

Appeal No: VA23/5/0896

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Aviva Life & Pensions DAC

APPELLANT

and

Tailte Éireann

RESPONDENT

In relation to the valuation of

Property No. 519605, Retail (Shop) at Units 3 - 6, 57 – 59 Blackrock Shopping Centre,
Blackrock, County Dublin.

B E F O R E

Majella Twomey – BL

Deputy Chairperson

Caroline Murphy – BL

Member

Suzy Quirke – MSCSI, MRICS, Dip. Arb. Law

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 5TH DAY OF DECEMBER 2025

1. THE APPEAL

1.1 By Notice of Appeal received on the 17th 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 €90,000.

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 valuation is excessive and inequitable owing to prevailing rents in the Blackrock Shopping Centre. Bricks and Mortar retail remains a challenge to fill in a post-covid environment. At the time of writing there are 6 units available in the centre and those which have let most recently have substantial tenant inducements. A full schedule of rents is available and will be provided to the Commissioner for analysis.

2. Fundamentally, the appellants agree with the Commissioner's approach to divide the centre by level and value with a discount on the Main Street level (bottom), versus the front car park level (top). However, the rate per metre applied on each floor is excessive. The appellants believe that a level of €650/m² should apply on the top level, whilst a level of €550/m² should apply on the bottom. This must be further adjusted for size, in that units of under 30m² ITZA should be loaded by 10%, and those over 100m² ITZA should be discounted by 10%. At present, the schematic is the most out of line with the rents on the largest units.

3. In the alternative, the largest units can be valued on an overall basis and the ITZA level adjusted accordingly for the remainder.

1.3 The Appellant seeks a remedy that the NAV be reduced in line with its actual potential rental value and the emerging tone of the list.

2. REVALUATION HISTORY

2.1 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 €90,000.

2.2 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €90,000.

2.3 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.

2.4 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 an oral hearing held remotely, on the 25th day of June, 2025. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), Ba. (Mod) of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Claire Callan 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 his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

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

4.1 The Property comprises a Ground and First Floor retail unit, Units 3-6 , in Blackrock Shopping Centre, in current use as a dental practice and formerly an AIB Bank branch.

4.2 The valuation of the First Floor has been agreed between the parties at €155 psm and accordingly does not form part of these submissions.

4.3 The units comprise three adjoining units occupied by Blackrock Dental MOG Limited and fitted out internally as a dental surgery and the Ground Floor comprises a waiting area, X-ray room and individual treatment rooms. The property is one of a small number of 'external units' in the Shopping Centre and access is only from the Main Street. The property cannot be accessed from inside the Shopping Centre.

4.4 Blackrock Shopping Centre is arranged over the Ground Floor with external access from Main Street, Blackrock and First Floor which is accessed from the centre's car park and Rock Hill.

4.5 Units 3-6 were let on a 15 year lease on IRI terms from 7 July 2022 with 5 yearly rent reviews and a tenant break option in Year 10. The rent is €90,000 pa and a 22 month rent free period was provided.

4.6 The agreed Ground Floor area is 186.2 sq m. It has been agreed that owing to the particular shape of the unit, that it would not be appropriate to 'zone' the units owing to the depth to width ratio.

5. ISSUES

5.1 The issue in this Appeal is 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.”

6.3 Section 19 (5) of the Valuation Act 2001 (revised) sets out as follows -

The valuation list 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.....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....

7. APPELLANT'S CASE

7.1 Mr Halpin outlined that the appeal was solely in relation to the Ground Floor as the First Floor of Blackrock Dental had been agreed at €155 per square metre overall.

7.2 Mr Halpin continued by stating that the case was all about rent. He set out that the unit had been let at €90,000 per annum from July 2022, with a 22 month rent free period, and this analyses at €57,000 per annum to the first rent review and €73,500 per annum to the break option. He said that this reflected the size and shape of the unit and he contended that this rent was at odds with what the Respondent contended was the tone of Main Street, Blackrock. He stated that none of the Commissioner's comparisons are of a similar size or shape and in addition that the evidence comprised lease renewals and not new lettings.

7.3 Mr Halpin said that the unusual shape of the unit lent itself more correctly to an overall figure as it was not appropriate to consider Zone A in this instance. He said that the Commissioner was taking the established Main Street Zone A of €850 and applying a 40% reduction to arrive at the valuation of €510 psm overall. He contended that he was more correctly looking at the rent in arriving at the NAV.

