

Appeal No: VA23/5/0577

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BUTLERS

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of

Property No. 2178467, Retail (Shops) at 111 Dundrum Town Centre, Dundrum, Dublin 16.

B E F O R E

Barra Mc Cabe - BL, MRICS, MSCSI

Deputy Chairperson

Mema Byrne - BL

Deputy Chairperson

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 29TH DAY OF APRIL 2026

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 €250,000.

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:

"The Valuation is excessive and inequitable."

1.3 In the Notice of Appeal, the Appellant considers that the valuation of the Property ought to have been determined in the sum of €210,000. The Appellant reduced their valuation further in their précis to a sum of €176,000.

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 €250,000.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €250,000

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 held remotely on the 30th day of January 2026. At the hearing, the Appellant was represented by Mr Terry Devlin of CBRE, and the Respondent was represented by Mr John T Kelly, Senior Executive Valuer 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

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

4.2 The Property is a kiosk located on Level 1 of the retail scheme called Dundrum Town Centre.

- 4.3 Dundrum Town Centre is acknowledged to be one of the best shopping centres in Ireland with 2,500 car spaces over a number of levels.
- 4.4 The Property is on level 1 (Ground Floor) of the Centre and comprises an open kiosk unit with seating for approximately 60 customers with a dedicated raised external terrace located to the rear of the unit, accessible via steps, which is part covered with awning, and there is an external store located at basement level -1.
- 4.5 The floor areas are agreed with the retail area extending to 135 sq.m, external terrace of 30.20 sq.m and external store of 23.52 sq.m, with a total floor area extending to 188.72 sq.m.
- 4.6 It is let on a 25 year lease from 03 March 2005 on an upwards only rent basis. The initial rent was €115,000 and the passing rent on the statutory valuation date was €270,000. The passing rent was agreed on review in 2015 with no increase at the 2020 or 2025 review.

5. ISSUES

- 5.1 The singular issue in dispute 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 Devlin brought the Tribunal through details about the Property including, description, location, use, the market, tenant mix, principles of measurement and rating along with a number of images of the Property and a location map. In addition, he submitted into evidence details of three NAV comparisons details of which are included at Appendix 1 of this determination (N/A to public). In the opinion of the Appellant the Property should be valued at a NAV of €176,000.

7.2 Mr Devlin said the initial rent was €115,000, which increased in 2015 to €270,000. In his opinion, that level of rent was not necessarily a market rent as at the statutory valuation date because the the passing rent did not necessarily reflect the market rent of the Property. He said one of the biggest issues for his client in this case is the impact of the increase in valuation on their actual rates liability. The rates liability pre-valuation was €22,300 and a result of the new valuation of €250,000 that the Respondent was seeking, this liability would increase to €51,900, which is a very significant increase and difficult increase to explain how the rates liability has increased so much over that space of time. He said the increase in rates liability would be 132%, which will impact his client’s business.

7.3 In his analysis of the subject Property, Mr. Devlin considered Zone A rental levels across the centre because he felt these reflected the location and of the retail units within the Centre. He said the typical Zone A at Level 1 of the Centre on the ground floor is €4,000 or €4,200 per square metre. At Level 2, the Zone A rents drop to €3,400, and on the next level up at 2M, the Zone A rent is lower again and so on. In other words, Zone A rents drop on the upper levels of the Centre. He said it is accepted that the ground floor is probably the best location in the centre and the Zone A rents reflect this. He said the analysis he had undertaken was to look at the valuation of kiosk type units on each of the floors in the Centre, and it works out roughly between 40% to 50% of the Zone A levels for non-kiosk type retail units on those floors.

7.4 Mr Devlin said that ultimately when analysing the rent, the closest retail unit to the subject property, is directly across from the subject property, and was previously occupied by

CompuB, it is valued at a Zone A of €3,400 per sqm and 50% of this level equates to €1,700, which is the level of NAV the Respondent is contending for the Property. Mr Devlin then applied a 16% allowance for the configuration of the subject Property, based on Valuation Tribunal decision in Appeal Number VA08/4/014, pertaining to a kiosk occupied by Butlers Chocolate, located at the Pavillion Shopping Centre in Swords that was decided on 19 May 2019, where such an allowance was given based on the unusual configuration of that kiosk.

7.5 Mr. Devlin also applied a 10% quantum allowance for the size of the subject Property based on similar allowances made previously to Department Stores at Dundrum Town Centre, such as Folkster and Harvey Nichols.

7.6 Mr Devlin said that after analysing the Zone A rents this way and applying the various allowances that this resulted in bringing down the proposed valuation to €1,400 per sq.m, for the Kiosk area of 135 sq.m.

