

**Appeal No: VA23/5/0949**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**ENNIS CASH COMPANY**

**APPELLANT**

**and**

**TAILTE ÉIREANN**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 1210229, Retail (Shops) at 3 Arthurs Row, Ennis, County Clare.

**B E F O R E**

**Hugh Markey - FRICS, FSCSI**

**Deputy Chairperson**

**Caroline Murphy - BL**

**Member**

**Killian O'Higgins - FRICS, FSCSI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 3<sup>RD</sup> DAY OF DECEMBER 2025**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 16<sup>th</sup> 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 €19,680.

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

*‘(a) The Valuation is Incorrect*

*1. The subject property's valuation is excessive and inequitable.*

*2. The subject property's valuation is incorrect owing to insufficient allowances being made for the actual state of the property. It's not a conventional retail property.*

*3. There is a fabric showroom at ground floor with very little natural light and the first floor storage area is poor.*

*4. The property, not being a conventional retail property (no shop front), is not suitable for zoning and should be valued on an overall basis on the ground floor. The levels applied to the first floor is also inappropriate given the type and nature of the property together with its actual condition and location.*

*5. The location at the end of a pedestrian alleyway is also very moderate although central’*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10,000.

## **2. REVALUATION HISTORY**

2.1 On the 15<sup>th</sup> 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 €23,200.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €19,680.

2.3 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September, 2023 stating a valuation of €19,680.

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

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

### **3. THE HEARING**

3.1 The Appeal proceeded by way of a remote hearing, held on the Zoom platform on 15<sup>th</sup> July 2025. At the hearing, the Appellant was represented by the Mr. Eamonn S Halpin B.Sc. (Surveying) MRICS MSCSI of Eamonn Halpin & Co. Ltd and the Respondent was represented by Ms. Valerie Bradshaw M.Sc. (Real Estate), B.A.(hons) of Tailte Éireann.

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 their précis as their evidence-in-chief, in addition to giving oral evidence.

3.3 The Tribunal invited the Applicant to amend the title of the proceedings from ‘Ennis Cash Company v The Commissioner of Valuation’ to ‘Ennis Cash Company v Tailte Éireann’ because the functions previously vested in The Commissioner are now vested in Tailte Éireann. The Tribunal identified the decision in *Doran v Tailte Éireann* [2024] IEHC 209 in which Mr Justice O’Donnell stated:

*It is clear from section 32(2) of the Tailte Éireann Act 2022 that:-*

*“(2) Any legal proceedings pending immediately before the establishment day to which a dissolved body...is a party, that relate to a function of the dissolved body...shall be continued,*

*with the substitution in the proceedings of Tailte Éireann, insofar as they so relate, and the proceedings shall not abate by reason of such substitution.”*

*In the premises, it is clear that the substitution sought by the respondent is required as a matter of law and I made the necessary order”.*

Mr. Halpin for the Appellant made an application to amend the title of the proceedings as invited. The Tribunal acceded to the application and accordingly amended the title of the proceedings.

#### **4. FACTS**

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

The Property under appeal comprises a two-storey, end of terrace building, previously in retail/showroom use with a first-floor store. It is located on Arthur’s Row, a laneway off O’Connell Street, Ennis. This lane leads to the Temple Gate Hotel, the Clare Museum and Friar’s Walk car/coach park. It is situated approximately 30m east of O’Connell Street. There is one other commercial business on the lane – Mocha Coffee Company, a coffee shop. It has a timber and glazed shopfront, door and sash windows.

The areas were agreed - : The Appellant agreed the overall ground floor area at 79.70 m<sup>2</sup> but questioned whether zoning should be used.

<b>Floor</b>	<b>Use</b>	<b>Sq. M</b>
Ground Floor	Retail/Showroom	
	Zone A	37.07
	Zone B	34.95
	Zone C	7.68
<b>Sub-Total</b>		<b>79.70</b>
First Floor	Stores	86.64
<b>Total</b>		<b>166.34</b>

#### **5. ISSUES**

The sole issue is one of quantum.

## **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 Halpin, in commencing his evidence asked that the photograph he had included at page 10 of his précis be disregarded, it was of an adjoining property and was not relevant. He also amended his floor areas to 79.7 m<sup>2</sup> and the first floor to 86.64 m<sup>2</sup> both of which were agreed with Ms. Bradshaw. Consequently, he amended his opinion of the NAV from €12,080 to €12,426, say €12,420 or, in the alternative, as an office from €13,000 to €13,246, say €13,240.