7.4 Mr Halpin particularly referred to GLS Foods, NAV Comparison No 1 part of which was located external to the Shopping Centre, located on Rock Hill on the return frontage onto the car park of the centre and valued at an NAV of €270 psm overall. He said that substantial incentives

had been agreed here in the form of a stepped rent but that the unit was superior to the subject in that it had access from within the Shopping Centre and had a food use. He said it was clearly the most comparable of the comparisons as it had been valued on an overall basis and was a far larger unit at 406.2 sq m, to any of the other comparisons offered.

7.5 Mr Halpin cited NAV Comparison 3, Lloyds Pharmacy as having dual access from inside the Shopping Centre and from the Main Street. However, he stated that the tenant had oriented the unit to provide access from the centre and not from the Main Street and had in fact screened off the windows and doors to the Main Street. He submitted that this implied a shopping centre unit must be superior to Main Street unit at this part of the centre/street.

7.6 Mr Halpin contended that the most directly comparable evidence was to be found in Comparison 1, GLS Foods, 86-90, Blackrock Shopping Centre. He said that this unit was valued at €270 psm, on an overall basis and the basis on which it was valued rendered it most suitable to assist in the valuation of the subject.

7.7 Mr Halpin stated that a dental practice is a service-based business and that dental practices generally would not consider retail units. He said that, in this case, Savills could not achieve a letting to a traditional 'retailer' because of the location, size and shape of the unit and the dental practice was a 'best case scenario' achievable on the open market.

7.8 Mr Halpin referred to his other comparisons on the basis that a hypothetical dentist would look at other dental practices. He said that NAV Comparisons 4 and 5 were dental practices in Sandycove and Blackrock respectively and were valued as offices at €240 psm on the Ground Floor. He said that NAV Comparison 7 was valued at €240 on the Ground Floor and was an office unit but it had the same zoning as the subject and could potentially be used as a dental practice. He said alternatively if you considered it to be a retail unit then the dentists 'outbid' the retailers and it should be valued in accordance with GLS Foods, Comparison 1 at €270 psm overall.

7.9 Mr Halpin concluded by saying that at an agreed €155 psm on the First Floor and €210 psm on the Ground Floor the resulting NAV was €56,000, slightly less than the average rent to the rent review.

7.10 In his precis Mr Halpin took the valuation of the GLS Foods unit, Units 86-90, Blackrock Shopping Centre as being the accepted valuation of First Floor External at €270 psm overall. He held that the accepted differential between First Floor (internal) Blackrock Shopping Centre at Zone A €700 psm and Ground Floor (internal) Blackrock Shopping Centre at Zone A €550 psm was 27%. He then applied a 27% reduction to €270 psm overall to arrive at €210 psm and contended that this was the appropriate Ground Floor (external) valuation on an overall basis of the subject to give a valuation of the entire unit as follows –

Floor	Area sq m	Rate € psm	€ NAV
First	111.7	Agreed 155	17,313.50
Ground	186.20	210	39,102.00
TOTAL			56,415.50 Say €56,400

Cross examination

7.11 In cross examination Ms Callan queried Mr Halpin on his use of NAV Comparisons 4 and 5 which she contended are residential streets. Mr Halpin concurred that these are not retail units. He insisted that it did not matter whether the units were classified as retail or as some other use class, the rent being paid by the tenant was still the highest offer that was available to the Landlord.

7.12 In summing up, Mr Halpin stated that they could not get away from the fact of the rent being paid in the units. He says the Commissioner is saying NAV Comparison 5 on the other side of the road is valued at €510 psm overall so they are saying that should be the benchmark in spite of substantially lower rent being paid in the subject. He says the more appropriate comparison is his NAV Comparison 1 (GLS Foods) with an overall valuation of €270 psm. He referred again to the office rents, submitted by him, of €240 psm Zone A and he said that the valuation of the subject

should lie between the €240 psm of the 'office' rents and the €270 psm in the GLS unit. He said the absolute rent was €90,000 before you take account of the significant rent free of 22 months and the appropriate level was €210 psm overall.

8. RESPONDENT'S CASE

8.1 Ms. Callan stated that Blackrock Dental had no access from the Shopping Centre and that it must therefore be considered a Main Street retail unit. She said there was a well-established tone of €850 psm Zone A for Main Street Blackrock.

