served only one side, and the other side (Marine Road) had direct access to the Property from the street. He agreed with Mr. Power-Kelly that other facilitated access

in DLSC was via stepped escalators which could not accommodate a shopping trolley. He also said that lifts at DLSC were designed to accommodate trollies.

8.31 Mr. Shaughnessy agreed that each of his comparable properties and each of his KRT's offered in evidence were all at Ground Floor level but maintained that this was reflected in the assessment of the Property at the lowest NAV for a supermarket in Dún Laoghaire-Rathdown.

8.32 Mr. Shaughnessy agreed that the CBRE report in his Précis was mainly focussed on Dublin City Centre and apologised for including this in his evidence.

8.33 The Tribunal asked Mr. Shaughnessy to summarise the factors involved in reducing the NAV to €170/m². Mr. Shaughnessy said that he was not involved but the reduction from €441,000 to €369,000 was, to his mind, an acknowledgement of the lower rental value for this unit compared to values pertaining previously. Mr. Shaughnessy referenced paragraph 4.3 on Page 25 of his Précis which outlined the Valuation Managers response to representations received from the Appellant. The party involved for Tailte Éireann had retired and Mr. Shaughnessy had no further information.

8.34 Asked about his ranking of shopping centres, Mr. Shaughnessy said that he would concur with Mr. Power-Kelly's assessment of Dundrum, Frascati and Blackrock shopping centres at the top and DLSC at the bottom. In relation to supermarkets specifically, he said that his ranking would align with the NAV/m² in his schedule at page 51 of his Précis.

8.35 In relation to Photos on page 13 of Mr. Shaughnessy's Précis, Mr. Shaughnessy stated that they were taken at joint inspection with Mr. Power-Kelly and the date was mid-March 2024, and time was 10.30/11.00.

8.36 In summing up Mr. Power-Kelly asked the Tribunal to focus on S.19 (5) of the Act – equity and uniformity which required relativity. He stated that uniformity did not mean that everything was valued the same. Relativity and equity must be taken into account. There were no direct comparison and Mr. Shaughnessy, with access to all the data could not discover a comparable property which was sub-ground floor. All Mr. Shaughnessy's comparable properties were ground floor with direct access for the public. The nearest comparable property, in Mr. Power-Kelly's opinion was Home Store & More at the basement at Frascati.

8.37 Mr. Power-Kelly said that in the absence of a plurality of comparable properties he had analysed Zone A's in Frascati and Blackrock and assessed the relativity of supermarket NAVs to smaller units' Zone A's in relevant centres. He had demonstrated that supermarkets NAV/m² are up to 42% of the smaller units Zone A NAV, consistently. Having done all that exercise, having shown relativities having adopted what he considered to be a fair professional valuation methodology, he had come to what he considered to be a very fair and factual valuation for a property.

8.38 In summing up Mr. Shaughnessy said the approach to NAV assessment is guided by legislation with a focus on equity and uniformity.

Mr. Shaughnessy referenced a Tribunal decision in VA 21/1/0008 Aldi Stores Ireland Ltd. -v - Commissioner of Valuation where it considered that SuperValu in DLSC to be of most assistance. Mr. Shaughnessy said that his list at page 51 of his Précis provided a full summary of Supermarket 2's providing a definitive tone of the list. He said that any reduction in value would have to be made up by other ratepayers.

9. LEGAL SUBMISSIONS

9.1 There were no legal submissions by either party.

However, Mr Shaughnessy referenced the following decisions within this Précis (Appendices VII, VIII, IX and X) as relevant authorities:

- VA 19/5/1468 – Millway’s Nurseries vs Commissioner of Valuation (Tailte Éireann)
- VA 21/1/0008 – Aldi Stores Ireland Ltd vs Commissioner of Valuation – quoting extracts of the Tribunal’s judgement on P.32 of his Précis dealing with categorisation of uses.
- VA 20/3/0053 – AIB vs Commissioner of Valuation
- VA 00/2/032 – Proudland Ltd vs Commissioner of Valuation = quoting extracts of the Tribunal’s judgement on P.33 of his Précis dealing with the onus of proof on the Appellant

It is well established that the Valuation Tribunal is not bound by previous decisions. Each case is unique and therefore each case is determined on its own facts and merits.

