

Appeal No: VA23/5/1379

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

PASCAL COFFEE HOUSE LTD.

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2174634, Retail (Shops) at t/a Mocha Beans,
Barrack Lane, (off Edward Square), Galway
(‘the Property’).

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF OCTOBER 2025**

BEFORE

Fergus Keogh - MSCSI MRICS

Member

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 above relevant Property was fixed in the sum of € 46,300.
- 1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

“The Valuation is incorrect: The valuation is excessive based on the open market rent for the subject property and the assessment is inconsistent with the uniformity of value for comparable properties.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €28,000.

2. RE-VALUATION HISTORY

2.1 This is a Revaluation appeal arising from the Galway County Council Revaluation which was undertaken as a result of the Galway County Council Valuation Order 2022, that was signed by the Commissioner of Valuation on 2nd of September 2022 and is for the Valuation List published on 22nd of September 2023.

2.2 On the 25th day of May 2023 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 ('the Act') in relation to the Property was sent to the Appellant indicating a valuation of €77,800.

2.3 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 €46,300.

2.4 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €46,300.

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

2.6 The functions of the Commissioner of Valuation are now performed under the authority of Tailte Éireann with effect from 1st day of March 2023 (S.I. No.58/2023 - Tailte Act 2022 (Commencement) Order 2023).

3. DOCUMENT BASED APPEAL

- 3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, on the agreement of the Parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.
- 3.2 In this Appeal the Appellant was represented by Mr. David Molony BSc MA of Hennigan + Company, Chartered Valuation Surveyors & Rating Consultants and the Respondent was represented by Mr. Conor Murphy of Tailte Eireann ('the Parties').
- 3.3 In accordance with the Tribunal's directions, the Parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

4. FACTS

- 4.1 From the evidence adduced by the Parties, the Tribunal finds the following facts.
- 4.2 Barrack Lane is a pedestrian laneway off Castle Street in Galway city centre. Castle Street links William Street with the Eyre Square / Edward Square Centre. Barrack Lane provides access to the adjacent Corbett Court Shopping Centre.
- 4.3 The Property comprises a modern purpose built retail unit over two floors. The ground floor area extends to 136.07 m² and the first floor to 112.42 m². The Property trades as a café / coffee shop at ground floor level. The first floor, which is accessed internally from the ground floor, is used for offices / stores. An area of 39.32 m² at first floor level is in shell & core condition. The ground floor is fitted with self-service counters and customer seating. To the rear of the ground floor there is a kitchen / preparatory area and customer toilets.
- 4.4 The Property is occupied under a Full Repairing and Insuring lease dated 17th September 2018 for a term of 10 years from the 1st of October 2017 subject to five-yearly rent reviews. Rent details are set out in Appendix 1 attached (N/A to public). Mr. Molony advised that the rent payable for the second five years of the term remained unaltered.

4.5 The Parties agreed and adopted the following zoned areas in their respective valuations;

Ground Floor	Area m²
Retail Zone A	35.04
Retail Zone B	45.12
Retail Zone C	45.67
Retail Remainder	10.24
Sub total	136.07
First Floor	
Stores	112.42
Total	248.49

5. ISSUES

5.1 In this appeal the quantum of the valuation was in dispute. The Appellant contended for the NAV to be reduced to €28,000. The Respondent requested the Tribunal to affirm a List Valuation of €46,300.

6. RELEVANT STATUTORY PROVISIONS

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

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

“The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,

and so that (as regards the matters referred to in paragraph (b) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.”

