

Appeal No: VA20/4/0106

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BELGOOLY CHILDCARE LTD

APPELLANT

AND

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 5022058, Property Type: Creche, Address of Property: Cluain An Oir, Lybe,
Belgooly, County Cork.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF MARCH 2026**

BEFORE

Ken Enright - Solicitor

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 17th day of November, 2020 the Appellant appealed against the determination of the Respondent pursuant to which the rateable value of the above relevant Property was fixed in the sum of €83.

1.2 The valuation of the Property falls to be determined from a decision made by the revision manager under section 28(4) of the Valuation Act 2001 as amended ('the Act') that a material change of circumstance occurred since a valuation under section 19 of the Act was last carried out in relation to the rating authority area in which the Property is situate. Accordingly, the value of the Property must be ascertained by reference to values, as appearing on the valuation list for the rating authority area wherein the Property is situated of other properties comparable to the Property.

1.3 The sole ground of appeal as set out in the Notice of Appeal is that the valuation of the Property is incorrect as it does not accord with that required to be achieved by section 49 of the Act because: "*a) [e] Other Grounds. The business is a childcare facility. The water*

supply and street lighting is poor. The common areas are not maintained by Cork County Council. The company contributes to the maintenance of the common areas. Community crèches are exempt from rates. This is unfair competition and breaches EU law. The issue of rates for crèche is currently subject to legal action. Wifi service is poor. The imposition of rates could jeopardise the survival of the crèche.”

1.4 The Appellant, in his Notice of Appeal, states that the valuation of the Property ought to have been determined in the sum of €40

2. VALUATION HISTORY

2.1 A Revision Officer appointed under section 28(3) of the Act exercised their powers under Section 28(4) of the Act in relation to the Property on the basis that by reason a material change of circumstances had occurred since a valuation under section 19 was last carried out in relation to the rating authority area of Cork the Property ought to be included in the list as relevant rateable property and a valuation carried out.

2.2 On the 22nd day of October, 2020 a copy proposed valuation certificate issued under section 28(6) of the Act in relation to the Property was sent to the Appellant indicating a valuation of €83.

2.3 A final valuation certificate issued on the 12th day of November, 2022 stating a valuation of €83.

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 accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

3.3 The Tribunal makes its decision based on the following documents, being the only documents presented to it by the parties:

- (a) A letter from Mr. Thomas Stapleton, a director of the Appellant company, to the Tribunal dated 29 April 2024.
- (b) Précis of Evidence from the Respondent's representative Mr, Andrew Cremin, which contained in Appendix 1 a copy of the Valuation Certificate of 12 November 2020 and, in Appendix 2, a copy of the Appellant's Notice of Appeal.

4. FACTS

4.1 The Tribunal notes the following matters are not in dispute between the parties and finds them as facts.

4.2 The Property is a purpose-built childcare facility located in a housing estate in the village of Belgooly, County Cork.

4.3 The Property has a ground floor area of 251.90m² and a first floor area of 112.72m², making it 364.62m² overall. It is well-presented, in good condition, on a landscaped site with plenty of parking.

4.4 The material change of circumstances that occurred was the coming into being of the property as a newly constructed childcare facility that had not been previously valued.

5. ISSUE(S)

5.1 Quantum.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references 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.

6.2 Section 3(1) of the Act, so far as material to this appeal, includes in the definition of "material change of circumstances" the following:

"the coming into being of a newly erected or newly constructed relevant property or of a relevant property"

6.3 If a revision manager is satisfied that a material change of circumstances as defined by section 3 of the Act has occurred since a valuation under section 19 of the Act was last carried out in the rating authority area in which the Property is situated, the revision manager has power under section 28(4) of the Act to:

*“(i) carry out a valuation of that property, and
(ii) include that property on the list together with its value as determined on foot of that valuation.”*

6.4 Where a property falls to be valued for the purpose of section 28(4) of the Act then, where there are comparable properties in the same valuation list, the value is ascertained in accordance with the provisions of section 49(1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

6.5 Schedule 4 of the Act lists 22 types or categories of relevant property which are designated as “not rateable” by Section 15(2).

6.6 Paragraph 22 of Schedule 4 provides as follows:

22.—Any land, building or part of a building used exclusively for the provision of early childhood care and education, and occupied by a body which is not established and the affairs of which are not conducted for the purpose of making a private profit.

7. APPELLANT’S CASE

7.1 The basis of the Appellant’s appeal was set out in Mr. Stapleton’s letter of 29 April 2024, from which the Tribunal quotes directly, as follows:

7.2 “Despite unprecedented inflation levels the government have continued to cap the level of fees that can be charged i.e. fees are restricted to 2021 levels. There is no such restriction imposed on the community-based childcare operators regarding funding and grants. They

have a serious advantage over private operators giving their access to funding and ability to attract staff by providing accommodation and increased wages/benefits. This has resulted in many private creche operator closing their doors.”

