

Appeal No: VA23/5/0728

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

JOHN A. BRENNAN & JOHN GOODE T/A MILL COVE GALLERY APPELLANT

AND

COMMISSIONER OF VALUATION RESPONDENT

**In relation to the valuation of
Property No. 20945, Retail (Shops) at 21 Main Street, Kenmare, County Kerry.**

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 21ST DAY OF APRIL 2026**

BEFORE

Suzy Quirke – MSCSI, MRICS, Dip. Arb. Law.

Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 16th 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 €18,310

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: *(a) The Valuation is Incorrect*

After yet another challenging year in business, my commercial rates will more than double with the proposed new valuation. currently paying €1676.93 to €4156.37 Commercial businesses in kenmare are seasonal ones and myself and other retail outlets will actually close for up to 4 months over the winter.

Available accommodation for tourists has dwindled ,the summer season is even shorter and footfall like in any retail situation has no correlation to sales. There a considerable number of premises that are closed permanently in Kenmare, especially on Main Street, owners are unable to find tenants or commercial premises converted for domestic use.

like most town in Ireland the main shopping centres has migrated to the outskirts of town resulting in kenmare town centre becomming ghost town.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,000.

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 €18,310

2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €18,310.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 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 The parties are agreed as to the following facts.

4.2 The property is located on Main Street in Kenmare, Co Kerry. The town is formed by the triangle of Main Street with Shelbourne Street and Henry Street. Kenmare is a popular tourist destination being on the Ring of Beara and the Ring of Kerry routes and is well served with good restaurants and pubs.

4.3 The property is a mid-terrace building with retail use at Ground Floor and residential accommodation overhead. The upper floors are accessed from the rear of the Ground Floor retail area. The Ground Floor is in use as an art gallery and to the rear is a store, a small kitchen and WC. The Ground Floor appears to be in good condition and is presented with plastered and painted walls.

4.4 The floor areas have been agreed by the parties as follow –

	Floor	SQ M
Retail Zone A	0	44.96
Retail Zone B	0	47.76
Retail Zone C	0	9.40
Store	0	13.39
TOTAL		115.51

5. ISSUES

5.1 The issue is one of quantum. The Appellant claims that the valuation of €18,310 is incorrect.

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 has cited another 'challenging year in business' and states that the marked increase in rates, more than double, is incorrect.

7.2 He refers to the change in the 'High Street' landscape and makes the claim that a number of former retail businesses, are being converted to provide residential accommodation due to the unviability of running a commercial business in the town. He also refers to the fall in car parking spaces in the town, some previously available now taken up by occupants of formerly commercial premises which have been converted to residential accommodation, the difficulty in parking adding to the migration to the suburban, purpose-built shopping centre.

7.3 The Appellant also refers to online shopping as having an impact on the traditional High Street and that this is not taken into account in how commercial rates are calculated, the inference being that it ought to be.

7.4 He states that businesses where the operator has retired or died are not being re-opened. He claims that he and the other retailers in Kenmare effectively close for four months during the winter and with the exception of charity shops no new retail businesses are inclined to open.

7.5 The Appellant has included photographs of 10 premises either For Sale or vacant for a number of years. Exact addresses are not given however the Appellant states that a premises two doors from him has been closed for the past eight years and the premises immediately on his other side was turned into a private residence on the death of the person who previously ran a small book shop out of it.

7.6 He also cites a previously popular bar/restaurant on Henry Street that closed on retirement of the proprietor and has been sold with plans to convert to residential accommodation. He included photographs of properties where the obvious dereliction prompted the owners to paint the façade under pressure from the Tidy Towns Committee.

7.7 The Appellant has not provided any rental transactions or Net Annual Valuations in the town of Kenmare such that would assist the Valuation Tribunal in reaching a judgement on the appeal, in accordance with Section 48 of the Act.

8. RESPONDENT'S CASE

8.1 The Respondent acknowledges the points made by the Appellant but states that shifts in consumer behaviour and shopping patterns are felt across the town of Kenmare and not just by the Appellant's business.

8.2 The Respondent sets out the established rating valuation principles by which a premises is valued for rating purposes. Section 48 of the Valuation Act 2001 assumes a hypothetical letting, the basis of an assumed tenancy and that the property is considered to be vacant and available to let at the statutory valuation date, in this instance 1 February 2022.

8.3 The Respondent submits that all rents used to value the property at €250 per sq m Zone A are taken from Kenmare and the seasonality of trade applies to all the properties listed.

8.4 The Respondent provided the following Key Rental Transactions –

Efe's Takeaway, Main Street, Kenmare extends to a floor area of 36.54 sq m on the ground floor. The lease commenced in March 2020 at a rent of €15,600 pa. The NAV of **€4,610** is expressed as follows -

PN 20944 Efe's Take Away, Main Street, Kenmare

Level		Size	Rent per sq m	NAV per sq m
0	Zone A	15.86	€845.75	€250
0	Zone B	1.30	€422.88	€125
0	Store	19.38	€84.58	€25
	Total	36.54		

The Respondent noted that the above is located beside the subject property but that it is smaller than the subject.

