

Appeal No: VA23/5/0595

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

COSTA COFFEE

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 2189978, Retail (Shops) at Unit 1.2 Leopardstown Valley Shopping Centre,
Glencullen, County Dublin.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF DECEMBER 2025**

BEFORE

Liam Daly – FSCSI, FRICS

Member

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 €61,600

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 based on the open market rent for the subject property together with rent-free period and break clause incorporated in the lease.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €28,000.

2. RE-VALUATION 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 €36,000 for PN2189978 and €19,210 for PN2189979, with a total NAV of €55,210.

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 increased to €61,600.

2.3 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €61,600.

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. 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.

4. FACTS

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

4.2 The subject property is situated in the Leopardstown Village Centre, just off the Ballyogan Road in Leopardstown, Dublin 18.

4.3 The subject property comprises of a retail unit.

4.4 The accommodation has been agreed between the parties.

5. ISSUES

The issue 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 The Appellant’s precis was prepared by Mr. David Molony, Hennigan & Company on behalf of the Appellant. The Appellant’s precis began by providing details of the subject property’s location. The precis stated, The subject property was located at Leopardstown Shopping Centre, Ballyogan Avenue at the rear of The Gallops Pub and a short distance from the junction of Ballyogan Road in Dublin 18. The precis described the location as a mix of residential, retail, retail warehousing and some industrial development.

7.2 The Appellant’s precis detailed how the subject property comprises of a ground floor coffee shop situated adjacent to the main entrance of the Leopardstown Shopping Centre. The precis noted the centre is anchored by Dunnes Stores, and other occupiers included, The Grafton Barber, Lloyds Pharmacy, Vanilla Pod, Ballance Hair & Beauty, Quality Dry Cleaners, The Scarlet Heifer Butchers, HSE Health Centre, Capital Credit Union and the National Drivers Licence Service Centre. The precis also noted the floor area of 182 .99 sq. m had been agreed between the parties.

7.3 The Appellant’s precis outlined how the property is held under a 20 year lease from 2016 at a rent of €30,000 per annum. It was also highlighted that there had been no rent increase at the last rent review in 2021. There was a rent-free period of 12 months at the commencement of the lease and Rent reviews are at 5 yearly intervals. There is a break option on the expiration of years 7 and year 15. Notice required 6 months.

7.4 The Appellant’s precis explained how representation had previously been made regarding the amalgamation of PN 2189978 and 2189979. The precis stated that prior to the issue of the Final Certificate the units were valued at €36,000 and €19,210 respectively, giving a total NAV of both units at €55,210. The precis went on to outline how the grounds of appeal are as set out in the Revaluation Appeal were as follows:

“The valuation is excessive based on the open market rent for the subject property together with rent-free period and break clause incorporated in the lease”

The precis highlighted that the valuation by Tailte Éireann is by reference to relevant market rental information at the specified valuation date of 1st February 2022 as outlined in the *“Valuation Order for the Dun Laoghaire Rathdown Rating Authority Area”*

7.5 The Appellant’s precis described how the subject property is held on an open market rental basis at €30,000 per annum from December 2021. It was the Appellant’s opinion, that given that Leopardstown Shopping Centre was developed in 2006 by Park Developments, an established commercial developer founded in 1962, they (as Landlord) had expert knowledge as to rental values in the centre through the process of negotiating and agreeing new lettings, and ongoing rent reviews. It was therefore the Appellant’s opinion that they relied on this expert knowledge when agreeing the rent for Unit 1& 2 (the subject property) during December 2021.

7.6 The Appellant’s precis objected to Tailte Eireann’s methodology of zoning the subject property. The precis detailed how the main pedestrian frontage of the subject property is

adjacent to the car park whilst the other external entrance is the return frontage which is adjacent to the main entrance of Leopardstown Shopping Centre. It was the Appellant's opinion that the zoning assessment by Tailte Éireann has been inappropriately applied to the subject property. According to the Appellant's precis, the dimensions used by Tailte Éireann are by referenced to the entire depth of the property, from front external wall (adjacent to the car park) to the rear party wall of the adjoining unit 'The Grafton Barber'- this unit is indicated as block 2A on the Leopardstown Shopping Centre plan. The internal return frontage of the property is to the Leopardstown Shopping mall which is defined with two roller shutter doors. The Appellant's precis included an extract from the architect's as built drawing, which highlighted that a "*New entrance door to be installed after planning permission is obtained.*" It was therefore the Appellant's opinion, that this was actually the main entrance to the subject property, therefore the main access to this property is by the external frontage, thus, in the Appellant's opinion, the zoning for this property should be from the front of the external unit (adjacent to the car park) working back towards the party wall of the adjoining unit. It was the Appellant's opinion that this measurement procedure was reflected in the open market rent of the property.