7.7 Under cross examination by Mr. Kelly, Mr. Devlin confirmed that the seating area from which the Property benefitted was located inside the Centre and was included in the 125 sq.m floor area measurement for the Kiosk. He said when the Property was not open and trading that the stock is out on display and a barrier is put around the counter area. He said there is a wall across the back, and the Appellant pulls a shutter down on that back wall of the kiosk, but that it is possible to walk around the open part of the Property. Mr Devlin also confirmed that to his knowledge there had never been a security incident at the unit.

7.8 Mr. Devlin confirmed that the rates liability has increased since the previous revaluation, which was back in 2005.

7.9 In respect of the unit formerly occupied by CompuB and is located facing the subject Property, Mr. Devlin confirmed that kiosk units such as the subject Property are valued on an overall rate per square metre basis and not a Zone A rental basis.

7.10 When put to him by Mr. Kelly that given that the Appellant uses the subject Property to sell coffee, chocolates, confectionery items and bakery products, that the fact that the unit is open is a benefit to the occupier when walking by, in terms of visibility, Terry Devlin, Mr. Devlin agreed saying the Property was located at a good location.

7.11 In respect of the quantum allowance granted to HMV UK in 2012 at Dundrum Town Centre by the Valuation Tribunal in Appeal number VA11/5/221, Mr. Devlin acknowledged that this was a department store within the Centre and not a kiosk unit such as the subject Property.

7.12 Mr Devlin said he was not aware of any other kiosk unit in the Centre where a combined allowance of 26%, comprising the proposed unusual configuration allowance of 16% and the quantum allowance of 10%, had been applied. Mr Devlin also confirmed that when these allowances were applied to the Respondent's proposed rent of €1,700 per sq.m that this equated to an effective rate of €1,260 per sq.m. This level of rent is lower than the Respondent's KRT 2 and NAV2 comparison that was a kiosk unit located on the upper floor at Level 2.

8. RESPONDENT'S CASE

8.1 Mr Kelly also brought the Tribunal through details about the Property including, description, location, use, the market, tenant mix, principles of measurement and rating along with a number of images of the Property and a location map. In addition, he submitted into evidence details of two kiosk units that were submitted as both Key Rental Transactions (KRT) and NAV Comparisons 1 and 2, along with details of three additional NAV comparisons, a summary of which are included at Appendix 2 of this determination (N/A to public). In the opinion of the Respondent the Property should be valued at a NAV of €250,000.

8.2 Under cross examination by Mr. Devlin, Mr. Kelly said the passing rent of €270,000 on the Property was provided by Mr. Devlin, but that this level of rent was set in 2015. He said that when he submitted that the initial rent of the subject Property of €115,000 was somewhat in line with the initial first revaluation of €129,000 and that this is the same position now he was showing that the rental values have increased at the Centre subsequently, which is reflected in the increased rates liability across the Centre. He said that if you look at the rental trajectory of the subject Property from 2005 to 2015 that the rent has also increased significantly. It is, in Mr. Kelly's opinion indicative of the fact that rents in general have increased since previous and that is what is resulting in a larger rates revaluation.

8.3 Mr. Kelly said did not accept that notwithstanding the rent on the Property had not been increased at the 2020 and 2025 rent reviews, there was a decrease of any significance in the valuation of the Property. However, Mr Kelly acknowledged that the new fit out of the Property completed in 2025 was not in place on the statutory valuation date.

8.4 Mr. Kelly acknowledged that an allowance was given to some units based at the previous revaluation, but he was not sure if such an allowance had been applied to the subject Property at that time, but if it had it would have only been as a result of the unusual configuration of the

Property. He said that he did not believe an allowance of 28% had been applied at the last revaluation, which was the level of allowance now being proposed by the Appellant. In respect of any allowance being applied to the Property due to its unusual configuration, Mr. Kelly said that elements of the Property have not changed however from a standpoint of being in the Centre a number of times and seeing this unit, he did not think the fact that it was open and a slightly unusual shape, is a disadvantage. He said it was evident from the images in both the Appellant's and the Respondent's précis that there was ample space to accommodate a large queue of people at the unit, who queued out to the middle of the mall, and he therefore did not believe that the configuration significantly disadvantaged its use. He said the fact that the Property is a busy trading unit would dictate that the hypothetical tenant knowing that they had a high footfall at that level in the shopping centre would bid a higher rent. He said he believed the fact that the Property is a busy unit located in a very busy shopping centre is relevant to valuing the correct NAV for Property. While Mr. Kelly accepted that it is not the business that is being valued, but if one looks at the NAV's across the Centre, the key rental transactions and the NAV comparisons, they are all similar type businesses, so the likely hypothetical tenant for this unit would be another similar type operator to the Appellant.

