

**Appeal No: VA23/5/0594**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**Cosy Joes**

**APPELLANT**

**and**

**Commissioner of Valuation ( Tailte Éireann )**

**RESPONDENT**

**In relation to the valuation of  
Property No. 1342698, Hospitality at Bridge Street, Westport, County Mayo.**

**B E F O R E**

**Donal Madigan – MRICS, MSCSI**

**Deputy Chairperson**

**Orla Coyne - Solicitor**

**Member**

**Eamonn Maguire – FRICS, FSCSI, DIP. ARB. LAW**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 15<sup>TH</sup> DAY OF DECEMBER 2025**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 17<sup>th</sup> 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 €78,900.

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*

*owing to its trading data. The Commissioner has taken the most aggressive view given the figures provided. This is to say nothing of the skill of the operator, who is running two pubs and in the process of opening a third.*

*2. This is further evidenced by the tone of the list. This is particularly true of PN 1342754 (The Jester) which is all ground floor and of similar size to the subject.*

*3. The Commissioner has failed to take adequate account of Covid, which affected two of the relevant three years prior to the valuation date.”*

1.3 The Appellant considered, in the Notice of Appeal, that the valuation of the Property ought to have been determined in the sum of €52,000.

## **2. REVALUATION HISTORY**

2.1 On the 23<sup>rd</sup> 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 €90,000.

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 €78,900.

2.3 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September, 2023 stating a valuation of €78,900.

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

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 10<sup>th</sup> day of March 2025. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), B.A.

(Mod) of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr. Sean Donnellan MSCSI, MRICS, B.Sc. Hons in Property Valuation & Management 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 located in the centre of Westport, halfway down Bridge Street at the entrance to Market Lane. Westport is a tourist destination on the Wild Atlantic Way.

4.3 The subject property is a mid-terrace, two-storey pub with a basement. It provides trading accommodation at ground floor level featuring a front bar, front lounge, rear bar and lounge, along with a kitchen. Additional bar space is located on the mezzanine/first-floor level. A goods lift connects the basement to the ground floor. The property was originally configured as two buildings.

4.4 The property has dual frontages, with a covered beer garden facing onto Market Lane, which leads to a large public car park.

4.5 The property is in good condition throughout. Based on photographic evidence of both parties, the decor both externally and internally is of a high standard.

4.6 The Title is Freehold.

4.7 The floor areas are agreed as follows.

	<b>Floor</b>	<b>M2</b>
<b>Bar</b>	0	99.45
<b>Customer Toilets</b>	0	5.20
<b>Kitchen</b>	0	19.90
<b>Covered Beer Garden</b>	0	32.20
<b>Bar</b>	1	47.40
<b>Customer Toilets</b>	1	21.70
<b>Keg Room and Store</b>	-1	38.75
<b>Total</b>		264.60

## **5. ISSUES**

The sole issue for Determination by the Tribunal 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.”

## **7. APPELLANT’S CASE**

7.1 Mr Halpin, for the Appellant, submitted that the valuation of the Property by the Commissioner is excessive and inequitable based on the fact that he could find no evidence of pub lettings in Westport or similar sized towns in Mayo, that would support a NAV of nearly €80,000. Whilst the Commissioner’s formula may well reduce the turnover to such a number, there is no market evidence to support such a number.

7.2 Mr. Halpin stated that while the floor area has been agreed, in terms of trading area, he would not consider the beer garden as qualifying to be included in that.

7.3 In terms of the relevant years of trading to derive the FMT, the standard approach is to analyse three years trading accounts prior to the Valuation Date. In this instance Mr. Halpin submitted it was problematic, due to the Covid impacted years of 2020 and 2021. He queried did one take an average, or does one stack them up either side of the date and apply a discount to reflect the mindset of the hypothetical tenant, which would be pretty negative on the 1<sup>st</sup> February 2022, but thereafter it’s a question whether we are representing the same information as is on the list. If the Commissioner asks different people for different pieces of information, it is hard to ensure equity and uniformity on the list.

7.4 Mr. Halpin stated that the business of the bar was drink lead, but at 20 Sq.m., the kitchen was limited in the output it could offer the business.

7.5 Mr. Halpin submitted that the Commissioner had applied the correct discount to FMT and that the 1% TV and entertainment allowance had been applied and had no difficulty with that.

7.6 The fact that the Appellant was in the Property for 29 years, is a good indicator that there is goodwill . The fact that the Property was originally two separate buildings, meant that the configuration was compromised and not ideal from a trading point of view.

7.7 Mr. Halpin, in submitting his NAV comparable evidence (further details in Appendix 3, N/A to public) stated that they were chosen given their size and location, relative to the Property.