7.7 The Appellant's precis put forward what in their opinion the correct NAV for the property as €32,700 (Note, figure shown on precis) , this was calculated as follows:

Retail Zone A : 36.41 sq. m @€450.00 psm = €16,384.50

Retail Zone B: 35.23 sq.m @ €225.00 psm = €7,926.75.

Retail Zone C: 37.72 sq. m @€112.50 psm = €4,243.50

Remainder: 73,62 sq. m @ €56.25 psm = €4,141.11

Total=€32,695.87.

Proposed Valuation (Rounded) €32,600.

7.8 The precis included on NAV comparison, Property No: 2189983. Unit 8, Lloyds Pharmacy, Leopardstown Shopping Centre. Description Shop. Valuation NAV €72,100.

7.9 In addition to their precis, the Appellant's agent submitted additional observations having reviewed the Respondent's precis, these are summarised as follows:

- The additional information stated, the subject property was originally assessed at a proposed valuation of €55,210 (i.e. Unit 1 €36,000 + Unit 2 €19,210). The valuation was increased to €61,600 when both units were amalgamated on foot of the Representations which were lodged in October 2022. The Appellant noted, the Respondent is now seeking a further increase in valuation to €66,400 by way of the Tribunal appeal.
- It is Appellant's opinion, the unit is a long and very narrow shape of the property measuring, 29.65 m x 6.00 m average, which they believed is unlike any other

unit in terms of layout and design in the Leopardstown Shopping Centre. It is the Appellant's opinion that the zoning method adopted by the Respondent has resulted in 98.5% of the floor space being encompassed within 'Zone A' which gives an artificially high valuation of €66,400. This, in the opinion of the Appellant, represents over twice the open market rent passing for the property which is €30,000. The Appellant believed, in general, the market for retail property indicates that the more valuable frontage, which offers significant visibility and accessibility, should determine the zoning rate, this would ensure that the zoning reflects the true commercial potential and attractiveness of the property.

- It was the Appellant's opinion, that the external frontage of the unit is the primary source of footfall. The external visibility draws customers who may not enter the internal mall area of the shopping centre hence in the Appellant's opinion, making this area of the frontage the most valuable. The mall frontage by contrast, while beneficial, should be considered a secondary frontage. It primarily serves existing foot traffic within the mall area therefore its value would be supplementary to the external frontage. The Appellant's additional information, went on further to state, the main entrance to the mall is adjacent to the subject property, making access from both car parks equally relevant. It was the Appellant's opinion, customers from either car park can easily reach the coffee shop with virtually no difference in convenience or distance, ensuring that both car parks contribute equally to the potential foot traffic for the subject property. Carparking is frequently driven by availability rather than proximity alone.
- The Appellant finished their observations by referencing the Respondent's precis, specifically page 31, which stated, the process of Revaluation requires *the collation and analysis of available market evidence to develop schemes of valuation. This evidence is obtained from a variety of sources, including directly from occupiers, from the Revenue Commissioners' database of Stamp Duty transactions and from the Commercial Lease Register administered by the Property Services Regulatory Authority.* It was the Appellant's opinion, that in the analysis of Key Rental Transactions (Pages 33 to 37), the Respondent had failed to identify the actual source of the leasehold information and did not provide lease documentation or information on rent-free periods, frequency of rent reviews, liability for rates insurance and repairs and break clauses. The Appellant was therefore of the opinion, that such an omission undermined the valuation's accuracy. The Appellant contended that the Respondent should have made a concerted effort to obtain and analyse the full lease terms to ensure a fair rental assessment. In addition, it is stated on page 25 of her Precis that *"The 'Headline Rent' (for Costa) was provided by the Appellant at Representations stage and this rent was included in a re-analysis of KRT's gathered at Representations stage"*. Despite this, this information and the analysis of same was not been included in the Respondent's list of Key Rental Transactions.
- The Appellant also noted, that the Luas tram did not stop opposite the Leopardstown Shopping Centre on Glencairn Avenue as indicated on page 5 of the Respondents Precis. The Appellant's additional information, stated that, the Luas stop is sited on the Ballyogan Road, directly outside The Gallops Pub and the Glencairn Medical Centre and it is behind these buildings that the shopping centre is located.