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 Dún Laoghaire-Rathdown.

10.2 DLSC is a very old – 50 years - shopping centre with an outdated design and layout. It's assessment as bottom of the NAV value/m2 list by Tailte Éireann is an acceptance of this fact.

10.3 Despite claiming trading difficulties, and evidence of rent arrears provided by the managing agent, no certified financial information was provided by the Appellant. Given that Mr. Power-Kelly acknowledged the connected party nature of the Appellant and occupier relationship the Tribunal cannot rely on this information. In any event, financial difficulty is not a factor to be considered in assessing a NAV for a property.

10.4 A summary of Mr. Power Kelly’s approach is provided below. Essentially, he was relying on his comparison No.1 Home Store and More at Frascati – a basement department store - and an approach of relativity to Zone A analysed from units at Frascati and Blackrock and applied to DLSC as outlined below.

Comp. No.	Property No.	Unit/Location	Level(s)	Sq. M	NAV/m ²	NAV	Comments
Subject	526462	114/10 & 117-119 DLSC	0/-1	2,377.20	€170	€369,000	NAV % of rent 123%

1	5028811	Home Store & More, Frascati	0 and -1	2,406.30	€147 - reduced from €360	€354,000	NAV Relativity to: Level 0 Zone A €147/€850 = 17.29% Level 0 Zone A and Supermarket €360/€850 = 42.35%.
Comp. No.	Property No.	Unit and Location	Level(s)	Sq. M	Zone A	NAV	Comments
2	526507	220/222 DLSC	1	760.88	€400	€62,500	NAV % of rent 66.48%
3	502248	G 16 Frascati	0	113.38	€850	€75,600	
4	5019089	F24 Frascati	1	458.28	€500	€142,100	The Level 1 Zone A is 58.82% of Level 0 Zone A (€500/€850).
5	5019090	F21 Frascati	1	205.06	€500	€53,300	
6	5017446	G 26 Frascati	0/1	1,585.00	€360*	€550,000	
n/a	519961	34/35 Blackrock	1	164.89	€850	€109,700	
7	519956	17 Blackrock	0	43.16	€750	€24,400	
8	519935	46/48 Blackrock	-1/0	3,436.06	€320*	€995,000	NAV relativity to: Level 0 Zone A and Supermarket €320/€750 = 42.66%
9	519926	41/42 Blackrock	1/2	282.63	€850	€102,700	Level 2 €175/m ² or 20.58% of the Level 1 Zone A (€850/m ²)

*Supermarket – Not Zone A

10.5 In applying relativities at No.1 above to the property Mr. Power-Kelly applied:

Frascati:

- 43.35% to the DLSC Zone A level of Comparison No. 2 above, €400/m², and arrived at a NAV of €169.40/m² for the Property but suggested that a further discount was required for the Property as the Frascati comparison was ground floor whereas the Property was a lower ground floor or basement. From the analysis at 4 above Mr. Power-Kelly applied 58.82% to €169/m² and arrived at a figure of €99/m² to allow for the lower floor level at the Property - 17.29% to the DLSC Zone A level of Comparison No. 2, above, €400/m² and arrived at a NAV of €69.00/m² for the Property

Blackrock

- 42.66% to the DLSC Zone A level of Comparison No. 2 above, €400/m², and arrived at a NAV of €169.40/m² for the Property but suggested that a further discount was required for the Property as the Blackrock comparison was a ground floor whereas the Property was a lower ground floor or basement. From the analysis at 9 above Mr. Power-Kelly applied 20.58% to €170/m² and arrived at a figure of €35.11/m² to allow for the lower floor level at the Property

10.6 Mr. Shaughnessy did not dispute the data provided above but totally rejected Mr. Power-Kelly's 'relative to zone A' approach.

10.7 Mr. Shaughnessy’s approach was to focus on evidence of modern ground floor supermarket units and a summary of his comparisons and KRT’s are provided below.