He outlined the history of the building; that it had been constructed as a residence by a Colonel Arthur and was possibly used as a school at one time. At some stage the ground floor was converted to retail use, and an upper floor and ground floor extension were added. He suggested that the rear extension was ‘semi-industrial’ and the first floor was in poor condition. Mr. Halpin added the Respondent had removed the upper floor from its valuation.

He added that the building retained the characteristics of a dwelling and drew the Tribunal's attention to his photograph of the building at page 8 of his précis. He said it lacked frontage. Unlike the adjacent café, it did not have the opportunity for external seating.

Mr. Halpin suggested the business had ceased to trade due to the absence of footfall on the lane.

7.2 The Appellant's valuer noted that he did not accept the basis on which the Respondent had arrived at the NAV for the subject, zoning was inappropriate because the subject did not have a shopfront and should not be valued on a zoning basis. This was the method adopted by the Respondent.

Mr. Halpin proffered 2 options regarding a valuation methodology:

7.2.1 The subject be treated as retail but unsuitable for zoning and an overall rate applied to the ground floor. He suggested this rate should be 60% of the zone A rate adopted, by the Respondent, for the particular location. He drew the Tribunal's attention to his Comparison no. 5, by way of support for this proposal. He also rejected the rental level attributed to the first floor by the Respondent.

7.2.2 The user category be changed to 'Office/house' as was the situation with his Comparison No. 1. This would value the ground floor at €120psm

7.3 Mr. Halpin went to say there were several lanes off O'Connell Street and there were only two properties on this lane. He noted that properties on the adjacent Cook's Lane had been valued by the Respondent at €220psm zone A. He suggested this latter lane is superior as it leads from O'Connell Street to Dunnes Stores.

7.4 He suggested the proper application of zoning is to take zones inwards from the shopfront but in this case, there is no shopfront. He suggested the Respondent had valued the subject 'as he would like it to be, as opposed to how it is'. He suggested one approach is to consider the space as retail and consider it on an overall basis. He noted the Respondent had done this, on occasion, in other assessments. He suggested the Respondent adopts an overall rate equal to 60% of the zone A rate for that street. Adopting this approach suggests a level of €132psm. He said this approach was supported by his Comparison No. 5. He said that €220psm was the 'established' level in laneways in Ennis and applying 60% of this rate leads to a figure of €132psm to be applied to the

ground floor. Adopting his second approach would lead to an overall rate of €120psm as per his Comparison No. 1.

7.5 As regards the first floor, he said this was in a poor condition and was ‘semi-industrial’. He said the front was original and the rear a later addition. He suggested the Respondent’s usual practice is to value the first floor at 10% of the ground floor zone A rate and drew the Tribunal’s attention to the judgment in VA 19/5/1714, which he had included in his précis. This would suggest a value of €22psm to apply to the first floor if categorised as ‘House/office’. He noted that while the ‘standard’ rate for first floor office accommodation was €85psm, an end allowance of 50% would be required to reflect the floor’s poor condition.

7.6 Turning to his four comparisons (included at Appendix 1 to this judgment, N/A to public), Mr. Halpin spoke to each:

Comparison No 1. PN 1209986 He noted this is an office property with a retail frontage on Brewery Lane, with frontage to the Abbey Street car park. It is 100m from the subject. He said that despite having a shopfront, it was not valued on a zoned basis. He said this demonstrated the rate of €120 applied to the ground floor.

7.7 Comparison No. 2 PN 1210248 is a café on Cook’s Lane which was valued by the Respondent at €220psm zone A. He said this was an adjacent and superior lane to the subject’s and the rate was that generally applied to secondary locations in the town. When the NAV of each is considered, it suggests the hypothetical tenant would pay as much for a poor building with no shop front as he would for a 2-storey café on a better lane, giving access to Dunnes Stores.

7.8 Comparison No. 3 – PN 1210010. This is a café on the Friary car park in the town. He noted the ground floor is valued on an overall basis at €132psm while the first floor, which has a café and commercial kitchen, is valued at €65psm. He suggested the subject’s first floor could not sustain a valuation approaching these levels.

7.9 Comparison No. 4- PN 2186700. He said he introduced this for completeness and not as evidence of value as it was ‘in no way comparable’. It is a café premises on Arthur’s Row,

adjoining the subject property the only other commercial property on the lane. He said he had no idea how the zone A rate of €300psm was arrived at. The first-floor stores were valued at €65psm.