- The Appellant highlighted that all pertinent details relating to the 2016 lease and 2021 rent review were included in our Representations which were submitted in October 2022. The Appellant stated, that it should be noted that the rent review date for the property (2nd December 2021) is within 2 months of the operative date of assessment of Net Annual Value for the purposes of the Dun Laoghaire Rathdown revaluation (i.e. 1st February 2022.) The rent remained unchanged at the first rent review in December 2021 as stated in Precis (refer to letter of confirmation received from the Appellants).
- The Appellant concluded the additional information by arguing that by valuing the unit based on its entire side frontage of 29.65 m would result in a disproportionately high rent of €66,400. It was therefore the Appellant's opinion that would reiterate the zoning method adopted by the Respondent results in 98.5% of the floorspace being encompassed within 'Zone A' giving an artificially high valuation of €66,400 which is over twice the open market rent passing for the property of €30,000. In doing so, it was the Appellant's belief, the Respondent was effectively ignoring the actual rent payable in arriving at the valuation and instead has valued the unit at €450 psm Zone A and adopted an arbitrary 20% reduction to reflect the "*wide shop frontage*". It was therefore, the Appellant's opinion, the prime evidence of NAV is the rent passing, valuing the subject unit based on the external frontage is the fairest and most balanced approach. It adheres to standard zoning practices by prioritizing the primary attractor of footfall and ensures a realistic and sustainable rent of €32,600. The Appellant's additional information finished by stating, by using such a method, would acknowledge the value of the external frontage while considering the internal frontage as a supplementary benefit, thus providing a balanced and equitable valuation.

8. RESPONDENT'S CASE

8.1 The Respondent's precis was prepared by Ms. Gillian Beale on behalf of Tailte Eireann. The Respondent's precis began by explaining that the dispute between the parties centred on the application of the zoning method of valuation in determining the NAV for the subject property.

8.2 The Respondent's precis explained the subject property was situated in the Leopardstown Village Centre (formerly known as Leopardstown Shopping Centre) and was located just off the Ballyogan Road in Leopardstown, Dublin 18. The centre is accessed from Ballyogan Avenue adjacent to the Gallops Public House. The precis outlined how the immediate area was predominately residential in nature, however, there were number of retail warehousing and industrial developments in the vicinity. The Respondent described business districts of Sandyford Business Park and Carrickmines Park, as well established, with a mix office and retail developments, within a 10-minute drive of the centre. The precis also mentioned, that Leopardstown Racecourse and Leopardstown Golf Centre are also in proximity. The neighbourhoods were identified by the Respondent as Foxrock, Cornelscourt, Sandyford and Stepaside. The precis went on to explain how Leopardstown Valley Luas stop stands opposite the Leopardstown Village Centre providing direct access to Dublin city centre. It was the Respondent's opinion that the Leopardstown area is well served by Dublin Bus linking with the city centre and south Dublin suburbs. The precis stated, the centre was located approximately 15 km south-east of Dublin city, off the Ballyogan Road which could accessed directly off junction 15 of the M50.

8.3 The precis described the subject property as situated at the main entrance to Leopardstown Village Centre located to the left-hand side of its main door. It was originally two adjoining retail units, however they were amalgamated at Representation stage when Costa Coffee, originally in Unit 1 combined its trading area with Unit 2. The precis went on to explain how, in the Respondent's opinion, the unit benefits from extensive frontage to the internal shopping mall, along with exposure for two frontages externally. One external frontage runs the same direction as the internal mall frontage, whilst the second frontage runs perpendicular to this and in line with the external side wall of the Dunnes Stores Department Store.

8.4 The Respondent's precis provided a description of the centre as follow, the Leopardstown Village Centre forms part of a larger retail, office and healthcare enclave which has developed and expanded in recent years. The retail element collectively combines 21 retail units set within an internal shopping mall with a small number of adjoining external units together with a separate single storey external mall consisting of predominately retail units. The centre extends to approximately 5,200 sq. m and is anchored by Dunnes Stores which is in the internal mall. Dunnes Stores stands one unit removed from the internal frontage and wraps around the back of the subject property. There is on site surface car parking for over 460 vehicles with 3 hours free parking. Other retailers trading from the centre include Lloyds Pharmacy, Grafton Barbers, Capital Credit Union, Fleurtatious, Halo, The Run Hub, The Scarlet Heifer and Ballance Hair & Beauty.