- 6.3 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

- 6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT'S CASE

- 7.1 Mr. Molony contended for a rounded NAV valuation of €28,000 by applying a Zone A rate of €300 per m² and €60 per m² to the first floor area of the Property
- 7.2 In his précis, Mr. Molony outlined the location, description, size and characteristics of the subject Property and confirmed the basis and the date of valuation. He supplemented his text with location maps, plans and internal and external photographs of the Property.
- 7.3 Mr. Molony described Barrack Lane as being a cul-de-sac and not an established retail location. He said that the Property was located at the upper end of Barrack Lane adjacent to a little used access to the rear of the adjoining Corbett Court Shopping Centre and that it was the only shop directly accessed from Barrack Lane. He said that the location restricts the profile, visibility and the accessibility of the café.
- 7.4 Mr. Molony said that there are were no comparable Tone of the List retail properties in the immediate vicinity of the subject Property which made direct comparison challenging and that unlike properties located in established retail zones, the Property was uniquely isolated, lacking the benefit of complementary retail activity, footfall, or consumer traffic that typically sustains commercial viability. He contended that this isolation significantly undermines its commercial appeal and by extension its rental potential when compared to properties situated in prime or even secondary retail locations.
- 7.5 Mr. Molony contended for a NAV valuation of €28,000 based on applying a Zone A rate of €300 per m². In support of his opinion of value Mr. Molony compared the Property to retail units situated at lower ground floor level in the adjacent Corbett Court Shopping Centre where he said that units were also valued at €300 per m² Zone A. He said that the lower ground floor level of the Corbett Court Shopping Centre enjoyed direct connectivity to Retail Level One in the Eyre Square Centre which was a prime high-footfall retail destination. He said that the assigned valuation rate of these units reflected their superior location, established retail mix, and access to a steady flow of shoppers.

7.6 Mr. Malony included the following NAV comparison properties in his précis in support of his adopted Zone A rate of €300 per m²;

NAV Comparison No. 1 - PN1159154

Floor level	Use	Area m²	NAV € per m²	NAV €
-1	Retail Zone A	55.88	€300	€16,764.00
-1	Retail Zone B	55.88	€150	€ 8,382.00
-1	Retail Zone C	28.15	€75	€ 2,111.25
	Total	139.91		€27,257.25
			NAV say,	€27,200

NAV Comparison No. 2 - PN1159131

Floor level	Use	Area m²	NAV € per m²	NAV €
-1	Retail Zone A	45.75	€300	€13,725.00
-1	Retail Zone B	24.41	€150	€ 3,661.50
-1	Retail Zone C	9.11	€75	€ 683.25
	Total	79.27		€18,069.75
			NAV say,	€18,060

7.7 Mr. Malony said that the Respondent’s valuation of €46,300 did not reflect the unique characteristics of the Property or the open-market rent agreed under the current lease at first rent review. The lease he said was negotiated in an arm’s-length transaction, and the agreed rent established a rental level which he said represented the most reliable and objective measure of the Property’s true market rental potential.

Subject to the foregoing Mr. Molony contended that the NAV of the Property should be revised to €28,000 to align with established valuation principles, ensuring a fair, equitable and market-driven assessment and valued the Property as follows:

Floor level	Use	Area m²	NAV € per m²	NAV €
0	Retail Zone A	35.04	€300	€10,512.00
0	Retail Zone B	45.12	€150	€6,768.00
0	Retail Zone C	45.67	€75	€3,425.25
0	Remainder	10.24	€37.50	€ 384.00
1	Stores	112.42	€ 60	€6,745.20
			Total	€27,834.45
			NAV say,	€28,000

7.8 Mr. Molony submitted a copy of the lease under which the Property was occupied by the Appellant which indicated the terms of the lease and the rent payable for the first five years of the term of the lease. Mr. Molony said that the rent was not altered at first rent review on the 1st of October 2022. As this document did not record the October 2022 rent review Mr. Molony was requested to submit to the Tribunal a copy of the rent review memorandum showing the revised rent agreement.

8. RESPONDENT'S CASE

8.1 Mr. Murphy contended for a rounded NAV valuation of €46,300 by applying a Zone A rate of €500 per m² and €100 per m² to the first floor area of the Property.

8.2 In his précis Mr. Murphy described the physical attributes and location of the Property which he supported with photographs, plans and maps. He described the Property as being a standard retail unit, in good condition and well fitted-out. He said that the Property was connected to both the Corbett Court Shopping Centre and to the Edward Square development and that the frontage of the Property was adjacent to an entrance to Corbett Court.

8.3 Mr. Murphy provided background information as to the basis and purpose of the National Revaluation Programme (Reval 2023) and a timeline and case history of the subject Property which included a summary of the Representations submitted on behalf of the

Appellant to the Respondent in June 2023 which resulted in the initial proposed valuation of NAV €77,800 being reduced to NAV €46,300.