7.10 In closing his evidence and contending for a valuation of €12,420, Mr. Halpin suggested he would be happy should the Tribunal adopt either of the approaches he put forward. His valuation is set out below:

**As Retail:**

Ground floor 79.7m<sup>2</sup> @ €132/m<sup>2</sup> = €10,520

First floor 86.64m<sup>2</sup> @ €22/m<sup>2</sup> = €1,906

Total NAV **€12,426. say €12,420**

OR

**As Office:**

Ground floor 79.7m<sup>2</sup> @ €120/m<sup>2</sup> = €9,564

First floor 86.64m<sup>2</sup> @ €85/m<sup>2</sup> = €7364.00

Less 50% end allowance = - €3,682.00

Total NAV **€13,246. say €13,240**

**Cross examination of Mr. Halpin**

7.11 Under questioning from Ms. Bradshaw, Mr. Halpin accepted as accurate that Arthur's Lane led to the Clare Museum, it was 30m from O'Connell Street and the level of €300psm had been applied by the Respondent to Arthur's Lane – Mr. Halpin suggested that he did not understand the reason this rate had been applied. He accepted as accurate that the prime area of O'Connell Street had been valued at €450/600psm and that Abbey Street had been valued at €450psm zone A.

7.12 While accepting that the subject had been valued at a rate which was 50% of the prevailing rate, 30m away, he suggested proximity does not necessarily mean value and cited Grafton Street and South Anne Street in Dublin by way of example, suggesting the zone A dropped from, say, €5,000psm to €800 or €900psm. He accepted a rate of €300psm had been applied to several streets including Parnell and Abbey Streets and parts of O'Connell Street.

7.13 He responded that there were two commercial occupiers on the lane and that a rate of €300psm had been applied but he did not accept this rate as being correct.

7.14 When asked as to the rental transactions he had relied on in arriving at the rate of €132 psm, he responded that these were the same as relied on by the Respondent in setting the tone and as these were in the list, they were deemed to be correct – s 63 of the Act.

He responded in similar fashion when questioned as to how he had arrived at the rate of €120psm which he had applied to the subject in his alternative approach valuing the property an office/house.

7.15 Mr. Halpin answered that he could not give ‘chapter and verse’ as to how he arrived at the 50% end allowance; noting that he was an experienced valuer and the first floor was in very poor condition. He went to say the property must be valued in its actual condition. He noted that it was also the Respondent’s usual practice.

7.16 Mr. Halpin confirmed to the Tribunal that in adopting a single rate for a retail property as opposed to one based on zone A, in his experience it was the Respondent’s practice to adopt a rate equivalent to 60% of the prevailing zone A levels for the entire ground floor retail area.

## **8. RESPONDENT’S CASE**

8.1 Ms. Bradshaw began by stating that she hoped that she could explain the rationale employed by the Chief Operating Officer (of Tailte Éireann) in arriving at the valuation and also the categorisation of the premises under appeal. She stated that she intended to demonstrate that the valuation placed on the property achieves both the correct estimate of value and also equity and uniformity of value in accordance with s. 19 of the Act.

8.2 She agreed with Mr. Halpin’s description of the property and went on to confirm the attic floor had been removed from the valuation. She noted the property to be valued comprised the ground floor retail area and first floor store. She suggested the property benefitted from large windows which offered natural light, and the ground floor offered an open plan retail area. She said the fit out was basic and in need of modernisation. Ms. Bradshaw had been advised that trading from the property ceased on the 15<sup>th</sup> day of November 2024.

8.3. Ms. Bradshaw said the property is located in a prominent position on a busy lane which links O’Connell Street with the Temple Gate Hotel, the Clare Museum and also to Dunnes Stores and

the Friary Car Park. She said the zone A rate adopted was 50% of the rate used on O'Connell Street. She noted that traffic passing along O'Connell Street would have visibility down the lane to this unit. She said that car parking was available on O'Connell Street, the Friar's Walk Car Park, 90m to the east and in the Friar Street Car Park, about 350m away.