Comp Number	Premises	Property Number	Valuation	Estimated FMT	Estimated Trading Area	Distance to the subject property
<b>X</b>	<b>The Subject Property</b>	<b>1342698</b>	<b>€78,900</b>	<b>Included in Appendix 3 (N/A to public)</b>	<b>145.49m<sup>2</sup> (a)</b>	<b>N/A</b>
1	Bridge Street, Westport	1342735	€90,000	Estimated	170.08m <sup>2</sup> (a)	100m
2	High Street, Westport	1343148	€32,000	Unknown multiple elements	400m <sup>2</sup> (d)	170m
3	The Octagon, Westport	1342895	€36,500	Unknown multiple elements	95m <sup>2</sup> (d)	250m
4	Bridge Street, Westport	1342679	€72,600	<b>Included in Appendix 3 (N/A to public)</b>	163.05m <sup>2</sup> (f)	110m
5	Bridge Street, Westport	1342754	€28,000	<b>Included in Appendix 3 (N/A to public)</b>	187.35m <sup>2</sup> (a)	5m

7.8 In the case of NAV Comparison 1, Mr. Halpin submitted that the Commissioner had relied on an estimated FMT, and in his oral evidence stated that the turnover was in fact on a par with the Property, hence the rent and turnover conflict heavily with the NAV attributed to that property. The Appellants were relying on the rental evidence from this property, which was let for €38,000 in 2021, immediately prior to the Valuation Date. Mr. Halpin questioned whether a hypothetical tenant would pay more than double that rent for the Property. This property has food and drink sales; is a very substantial property, with more space across the ground floor than the Appellant

has over two floors, and with a full commercial kitchen over two floors. Whilst the occupier was not in occupation on the valuation date, they now have the figures, and a revision appeal has been lodged. The property is let on a 10 year from 16<sup>th</sup> June 2021. Mr. Halpin said that with this common comparable, it was a question of what evidence one pays attention to, it is obviously pretty conflicting as the rent and turnover will tell you one thing and the valuation on the list will tell you another.

7.9 On NAV Comparison 2, Mr. Halpin submitted that it has the largest bar/restaurant in Westport with an estimated floor area of 400 sq.m. and a full kitchen. Mr. Halpin said that it was hard to imagine a hypothetical tenant would pay more than two and a half times that rent for the Property, based on this NAV comparable of €32,000 for a property in the centre of town with all the amenities of the Property and of a larger size.

7.10 On NAV Comparison 3, Mr. Halpin submitted that it was more comparable to the business carried on in the Property, given the size of its kitchen, and while physically inferior to the Property, its Valuation was in line with the rent achieved for Comparison 1 and the NAV assigned to Comparison 2.

7.11 Mr. Halpin submitted that Comparison 4 was a superior pub to the Property in terms of it being a food led business rather than the business carried on in the Property, where the smaller size of its kitchen meant that its output was restricted and could only ever be considered as a bolster for its drinks trade.

7.12 Mr. Halpin submitted in Comparison 5, that whilst it had no commercial kitchen unlike the subject Property, if a hypothetical tenant could rent that property for €28,000 as per the NAV, he could afford to rent a separate restaurant in the town and still save €30,000 on what the Commissioner valued as the NAV on the Property.

7.13 Mr. Halpin submitted that the fair FMT for the Property is €600,000 for drink sales and €300,000 for food sales, to reflect an allowance for goodwill for the period 2018 and 2019 of 30%,

for pre-Covid, or if using the years 2019, 2020 and 2021, the uplift should be 20%, to reach fair FMT. He submitted he was not suggesting that one should use 2020 and 2021 in isolation.

Mr. Halpin submitted that he could not get rental comparables to support much more than his valuation figure, and that neither party had. He contended that a good regional pub in a rural town, will struggle to rent at much more than €1,000 per week that is €52,000 per annum. His valuation figure is slightly above that as he is trying to balance the trade with the valuations on the List and his knowledge of rental value. He submitted that the hypothetical tenant would likely discount the trade to arrive at a rent he would pay for the Property.

7.14 Mr. Halpin submitted his opinion of the NAV of the Property at €58,600, and his analysis is contained in Appendix 6 (N/A to public) [amended at the hearing to € 58,000 to correct the metrics].

7.15 In cross examination, Mr. Halpin was asked by Mr. Donnellan how, in the case of his Comparison 2, did he arrive at the estimated trading area, to which Mr. Halpin replied that having taken an estimate from OSI of the premises, he applied what he believed was a standard ratio of toilets and stores, which in this case would be a gross floor area of 500 sq.m., with a net trading area of 400 sq.m. Mr. Donnellan stated that the Commissioner had recorded a smaller trading area.