- 8.4 In response to the two NAV comparisons submitted by Mr. Molony and each valued at Zone A €300 per m², Mr. Murphy said that both shops were situated within the lower level of Corbett Court, smaller than and not comparable to the subject Property. In relation to Mr. Molony’s reliance on what he said was the passing rent of the Property as at the valuation date, Mr. Murphy said that the Appellant had not provided any documentation setting out the rent agreement at first rent review.
- 8.5 Mr. Murphy said that the collection of Net Effective Rents provides the basis for developing an appropriate scheme of valuation to be applied to the group of properties sharing similar characteristics, including the subject Property and that the valuation schemes for most classes of property are expressed in terms of € per m² and € per m² Zone A for most retail properties. He said that it is important to note that the application of the scheme is only the starting point. Following application of the scheme values, if there are any relevant individual considerations in relation to the subject Property, relative to that group, further adjustments may be made to the subject property’s estimate of NAV. In the case of the subject Property the valuation level of Zone A €500 per m² was applied reducing as through subsequent zones as per the Retail Zoning guidelines with the first floor store in this location is valued at €100 per m².

Mr. Murphy submitted details of three Key Rental Transactions as set out below. Rent details provided of the three transactions are set out in Appendix 2 attached (N/A to public).

(1) Key Rental Transaction No. 1

Property Number	2148949
Occupier	New Look
Address	Unit 9,10 & 11 Edward Square Shopping Centre,
Total Floor Area	470.94 m ²
Lease Commencement Date	6 th March 2023
Lease Term	5 years 0 months
NAV	€201,000

NAV Analysis

Level		Size m ²	€ NAV per m ²
0	Retail Zone A	98.74	€800
0	Retail Zone B	105.21	€400
0	Retail Zone C	26.56	€200
1	Shop	233.55	€320
1	Store	6.88	€80
	Total		€201,000

Mr. Murphy said that this comparison is located very close to the subject Property and accepted that it had a superior profile which is demonstrated by the relative valuation levels applied. The occupier was represented by an agent who made representations and no appeal was made to the Valuation Tribunal.

(2) Key Rental Transaction No. 2

Property Number	1157127
Occupier	Bubble Bee
Address	28 Abbeygate Street Lower, Galway.
Total Floor Area	44.16 m ²
Lease Commencement Date	10 th September 2018
Lease Term	5 years
NAV	€20,900

NAV Analysis

Level		Size m ²	€ NAV per m ²
0	Retail Zone A	30.50	€560
0	Retail Zone B	13.66	€280
	Total	44.16	€20,900

Mr. Murphy said that this comparison is located close to the subject Property on Lower Abbeygate Street and was valued at a similar Zone A rate as the subject Property. No representations were made and no appeal was made to the Valuation Tribunal.

(3) Key Rental Transaction No. 3

Property Number	1159096
Occupier	Gifts from Galway
Address	51 William Street, Galway.
Total Floor Area	17.11m ²
Lease Commencement Date	1 st March 2022
Lease Term	4 years 9 months
NAV	€20,900

NAV Analysis

Level		Size m ²	€ NAV per m ²
0	Retail Zone A	17.11	€1,700
	Total	17.11	€29,000

Mr. Murphy said that this comparison was located close to the subject Property William Street and was valued at a higher Zone A rate as the subject Property to reflect its superior location. Representations were made and no appeal was made to the Valuation Tribunal.

- 8.6 In support of his opinion of value of the subject Property, Mr. Murphy provided details of eight NAV comparisons of properties as they appear on the valuation list supported by locations plans / maps and photographs.

(1) NAV Comparison No 1.

Property Number	1159145
Occupier	Gamestop
Address	Unit 6, Gd Fl Corbett Court S.C
Total Floor Area	63.29 m ²
NAV	€25,000

Level	Description	Size m ²	NAV per m ²	Total
0	Retail Zone A	37.09	€500	€18,545.00
0	Retail Zone B	226.20	€250	€6,550.00
	Total say	63.29		€25,000

Mr. Murphy said that this property is situated in The Corbett Court Shopping Centre close to the subject Property and valued at the same levels as the subject. The property is on the same floor level (0) as the subject Property and the NAV as applied devalues at €395.00 per m² on an overall basis. The NAV applied to the ground floor of the subject property equates to €258.31 per m² on an overall basis. No representations or appeals were made.

(2) NAV Comparison No 2.

