

Appeal No: VA23/5/0602

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

MF CASEY

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 1209989, Retail (Shops) at Monument House, 3 O'Connell Square Ennis, County Clare.

B E F O R E

Barra McCabe - BL, MRICS, MSCS

Deputy Chairperson

Gerard O'Callaghan - MRICS, MSCSI

Member

Paul McElearney - FSCSI, FRICS, FCI Arb

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF NOVEMBER 2025**

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th 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 €29,000.

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:

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

2. The subject property is comprised of part of the ground floor of a residential property located behind the O'Connell Monument in the centre of Ennis.

3. The property is in use and indeed has been historically used as a printers workshop and stores.

4. *Whilst there is a small element of retail sales, centring around print and paper materials, the location itself and the type and nature of the property differentiate it from other retail properties in the vicinity.*
5. *The entrance to the property is set back a full 15m from the street and indeed, the Council is about to change the street layout which will in effect set the property even further back due to modifications of the street alignment in the vicinity of the O'Connell Monument.*
6. *The commercial property itself is very modest and not suitable for zoning due to its location and configuration. The property is essentially in a cul-de-sac which only goes down to the residence beyond. The property itself has no toilet facilities.*
7. *The single greatest impediment to the property is the fact that whilst it is centrally located, it is almost completely obscured by the Daniel O'Connell Monument. This landmark monument is regularly the ascribed meeting point for groups etc and when these persons assemble, the property becomes completely obscured.*
8. *The property is old. The workshop has very low headroom, only 2.5m and is in moderate to poor condition generally as is the external store, which dates from the early 19th Century.*
9. *The superiorly located side street, Arthurs Row (directly adjoining), has a Zone A level of €350/m². If this was applied to the subject, it would still require a further allowance to allow for the obscuring features as Arthurs Row, at the O'Connell St end, is superior to the subject's location.”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €13,530.

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 €42,700.

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 €29,000.

2.3 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €29,000.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 01st day of February, 2022.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 25th day of June, 2025. At the hearing the Appellant was represented by the Mr Eamonn Halpin B.Sc.(Surveying) M.R.I.C.S. M.S.C.S.I. and Mr Martin Casey, of MF Casey, in an observation capacity and the Respondent was represented by Mr Jonathan Sharkey SCSi B.Sc. (Hons) Property Studies, B.Sc. Real Estate, 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 The subject property is situated on O'Connell Square, Ennis. The property is situated at the junction of O'Connell Street and Abbey Street.

4.2 The Daniel O'Connell Monument is situated in front of the property.

4.3 The subject property comprises part of the ground floor of the building with the upper floors in residential use.

4.4 The Floor Areas are agreed as follows;

Level	Use	Area SQ.M
0	Retail Zone A	51.73
0	Retail Zone B	0.40
0	Office (s)	57.62
0	External Store	69.2
Total		178.98

5. ISSUES

The issue to be determined here 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 The Appellant was represented by Mr. Eamonn Halpin of Eamonn Halpin and Co.

7.2 Mr. Halpin began by adopting his Precis as his evidence in chief and outlined a correction to page 22 of his precis where the store area was changed in description to external store and the NAV per sq.m applicable was changed from €45 to €30 per sq.m. This change resulted in the overall NAV proposed in Mr. Halpin’s preferred scheme of Valuation reducing from €19,783.35 in the precis to €18,745.00.

7.3 Mr. Halpin began by outlining some key points in relation to the subject property needing consideration in assessing the NAV.

- a) The property is old and not purpose built, and was originally constructed as a residential property.
- b) The property has no direct street access.
- c) There is no proper shop front to the property.
- d) There is no toilet, with access to washing facilities being available in an adjacent property.

7.4 Mr. Halpin believes that the property is unique in a local context and does not share the same features detailed at paragraph '7.3' above with other similar type retail properties in this part of the town.

7.5 The Tribunal was invited to view photos from the Appellant's precis which demonstrate the restricted access to the subject property. Anyone accessing the premises would need to go around the Daniel O'Connell Monument located in front of the Property that effectively makes the access like a cul-de-sac, with a single point of entry and exit set back approximately 20m from the street. The rest of the frontage is railed off by the enclosure surrounding the monument. Mr. Halpin also outlined that the monument obscured the sight lines to the retail unit.

7.6 Mr Halpin described the print room in the Property as being more akin to a workshop than an office. He stated that space accommodated large printing machines and had a low ceiling. The remaining space was used as a retail area with shop counter and shelved display areas.

7.7 He described the office/ workshop as being in moderate to poor condition and the retail area as old and dating from the early 20th century. The external stores were also described as being in poor condition.