7.16 Mr. Donnellan put it to Mr. Halpin, whether it was more appropriate to focus on pubs situated on Bridge Street, where the Property was located, rather than compare with premises located on other streets, which were inferior locations. Mr. Halpin disagreed that Comparisons 2 or 3 were in inferior locations to the Property and in fact Comparison 2 was 170 metres from the Property, which he could see, standing from outside the comparable property.

7.17 Mr. Donnellan asked whether the Property had the longest frontage of all the pubs in Westport. Mr. Halpin agreed, if he was including the frontage on to Market Lane, on which there was a high level of turnover of retail occupiers.

7.18 Mr. Donnellan put it to Mr. Halpin that in the case of their common comparison property number 1342735, did he know that the operators were connected parties, to which he replied he did not.

7.19 Mr. Donnellan asked Mr. Halpin, was it fair to say that the valuation of the Property was supported by the trading information that the Commissioner had. Mr. Halpin conceded that, that was the case mathematically, but his position was whether one arrives at an appropriate NAV by doing that.

7.20 In relation to the KRT's, and the fact that there were revaluations being carried out in other counties in 2023, Mr. Donnellan asked whether Mr. Halpin was aware of these. Mr. Halpin did comment on these, but stated that in doing so, Mr. Donnellan was departing from his written evidence, but Mr. Halpin commented that he saw no pub let for more than €60,000 other than one pub in the Diamond in Donegal Town, which was an outlier and was underpinned by an historic rental level, which had not been challenged by the tenant at subsequent reviews.

7.21 The Tribunal asked Mr. Halpin as to how he understood the Commissioner collected turnover data impacted by the Covid pandemic. Mr. Halpin stated that they would have sought turnover data from occupiers for the years between 2016 and 2019 through the receipt of submissions on the LP1 form, but then Covid happened and obviously they moved the valuation date to 2022, because the valuation date was originally intended to be 2020, but they didn't seek additional details from anyone. They issued proposed certificates, and some people made representations against those, in other words if you were happy with the valuation they came up with, nothing got filed, so some properties on this List are based on turnover for 2016 to 2019, some properties are based on turnover from 2016 to 2019 plus the years 2020 and 2021 and some include the year 2022. Some properties are based on whatever turnover they gave, in other words if they didn't occupy the building in 2016 to 2019, they only had turnover figures for the years 2020 and 2021 and then there's another group of properties for which the operators gave no turnover figures at all, in other words submitted nothing in response to Section 45 on the LP1 form, nothing at representations stage, or at Tribunal, the turnover being estimated consistently throughout. He

stated that from the above it is clear that there are a lot of subsets which complicated it for everybody.

7.22 Mr. Halpin was asked by the Tribunal how he felt they should be dealing with the 2022 figures submitted by the Appellant. Mr. Halpin submitted that anything up to the effective valuation date is fine, because ultimately, we are trying to get context around that date. He submitted however that in the generality of the year 2022, it was a bounce back year, preceding two years of latent trade and therefore if you look at it, almost anyone's turnover in 2022 will be higher than it was in 2018-2019, so it is a question as to what weight you put on turnover for 2022, but otherwise it is usable information.

7.23 He confirmed that, on the factual side, he agreed to the floor area of 264.60 sq.m., but he was disputing the trading area, with his area cited as 145.49 sq.m. He submitted that if the Commissioner states how the comparable evidence has been devalued, in other words including the kitchen, well then, the trading area for the Property would be about 166 sq.m.

7.24 Concerning his proposed exclusion of the beer garden in his trading area, Mr. Halpin submitted that it was an external area and whilst he conceded that it had value, it cannot be the same as the indoor area.

7.25 He was asked in relation to his comparison 2, property number 1342735, was the external area not to be considered the same, to which he replied, that the seating there was on the pavement, which would require a degree of complicity from the council or a seating license of some description, but it was not privately demised space like the Property, and therefore in the latter case he would concede that it was more valuable.

7.26 In response to a statement from the Tribunal that on the trading figures, under Section 19 as clarified by the Coillte case, one could consider all information up to date of the issue of the Valuation Certificates, being the 15th September 2023, he replied that the accounts for 2022 were ready by then, as they would have had to be filed with the CRO, but that the 2023 figures were outside of that.

7.27 His figure for the entertainment allowance was adjusted under cross examination by the Tribunal to €6,000, (i.e. not € 5,400 but € 600,000 @ 1%) which he conceded was correct.