Property Number		1159142		
Occupier		Timpson		
Address		Unit 4, Gd Fl Corbett Court S.C Galway		
Total Floor Area		41.04 m ²		
NAV		€17,230		
Level	Description	Size m ²	€ NAV per m ²	Total
0	Retail Zone A	27.88	€500	€13,940.00
0	Retail Zone B	113.16	€250	€3,290.00
	Total say	41.04		€17,230

Mr. Murphy said that this property is situated in the Corbett Court Shopping Centre close to the subject and valued at the same levels as the subject. The property is on the same floor level (0) as the subject Property and the NAV as applied devalues at €419.83 per m² on an overall basis. The NAV applied to the ground floor of the subject Property equates to €258.31 per m² on an overall basis. No representations or appeals were made.

(3) NAV Comparison No 3.

Property Number	1159143			
Occupier	Fonez			
Address	Unit 5, Gd Fl Corbett Court S.C Galway			
Total Floor Area	38.99 m ²			
NAV	€16,670			
Level	Description	Size m ²	€ NAV per m ²	Total
0	Retail Zone A	27.69	€500	€13,845
0	Retail Zone B	111.30	€250	€2,825
	Total say	38.99		€16,670

Mr. Murphy said that this property is situated in the Corbett Court Shopping Centre close to the subject and valued at the same levels as the subject. The property is on the same floor level (0) as the subject Property and the NAV as applied devalues at €427.55 per m² on an overall basis. The NAV applied to the ground floor of the subject Property equates to €258.31 per m² on an overall basis. No representations or appeals were made.

(4) NAV Comparison No 4.

Property Number	1159157			
Occupier	Hugmie			
Address	Unit 10 , Gd Fl Corbett Court S.C			
Total Floor Area	63.55 m ²			
NAV	€57,100			

Level	Description	Size m ²	NAV per m ²	Total
0	Retail Zone A	63.55	€900	€57,195
	Total say,	63.55		€57,100

Mr. Murphy said that this property is situated in the Corbett Court Shopping Centre close to the subject and is on the same floor level (0) as the subject Property. The NAV as applied devalues at €900 per m² on an overall basis which he said reflects its frontage onto Williamsgate Street. The NAV applied is considerably higher than that of the subject

Property which equates to €258.31 per m² on an overall basis. No representations or appeals were made.

(5) NAV Comparison No 5.

Property Number	2155698
Occupier	Selected
Address	Unit 1-2 Edward Square, Galway
Total Floor Area	244.02 m ²
NAV	€75,300

Level	Description	Size m ²	€ NAV per m ²	Total
0	Retail Zone A	27.7	€800	€22,160.00
0	Retail Zone B	43.15	€400	€17,260.00
0	Retail Zone C	31.88	€200	€6,376.00
0	Kitchen	4.62	€80	€369.60
0	Store	12.17	€80	€973.60
1	Shop	75.88	€320	€24,281.60
1	Store	48.62	€80	€3,889.60
	Total say	244.02		€75,300

Mr. Murphy said that this property is situated approximately 20m from the subject Property at the entrance to Barrack Lane is on the same floor level (0) as the subject Property. The Zone A level applied to the subject Property is 62.5% of that applied to the comparison despite the two properties adjoining each other. Mr. Murphy said that the Respondent accepts that the profile of the comparison is superior to that of the subject Property and is of the view that to apply a greater difference between the levels applied would undermine Section 19(5) of the Valuation Act 2001, as amended. He said that he NAV as applied devalues at €394.40 per m² on an overall basis including stores which he said was considerably higher than that of the subject Property which equates to €258.31 per m² on an overall basis. No representations or appeals were made.

(6) NAV Comparison No 6.

Property Number	1159153			
Occupier	Art & Hobby			
Address	Unit 11, Gd Fl Corbett Court S.C			
Total Floor Area	136.49 m ²			
NAV	€45,000			
	Description	Size m²	€ NAV per m²	Total
0	Retail Zone A	55.88	€500	€27,940
0	Retail Zone B	55.88	€250	€13,970
0	Retail Zone C	24.73	€125	€3,091.25
	Total say	136.49		€45,000

Mr. Murphy said that this property is situated in the Corbett Court Shopping Centre close to the subject and is on the same floor level (0) as the subject Property. The NAV as applied devalues at €329.69 per m² on an overall basis which is considerably higher than that of the subject Property which equates to €258.31 per m² on an overall basis. No representations or appeals were made.

(7) NAV Comparison No 7.