8.5 The Respondent's precis went on to further on the configuration of the unit, it began by referencing previous details on location, how the subject property comprises a retail unit located immediately to the left-hand side of the main internal shopping mall entrance and combines both extensive internal mall and external dual aspect frontage. It was the Respondent's understanding the unit extended to 182.99 sq. m NIA, and the property was one of the largest retail units in the mall with extensive retail frontage of approximately 36 meters (12.95 meters external (including dual frontage) and 22.66 meters internal). Respondent's precis described how the internal mall area was situated immediately inside the shopping mall entrance, on the left-hand side and has expansive frontage directly onto the mall's concourse. The external area of the property had dual frontage with approximately 6.98 meters facing the internal mall's entrance and larger car park. The remaining external frontage of approximately 6 meters faces directly towards part of the car park and Leopardstown Valley Luas stop. The Respondent's precis explained how, in their opinion, the subject property can be accessed through a number of customer entrance points, with open access from the internal mall and two separate doors incorporated into the external frontage, one door providing access from each of the external frontages.

8.6 The Respondent's precis detailed how the subject property is fitted for use as a Costa Coffee shop. The accommodation consists of a large serving counter with a preparation and kitchen area to the rear, a number of customer seating areas and customer and staff WC's. The unit has direct access from the unit to a rear, fully enclosed service corridor shared with other mall occupiers. It was the Respondent's opinion, that the property was very well presented and maintained.

8.7 The precis detailed the following floor areas:

	FLOOR	SQ. M
Block 1	0	41.67
Block 1a	0	2.99
Block 2	0	138.33
Total		182.99m2

The precis also noted that's Areas agreed with the Agent via email on 23rd April 2024 , it highlighted however, while the overall retail area is agreed, the breakdown into the various retail zones has not.

8.8 In terms of tenure, the Respondent's precis provided the following details, it was the Respondent's understanding, that the subject property is held Leasehold by MBCC Foods (Ireland) Limited. The Respondent was only provided with the Lease Agreement with associated Side Letter, Licence Agreement and Licence of Works pertaining to the subject property, upon submission of the Appellant's Precis of Evidence to the Valuation Tribunal. An unsigned copy of the Lease Agreement only, excluding associated documents was provided to the Respondent upon a formal request at the Advanced Warning Process stage. See Appendix 1 for summary of lease details (N/A to public).

8.9 The Respondent's precis noted Representations received from Appellant on 14th December 2022 and were detailed as follows :

- "These representations are submitted to amalgamate lots 2189978 and 2189979. The property now incorporates a former barbershop.
- **Lease for Units 1+2:** 20 years from 1st December 2016. Rent reviewed December
0 1 @ €30,000 per annum. Rent-free period = 12 months. Reviews 5 years.
Break option in expiration of 7 years and 15 years. Notice required = 6 months.
Note: The lease rent relates to the two units i.e., Property No: 2189978 and 2189979.
- **Representations Valuation:**
Floor level 0. Shop: 176.07m * @ €170.00 psm = € 9,931.90.
*Combined floor areas of Property No's: 1 997 + 1 9979"

The Respondent addressed the above representations as follows:

The areas were updated and valuation amended. Tailte Eirann had considered all the evidence and the valuation was amended as follows:

- 2189979 amalgamated with subject at Representations stage following inspection (March 2023).
- The Representations have been examined, and all submitted evidence has been considered. I am of the opinion that the valuation of €3 ,000 should be amended to € 1,600.

8.10 In terms of the Appeal, the Respondent's precis provided the following details: The Appellant's opinion of Value was € 9,931.90 at Representations Stage, this increased to €28,000.00 On Notice of Appeal, and In Appellant's Submissions, it was now at €32,600.00.

8.11 A summary of the Grounds of Appeal in the Notice of Appeal were:

The valuation is excessive based on the open market rent for the subject property together with rent-free period and break clause incorporated in the lease.