7.28 He was asked about NAV Comparison 5, holding over on a rent of €36,400, and did he have any further information on that rent, and when it was fixed, to which he replied no, that it was the rent being paid at the valuation date, his firm were asked for some landlord tenant advice but they were not engaged to make any representations on to the Commissioner on this property.

## **8. RESPONDENT'S CASE**

8.1 Mr. Donnellan introducing his evidence stated that 21% of public houses valued in the Revaluation in Mayo had representations made and that just 10% of the valuations placed on pubs were the subject of an appeal to the Tribunal.

8.2 He submitted that the Property including the beer garden, has trading area of 198.95 sq.m. The beer garden has a retractable roof, has sides to it and space heaters. Obviously that area being vented forms part of a smoking area, but it definitely added value to the Property, where people do enjoy themselves with the bar facilities and they can also eat there as well. His belief was that it formed part of the trading area.

8.3 Mr. Donnellan submitted that the Property is a two-storey property which is advertised as the only multi-level bar in Westport. The configuration does not have the same impact as retail where steps might be an inhibiting factor, he believed that the configuration created an atmosphere, and the occupier chose to advertise the Property as such to customers.

8.4 Mr. Donnellan submitted that the Property frontage onto both Bridge Street and Market Lane offered the Property a lot of frontage compared to any of the other properties in Westport.

8.5 He stated that they advertise live music and DJ's every weekend and this is facilitated on the ground floor level, with a void space above, allowing customers on the upper floor areas to look down on the ground floor activities, adding to the ambiance.

8.6 Mr. Donnellan said that following representations, consideration was given to the Fair Maintainable Trade, and an adjustment was applied to the valuation.

8.7 He stated that it was long established practice that the appropriate method of valuation of a licensed premises was by the application of a percentage of Fair Maintainable Trade, which represents the annual level of trade that can be achieved by reasonable efficient operator of the business. He stated that the valuation date of the 1st of February 2022 would have been in a normal trading year, and that the Covid pandemic was obviously exceptional. Whereas typically a property's FMT is assessed by reference to three years audited accounts prior to the Valuation date, because of the significant disruptions caused by the COVID-19 pandemic during the years 2020 and 2021, it was felt prudent in this Revaluation that they should examine longer periods of trade prior to the Valuation date. It was the view of Tailte Éireann that the parties would consider 2019 or trading figures from earlier years, which were unaffected by the Covid pandemic, as the starting point for negotiations in assessing the FMT of the Property.

8.8 He submitted that the Appellant had not completed the Statutory LP1 form return at Representation stage, that the Appellant was advised to fill in the pubs form in his Appendix 2 and this was not done. The Appellant only provided supplementary information in relation to financial statements and did not give the breakdown between food and drink sales. He has requested numerous times from both the Appellant and Mr. Halpin that the form in his Appendix 2 be filled out, but neither did so. Only in the Appellants Precis evidence did he see the 2022 trading figures which actually support a higher Net Annual Value (NAV), than the valuation placed on the Property of €78,900.

8.9 With regard to his Nav comparison 1, property number 1342735, which is situated on the same street as the Property, the Appellants stated that it is let on a 10-year lease from 31<sup>st</sup> June 2021, at the rent of €38,000 per annum and this has been confirmed by him, as being a related party transaction.

8.10 He submitted that the Property is the best located pub in Westport situated at the junction of Market Lane and Bridge Street; it is in very good condition internally and is the only multi-level bar in Westport. It has been described as Westport's most exciting music venue and has a commercial kitchen serving bar food all day.

8.11 Mr. Donnellan submitted his analysis of the trading figures with a 70:30 split between food and drink sales in 2018 to 2021. The LP1 form was not supplied and so this split was assumed to be correct, and the trading information supplied by the Appellants for 2022, were only the headline figures, and the split was not provided on the appropriate forms. He has made an allowance for the tv and entertainment expenses.

8.12 In terms of his KRT evidence the first one is on Abbey Street in Ballina, an inferior location to the Property, has a smaller trading area, less than 22% of the Property and is only concerned with drink sales. The rent of €12,000 is comparable to the NAV of €12,600.

8.13 His KRT comparison 2, is located on James Street in Westport and that it was important to state that James Street is a tertiary Street in Westport compared to Bridge Street. This comparable would be an inferior property, is engaged in drink sales only, and has a smaller overall trading area, less than 44% of the trading area of the Property. He stated that there is a relativity between the rent achieved on that property of €26,000 and its NAV of €23,400.

8.14 Regarding his KRT 3, in Achill, Co. Mayo, he submitted that it is obviously a rural pub and inferior both in terms of trading area, less than half of the Property and it has a drink sales only business.