Property Number	1159148			
Occupier	Vacant			
Address	Unit 8, Gd Fl Corbett Court S.C Galway			
Total Floor Area	28.54 m ²			
NAV	€14,270			
Level	Description	Size m²	€ NAV per m²	Total
0	Retail Zone A	28.54	€500	€14,270
	Total say	28.54		€14,270

Mr. Murphy said that this property is situated in the Corbett Court Shopping Centre close to the subject and is on the same floor level (0) as the subject Property. The NAV as applied devalues at €500 per m² on an overall basis which is considerably higher than that

of the subject Property which equates to €258.31 per m² on an overall basis. No representations or appeals were made.

(8) NAV Comparison No 8.

Property Number		1146669		
Occupier		Premoli		
Address		37.38(rear) William Street, Galway		
Total Floor Area		88.88 m ²		
NAV		€14,270		
Level	Description	Size m ²	€ NAV per m ²	Total
0	Retail Zone A	18.94	€1,700	€32,198.00
0	Retail Zone B	14.15	€850	€12,027.50
0	Retail Zone C	9.07	€425	€3,854.75
0	Store	4.77	€170	€810.90
1	Store	19.74	€100	€1,974.00
2	Store	22.21	€70	€1,554.70
0	Allowance(location 33%)	1	-€15,866.48	-€15,866.48
	Total say	88.88		€35,700

Mr. Murphy said that this property is situated off William Street and close to the subject Property at the entrance to cul-de-sac laneway with very restricted visibility from William Street. The subject Property also has restricted visibility from Castle Street, but benefits from being adjacent to an entrance to the Corbett Court Shopping Centre. He said that an end allowance of 33% was applied to the ground floor valuation of this property to reflect its extremely restricted profile relative to adjacent properties on William Street. He said that the Zone A level applied to the subject Property was 37.5% lower than that applied to the adjacent property (NAV Comparison 5), which fronts on to Castle Street. Mr. Murphy said that the NAV applied to this comparison devalues at €1,140.42 per m² for ground floor retail on an overall basis excluding the allowance or €798.29 per m². The subject Property devalues at €258.31 per m² on an overall basis. He said that he accepted that this comparison property was more valuable than the subject Property and was cited as a comparable due to its restricted profile relative to the adjacent property, similar to the subject Property's restricted profile relative to

comparison number 5. This comparison was subject to an appeal to the Valuation Tribunal with the valuation assessment having been agreed as set out above.

- 8.7 Subject to the forgoing Mr. Murphy valued the Property as follows and requested that the Tribunal affirm the valuation of the subject Property as it appears on the Valuation List.

Use	Floor Areas m ²	NAV € per m ²	€ NAV
Retail Zone A	35.04	€500	€17,520.00
Retail Zone B	45.12	€250	€11,280.00
Retail Zone C	45.67	€125	€5,708.75
Retail Zone Remainder	10.24	€62.5	€640.00
Store	112.42	€100	€11,242.00
Total			€46,390.75
NAV			
NAV, Say			€46,300.00

9. Mr. Molony's Observations on Mr. Murphy's Précis

- 9.1 Mr. Molony submitted a document titled *Observations to the Valuation Tribunal* submitted in response to the précis of evidence prepared by Mr. Murphy. In this document Mr. Molony included comments on Mr. Murphy's Précis under the following headings:

(i) Location and Commercial Context

Mr. Molony said that Mr. Murphy's comments on the Property's visibility from Castle Street was over stated and said that Barrack Lane was not an established retail pitch and that it suffered from a lack of footfall.

(ii) Lease evidence - Open Market

Mr. Molony submitted a letter from the landlord confirming that the rent of the Property remained unaltered at first rent review and the letter confirmed the annual rent being paid effective 1st October 2022. He said that the rent represents the most

reliable and objective evidence of the Net Annual Value (NAV), particularly given the absence of Tone-of-the-List properties or equivalent retail use on Barrack Lane.

(iii) KRT Transactions

Mr. Molony commented that the KRTs submitted by Mr. Murphy were not comparable to the subject Property due to their vastly superior retail locations and environments.

(iv) NAV Comparisons

Mr. Molony commented that six of Mr. Murphy's comparisons were located at ground floor level of the Corbett Court Shopping Centre. He said that he considered that these properties were located in a superior location in a complex with an integrated and coordinated retail environment with direct access to both William Street and Eyre Square. The remaining two comparisons were located in Edward Square and William Street respectively which he said were both high-profile shopping destinations characterised by strong footfall, high visibility and vibrant tenant mixes.