Comp. No.	Property No.	Unit/Location	Level(s)	Sq. M	NAV/m ²	NAV	Comments
Subject	526462	114/10 & 117-119 DLSC	0/-1	2,377.20	€170	€369,000	Stores at -1
1	331617	Aldi, Bakers Point, Pottery Road	0	1,617.60	€200	€339,000	Includes off licence €10,000 and 2% fit-out allowance
2	5005581	Tesco, Park, Pointe, Glenageary Road	0	1,627.96	€240	€428,000	Includes off licence €10,000 and 7% fit-out allowance
3	5005677	Lidl, Linden Court, Stillorgan Plaza	0	1,653.88	€260	€452,000	Includes off licence €10,000 and 3% fit-out allowance
KRT 1	316266	SuperValu, Churchtown	0/1	1,228.51	€230	€381,000	Stores at 1.
KRT 2	5017446	Aldi, Frascati Shopping Centre	0/1	1,585.00	€360	€550,000	Stores at 1. Subject to appeal before the Valuation Tribunal

10.8 Mr. Shaughnessy also provided a table of properties classified as ‘Supermarket 2’s in Dún Laoghaire-Rathdown which are reproduced at 18.20 above and range from €170/m² for the Property to a high of €360/m² for Frascati Shopping Centre.

10.9 There was little evidence of rents and no focus on same from either party. Both focussed on NAV comparisons in Dún Laoghaire-Rathdown.

10.10 The Tribunal was not convinced by Mr. Power-Kelly’s ‘relativity to Zone A’ approach in arriving at an appropriate NAV accordingly no further analysis of his approach was required. However, his single other comparison, his evidence in respect of the Home Store & More unit at Frascati is of assistance to the Tribunal.

10.11 Mr. Shaughnessy made much play of the floor level as described by Tailte Éireann as ‘0’ which is usually applied to ground floor units. The split level creates an anomaly for Tailte Éireann in terms of how it describes the unit within its own floor level classification. However, the Tribunal takes the view that describing the Property as Lower Ground Floor or Basement is appropriate, agreeing with Mr. Power-Kelly. The Tailte Éireann classification does not change the physical attributes on the ground. The Marine Road ‘tunnel’ is of benefit, but the approach and size is not attractive, not could it be considered to be the main access to DLSC. It is the Tribunal’s view that the definition of the floor level is best taken from the entrance considered by both parties to be the main entrance to DLSC - the entrance off George’s Street Upper which is at ground level.

10.12 Mr. Shaughnessy tenaciously and vigorously fought his case and insisted that the NAV at the Property be compared with similarly Tailte Éireann classified ‘Level 0’ supermarkets throughout Dún Laoghaire – Rathdown. All the main retail element (as opposed to stores) of his

comparisons and KRT's were at Level 0, as classified by Tailte Éireann. The comparisons indicated NAV's/m² of €200, €240, and €260 – an average NAV/m² of of €233.33. Mr. Shaughnessy's KRT 1 indicated a NAV/m² of €230. The rent was €450,000 but increased to €600,000 in April 2022. Commercial Lease Register data supplied by Mr. Shaughnessy suggests that the Tenant paid a premium of €10,000,000 (ten million euro) at the commencement of the lease, but Mr. Shaughnessy did not address this point in his oral evidence before the Tribunal.

KRT 2 is under appeal to the Tribunal and, accordingly, was of no evidential value to the Tribunal.

10.13 Despite vigorous questioning from the Tribunal Mr. Shaughnessy could not indicate how Tailte Éireann arrived at the NAV of €170/m² for the Property, or what discount was applied to what base to produce the level of €170/m². Mr. Shaughnessy said that this was due to the retirement of a colleague who dealt with the file at revaluation, Tailte Éireann had no record of how €170/m² had been calculated. He stated that that the level of €170/m² was the lowest on the list and it was obvious that a significant level of discount had been applied. The Tribunal accepts Mr. Shaughnessy's evidence as to the absence of records. Recognising that Mr. Shaughnessy refused to accept that the Property could be compared with anything other than Tailte Éireann classified Level 0 properties (as per his comparisons and KRT1), the Tribunal can only conclude that Tailte Éireann considered the Property as similarly circumstanced and valued the property as a ground floor unit with direct access from the public street.

10.14 Section 19(5) of the Act states:

“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.”