7.3 *“During the period 1st of January 2024 and 31st of March 2024 government funding accounts for 50% of the overall turnover for Belgooly Childcare Ltd. The government is committed to providing support to parents which will increase their overall funding annually to Belgooly Childcare Ltd to circa 75%.”*

7.4 *“Publicly funded childcare providers are exempt from rates- this is clearly in breach of the Competition act 2002 given government restrictions over income that can be charged by private childcare providers and the level of government funding provided.”*

7.5 *“We have requested Cork County Council to provide additional lighting and construct ramps (as the childcare building is part of the overall estate). This is a serious health and safety issue. Given that the council have control over the estate we have no authority to construct ramps.”*

7.6 *“There are inadequate broadband/phone services to the childcare facility.”*

7.7 *“Recently the government have requested details of the financial records i.e. turnover and detailed breakdown of operational costs. Department of Children have also issued guidance regarding pay for staff based on qualification and experience. Again, there are exerting control over the private childcare providers.”*

7.8 *“In summary the government has introduced stringent measures to control the operation of private childcare operators to align them to fully funding community-based childcare operators. Given the income restrictions imposed by government and their input regarding staff wages etc there is minor difference between private operators and publicly funded childcare. Given the above the level of rates imposed by privately funded providers and community base must be aligned. You cannot have unfair competition in this area.”*

8. RESPONDENT'S CASE

8.1 Mr. Cremin in his précis said the subject property was a purpose-built childcare facility located in the village of Belgooly, 6 kilometres northeast of Kinsale and 22 kilometres south of Cork city. He said the property was situated within a small housing estate, Cluain An Oír, located at the edge of the village and close to the junction of the main Cork/Kinsale road.

8.2 He said the subject property was purpose-built on a large site for use as a childcare crèche and play school facility, and was opened in 2013. It was, he said, very well presented externally, with tarmac-surfaced car parking in front of the property and an overflow car park at the left rear side with sufficient drop off/collection vehicle space. The site, he said, was fully developed and landscaped.

8.3 The construction, said Mr. Cremin, was that of a dormer-style building with concrete block walls, a slated low-pitched roof, a plastered and painted external render, and with double-glazed windows. The property was, he said, in good condition throughout.

8.4 He gave the floor areas as follows and said they were not disputed by the Appellant:

	Floor	M2
Creche	0	251.90
Creche	1	112.72
Total	-	364.62

8.5 Mr Cremin, in his précis, also provided Block Plans and internal and external photographs of the property.

8.6 Mr. Cremin said he understood that the property was held in freehold.

8.7 Mr. Cremin in his précis noted that the appellant contended in his Notice of Appeal for a reduction in value of almost 50% but did not make reference to this valuation in his précis of evidence or argue therein for any particular reduction or contend for any exemption. The Appellant, he said, outlined locational issues and various market pressures and focused on matters which were the responsibility of the local authority and the government, not Tailte

Éireann or the Tribunal. He said the Appellant had not presented any evidence in his précis that he could consider or respond to.

8.8 Mr. Cremin said he had considered the terms of Schedule 4, paragraph 22 of the Act and said that all of the services provided at the property were done on a for-profit basis, with a mix of client payments and government support. He referred in this regard to the Appellant’s letter of 29 April 2024 (the passage quoted at paragraph 7.3 of this decision). On the basis of this, and noting that no evidence had been submitted to prove that the subject property qualified under this exemption, Mr Cremin took the view that the property did not qualify as Relevant Property Not Rateable.

8.9 Mr Cremin presented three properties for tone of the list comparisons, in each case providing external photos of the comparison and locating them on a map contained in his précis.

8.10 Respondent’s NAV Comparison 1

Property Number	2166495
Occupier	Giggles Creche
Address	Curra Rd, Inishannon, Bandon, Co. Cork.
Total Floor Area	232. sq.m
RV	€77.00

Use	Area(sq.m)	NAV €(sq.m)	NAV (€)
GF	234.28	47.82	11,203.75
FF	102.80	41.00	4,214.80
		Total NAV	15,418.55
		RV @0.005	77.09
		RV Say	77.0

He said that this was a two-storey, dormer-style, purpose-built childcare facility in a small village location. It had, he said, a marginally smaller ground floor than the subject. No representations had been received by T E and the valuation had not been appealed to the Tribunal.

8.11 Respondent’s NAV Comparison 2

Property Number	1441127
Occupier	Ladybird Creche
Address	Cloghmacsimon, Bandon, Co. Cork P72 K406
Total Floor Area	275.58 sq.m
RV	�56.00

Use	Area(sq.m)	NAV �(sq.m)	NAV (�)
Creche GF	212.00	41.00	8,716.78
FF	63.58	41.00	2,606.78
		Total NAV	11,323.56
		RV @0.005	56.6178
		RV Say	56.0

Mr Cremin said that this property, located in the “Bandon suburbs” near the ring road, had a very small outdoor play area and a smaller floor area than the subject. Unlike the subject, it was not a purpose-built childcare facility: it was, he said, a converted shop. The creche was primarily ground floor with, he said, apartments overhead. No representations had been received by T E and the valuation had not been appealed to the Tribunal.