10. LEGAL SUBMISSIONS

10.1 The Parties did not make any legal submissions.

11. FINDINGS AND CONCLUSIONS

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

11.2 The Property is to be valued in accordance with Sections 48 and 19 (5) of the Valuation Act 2001, as amended. The requirement in accordance with section 19(5) is to arrive at a Net Annual Value (NAV) and achieve both, insofar as is reasonably practicable,

(a) correctness of value and

(b) equity and uniformity of value between properties on that valuation list.

Section 48(3) defines NAV as meaning 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 average 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 and charges (if any) payable by or under any enactment in respect of the property, are borne by the tenant.

11.3 The précis, appendices, commentaries and observations submitted by Mr. Molony and by Mr. Murphy have all been considered by the Tribunal along with all additional information submitted at the request of the Tribunal in arriving at this Determination, which can only set out a summary of the evidence placed before the Tribunal. The fact that this Decision does not make specific reference to any particular document, argument, submission or piece of evidence does not indicate that it has not been into considered.

11.4 The Parties agreed on the overall area of the Property, the method of valuation to be adopted and the areas of the various Zones to be valued. The Parties differed in their

respective views as to the description of the location of the Property and the values to be applied to Zone A and the first floor area. Mr. Molony considered Barrack Lane to be *'a narrow pedestrian laneway accessed from Edward Square, a cul-de-sac, not an established retail location, with no other individual retail properties with entrances fronting to the Lane.'*

Mr. Murphy considered that the Property was *'in a short access route to The Corbett Court Shopping Centre from Castle Street / Edward Square and was readily visible from Castle Street which provides an access to the Eyre Square Shopping Centre.'*
(authors emphasis added).

- 11.5 In his valuation Mr. Molony applied a Zone A rate of €300 per m² and €60 per m² to the first floor area which he supported by reference to two NAV comparisons of units at lower ground floor level within The Corbett Court Shopping Centre which were each valued at a Zone A rate of €300 per m². NAV Comparison No. 1 was a shop of 139.91 m² with a Zone A of 55.88 m². NAV Comparison No. 2 was a shop of 79.27 m² with a Zone A of 45.75 m².

Mr. Molony relied upon and placed considerable emphasis on the relevance of the passing rent of the Property in determining the NAV. He advised that the rent had remained unaltered at the rent review in October 2022. He said that this rent agreement represented the most reliable and objective evidence of the Net Annual Value of the Property as he considered that there was an absence of Tone-of-the-List properties of equivalent retail use on Barrack Lane.

In this Determination the Tribunal has not stated the quantum of the passing rent for data protection purposes however details of the rent payable are set-out in Appendix 1 (N/A to public).

In the appeal process Mr. Molony was requested by the Respondent to provide documentary evidence of the rent payable which was not provided. The Tribunal sought this documentary evidence as part of its considerations and a copy of the Rent Review memorandum was supplied.

The Tribunal agrees with Mr. Murphy that the rent payable does not on its own determine the NAV of the Property however had the requested rent information been forthcoming early in the appeal process Mr. Murphy may have been better informed and able to apply a greater weighting to the rent in determining a NAV, particularly having regard to the emphasis placed on its relevance by Mr. Molony.

11.6 Mr. Murphy applied a Zone A valuation rate of €500 per m² and €100 per m² to the first floor area and said that the subject property was valued relative to the value of comparable properties comparable on the Valuation List in accordance with correctness of value, equity and uniformity. He said that the collection of Net Effective Rents provided the basis for developing an appropriate scheme of valuation to be applied to the group of properties sharing similar characteristics, including the subject Property. He noted that the application of the scheme is only the starting point. Following application of the scheme values he said that if there are any relevant individual considerations in relation to the subject property, relative to that group, further adjustments may be made to the subject Property's estimate of NAV.

Mr. Murphy supplied details and rent analysis of three KRT comparison properties stating that they were part of the exercise and collection of Net Effective Rents that formed the basis of the Respondent's Scheme of Valuation. KRT1 was a shop of 470.94 m² in a prime location with a Zone A area of 98.74 m² which was valued €800 per m². KRT 2 was a shop of 44.16 m² in a secondary location with a Zone A area of 30.50 m² which was valued at €560 per m². KRT 3 was a shop of 17.11 m² the entire area of which was in Zone A and was valued at €1,700 per m². The advised net effective rents of these comparisons are set out in Appendix 2 attached (N/A to public). The Tribunal does not consider that these comparison properties necessarily share similar characteristics to the subject Property having regard to size and profile.