8.15 On the NAV comparisons he submitted, Property Number 1342735, is a common comparison between the parties, where there is a trading area of is 193.80 sq.m. on the ground floor, 130.64 sq.m. on the 1st floor, with an overall trading area of 324.44 sq.m. No financial information was provided in this case and therefore a Valuation of €90,000 was estimated. The floor area is

obviously bigger than the Property, but is similar to the Property in that it has both drink and food sales.

8.16 NAV Comparison 2, Property Number 1342728, with a valuation of €36,000, is situated on the same street, is a smaller lot size and is a drink sales only business.

8.17 NAV Comparison 3, Property Number 1342754, with a valuation of €28,000 is situated on same street, has a smaller trading area, drink sales only bar and has a poorer profile and frontage relative to the Property.

8.18 In the case of NAV Comparison 4, it is situated on the same street as the Property, is a drinks only business, has a smaller trading area, and an NAV of €45,500. Its valuation had been under appeal, the Appellant being represented by Eamon Halpin and Company, but that the appeal had subsequently been withdrawn. It is understood to be owned by the Appellant of the subject Property and is advertised online as its sister pub.

8.19 NAV Comparisons 5 with a valuation of €63,000, was a drinks sale only bar, has a trading area of only 82.49 sq.m. No trading figures were provided, so the FMT is estimated.

8.20 NAV Comparison 6, with a valuation of €37,400, and a trading area of 51.31 sq.m. is unusual in that whilst a drinks only bar with a shop at the front, limiting the bars profile. The retail shop has been valued at €520, Zone A. In latter evidence submitted by the Respondent, this evidence was corrected, and it was stated by Mr. Donnellan that the shop had in fact been included in the pub trading area advised.

8.21 He submitted that NAV Comparison 7, which is situated further up Bridge Street, has a larger trading area of 252.21 sq.m., with a valuation of €63,000, and operates more as a late bar business, and night club and would not be as attractive a pub internally as the Property.

8.22 He submitted that NAV Comparison 8, property number 1342679, a common comparison between the parties, is also situated on Bridge Street, has drinks and food sales, with a trading area of 163.05 sq.m. and a valuation of €72,600.

8.23 He submitted that NAV Comparison 9, located on Bridge Street, has a much smaller floor area of 63.41 sq.m. with drinks sales only and a valuation of €40,500. That property is leased from 6<sup>th</sup> March 2017, with an initial rent of €41,600 per annum. He submitted that they had trading information supplied in support of the NAV adopted.

8.24 Mr. Donnellan stated that of the nine NAV comparisons on Bridge Street, they had trading data on the majority of them which informed the FMT, with the balance requiring an estimated FMT.

8.25 He submitted that his opinion of the NAV of the Property at €78,900 is correct, that the drink sales FMT was taken at 9%, the TV and entertainment allowance at 1%, and the FMT of food sales at 5%.

8.26 Mr. Donnellan in cross examination was asked by Mr. Halpin, that when in direct evidence to the Tribunal, he had stated that he had good evidence on Bridge Street, and would that be a good summation of his position. Mr. Donnellan stated that whilst not every occupier provided turnover figures, he was satisfied that he had sufficient evidence.

8.27 When Mr. Halpin asked why he had not submitted photographs of the interiors of his comparisons, Mr. Donnellan stated that it was not standard practice in Tailte Éireann's Precis submissions.

8.28 Mr. Donnellan submitted that he was familiar with Property Number 1342735, the measurements submitted were his measurements and that in his opinion the Property was internally a superior pub. Although he requested the trading data at the time of valuation, they were not supplied for that comparable.

8.29 At Representation stage for the Property, Mr. Halpin submitted that Tailte Éireann were told that Property number 1342735 was let at €38,000 and his question to Mr. Donnellan was that at what point did he ascertain whether the rent of €38,000 was relevant or not to the valuation, because it was relevant to him. Mr. Donnellan confirmed that he only got involved in the Appeal at the Valuation Tribunal stage but that he would have communicated with that operator then. Mr. Donnellan outlined that the occupier owned the property prior to the recession and had tried to get it back and that it was now rented off a relative. He was informed also that the occupier had spent over €200,000 on the premises in installing a full kitchen. Mr. Halpin asked if he managed as part of those discussion to establish the turnover, and Mr Donnellan confirmed he did not.

