

Appeal No: VA23/5/1121

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

GIRAFFE CHILDCARE

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2200770, Miscellaneous at Block 4 AD Cherrywood Science and Technology Park, Loughlinstown, County Dublin.

B E F O R E

Mr Michael Brennan - BL, MSCSI

Deputy Chairperson

Mr Ray Finlay - FIPAV, MMII, ACI Arb, TRV, PC

Member

Mr TJ Kearns - B.Sc. (Surv), MRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF NOVEMBER, 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 €174,100.

1.2 The grounds of appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

(a) The Valuation is Incorrect. The determination of the valuation of the property is not a determination of its value that accords with that required to be achieved by section 19(5) of the Valuation Act, 2001 as amended by the Valuation (Amendment) Act, 2015 (the Act

(b) The Valuation does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list. It does not achieve correctness of value, as the car spaces are itemised in this valuation whereas they are not itemised in other comparable properties.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of € 136,600.

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 €230,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €174,100.

2.3 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €174,100.

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

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing on the 25th day of February, 2025 held remotely by Zoom. At the hearing the Appellant was represented by the Ms Sarah Finnegan BA, BSc (Hons), MPhil Assoc SCSi surveyor of Avison Young and the Respondent was represented by Ms Claire Callan MSc Planning & Development, BSc Surveying from 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 her précis as their 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 is located within Cherrywood Business Park approximately 14km south of Dublin City Centre within easy access of the N11 and M50 routeways. The location is well served by the Luas Green line and various Bus routes in the locality.

4.2 The subject property comprises a ground floor Creche facility in a four storey over basement modern office building which was originally constructed to office specification and subsequently converted into Creche use around 2007.

4.3 Internally the Creche is fitted with suspended ceiling and air conditioning and includes the usual kids rooms, staff/office rooms and ancillary facilities to function as a Creche.

4.4 Externally the property has the benefit of rear access and outdoor play area. There are a total of 18 car spaces which are used as “set down only” spaces for Creche users to drop and collect children.

4.5 The Gross Internal area is agreed between the parties at 718.97 sq.m.

4.6 The property is held under a 20 year lease from 12th June 2007 at an initial rent of €231,075 pa and a Deed of variation signed by the parties dated 12th June 2014, reduced the rent to €176,306 from 1st of July 2012 to 30th June 2015. A further Deed of Surrender and Deed of Variation dated 29th of June 2016 reduced the rent to €125,000 which was the rent paid by the tenant at the valuation date 1st of Feb 2022.

5. ISSUES

5.1 The single issue to be decided in this case 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 Ms Finnegan, for the Appellant sought a valuation of €159,100, calculated as follows:

Level	Use	Area	NAV psm	Total NAV €
0	Creche	718.97	€190	€136,604
Total				
			NAV Rounded	€136,600

7.2 Ms Finnegan on behalf of the Appellant contends that equity and uniformity of value have not been achieved between comparable properties and further believes that the subject property has

unique considerations which differentiate it from similarly categorised properties in the List including location, size and layout.

7.3 Ms Finnegan states that the rent paid by Giraffe Childcare Ltd from June 2016 of €125,000 pa also includes the car spaces and the rent review provisions contained in the lease states that rent includes the car spaces for rent review purposes.

7.4 Ms Finnegan stated that the external areas of the Property were reconfigured in 2019. She confirmed that there was originally 21 car parking spaces (10 at basement level and 11 and ground level) when the Property was converted to a creche in 2007. She also stated that 18 car parking spaces are included in the demise of the leased property and these spaces function as a set-down area for picking up and dropping off, rather than traditionally used car parking spaces. She referred to a photograph of the set-down area on page 17 of her précis of evidence.

7.5 Ms Finnegan is firmly of the view that an appropriate number of car parking spaces and set down areas are an integral function of a Creche and necessary for dropping and collection of children. Ms Finnegan also provided an excerpt from “Early Learning and Care Settings, Site Location, Approach and Design” which outlines the necessity of car parking spaces in proper functioning of a creche.

7.6 Ms Finnegan introduced four NAV comparison. All comparisons have 'set down' car spaces allowed for in the rate applied to their overall NAV, as follows:

NAV Comparison 1 PN2193274

A self contained ground floor Creche in Cherrywood, Dublin 18 comprising 458.56 sq.m.