The Local Vet, Pound Lane, Kenmare is a ground floor unit extending to 38.34 sq m. The premises is occupied under a one year lease from July 2019 at a rent of €9,000 pa. The NAV of **€7,580** is broken down as follows -

PN 2184399 The Local Vet, Pound Lane, Kenmare

Level		Size	Rent per sq m	NAV per sq m
0	Zone A	22.30	€277.97	€250
0	Zone B	16.04	€138.99	€125
	Total	38.34		

This unit is located at the other end of Main Street to the subject and is smaller than it.

8.5 The Respondent further provided the following NAV Comparisons in evidence of properties which are similarly circumstanced and to support their claim of 'equity and uniformity' of value.

Domagorteen Limited, Main Street, Kenmare

PN 20953 Dromagorteen Limited, Main Street, Kenmare

Level		Size	NAV per sq m
0	Retail Zone A	37.85	€250
0	Retail Zone B	20.36	€125
1	Office	68.39	€100
2	Office	46.99	€70
	Total	173.59	€22,100

The property is larger than the subject property but a significant portion of its size is at first and second floor level. It is located on the opposite side of the same street.

No 35 Restaurant, Main Street.

PN 20959 No 35 Restaurant, Main Street, Kenmare

Level		Size	NAV per sq m
0	Retail Zone A	17.51	€250
0	Kitchen	45.79	€25
0	Store	2.61	€25
0	Toilets	1.75	€25
1	Restaurant	74.66	€80
2	Store	46.99	€25
	Total	157.32	€11,970

This property has retail use at ground floor and a restaurant at first floor level. It is located on the opposite side of the same street to the subject property.

Roma Takeaway, Main Street.

PN 20959 No 35 Restaurant, Main Street, Kenmare

Level		Size	NAV per sq m
0	Retail Zone A	32.75	€250
0	Retail Zone B	4.21	€125
0	Store	8.06	€25
0	Kitchen	29.26	€25
0	Cold Room	5.68	€25
0	Toilets	9.81	€25
1	Restaurant	48.34	€80
	Total	138.11	€13,900

The property is almost directly opposite the subject on the same street and is a similar size although the subject property's floor areas are all on ground floor.

Tom Crean Base Camp, Main Street.

PN 20959 No 35 Restaurant, Main Street, Kenmare

Level		Size	NAV per sq m
0	Retail Zone A	68.20	€250
0	Retail Zone B	3.70	€125
0	Retail Zone C	9.90	€62.50
0	Kitchen	45.51	€25
0	Toilets	6.69	€25
	Total	134	€19,430

The property is also located on Main Street and is of a similar size as the subject.

8.6 The Respondent stated that while the final valuation certificate issued on 15 September 2023 with a valuation of €18,310, there had been an adjustment in zoning as the area to the rear was now classified as a store and the correct figure was €18,130 calculated as follows –

Use	Floor areas sq m	NAV per sq m	NAV
Retail Zone A	44.96	€250	€11,240.00
Retail Zone B	47.76	€125	€5,970.00
Retail Zone C	9.40	€62.50	€587.50
Store	13.39	€25	€334.75
Total	115.51		€18,132.25
		But say	€18,130

9. FINDINGS AND CONCLUSIONS

9.1 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 Kerry County Council.

9.2 The Tribunal finds that the Appellant has submitted evidence, including photographs, of the closed and vacant properties and those for sale for a number of years. However on revaluation, the Net Annual Value is established in accordance with the Section 19 (5) of the Valuation Act 2001 and the requirement 'to achieve both (insofar as is reasonably practicable) a) correctness of value and b) equity and uniformity of value between properties on that valuation list'.

S 48 of the Act defines Net Annual Value as ‘the rent for which, one year with another, the property might, in its actual state, be reasonably expected to let from year to year....’

9.3 The onus of proof is on the Appellant to refute the valuation put forward by the Respondent. The Tribunal finds that the Appellant has failed to submit any evidence that might be considered by the Tribunal in assisting them in valuing the property for rating purposes.

9.4 The Appellant gave evidence of the difficulties, generally, of operating a business in a seasonal location, of the challenges brought by trends towards online shopping and by out-of-town shopping centre. However these factors are not taken into account in determining an NAV on revaluation.

9.5 The Respondent provided two Key Rental Transactions and four NAV Comparisons all located in Kenmare. These properties would also have been subject to the same challenges of seasonality, decreased footfall, online shopping and a move towards suburban shopping centres as the subject. The property has been valued on a level playing pitch with the comparable evidence.

9.6 The Appellant has not provided any evidence to support their claim that the property should be valued at an NAV of €9,000 either in terms of rental evidence or from the point of view of equity and uniformity. The Tribunal is unable to find a valuation other than that proposed by the Respondent of €18,130 in line with an NAV of €250 per sq m for Retail Zone A in accordance with the evidence presented by the Respondent.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent as stated in the valuation certificate of €18,130.

This is calculated as follows –

Use	Floor areas sq m	NAV per sq m	NAV
Retail Zone A	44.96	€250	€11,240.00
Retail Zone B	47.76	€125	€5,970.00
Retail Zone C	9.40	€62.50	€587.50
Store	13.39	€25	€334.75
Total	115.51		€18,132.25
		But say	€18,130

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.