These grounds were supplemented with additional information supplied at the Valuation Tribunal Advance Notification Process:

- The Appellant's contended that the zoning assessment has been inappropriately applied, contending that the main frontage / profile for this unit is external in the Leopardstown Shopping Centre and its return frontage is to the shopping mall in the centre.
- It was the Appellant's opinion that, The property is held under a lease for 20 years from 1st December 2016 at a rent of €30,000 per annum. There was no rent increase at the last review in December 2021. There was a rent-free period of 12 months at the commencement of the lease. Rent reviews = 5 years. Break option on the expiration of year 7 and year 15. Notice Required = 6 months
- The Appellants' opinion of NAV of €31,800, as set out in the Appellant's Notice of Appeal.

8.12 The Respondent's precis went on to provide a summary of the Grounds of Appeal contained in the Appellant's précis, there were set out as follows:

- *“The valuation is excessive based on the open market rent for the subject property together with rent-free period and break clause incorporated in the lease. The valuation by Tailte Eireann is by reference to relevant market rental information at the specified valuation date of 1st February 2022 as outlined in the ‘**Valuation Order for the Dun Laoghaire Rathdown Rating Authority Area**’.”*
- *“The property is held on an open market rental basis @ €30,000 per annum @December 2021. The Leopardstown Shopping Centre was developed in 2006 by Park Developments. This is an established commercial developer founded in 1962 having expert knowledge of rental values in the Centre through the process of negotiation and agreeing new lettings and revolving rent reviews. It is with this knowledge that the rent*

of Units 1 & 2, Leopardstown Shopping Centre was reviewed and agreed @€30,000 in December 2021”.

- *“It is our view that the zoning assessment by Tailte Eireann has been inappropriately applied to the property. The main access to this property is by the external frontage hence we submit that the zoning for this property should be from the front of the external unit (adjacent to the car park) working back towards the party wall of the adjoining unit. This measurement procedure is reflected in the open market rent of the property”.*
- *The Appellant, in their Precis of Evidence has put forward one NAV comparison PN2189983 - Lloyds Pharmacy, Unit 8, Leopardstown Village Centre. NAV€72,100, valued at € 70 per sq. m.*

8.13 The Respondent’s precis identified the Appellant’s ground for appeal and provided the following counter arguments:

1. The Appellant contends that the current passing rent on the subject property of €30,000 per annum, is grounds to reduce the NAV. The Respondent’s opinion was, the Appellant had not provided rental information for other retail units in Leopardstown Village Centre in their Precis of Evidence and was relying solely upon the subject’s current passing rent. The Respondent highlighted that, in accordance with the Valuation Act 2001, as amended, the actual rent for any individual property may be material in deriving that estimate but is not in itself conclusive of *Net Annual Value* (NAV) in the context of Section 48 and Section 19(5). Accordingly, the estimate of value arrived at for this property is what a hypothetical tenant would pay by way of rent in accordance with Section 48, which is not necessarily what any particular tenant is paying. The Respondent further emphasised that the Appellant, in their duty under the Valuation Act 2001, failed to submit full Lease details via the S46 statutory document, or submit information pertaining to the associated documentation which was only supplied on a piecemeal basis to the Respondent during the course of REVAL 2023 process. The Respondent noted that ‘Headline Rent’ was provided by the Appellant at Representations stage and this rent was included in a re-analysis of KRT’s gathered at Representations stage. Whilst the rent for the subject property may be informative to the valuation scheme, it is not definitive of the appropriate NAV for the property. It can only be considered in conjunction with all other evidence with appropriate weight attached to each. It is noted that the lease provided as part of the Appellant’s précis pre-dates the valuation date by more than five years. The Respondent also highlighted that while the Appellant indicated that the rent remained unchanged in 2021 review, however the Respondent was not provided any documentation to support this claim. The Respondent contended, the Appellant has been afforded ample opportunity to provide any such documents but has not done so, also, the Appellant had not not submitted any other rental evidence pertaining to Leopardstown Village Centre in their Precis of Evidence.