8.5 In respect of the Respondent's KRT/NAV Comparison 1, Mr. Kelly acknowledged that given the lease commencement date of this kiosk unit was five years before the statutory valuation date, it was somewhat removed in terms of relevance. However, he qualified this by stating that it was indicative of the fact that there is limited rental information for these types of kiosks, but particularly kiosks with seating, something which the Appellant had also mentioned in his submissions. He said there is some anecdotal evidence there that this KRT/NAV Comparison 1, did re-let on a 10-year lease in February 2025, but that this came after the revaluation date, and he did accept it was somewhat removed as comparable evidence for the purposes of the revaluation of the subject Property.

8.6 Mr. Kelly also acknowledged that the Respondent's KRT/NAV comparison 2, was for a lease of only one year. However, he did not accept that is not really evidence in terms of rent level because the occupier continues to trade at that location long after the one year lease term expired.

8.7 In respect of the Respondent's NAV comparison 3, Mr. Kelly said it was located beside the escalator close to the entrance to Dunnes Stores on Level 2, but he believed that the highest

level of footfall was on the ground floor where the subject Property is located. Mr. Kelly made the same point in respect of the Respondent's NAV comparisons 4 which is located on Level 3, opposite Tesco,

8.8 Mr. Devlin returning to the issue of the configuration of the subject Property, put it to Mr. Kelly that in his summary he mentioned that the current valuation is reflective of the open-sided configuration, and would he not accept that that is why an allowance was granted in the first place. Mr. Kelly said that he did not do this so because there are six similar kiosks in Dundrum Town Centre and no allowance has been given to any of the other six kiosks. He said they are valued relative to their location and size, and he did not believe in this revaluation, there is evidence of an unusual configuration requiring an allowance, or because it is an open unit. Mr. Devlin continued with this line of questioning by asking if the unit had not changed since the last time, it was revalued and the same legislation applied, why had the Respondent's approach changed. Mr. Kelly said that if one reviews the NAV of this Property relative to the other kiosks in the Centre, it is valued at the highest level relative to the other kiosks because of its superior location in the centre of the ground floor, Level 1. In respect of the rental tone, he said there was no evidence of an allowance for either quantum or for the fact that the kiosk is open. He said open kiosks are valued separately to a closed standard retail unit in the Centre.

8.9 In respect of the retail unit located facing the subject Property that was formerly occupied by CompuB, Mr. Kelly said he did not believe that this retail unit has a similar offering to the subject Property, which is an open kiosk. This is because the old CompuB unit is zoned with a Zone A rent due to the fact it is a retail unit and not a kiosk, which the Respondent values on a per square metre basis only. He said that notwithstanding the NAV for the former CompuB unit is €1,796 per sq.m and the Respondent's proposed NAV for the subject Property is €1,700 per sq.m, he would argue that if you are a kiosk type operator that is going to operate a similar type of operation to that that is currently in place, one would look at this kiosk relative to the other kiosks in the Centre. Mr. Kelly maintained that type of operator would make a decision that was location specific where they would bid based on the best located kiosk. He said he did not believe that that type of operator would be necessarily looking at a standard retail unit in the centre if they are specifically looking for a kiosk type unit. He acknowledged that hypothetically an operator such as Butlers could operate out of a retail unit such as the unit

formerly occupied by CompuB, but they operate better from the location of the subject Property for a specific reason that being its prime location on the main mall of the Centre.

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 Tribunal considers that when analysing the rental value of property, the parties should analyse like for like methods of rental valuation using as directly comparable method of measurement and valuation as possible. Heavy reliance was also put on a different type of retail property over that of the subject Property by the Appellant, namely a retail unit over a kiosk.

10.3 In considering the arguments put forward and submissions made by the parties, the Tribunal considers that an insufficient evidential basis was provided to it to warrant reducing the rate per square metre proposed by the Respondent. It is clear that the subject Property is a kiosk located in a prime location in the centre of the busiest main mall at Dundrum Town Centre.

10.4 While clearly allowances were previously granted in the past based on unusual kiosk configuration, the Tribunal does not consider that the configuration of the subject Property in anyway disadvantages trade or business at the kiosk. In fact, it appears to the Tribunal that given the nature of the business and the open plan configuration of the kiosk that it very well may be suited to this type of operation than a regular retail unit.

10.5 The Tribunal finds that the evidence provided only shows that a quantum allowance may be applicable to a Department Store operation but not a kiosk.

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.