Mr. Murphy's NAV comparisons (numbers 1 - 4, 6 & 7) comprised six single storey units located at ground floor level in an internal mall within The Corbett Court Shopping Centre. The units ranged in size from 28.54 m² to 63.79 m² and generally valued at Zone A rates of €500 per m² with the exception of two units valued at €800 and €900 per m² as their areas were entirely within Zone A. Comparison number 5 with an overall area of 244.02 m² and a Zone A of 27.70 m² was valued at €800 per m² and fronts

directly onto Edward Square. The subject Property is situated immediately to the rear of this comparison. The first floor store of 48.62 m² was valued at €80 per m². NAV comparison number 8 was in a cul-de-sac laneway location off William Street with an area of 88.88 m² and a Zone A of 18.94 m² valued at €1,700 per m² with a first floor store of 19.74 m² valued at €100 per m². A 33% end allowance due to restricted visibility reduced the Zone A rate to €1,140.02 per m². Mr. Murphy said that this was a more valuable property than the subject Property.

- 11.7 The Tribunal recognises the difficulties that the Parties encountered in valuing the Property indicated by the quantum of the reduction in the initial valuation following Representations and also the difference in values contended for by the Parties at the appeal. The subject Property is somewhat unusual by virtue of its location at the end of a laneway and being the only shop on the lane with direct access to the laneway whilst the adjoining and adjacent shops provide return frontages only. Whilst proximity to an entrance to The Corbett Court Shopping Centre may appear to be appealing, the entrance is secondary in nature. The Tribunal notes in photographs supplied the presence of an adverting sandwich-board on Edward Square providing directions to the Property.
- 11.8 There is a perennial difficulty in seeking to achieve precision in the valuation exercise particularly when dealing buildings that do not have direct comparisons or are properties with a degree of uniqueness such as the subject Property. The objective of the valuation exercise is to achieve correctness, equity and uniformity of value between properties on that Valuation List. Many factors influence valuation and no single factor is conclusive. All the characteristics of a property have to be evaluated and assessed against comparable properties and a valuer is required to apply their judgment and experience. This involves an exercise in relativity regarding the physical nature, age, location, quality and passing rent, where relevant, of the property as well as market characteristics for same.
- 11.9 The Tribunal considers that the Property has its limitations and is not situated in a prominent trading location being the only shop on Barrack Lane having direct access onto the lane. It is adjacent to and opposite the return frontages of shop units that face onto the Edward Square development and adjacent to a secondary entrance to The Corbett Court Shopping Centre.

The Tribunal notes Mr. Molony’s reliance on the passing rent and accepts that it is an important consideration, though not the only consideration in determining NAV, due to the proximity of its agreement being close to the valuation date. The Tribunal considers that the ground floor location of the Property is superior to Mr. Molony’s comparison units at lower ground level in The Corbett Court Shopping Centre generally valued at Zone A €300 per m² but inferior to the ground floor comparison units within The Corbett Court Shopping Centre relied upon by Mr. Murphy and generally valued at Zone A €500 per m². The additional comparisons relied upon by Mr. Murphy and not located in The Corbett Court Shopping Centre were valued at €800 and €1,700 per m² and are not considered to be comparable to the subject property. The Tribunal notes the principle of an end allowance of 33% applied in the valuation of Mr. Murphy’s NAV comparison number 8 located on a cul-de-sac laneway with restricted visibility.

11.10 Subject to the foregoing the Tribunal considers that the Appellant has established that an incorrect valuation has been applied to the Property.

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 €34,860 calculated as follows:

Floor level	Use	Area m²	NAV € per m²	€ NAV
0	Retail Zone A	35.04	€400	€14,016.00
0	Retail Zone B	45.12	€200	€ 9,024.00
0	Retail Zone C	45.67	€100	€ 4,567.00
0	Remainder	10.24	€50	€ 512.00
1	Stores	112.42	€60	€ 6,745.20
			Total	€34,864.20
			NAV say,	€34,860

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.