Part of a modern residential three storey building with outdoor play area and car parking included in the NAV €190 rate.

Creche 458.56 sq.m. @ €190 per sq.m. NAV €87,100

NAV Comparison 2 PN2174597

A substantially smaller Creche in Nutgrove Office Park Dublin 14 comprising Ground Fl 97.5 sq.m. and First Fl 99 sq.m. with car parking included.

Creche	G Fl 97.5 sq.m.	@ €180 per sq.m.	€17,550
Creche	G Fl 99 sq.m.	@ €180 per sq.m.	€17,820
Total		NAV	€35,300

NAV Comparison 3 PN2183193

A smaller Creche over two floors in Sandyford, Dublin 18 comprising Ground Fl 398.04 sq.m. and First Fl 64.78 sq.m. with designated set down and pick up space included in overall NAV.

Creche	G Fl 398.04 sq.m.	@ €190 per sq.m.	€17,627
Creche	G Fl 64.78 sq.m.	@ €190 per sq.m.	€12,308
Total		NAV	€87,900

NAV Comparison 4 PN2205023

A smaller ground floor Creche in Shankhill, Dublin 18 comprising 235 sq.m. and forming part of a modern residential development with Creche set down car parking area included in the NAV.

Creche	235 sq.m.	@ €190 per sq.m.	NAV €44,600
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7.7 Under cross-examination, Ms Finnegan confirmed the only issue in contention is the inclusion of car parking spaces as a distinct value item in the Respondent's valuation. She confirmed that the car parking spaces are included in the lease under which the Appellant occupies the property. It was her contention that notwithstanding the Appellant had exclusive use of the car parking spaces, that they were not of value to the Appellant. She further stated that she was unsure if 18 car parking spaces were required for the business of the occupier.

7.8 It was put to Ms Finnegan that the car spaces comprise of relevant property under schedule 3 of the Act and therefore had to be valued. Whilst she agreed with this, she also stated that there must be equity and uniformity and that the Property should be valued in line with her NAV comparisons.

7.9 Ms Finnegan contended that the car parking is more a requirement that crèches “have to have” than an enhancement of sorts. Notwithstanding that the Appellant has exclusive use of the spaces, she stated that third parties could also use them from time to time as accessibility to the spaces is not fully controlled. She did not deny that the car parking spaces were exclusive to the Appellant but stated that they did not add value.

7.10 When asked by the Tribunal if there was additional staff parking, she was not fully certain if staff used the car parking spaces.

7.11 In summarising her evidence, Ms Finnegan stated that the passing rent as per the lease of the property from 2016 was €125,000 inclusive of car parking spaces and noted the significance of this. She stated that there was an obligation on the Appellant to have car parking spaces for safety reasons and that her comparisons supported the exclusion of a separate valuation for car parking spaces.

8. RESPONDENT’S CASE

8.1 Ms Callan, for the Respondent sought a valuation of €159,100, calculated as follows:

Level	Use	Area	NAV psm	Total NAV €
0	Creche	718.97	€190	€136,604
	Car spaces	18	€1,250	€22,500
Total			NAV	159,104
			NAV Rounded	€159,100

8.2 Ms Callan described the property and location using photographs, floor plan and location map contained in her precis. The subject property is described as in good condition with the benefit of an external play area and a total of 18 car spaces.

8.3 Ms Callan confirmed that the floor areas are agreed at 718.97sq.m. and that the only issue for consideration is the inclusion of the car spaces in calculating the NAV.

8.4 Ms Callan notes that properties that are “similarly circumstanced” are considered comparable and notes that comparable properties share characteristics such as use, size, location and or construction. Reference is also made to market evidence underpinning the valuation scheme and Ms Callan puts forward three Key Rental Transactions to assist in developing an appropriate scheme as follows:

Property No	Address	NER per sq.m @ Feb 2022	NAV €
PN - 2166666	Sandyford D 18	€174	182,900
PN - 2196331	The Cubes Sandyford D18	€181	95,400
PN - 2193274	Tullyvale Cherrywood	€197	87,100

8.5 Ms Callan notes that there is a total of 20 purpose built Creches under revaluation in the Dunlaoghaire Rathdown County Council and that the subject property is not the only facility that has the car parking area valued.