8.4 Ms. Bradshaw outlined how a consideration of key rental transactions (KRTs) had been used to arrive at the appropriate zone A levels, with a level of €600psm used for the majority of O'Connell Street, with the lowest zone A level being €160psm applied to less prominent streets. She said the basket of evidence supported the level of €300psm for Arthur's Lane, albeit there are only two commercial properties on the lane. The valuation date is the 1st day of February 2022. The two KRTs relied upon are included at Appendix 2 to this judgment (N/A to public). Ms. Bradshaw suggested that Mr. Halpin's valuation was not in line with the emerging tone; three of his comparisons were on tertiary streets.

8.5 She then brought the Tribunal through a consideration of the KRTs adduced in her evidence. The first was a letting some 3 months after the valuation date and occupies a corner position on Parnell Street/Salthouse Lane, about 150m west of the subject. The net effective rent (NER) is €318.89 psm zone A. The NAV is €300psm zone A.

8.6 Ms. Bradshaw's second KRT is a letting of a shop on Parnell Street, from May 2019. Her analysis showed a net effective rent of €318.99psm zone A. The NAV is €300psm zone A with the ground floor store valued at €30psm.

8.7 The witness suggested that three of the Appellant's comparisons were on 'tertiary' streets and then dealt with the Appellant's comparisons as follows.

1/ PN 1209986. This is located on Brewery Lane, approximately 100m from the subject. She noted that historically this property had been valued as a bookies shop and it was a mistake, in her professional opinion, to value it as an office. She said it should have been valued as a shop at €220psm zone A. She considered the location to be inferior to the subject.

2/ PN 1210248. Ms. Bradshaw regarded this ground floor retail unit with a first-floor shop located on Cook's Lane to be inferior to the subject. It is valued at €220psm zone A.

3/ PN 1210010. This comprises a two-level retail unit located on Friary Car Park, approximately 100m distant from the subject. It is valued on an overall basis at €132psm overall on the ground floor with the first-floor retail valued at €75psm. She considered this to be an inferior location to that of the subject and suggested the reason it was valued on an overall basis is because it had double doors and was more akin to a store. The overall rate of €132psm applied was 60% of the €220psm zone A rate.

8.8 She had noted in her précis, when considering her opposite number's comparisons that:

*'the designation or categorisation of a property for valuation purposes in rating is not mandated by the provisions of the Valuation Acts 2001 – 2020 but is a function of valuation practice and the exercise of proper skill and judgment (sic) by a Valuer. Therefore, while the property is categorised as a retail unit, such classification is not narrowly construed within the principles of rating valuation – a shop is valued as a shop but not as any particular type of shop'. She went on to state - The property has been valued having regard to long established rating valuation principles, specifically the assumption of a hypothetical letting, the basis of the assumed tenancy and taking the property as is, in that it is considered to be "vacant and to let" at the statutory valuation date. Inter alia, she also suggested that 'the subject is a retail unit, open to members of the public and it is my opinion the property should be zoned to ensure the standardisation of accurate rental valuations and alignment with comparable properties'.*

8.9 Ms. Bradshaw questioned the logic of the rates applied by Mr. Halpin noting that a 10% allowance had been used to reflect the absence of light to the rear of the ground floor and the absence of a shopfront. She suggested the Mr. Halpin's application of an overall rate of €132psm to the ground floor and €22psm to the first floor was completely out of line with the 'emerging tone' on Arthur's Row. She cited the adjoining property (PN2186700) on the lane and the property on O'Connell Street with a return to the lane -PN1210846, being valued at €300psm zone A and €600psm zone A respectively.

8.10 Ms. Bradshaw then turned to her NAV comparisons (included in Appendix 3 to this judgment, N/A to public) to demonstrate equity and uniformity, as follows:

1/ Her first had been introduced by Mr. Halpin, not as a comparable but for completeness, is the adjoining café on Arthur's Row, PN 218670. She suggested this is smaller, it is narrow and deep and suffers from low headroom. She added that the only light was from the front and a stair compromised the retail area. It is valued at €300psm zone A. The ground floor store is valued at €30psm; the first-floor store at €65 and the second-floor store at €45.50psm.

2/ PN1210846 This is a property on O'Connell Street with return frontage to Arthur's Row which is valued at €600psm zone A and the ground floor store at €60psm.

3/ Her third NAV comparison, PN2160536, is located on Parnell Street, which she described as being a secondary location. It is valued at €300psm zone A.