2. The Appellant contends that the zoning assessment has been inappropriately applied to the subject by Tailte Eireann. The Respondent referenced the Appellant's opinion that the main access to the property is by the external frontage (facing the smaller car park) where there are two doors at right angles to each other. Therefore, the zoning should be from this point (narrowest point of unit) working back towards the party wall of the adjoining unit. The Respondent noted, there are a number of pedestrian access points to the subject property; two separate doors (one single door and one double door) incorporated into the external dual frontage area of the property and extensive open access from the internal mall. The Respondent explained in their precis, how when the subject property was inspected in April 2024, they noted that the single door entrance directly facing the smaller car park was not in use as a main entrance but used as an internal seating area. The Respondent went on to highlight that the single door access point directly faces the smaller of the two car park areas for the shopping centre, with parking for only approximately 20 vehicles. It was also the Respondent's opinion, that vehicles can park close to this frontage, which impedes its visibility on approach or for passing traffic on Ballyogan Avenue. The Respondent also noted, the second external entrance (two door access point) is located beside the internal mall open access point. It was the Respondent's opinion this is directly visible from the entrance to the internal shopping mall, therefore the Respondent believed this access point is visible when accessing the internal mall from the larger car park direction with a high degree of visibility on approach. It was also the Respondents understanding, that the occupier could erect an outside seating area at the location of the double door external access point. It was therefore the Respondent's opinion, considering the nature and configuration of the property, its setting within the Leopardstown Village Centre and the SCSI Retail Zoning Guidelines are material in the application of the correct zoning method which they, the Respondent has adopted in arriving at the NAV. The Respondent substantiated with the following points:

- In valuing Leopardstown Village Centre and based on market analysis and research, it was the Respondent's opinion that this was deemed appropriate to value all retail units; both internal and external at Zone A €450/m².
- No dual frontage or dual aspect add-on was attributed by Tailte Eirann to retail units with this configuration, to include the subject property.
- With reference to the layout of the Leopardstown Village Centre, the development encompasses the internal shopping mall, a number of external units adjoining the mall, a single storey detached shopping precinct and two car parking areas: a small car park directly opposite the internal mall entrance and a larger car park to the right-hand side of the mall. It is the Respondent's opinion a larger proportion of the footfall would come from the larger car park towards the mall entrance, supporting the Respondent's view that this is the primary frontage.
- The Respondent draws attention to a recent Valuation Tribunal Judgement: VA23/5/0232, Fleurtatious Ltd at Unit 13, Leopardstown Village Centre (refer to Appendix 5, N/A to public). Therein, the Tribunal determined that an external retail unit adjoining the mall was deemed to be of less value than internal units and those units nearest the centre's main entrance. Therefore, the Appellant's contention that part of the external area of the subject property facing directly opposite the smaller car park is the most valuable does not hold weight in the

Tribunal's opinion. The Tribunal stated under Section 10.2 of the judgement that :

“The Tribunal finds that they have superior locations whereby customers going to the anchor store Dunnes Stores must pass by them which does not apply to the subject property”

It was the Respondent's contention this supports their opinion that the longer frontage running internally and externally of the shopping centre entrance is the more valuable frontage. All customers of the centre must pass by this frontage when accessing and exiting the shopping centre. It was also the Respondent's belief that It is the Respondent's contention that a hypothetical tenant would see the value in the subject property given its extensive frontage located beside the entrance to the internal shopping mall and footfall having to walk past the unit to access the centre's anchor tenant, Dunnes Stores.

3. The Respondent considered the NAV of PN2189983 Lloyds Pharmacy, Unit 8, Leopardstown Village Centre NAV €72,100, as a ground relied upon to reduce the NAV. It was the Respondent's opinion, that this retail unit was located directly opposite the main entrance at the far end of the internal mall in Leopardstown Village Centre. The configuration of this unit does not lend itself to retail zoning on the basis that whilst it does have retail frontage to the mall of approximately 6.70 meters, this frontage represents only 1/3rd of the entire width of the unit which extends to approximately 20.10 meters. Therefore, only approximately 30% of unit's entire width has retail frontage. An overall level of 60% of Zone A has been applied to the entire unit (i.e. Zone A €450 x 0% = € 70 per sq. m). The Respondent's precis goes on to reference the SCSi Retail Zoning Guidance as the lead authority on the zoning of retail units, and from this states *“Where zoning is applied it is also recommended the premises be considered on an overall basis as there are instances where zoning produces and anomalous result”*. 60% is a percentage application to Zone A adopted by the Respondent well established through Revaluation Programmes. The Respondent also highlighted how the Appellant has not contended for the subject property to be valued on an overall basis and accepts that the zoning approach is correct.