8.6 In addition to the application of the scheme which Ms Callan notes is only the starting point, in developing an appropriate scheme of valuation, Ms Callan put forward four NAV comparisons in support of her valuation, as follows:

Property No	Address	NAV per sq.m/Car sp	NAV €
PN - 1190079	The Park, Blackthorn Rd	864 sqm @€190/€1250	182,900
PN - 2196331	The Park, The Cubes	545 sqm @€190/€1250	95,400
PN - 2195174	Once upon a Time, Crofton	225sqm @€190/€1250	46,500
PN - 2185251	Narnia Rockfield	295.54sqm @€190/€1250	57,400

8.7 Ms Callan answered a number of questions in relation to her Key Rental Transactions. The Tribunal asked Ms Callan if it was normal to have 18 car parking spaces to be only used as a set-down area. She stated that there was evidence of parked cars in her précis of evidence and it was her view that these were staff cars using the associated spaces.

9. SUBMISSIONS

9.1 The Respondent included the High Court judgement in the – Commissioner of Valuation v’s Seven Wonders Ltd case, 2019 No 1370 SS in Appendix 3 of her Precis.

9.2 This High Court judgement refers to the VA 14.5.952 Seven Wonders case which overturned the judgement of the Valuation Tribunal to not include the street furniture in the valuation of a coffee shop in the IFSC in Dublin. In this case the respondent notes that the Seven Wonders case refers to the inclusion of street furniture as opposed to car spaces.

9.3 Ms Callan contends that the subject case and the Seven Wonders case are not dissimilar and that the car spaces are “relevant property” satisfying the four necessary occupier requirements for Rateable Valuation under Schedule 3 of the Valuation Act of 2001.

- (i) There must be actual occupation.
- (ii) The occupation must be exclusive.
- (iii) The occupation must be of value or benefit to the occupier.
- (iv) The occupation must not be for too transient a period.

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 Laoighre Rathdown Co Council.

10.2 The Tribunal notes that while the Commissioner’s Certificate of Valuation dated the 15th of Sept 2023 was €174,100 and that the Respondent in her evidence to the Tribunal put forward a revised valuation of €159,100.

10.3 Both parties have adopted a rate of €190 per sq. m. as the appropriate rate on the floor areas and is not in controversy.

10.4 The Appellant has put forward four of the list NAV comparisons in the submission and all of these comparisons have set down car spaces included in the rate applied to their overall NAV. There was no market evidence or legal submissions included in the submission. Notably, the Appellant did not provide any reasonable grounds to prove that the comparisons submitted by her were more appropriately circumstanced to the Property in comparison to the Key Rental Transactions and NAV comparisons submitted by Respondents.

10.5 The Respondent has put forward four NAV comparisons together with three Key Rental Transactions, to assist in underpinning the valuation scheme. The Respondent also included a legal submission in the form of a High Court judgement in the Commissioner of Valuation and Seven Wonders Limited case to support the inclusion of the car parking spaces. The Tribunal accepts that this case further supports the additional rate of €1,250 per car space for the 18 car spaces with the subject property.

10.6 The Tribunal finds that the Appellant did not put forward sufficient evidence or argument to discredit the Respondent's comparisons comparability or relativity to the Property. The Tribunal finds that the market and comparative evidence put forward by the Respondent demonstrates that both correctness and equity and uniformity of value have been achieved in this case.

10.7 The Tribunal finds that even if the car parking spaces are not of benefit to the Appellant's method of operation, this is not grounds for exclusion of them in the valuation having regard to valuation provisions of the Act.

10.8 The Tribunal finds that in this appeal, that the onus of proof rests with the Appellant. This has been stated and affirmed on multiple occasions and remains the guiding principle for the Tribunal's determination.

10.9 The Tribunal finds that the Appellant has failed to demonstrate that the valuation levels proposed by the Respondent are incorrect.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the revised valuation of the Respondent.

Level	Use	Area	NAV psm	Total NAV €
0	Creche	718.97	€190	€136,604
	Car spaces	18	€1,250	€22,500
Total			NAV	159,104
			NAV Rounded	€159,100

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.