8.30 Mr. Halpin, citing what he understood was the turnover figure for the comparison property number 1342735, and submitted his understanding of the percentage of turnover being a split between drink and food sales, no greater than the Property, asked if Mr. Donnellan had known that trading data, would he have valued it differently. He replied that they do request the trading data as part of the process, but that the data is not always supplied, and he stressed the importance on rate payers to comply with their requests but it was also important to note, that they don't rely totally on the trading information to arrive at the FMT, that they do make allowances when arriving at the figure depending on the particular circumstances. But in the main, they do find that the trading figures closely align with what an FMT would and should be.

8.31 Mr. Donnellan was asked whether in terms of trading area, were there any examples where a beer garden had been included in the trading area. Mr. Donnellan made a distinction in most cases based on particular details they have for a property as to whether there is a beer garden that is totally exposed such as property numbers 1343148 and the 1342735, but in the case of the subject Property, it was not. It is easier to dismantle the beer garden structure than the balance of the Property, he stated, but it was enclosed, had seating installed and heating and therefore it did form part of the trading area and added value in his opinion.

8.32 Mr. Halpin asked him to explain where the Commissioner estimated trade turnover for properties on which he did not have the trading data, for example in the case of property numbers 1342762, and 1342690, how could one estimate an NAV of €63,000 on one and on the other, an

estimate of €37,400, for premises that are more or less the same size. Mr. Donnellan replied that all properties were cursory inspected, their files consulted, and whether they had established a food business and that all other valuation factors are considered. Mr. Halpin said both comparisons on the same street are drink sales only, so how did he arrive at different valuations for both, which don't appear to be equitable and uniform. Mr. Donnellan stated that property numbers 1342762 was unusual in that it has the shop element, with a bar area far back at the rear of the property, and in fact the frontage of that property is smaller, and the property overall was deemed inferior to the other comparable.

8.33 Mr. Halpin asked that in the case of property number 1342774, did it not have a larger trading area than the Property, and Mr. Donnellan replied that it had, only by 50 sq.m. Mr. Halpin asked given that it had a late bar, surely then it would also be suitable for an entertainment allowance, to which Mr. Donnellan replied that the comparable relied upon cd's and DJ music rather than live bands as in the case of the subject Property, with the additional expenses that live music entailed. Mr. Halpin asked that if one could rent this comparable bar at €63,000, without the additional expense of live bands, would it not be a preferable option to the hypothetical tenant, to which Mr. Donnellan replied that the layout of the Property in terms of it being multi-level, an attribute which the Appellants themselves advertise, together with frontage and profile, ensures the Property does better than other pubs.

8.34 On the question of property number 1343148, where Mr. Donnellan had submitted his trading area was smaller than that suggested by the Appellant, he was asked if he could elaborate. Mr. Donnellan replied that from their records that it was 25% less than Mr. Halpin was suggesting. Mr. Halpin replied that he had no issue with that, in terms of valuing the comparable, but did the Commissioner get trading figures for the comparable? Mr Donnellan submitted that he had a note of the turnover on drink sales devalued at 9%. Mr. Halpin agreed that Mr. Donnellan's figures align in terms of the NAV figure adopted, but that the Commissioner must not have taken account of the food sales in the pub, and that restaurant facilities are prominently advertised on the frontage of the premises. Mr. Halpin submitted that on the valuation date, whilst this comparable property operated a commercial kitchen like the subject Property, only the Property was being taxed on

their kitchen. Mr. Donnellan added that the comparison was on a different street that was inferior in terms of trading.

8.35 On the matter of property number 1342754, Mr. Halpin submitted that it is the closest pub physically to the Property. Mr. Donnellan stated that it has a smaller frontage and has been inspected by the office of the Commissioner. Mr. Halpin submitted that the mezzanine area in that comparable has not been assessed and was the Commissioner going to tell him that the Property, the same size as this comparable, was to be valued at €78,900, while this comparable is to be valued at a third of that, at €28,000, being located directly across the road. Mr. Donnellan replied that the Property was valued based on the turnover figures and obviously considered, in the context of the subject Property itself, but that property number 1342754 was nowhere near as good as the Property.

8.36 Mr. Halpin asked if it was fair to say that Property Number 1342808 is a premises one building removed from the Octagon. Mr Donnellan did not compare the Octagon to having anything like the footfall of Bridge Street. Mr. Halpin asked what financial information data they gave him, because they were not in occupation at the valuation date. Mr. Donnellan submitted that at a rent of €26,000, it does back up the NAV valuation of the Property. Mr. Donnellan submitted that the Property is one of the best in Westport, with its profile, location and multi-level configuration and the comparable would not be the same in that regard.