8.2 She cited NAV Comparison 1 was located directly opposite the subject and was valued at Zone A €850 psm. She said the overall rate on this property was €474.81 and she was proposing that the subject property be valued at €510 psm on an overall basis as in the case of NAV Comparison 5. She asserted that it was appropriate to assess this Comparison on an overall basis as it did not have a properly retail façade or layout, being a former Post Office. She said that it was also appropriate to value the subject on an overall basis as its configuration was not standard for a retail unit and zoning was not appropriate

Cross examination

8.3 In cross examination by Mr Halpin, he put it to Ms Callan that the subject's rent was the only rent of its scale and that between the two of them neither had any rental information at that shape and size to which she concurred. Mr Halpin asked if the unit was unique, why no weight was being put on the rent being paid by the tenant in that context, Ms Callan responded that they had a number of rental transactions and a well-established tone and that the Chief Operations Officer had not wanted to single out two units associated with Blackrock Shopping Centre. Mr Halpin put it to Ms Callan that she was already singling out the unit by valuing it on an overall basis as opposed to Zone A €850 psm. She responded that she had adopted a 'stand back and look' approach as valuing the unit at Zone A €850 psm, would have resulted in an NAV of €125,000 which she said appeared to be 'steep'.

Mr Halpin then asked why the NAV of the GLS Foods unit was not taken into account to which Ms Callan responded that it was a unique unit, split level and accessed by steps from the corner of

Rock Hill by steps up from the ramp of the car park accessed by steps. She said it had some relevance, but not much and she therefore had not included it in her comparisons.

8.4 She said NAV Comparison 5 was valued at an overall rate of €510 psm and that was because it was a café located in the former Post Office and that it did not have a traditional retail façade or presence. Mr Halpin countered that the occupant, Starbucks, had since actually opened another coffee shop (NAV Comparison 4) very close to NAV Comparison 5 but had overlooked the subject on the grounds of its size and shape.

8.5 Mr Halpin asked if Ms Callan agreed that the subject, if located in the heart of the Main Street would be valued at €850 psm Zone A, as it was not an attractive proposition owing to its size and shape, to which she agreed that it was certainly larger than a standard retail unit.

8.6 In her summing up Ms Callan referred to the Tribunal decision VA20.1.0016 which concerned a retail unit in Mullingar in which a dental practice, Maguire Dental Care had set out their grounds of appeal as being that their premises was not being valued by comparison with other similar uses, namely medical and dental, for which planning permission had been obtained, and that comparable evidence in retail units was not relevant. In that Appeal, the Tribunal held that the premises was located in a retail parade and could operate as a retail unit even though it had planning permission for dental use.

Ms Callan said that the subject was located on Main Street and had no direct access to the Shopping Centre and had been valued in line with the rental evidence in the local authority. She said that the unit should be valued as a shop as it was located in a parade of shops and could operate as a shop and potentially be used as a shop. She said the Appellant had relied upon some evidence in Blackrock Shopping Centre and dental surgeries in nearby locations.

She said that in an ideal world they would be able to rely on 50 new lettings but in a hierarchy of evidence rent reviews and lease renewals are deemed to be appropriate. She said that none of the Main Street revaluations were under appeal. She referred to Maguire Dental Care in Mullingar

where the Appellants failed in their appeal of the valuation on the grounds that the unit, although located on a retail parade, should have been valued with reference to other medical/dental uses.

She said that the Appellant had not provided sufficient evidence to dispute the revaluation of €112,000.

Mr Halpin countered with reference to clause 10.4 of that judgment which set out that the Appellants were lay Appellants and were unable to provide any evidence that dental practices could be valued as offices. Ms Callan said that the premises could be valued as a shop even if in medical/dental use.

9. SUBMISSIONS

9.1 There were no legal submissions.

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 Dun Laoghaire Rathdown County Council.

10.2 The NAV must be established in accordance with Section 48 (1) and (3) and Section 19 (5) of the Valuation (Amendment) Act 2015. These provisions call for the subject to be valued 'relative to the value of other properties comparable to that property on the valuation list in the rating authority area' in accordance with correctness of value, equity and uniformity. Properties which are similarly circumstanced are considered comparable and this means they share characteristics such as use, size, location and/or construction.

10.3 Units 1-2 and Units 3-6 are the only units in Blackrock Shopping Centre which do not have access from within the shopping centre. Their only access is from the main street, hence the Respondent's contention that they fall in with the tone of the list for Main Street, Blackrock.