8.11 In summing up, Ms. Bradshaw said the quantum of the valuation was the only issue for consideration. She contended that the Appellant's valuer argued that it be valued as either retail or as an office. Mr. Halpin had suggested the remedies sought ought to be *'that the NAV be reduced in line with its actual potential rental value and the emerging tone of the list'*. His estimate of value was a rate of €132psm overall on the ground floor and €22psm applied to the first floor, if valued as retail. She suggested his proposed valuation, on this basis, as being out of line with the emerging 'Tone' for other properties on Arthur's Row or the surrounding area in Ennis Town Centre. She posited that the Appellant had not provided evidence to support the levels for which he contended. The evidence provided by the Appellant for the first floor, ranged from €55psm to €75psm, and there was no justification for a level of €22/sqm as proposed.

8.12 She noted the Appellant's alternative methodology of estimating the value by adopting an 'Office' level rate of €120psm, applied to the ground floor and €85psm to the first floor together with the application of a 50% end allowance. She suggested he had not provided evidence to support a 50% first floor end allowance at and there is no justification for such an allowance. She suggested this proposed basis of valuation would undermine *'...equity and uniformity of value between properties on the valuation list,'* and would be unfair, relative to other properties on the valuation list. She said the proposed valuation would not meet the requirement of the Act and in particular, s.48 (1) (3) and s.19 (5).

8.13 Ms. Bradshaw noted the onus of proof rested with the Appellant and suggested they had failed to prove that the valuation of the subject property is excessive, either considering the rental evidence or from an equity point of view. She said the levels proposed would not only undermine the ‘tone’ but would also be the lowest level applied to any retail unit in this area of Ennis Town Centre.

8.14 She asked the Tribunal to affirm the valuation placed on the property by the Respondent and as set out below:

Use	Floor Ares (Sq.M)	NAV per Sq.M	NAV
Retail Zone A	37.07	€300.00	€11,121.57
Retail Zone B	34.95	€150.00	€ 5,242.95
Retail Zone C	7.68	€75.00	€575.87
Store (1)	86.64	€65.00	€ 5,631.56
<b>Less 10% End Allowance Overall</b>			<b>-€2,257.19</b>
<b>Total NAV</b>			<b>€20,314.76</b>
<b>NAV, Say</b>			<b>€20,300.00</b>

#### **Cross examination of Ms. Bradshaw.**

8.15 Before inviting Mr. Halpin to cross examine the witness, the Tribunal enquired from the witness as to her understanding of the basis and purpose of zoning retail properties. She agreed that it was a method of analysis of evidence derived from transactions and not a method of valuation.

8.16 In response to a further question from the Tribunal as regards the status of this lane, she posited that Arthur’s Row was superior to the other lanes and a coffee shop should be valued similarly to a retail outlet.

8.17 Mr. Halpin began by asking the witness to confirm her understanding of a revaluation and that was to update matters, reflect changes and to promote equity and remove anomalies; Ms. Bradshaw concurred that this was the purpose.

8.18 She replied in the affirmative when he suggested to her that the exercise should not produce anomalies. He went on to say that in response to a query from the Tribunal, she suggested that the purpose was to achieve equity and uniformity and surely correctness of value came first, with equity and uniformity coming after.

8.19 The witness accepted that there was a ‘multiplicity of shops, with passing trade on the streets valued at the level of €300 zone A’.

8.20 During questioning, it transpired that there was a lease in place in respect of the common comparison – the adjoining property on Arthur’s Row. The Respondent was aware of this lease and had not introduced it into evidence.

8.21 Ms. Bradshaw explained that the ground floor stores of the building on O’Connell Street, with return frontage to Arthur’s Row, had its ground floor valued at 10% of the zone rate used i.e. €60psm. She was asked as to how the end allowance of 10% came to be arrived at; why was it not 20/30/40/50%? She responded by saying that 10% was the highest allowance that would be sanctioned.

## **9. Summaries:**

9.1 In summing up, Mr. Halpin reiterated that this was an old, unimproved, property in a town with a medieval core. He noted it had many laneways and the vast majority of these were valued at a level of €220psm zone A, even those that he regarded as superior to the subject. He said the Respondent’s scheme was based on rental evidence collected. He said the reasoning was perverse placing Arthur’s Row as superior to Cook’s Lane, the latter being the main pedestrian access point to Dunnes Stores.

9.2 Turning to the first-floor storage, he suggested that the situation was bizarre whereby had these stores been on the ground floor, they would have been valued at 10% of the zone a rate - €30psm. In fact, they were valued by the Respondent at €65psm.