8.37 The Tribunal asked if the drink sales were charged at 9% and other bars at 8%, how was the particular percentage applied, Mr. Donnellan stated that as part of the scheme they also analyse gross profit margins. The highest would be done at 9%. As instructed by the Tribunal, Mr. Donnellan followed up after the hearing with a schedule setting out the different categories in the Mayo Pub Revaluation scheme, this was circulated also to the Appellant.

Income Stream	County Mayo				
	Towns of Castlebar, Westport Ballina		All other locations		
	Type 1	Type 2	Type 3	Type 4	Type 5
On Sales	9%	8%	8%	7%	6%
Off Sales	3%	3%	3%	3%	3%
Food	5%	5%	5%	5%	5%
Other	10%	10%	10%	10%	10%
<b>Notes</b>					
Type 1 : Pubs in Castlebar, Westport and Ballina Town with on-sales OR with on-sales & food sales with average GP margin $\geq$ 56%.					
Type 2: Pubs in Castlebar, Westport and Ballina with on-sales OR with on-sales & food sales with average GP margin $<$ 56%.					
Type 3: Pubs in all OTHER locations with on-sales OR with on-sales and food sales with average GP margin $\geq$ 56%. In the absence of any further analysis of GP margins, all pubs with off-sales should be included					
Type 4: Pubs in all OTHER locations with on-sales OR with on-sales & food sales with average GP margin $<$ 56%.					
Type 5: Pubs (excluding aforementioned) with FMT of less than or equal to €100,000					
For Pubs with on-sales and off-sales only - use the analysis excel provided to establish an adjusted on-sales G.P and chose the appropriate type above based on the adjusted GP					

8.38 Mr. Donnellan, also subsequent to the hearing, submitted as instructed by the Tribunal, the Commissioner's valuation appraisal of the KRT's introduced in his Precis, the appraisal is contained in Appendix 4 (N/A to public), and this was also circulated to the Appellants representative.

8.39 The Tribunal asked whether the beer garden was in fact a smoking area and also would it be less comfortable than the main bar. Mr. Donnellan replied that the clientele had the option of drinking, eating or smoking in this area.

## 9. SUMMING UP

9.1 In summary, Mr. Halpin submitted that the scheme as it was applied considered financial turnovers from different years, different underpinning information from properties, and valuation assessments where perhaps turnover wasn't given at all.

9.2 He stated that superior premises in the same straight line of street, can be rented for between €32,000 and €90,000. Whilst he conceded that not every comparison was helpful to the Appellants

case, and in particular property number 1342735, conflicting as it is at €90,000, but that there was a lot of evidence pointing in a different direction, including his comparison 2, property number 1343148, which is valued by just turnover of drink sales, despite the fact that it has a full commercial kitchen. So, either they gave details that didn't include food trade, or they installed a commercial kitchen, as a result of Covid.

9.3 Mr. Halpin submitted that the hypothetical tenant is faced with the prospect of renting a pub at the most reasonable price and disregarding the highest and lowest on the list, and accepting that some pub has to be the highest on the street, but given the physicality of the subject Property, one just don't meet that threshold. His clients have been occupying the Property for 29 years, and if one can rent an equivalent premises, all be it with no kitchen immediately across the street, for €28,000, that suggests that the kitchen in the Property is worth €50,000, and it just isn't.

9.4 The Appellants are faced with a situation where the Property is still going to be one of the better pubs in Westport, whether you put €78,900 on it or €58,000, as suggested by the Appellants, but there is no pub in Westport or indeed across Mayo that an operator is paying €78,900 for it and they are certainly not paying it for this one.

9.5 Mr. Donnellan in summing up, submitted that the method of valuation of the Property was in line with established practice of relying on a percentage of Fair Maintainable Trade and the Fair Maintainable Trade represents the level of trade that can be achieved by a reasonably efficient operator, or business.

9.6 The FMT has been derived in this case from actual trading data received for the Property, and that this is one of the best bars, if not the best in Westport, it is a modern pub, in good condition, has a late bar, a multi-level configuration, a restaurant, and additional frontage which faces onto Market Lane, leading to a public car park. The trading information substantiates the valuation, and that anyone else could achieve similar levels of turnover and if the property were to come to the market for letting, it would achieve a rent of €78,900. Mr. Donnellan submitted that he considered all the evidence put forward by the Appellant and that he was satisfied that the valuation of €78,900 was correct.

9.7 Mr. Donnellan submitted that the valuation proposed by the Appellant in his opinion would undervalue the subject property and would not be in line with valuation scheme applied to other properties as with all appeals the onus of proof lies with the appellant and appellant had failed in that regard and he requested that the Valuation Tribunal affirm the amended valuation of €78,900 for the Property representing its net annual value in accordance with section 48 at the Valuation Act as amended and the requirements of Section 19 (5).