7.8 The Appellant's representative submitted that that as the property is non-standard, the two easiest ways to align it with comparisons under Section 19 (5) are:

- a. To value the retail area on an overall basis at 60% of the prevailing Zone A rate in line with others such as PN 1210099 and PN 1210010.
- b. To value at a lower Zone A, such as the €300 per sq.m on Arthurs Row or €220 per sq.m on Cooks Lane, as the frontage is so obscured that it is no better than being in these locations.

7.9 The Appellant relied on 4 comparison properties listed at Appendix 1 (N/A to public).

7.10 The Appellant offered the following two schemes of Valuation. The Appellant believes that applying a zoning analysis was not appropriate to the subject and believed the first scheme proposed with an NAV of €18,745 was appropriate to the subject property. As an alternative a second scheme using a zoning methodology was offered.

Level	Use	Area SQ.M	NAV per SQ.M	NAV (€)
0	Office	57.62	€45	€2,592.90
0	Store	69.23	€30	€2,076.90
0	Retail	52.13	€270	€14,075.10
Total NAV say				€18,745

Zoned Valuation

Level	Use	Area SQ.M	NAV per SQ.M	NAV (€)
0	Office	57.62	€30	€1,728.60
0	Store	69.23	€30	€2,076.90
0	Retail Zone A	51.73	€300	€15,519.00
0	Retail Zone B	0.4	€150	€60.00
Total NAV				€19,384.50

7.11 Under Cross examination Mr. Halpin confirmed that there was a ceiling height of circa 2.5m throughout the retail and office/ workshop area.

8. RESPONDENT'S CASE

8.1 The Commissioner of Valuation (Respondent) was represented by Mr. Jonathan Sharkey of Tailte Éireann.

8.2 Mr. Sharkey began by confirming the ceiling heights for the 3 components in the subject property at 2.77m for the retail shop, 2.5m for the office and 3.62m for the external stores.

8.3 The Respondent described the property as bright and spacious with a large bay window. The retail area is rectangular in shape which is ideal for applying a zoning method of valuation.

8.4 Mr. Sharkey described the premises as being well located at the junction of O'Connell Street and Abbey Street and stated the property enjoys high levels of footfall and passing traffic. The premises has the benefit of set down parking in front of the O'Connell Monument.

8.5 The Respondent provided details of four NAV comparisons which are listed at Appendix 2 (N/A to public).

8.6 The Appellant supplied three Key Rental Transactions in support of his opinion with Net Effective Rents for Retail Zone ranging from €405 to €854 per sq.m.

8.7 In summing up, Mr. Sharkey stated that the property had been valued in line with similarly circumstanced properties and that a fair allowance of 10% across the board reduction had been granted due to the particular circumstances of the subject property. The property had been valued in accordance with Section 48 and section 19(5) of the Valuation Act.

9. SUBMISSIONS

9.1 There were no legal submissions by either party.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct, equitable and uniform 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.

10.2 Both parties have agreed on the floor areas, use and divisions applied to the subject property. The parties have disagreed on whether a zoning approach is an appropriate scheme of valuation for the subject property. The Tribunal considers that a zoning scheme is appropriate for the retail element of the subject property.

10.3 Both parties are agreed that the subject property is adversely affected by the location of the O'Connell Monument in front of the subject property. The parties disagree on the allowance that is appropriate due to the circumstances. The Tribunal accepts the evidence of the Appellant that pedestrian access to the property is restricted by the location of the O'Connell Monument and that while the property benefits from a high profile on O'Connell Square, it does not benefit from passing pedestrian traffic in the normal sense whereby pedestrians pass the shopfront whilst walking down a shopping street.

10.4 The Tribunal agrees with the Respondent that the subject property is old and not a purpose-built modern retail unit and, in this sense, differs from comparable properties put forward by both parties. The absence of toilet facilities within the property is also a factor when considering an appropriate NAV for the subject property.

10.5 The Tribunal considers that the Respondent's NAV Comparison 1 is the most relevant comparison property to the subject and this was discussed between the parties in cross examination. NAV Comparison 1 is located on O'Connell Square and is in close proximity to the subject property. The property is a modern building that previously traded as a bank premises and currently is occupied by a pharmacy business. It is located on the other side of the O'Connell Monument; however it is not obscured to the same extent as the subject property. The tribunal considers Respondents NAV Comparison 1 to be a superior property to the subject as it occupies a more advantageous trading position with a better profile and is a more modern building with a large window shop front.

10.6 Having considered both parties submissions and evidence before the Tribunal, the Tribunal most consider the quantum of reduction/allowance that is appropriate for the subject property. The Tribunal considers that the 10% allowance applied by the Respondent is too low. The Tribunal considers that an allowance of 25% is appropriate given the restricted access, lack of immediate footfall, the age of the property and the absence of toilet facilities.