8.12 Respondent’s NAV Comparison 3

Property Number	2172040
Occupier	A St Leger Playschool
Address	7 Curra Woods, Riverstick, Co. Cork. P43 TH26
Total Floor Area	19.11 sq.m
RV	�4

Use	Area(sq.m)	NAV €(sq.m)	NAV
Playschool (GF)	19.11	47.83	913.89
		Total Nav	913.89
		RV @0.005	4.57
		RV Say	4.0

This property was located in the village of Riverstick, close to the subject and with similar locational factors. Mr Cremin described it as a semi-detached residence with a playschool unit extension. It was very small compared with subject which, Mr. Cremin noted, was not attached to a residence. Notwithstanding this, the same NAV level per square metre had been applied to both properties. Again, like the other two comparisons, the valuation had been accepted by the occupier without representations or appeal.

8.13 Mr. Cremin asked the Tribunal to disallow the appeal and confirm the NAV at €83 on the basis of a valuation of €47.83/m² on the ground floor and €41/m² on the first floor.

9. FINDINGS AND CONCLUSIONS

9.1 On this appeal the Tribunal has to determine whether the value of the Property accords with that which is required to be achieved by section 49 of the Act, namely a value that is relative to the value of other properties on the valuation list of the County Cork rating authority area.

9.2 As Mr. Cremin points out, Mr. Stapleton did not in his evidence contend for a particular valuation. He did, however, in his Notice of Appeal form, in the panel where he was required to state what he considered the valuation ought to have been, enter a figure of €40. Accordingly, the Tribunal takes it that that is the Appellant's estimate of the NAV of the property. Unfortunately, from Mr. Stapleton's point of view, he presented no rental evidence or tone of the list comparisons in support of this figure, no evidence at all in fact that might have assisted the Tribunal in its consideration of the value of €40 that the Appellant, apparently, considered appropriate.

9.3 Mr Cremin also noted that the Appellant did not claim an exemption. Lest the Tribunal be minded to consider one notwithstanding, Mr. Cremin expressed the view that the provisions of

Schedule 4 paragraph 22 did not apply to the Appellant company. Mr. Cremin referred to the Appellant's evidence about its income mix, roughly 50/50 between government support and client fees in Q1 of 2024. No evidence of any entitlement to any exemption was brought forward by Mr. Stapleton and no exemption was applied for; more specifically, no evidence was presented to show that the Appellant was anything other than a body established and conducted for the purpose of making a private profit. Accordingly, the Tribunal finds that Property is not entitled to an exemption under section 15 of the Act by virtue of the provisions of Schedule 4 paragraph 22.

9.4 The Respondent put forward three properties by way of NAV comparisons. Comparison 1 and Comparison 3 were both, like the Property, purpose-built creches. Comparison 1 was similar in size to the subject, though slightly smaller. Comparison 3 was much smaller than the subject and was attached to a residence. Both, like the subject, were located in villages and both were valued at the same ground floor rate as the subject, €47.83/m² (or within €0.01 of it: Comparison 1 was valued for some reason at €47.82/m²). The Respondent's Comparison 2 was valued at a lower ground floor rate of €41/m² presumably because it was not a purpose-built crèche. Comparison 1 and Comparison 2 were both valued at the same first floor rate as the subject €41/m². Comparison 3 was a ground floor property only. The Tribunal finds that the valuation of the Property is commensurate with the valuation of these comparable properties on the same list, valuations which have been accepted by the occupiers of those properties without representations or appeals.

9.5 The Tribunal finds that none of the points made by Mr. Stapleton in his letter of 29 April 2024 – and set out in paragraphs 7.2 to 7.8 herein – are stateable grounds of appeal in that none of them offer any evidence or address any point in regard to the correctness of the valuation, or the correctness of the decision of the Revision Manager that a material change of circumstances has occurred, or whether any detail in relation to the Property as stated in the valuation certificate or the statutory notifications might be incorrect, or put forward any reason as to why the Property ought to be excluded from the list or deemed relevant property not rateable, or provide any evidence as to why the Property might be disadvantaged compared to other named properties in the same list to the extent that it might merit a valuation lower than the tone of the list value for these types of property at a ground floor rate of €47.83/m², or suggest any other basis on which the Tribunal might modify or overturn the decision of the Respondent. The burden of proof is on the Appellant and if it is to be successful in its appeal it

must show why the Respondent's valuation was wrong. The Appellant has failed to discharge that burden.

DETERMINATION:

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

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.