## **10. SUBMISSIONS**

10.1 There were no legal submissions.

## **11. FINDINGS AND CONCLUSIONS**

11.1 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 Mayo County Council.

11.2 The Tribunal has considered all of the evidence both written and oral, submitted by the parties to this appeal.

11.3 The Appellants case is that there is not equity and uniformity of the properties valued on the List, submitting that the Commissioner has relied upon several subsets of turnover data, with no apparent regard to other factors that might have a bearing on the valuation, including the size of the kitchen, overall size, and goodwill of the operator. The Appellants submit that no rental value exists to support the adopted NAV for the Property.

11.4 Whilst the overall areas of the Property were agreed at 264.60 sq.m., Mr. Halpin contended for a trading area of 145.49 sq.m. and the Commissioner for 198.95 sq.m. Mr. Halpin submitted that if the kitchen was included, the trading area would be 166 sq.m. which leaves the question of

the beer garden. The Tribunal finds that the parties do not dispute that floor area involved, nor that it is in the ownership of the Appellant, who may exclude others from using the beer garden and confine its use to its own customers. Mr. Halpin in cross examination acknowledged that it did have some value, although the Tribunal finds from his evidence that he did not quantify what that value might be. The Tribunal finds from the evidence submitted, including internal photographs, that the area demised, should be included in the 'trading area' as contended for by the Respondent.

11.5 The Appellant introduced five NAV comparisons to support their contention of a lower NAV of €58,000 (as revised at the hearing)..

11.6 In the case of the common comparable Property Number 1342735, whilst the argument was made that the rent and turnover figures bore no relation to the NAV of €90,000 as adopted by the Commissioner, this property is the subject of a revision request, and therefore the Tribunal finds it to be of little assistance.

11.7 In the case of Property Numbers 1343148 and 1342895, neither are located on Bridge Street, which is the location of the subject Property and whilst the Appellant puts forward the matter of estimated size in the case of the former, the Tribunal finds that no confirmed FMT is advanced for either.

11.8 In case of Property Numbers 1342679 and 1342754, both are located on Bridge Street and both have the benefit of trading data submitted to the Commissioner. Both these properties are common comparables of the parties to the appeal. In the case of the former comparable, the trading area cited by both parties was 163.05 sq.m. and the NAV at €72,600. The latter comparable the Tribunal finds of less assistance as the parties dispute the trading area and the Appellant acknowledges that it is an inferior pub.

11.9 The Respondent put forward six other NAV comparables located on Bridge Street, and for two of which, Property Numbers 1342762 and 1342690, have an estimated FMT put forward, where no trading data was received from the occupiers. In the case of Property Numbers 1342728, 1342761, 1342774 and 1342678, all comprise premises where the Tribunal finds that trading data

was received and informed the Commissioners NAV, and where the Tribunal finds align with the percentages applied for Type 1 and Type 2, depending on whether the gross profit margin was above or below 56%, in accordance with the scheme.

11.10 Of the nine NAV comparable properties put forward by the Respondent, Property Numbers 1342728 and 1342679, the Tribunal finds of most assistance. Both are situated in the centre of the town, on the same street as the Property, both have been valued in accordance with the scheme utilising trading data supplied, with the same percentages applied to FMT as determined by profit margins being greater than 56%. In the case of Property Number 1342728, the business is drink sales only. This property is circa half the size of the subject Property, with half the level of turnover, and under half the NAV as assessed by the Commissioner. The Tribunal finds that when devalued on a rate per square metre, the NAV derives a value of €440.31 psm.

In the case of Property Number 1342679, the parties concur on the floor area measurement, which is similar in size to the Property, with the same category of profit margin for both drink and food sales, at 9% and 5% respectively. The Tribunal finds that its NAV when devalued on a rate per square metre, derives a value of €445.26 psm. whilst the Property devalues at €396.58 psm. All of the aforementioned, the Tribunal finds of assistance when comparing the Property against the tone of the List for similarly circumstanced premises on Bridge Street.

11.11 The Respondent introduced three Key Rental Transactions, one in Ballina, Westport and Achill. The Tribunal requested confirmation of the FMT and devaluation to derive the NAV's cited in evidence. This information was subsequently submitted following the hearing. In the case of KRT 1, Property 1349200, the Tribunal finds that the workings submitted by the Respondent did not align with the NAV derived, of €12,600, whereas analysis of the FMT and percentage applied for Property Numbers 1342808 and 1359408, did align with the NAVs adopted, which the Tribunal found were also in relatively close alignment with the rent, as submitted by the Respondent at the hearing.

**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.