8.14 The Respondent included two KRT'S (Appendix 2, N/A to public) and four NAV's (Appendix 3, N/A to public) to support their determination of the NAV for the subject property.

8.15 The Respondent's precis explained how they had investigated all the particulars of the appeal, considered both the grounds and the evidence of the appellant, and have agreed any matters of fact which were in dispute. Taking all the foregoing into account, the Respondent was of the opinion that the correct NAV for Units 1 & 2, Leopardstown Village Centre, off Ballyogan Road, Dublin 18, as at the Valuation Date of 1st February 2022 is € 66,400. The valuation is arrived at on the following basis:

Level	Use	Area (m ²)	NAV (€ per m ²)	NAV (€)
1	Retail Zone A	182.95	€450	€82,165.50
1	Retail Zone B	2.72	€2.2.5	€ 61.2
	Allowance (20% allowance for wide shop frontage)			
	Total(€.)			€-66,359
	Ratable Valuation (€)			€66,400

NAV = Net Annual Value (Section 48 of the Valuation Act 20.01, as amended)

8.16 The Respondent concluded their precis with the following, the onus of proof, as with all appeals before the Valuation Tribunal lies with the appellant. It was the Respondent's opinion, that Appellant appears to rely entirely on a rent agreed on the subject property in 2016, over five years prior to the valuation date and has not considered any other rental evidence relating to Leopardstown Village Centre. The Respondent acknowledges the rent attached to the subject property can be informative of the valuation, it cannot be definitive. Tailte Eireann has reviewed all available market evidence and devised a valuation scheme whereby a Zone A level of €450 per sq. m is applied to all retail units in the centre. It is therefore the Respondent's opinion that the valuation applied here must also comply with Section 19 (5) of the Valuation Act 2001, as amended, and be fair and equitable relative to all comparable properties within the same Local Authority area.

8.17 It is the Respondent's opinion that, the subject property occupies one of, if not the most prominent units within the centre considering its visibility both internally and externally of the centre.

8.18 The Respondent notes, the Appellant accepts that the property should be zoned at a Zone A rate of €450 per sq. m. However, the Appellant contends that it should be zoned from its narrow frontage, which faces on to a small portion of the car park, where just approximately 20 vehicles can park. As per the Retail Zoning Guidance Notes, a retail unit with dual frontage should be zoned from its more valuable frontage. The Respondent contends that the more valuable frontage is undoubtedly the combined 30 meters running internally facing the mall and externally of the main entrance to the shopping centre. This frontage is highly visible on approach from the main car park area for which provides parking for approximately 180 vehicles, whilst also being visible on pedestrian approach from Ballyogan Avenue. The internal frontage is highly visible from throughout the shopping centre. It is the Respondent's opinion therefore that the hypothetical tenant would be strongly attracted to the extent of this frontage. The Respondent highlighted that the Appellant had produced just one comparable property in support of his contention that the unit should be zoned from its short frontage, yet that comparison is valued on an overall basis and situated to the rear of the shopping centre.

8.19 There in conclusion, the Respondent's precis requested that a valuation of €66,400 be entered in the Valuation List as representing the Net Annual Value for the subject property

in accordance with Section 48 of the Valuation Act 2001, as amended and the requirements of section 19(5).

9. SUBMISSIONS

9.1 There were no legal submission

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 Appellant has sought a revised NAV of €31,800. One of the grounds put forward for this reduction by the Appellant, is the current passing rent of the subject property. The Appellant's precis detailed how the subject property is currently held on a lease of €30,000 per annum from 2016, and there had been no increase at rent review in December 2021. The Tribunal acknowledges, as stated in the Respondent's precis that, while the rent for the subject property may be informative to the valuation scheme, it is not definitive. The rental figure put forward by the Appellants, can only really be considered by the Tribunal in isolation as the Appellant has not substantiated it by including any other key rental transactions. The Appellant did include a NAV comparison (PN21 89983), the Tribunal agrees with the Respondent, the characteristics of this property are different, therefore it was not an appropriate comparable.

10.3 While both side provided detailed arguments as to the appropriateness of the zoning valuation method applied, the Tribunal is of the opinion, that the simplicity of a stand back approach is deemed the most appropriate, therefore the Tribunal agrees with the Respondent's logic, that the larger proportion of the footfall would come from the larger carpark, bringing the Tribunal to the conclusion, that Tailte Eireann were correct in the methodology adopted.

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.