9.3 He went to say that rental values had been ‘standardised’ by the Respondent but what is required under the Act is firstly correctness, followed by equity and uniformity. He suggested the Respondent had applied standardisation but that is not what is required. He said the Respondent had not taken the property’s rental capacity in its actual state, had gone astray and overvalued the property. He asked the Tribunal to find in accordance with his evidence.

9.4 Ms. Bradshaw, in her summing up, reiterated that the subject is a retail property in a retail area and should be valued as retail. As the ground floor was uninterrupted, it lent itself to zoning. She suggested the Appellant had not given sufficient evidence to show that the rate of €300psm zone A should be amended.

## **10. SUBMISSIONS**

10.1 There were no submissions of a legal nature.

## **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 Clare County Council.

11.2 The Appellant disputed the veracity of the Respondent’s use of zoning used to arrive at the NAV, preferring an overall approach or indeed a reclassification as offices. The Tribunal accepts Mr. Halpin’s argument that it is not appropriate to zone a retail unit that does not have a shopfront; an overall basis approach is preferred. It is clear from the evidence, and in particular the photographs advanced by both parties, that the property is not a ‘standard retail’ unit, being premises without a standard shopfront. and accordingly should be valued on an overall basis.

As regularly stated by other Divisions of the Tribunal, zoning is a tool of analysis and not a method of valuation. This was accepted by the Respondent's witness. Incorrectly adopted, zoning can lead to anomalies and inequities. When used, it should also be checked against an approach based on an overall rate. This is a test to establish whether the valuation arrived at is correct – the stand back and look approach.

11.3 The Tribunal notes the failure of the Respondent to adduce rental information which might have assisted it in arriving at its decision. The Chair of the Division had reminded the witness that her duty as an expert witness was to assist the Tribunal and to provide information that would assist it in reaching a determination, irrespective of whether it would support her case.

11.4 In the instant case, there is a clear contradiction in the zone A rate of €300psm adopted by the Respondent for Arthur's Row as opposed to the €220psm rate applied to the Appellant's Comparison No. 2 - PN 1210248 on Cook's Lane . The Tribunal prefers the Appellant's view that this latter is a superior thoroughfare being the main pedestrian access point to Dunnes Stores, from O'Connell Street.

11.5 The Tribunal has considered the NAV applied to the adjacent property on Arthur's Row, PN 2186700, a common comparison, albeit not adopted for value purposes by the Appellant. On the basis this property's NAV is in the list and deemed to be correct, the Tribunal has analysed the NAV to arrive at an overall rate for the ground floor of €180psm, based on the evidence of both witnesses that the practice of Tailte Éireann is to adopt a rate of 60% of zone A, which Ms. Bradshaw confirmed in commenting on the Appellant's evidence relating to PN 1210010.

11.6 Regarding the first-floor stores in the subject, it is not credible that a hypothetical tenant would pay any more for these than the occupier next door pays for the ground floor storage - €30psm. This is the rate applied by the Respondent to the ground floor store in PN 2186700. The Respondent's evidence at KRT2 and NAV comparison PN 2186700, displays incompatibility in valuing ground floor stores at €30psm and first floor stores at €65psm. That said, the properties are on the list and analysed accordingly by the Respondent. Despite the incongruity of the rates

applied to the various ground and first floor storage areas, the Tribunal chooses to adopt a rate of €40psm for the first-floor area.

11.7 Finally, it was not in dispute that the premises are not in good condition, and this was evident from the photographs adduced by the valuers. Thus, an adjustment is required to take account of the fact the subject must be valued in its existing state – ‘rebus sic stantibus’. This fact was reflected by the Respondent applying a 10% adjustment to arrive at the final NAV. When asked as to why this allowance should not be a higher figure, the witness could only say that this was the upper limit of allowances in the Respondent’s scheme. Such an approach of placing a ceiling on allowances is unfair and runs counter to the correctness provision of section 19.5(a) of the Act. The principle of an end allowance has been accepted by the Respondent; in the Tribunal’s view, based on the evidence presented by both parties and, in particular photographic evidence, an appropriate end allowance is 20%.

**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 **€14,250**

Ground Floor Retail/Showroom	79.70 sq. m. @ €180psm =	€14,346
First Floor Stores	86.64 sq. m. @ €40psm =	<u>€ 3,466</u>
		<u>€17,812</u>
End Allowance: 20%		<u>(€3,562)</u>
<b>Total</b>		<b>€14,250</b>

**NAV €14,250**

**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.