10.15 Accordingly in considering “*correctness of value*” the Tribunal must consider if the level of €170/m² for a ground floor at DLSC is correct and thereafter what discount must be applied to reflect the physical fact that the Property is at a Lower Ground or Basement Level compared to the main entrance at George's Street Upper. In arriving at this conclusion, the Tribunal must then reflect on and “*equity and uniformity of value between properties on that valuation list.*”

10.16 The average NAV in Mr. Shaughnessy's evidence is €233/m² and his KRT 1 (also occupied by SuperValu) is €230/m². Adopting the KRT 1 €230/m² as a base, the level of €170/m² at the

Property reflects a discount of 28.07%. The Tribunal considers the level of €170/m² appropriate for a ground floor unit (benchmarked from George's Street Upper access) at DLSC and therefore meeting the "correctness as to value" requirement of the Act. But this does not take account of the lower floor location.

10.17 The Tribunal must then look to "equity and uniformity of value between properties on that valuation list". Both parties referred to the fact that there was only one lower ground floor or basement department store or supermarket of similar size in Dún Laoghaire-Rathdown - the data associated with Home Store & More was agreed by the parties although Mr. Shaughnessy denied it was comparable to the Property whereas Mr. Power-Kelly maintained it was comparable. Mr. Shaughnessy argued that the Home Store & More unit was the only basement unit at Frascati; it does not sell food or have an off licence and has neither cold storage nor loading facilities. It does not have a shop front presence. Mr. Shaughnessy stated that it was not a comparable property as it was not a supermarket. Mr. Shaughnessy offered no evidence as to the differential in rental value between Department Stores and Supermarkets. In the absence of any other information of units below ground floor level, the Tribunal considers it appropriate to consider the basement at Frascati relevant to the consideration of the NAV of the Property.

10.18 The overall areas of both units are very closely aligned - 2,377.20m² at the Property and 2,406.30m² at the Home Store & More Unit. The Tribunal notes that the Home Store & More unit has a NAV of €147/m². In Mr. Shaughnessy's evidence he states that Ground Floor Supermarkets at Frascati commanded NAVs of €280/m² (Marks & Spencer) and €360/m² (Aldi). The Aldi unit was the subject of an appeal to the Tribunal and cannot be considered as reliable evidence in the circumstances. Accordingly, the Marks & Spencer NAV of €280/m² provides a benchmark for relativity to the basement at Frascati which is therefore €147/€280 = 52.50%. Accordingly utilising Tailte Eireann's evidence a basement unit at Frascati Centre has a NAV value representing 52.50% of a ground floor unit.

10.19 The Tribunal accepts Mr. Shaughnessy's contention that the Home Store & More unit at Frascati has deficiencies relative to the Property – lack of storage, loading facilities at basement level and lack of cold stores. Also, it is an isolated unit in the basement – there are no other units. Nevertheless, the Frascati evidence suggests a significant differential in the NAV/m² of ground floor units compared to the NAV of the basement unit basement.

10.20 Accordingly the discount at Frascati must be adjusted if compared with the Property. In its experience the Tribunal considers that the 52.50% discount should be reduced by 15% to reflect relevant deficiencies identified by Mr. Shaughnessy and a further 10% to reflect the secondary access from Marine Road. Accordingly, the Tribunal considers that a discount of 27.50% should be applied to the NAV of €170/M² to allow for the basement or lower ground floor location reducing the Supermarket portion of NAV to €123.25/ m². Both parties agree that stores are calculated at a rate of 50% of the Supermarket NAV. There was no argument on the value applied to the Off Licence - €10,000. Mr. Power-Kelly argued that no fit-out allowance should apply but provided no detail other than the property was old and much of the Tesco fit-out was incorporated. Mr. Shaughnessy produced historic photographs indicating the Tesco fitout and the current SuperValu fitout. The Tribunal agrees with the 2% allowance argued by Mr. Shaughnessy.

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 **€270,540**.

Floor*	Use	Area (m2)	NAV €(m2)	Total NAV €(m2)
0	Supermarket	1,780.40	€123.25	€219,434.00
-1	Stores	596.80	€61.62	€36,775.00
	Fit Out Allowance (2%)			€4,388.44
	Off Licence			€10,000.00
Total		2,377.20		€270,547.44
Say				€270,540

*As categorised by Tailte Éireann

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.