10.4 The Respondent has set out that there is an established tone of Zone A €850 psm on Main Street, Blackrock. Ms. Callan made the point that out of the entire revaluation of Blackrock only two units were appealed, the subject and their adjoining Unit 2. She has contended that this represents an appeal rate of 1.96% and that therefore the ratepayers of Blackrock are in the main very happy with the revaluations. The Appellant does not concur with this contention as it is common case that the ratepayers' rates bills have generally fallen therefore they have no reason, in his opinion, to appeal the revaluation. He also submitted that the ratepayers of Blackrock Shopping Centre were satisfied with the revaluation of their units at Zone A €850 psm until the landlord, Aviva, initiated the appeal of said revaluations and succeeded in having all the units' NAVs reduced to Zone A €700 psm. He submitted that this undermines the Respondent's claim that because tenants do not appeal a revaluation, this indicates that the revaluations are correct and correctly aligned with the rents reserved.

10.5 The Tribunal has considered the evidence set out by the parties. The Appellant is relying heavily on firstly, the rent being paid by the tenant in this instance and secondly, the NAV of Comparison 1 as set out in his precis. The Tribunal finds that NAV Comparison 1 is not in any way 'similarly circumstanced' in that it is twice the size, has a full-food use, and is located not on the main street in Blackrock but at the apex of the Main Street and Rock Hill or the front of the office building Trident House and the Rock Hill pedestrian entrance to the centre which leads shoppers straight into the anchor tenant SuperValu. Due to these significant differences between the properties, the Tribunal, therefore attaches minimal weight to the said NAV comparison, and finds it to be of much less assistance to the Tribunal than the Appellant claims, other than the fact that the property has been valued on an overall basis.

10.6 The Tribunal notes, however, the Respondent's reliance on NAV Comparison 1 in her precis which is analysed at an overall rate of €474.81 psm (Zone A €850 psm). The Respondent has sought to value the subject property at an overall rate of €510 psm in spite of it being an inferior unit in terms of its shape to her NAV Comparison 1.

10.7 The Tribunal does not accept the Appellant's NAV Comparisons 4, 5, 6 or 7 as comparable or similarly circumstanced to the subject property. Comparisons 4 and 5 are located on residential

streets, comparison 6 was included to assist with the determination of the first floor, which has since been agreed and the location and character of 7 is not comparable enough to assist the Tribunal.

10.8 The Appellant's contention that it is not necessary to look at the NAVs of retail units on Main Street when the evidence is already there in the rent being paid by the dental practice, ignores the statutory requirement of Section 19 (5). The Tribunal finds that the date of the valuation is relevant at 1 February 2022. The Tribunal notes Mr Halpin's contention that the lease terms agreed were the best available at the time. The Tribunal considers that the rent-free periods, stepped rents and similar incentives were in part a reflection of the Covid-19 pandemic and in-part an indication of the attractiveness of the unit itself.

10.9 The Tribunal finds the Respondent's inclusion of NAV Comparison 5, to be useful in that it was analysed on an overall basis owing to its size and shape. The Tribunal finds that the subject should also be valued on an overall basis owing to its size and shape. The Tribunal notes the Respondent's assertion that if valued on a zoned basis the entire unit would fall within Zone A and a Zone A €850 psm would result in an NAV which the Respondent contended would be a 'bit steep'.

10.10 The Tribunal notes the Appellant's NAV Comparison 3 and finds it to be the most similarly circumstanced to the subject. It is located immediately to the right of the pedestrian entrance into the centre while the subject is immediately to the left.

10.11 The Tribunal finds that the subject is similarly located and circumstanced to the Lloyd's pharmacy unit and accepts the Respondent's methodology of valuing the unit on an overall basis. The Appellant's comments regarding the attractiveness of the unit to the retail trade are noted.

10.12 The Tribunal notes the Respondent's valuation of the unit using the overall basis of €510 psm as seen in her NAV Comparison 5, and accepts this methodology but finds the overall valuation of €364 psm as seen in the Appellant's NAV Comparison 3, Lloyd's Pharmacy, to be more suitable in light of their opinion that the Appellant's NAV Comparison 3 is more similarly

circumstanced in terms of location, size and character to the circumstances of the Respondent's NAV Comparison 5, Starbucks (Post Office). The Tribunal finds that this is the appropriate benchmark at which to consider the valuation of the subject property.

10.13 The Tribunal notes that the Appellant's opinion on value on notice of appeal as being €61,900 but in his precis of evidence submitted €56,400.

10.14 The Tribunal notes the NAV on the list of €90,000 and the valuation in the Respondent's precis of €112,000.

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 €85,000

Floor	Area sq m	Rate € psm	€ NAV
First	111.7	Agreed 155	17,313.50
Ground	186.20	364	67,776.80
TOTAL			85,090.30 Say €85,000

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.