

Appeal No: VA23/5/0773

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

LAURA HARNEY T/A LAURAS PILATES & INJURY THERAPY APPELLANT

and

TAILTE EIREANN RESPONDENT

In relation to the valuation of

Property No. 1442763, Retail (Shops) at Lauras Pilates & Injury Therapy 7B Ennistymon Road
Lahinch County Clare.

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 22ND 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 18th 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 €25,300.

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 floor use and size is incorrect for Retail zone A - this is an open space but is a passage way from the front door to the treatment room and to the stairs to go upstairs and is not a space used for working other than welcoming clients in and out, storage and with a desk sitting in it.

Retail Zone B is a treatment room where we see people that haven't got their referred physiotherapist out to them and we see them pre and post operation for exercise revisions. This work is charitable and not charged fully.

We are incorrectly categorised as a retail shop as its a Pilates Studio. Other business in my field are categorised as office also. Also 2 businesses in particular (YouTherapies and Excel Physio), that do the same business are not measuring to the needed space and are in Ennis which has a huge jump in population compare to Lahinch for 9months of the year and are still not charged the same

We are categorised as retail zone but my business is a Pilates Studio/Room. For example the golf shop in the golf course contributes about 600k a turnover of 500k-600k which would not be unusual on the locality and that rates as outlined at this level, but not for my Pilates business which has a turnover of 55k.

The revised rates bill is disproportionate relative to my rent. The rent is a lower amount due to the the type of business than what would be paid by a retail outlet.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €15,500.

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 €31,100.

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 €25,300.

2.3 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €25,300.

2.4 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 some of the following facts.

4.2 The property is located on Kettle Street, the main road (N67) into Lahinch and which leads into Main Street. The subject property is located 35 m from the Mina Street and 50 m from Marine Parade which leads onto the Promenade. The property enjoys visibility associated with being on the road into Lahinch from Ennistymon.

4.3 The property comprise a ground and first floor building laid out in open plan with a small treatment room at ground floor level and a WC at first floor. The accommodation appears to be bright and well-maintained and the first floor is accessed by an open thread, metal, spiral staircase.

4.4 The Respondent has set out the following floor areas (on a Net Internal Area basis) but states that they are not agreed nor is the use category. (These floor areas were adjusted from 108.26 sq m and account for the amendment in the valuation from €25,300 on the Valuation Certificate issued 15 September 2023, to €24,100 as per the Respondent's precis of evidence).

	Floor	Sq m
Retail Zone A	0	49.34
Retail Zone B	0	11.88
Office	1	36.98
Total		98.11

5. ISSUES

The issue in dispute is one of quantum.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

“Subject to Section 50, for the purposes of this Act, “net annual value” means, in relation to a property, the rent for which, one year with another, the property might, in its actual state, be reasonably be expected to let from year to year, on the assumption that the probable annual cost of repairs, insurance and other expenses (if any) that would be necessary to maintain the property in that state, and all rates and other taxes in respect of the property, are borne by the tenant.”

7. APPELLANT’S CASE

7.1 The Appellant state the grounds of appeal as being that the valuation is incorrect. She states that the details stated in the relevant Valuation List are incorrect and cites ‘other grounds’.

7.2 The Appellant alleges that the floor areas and the use for Retail Zone A are incorrectly stated. She states that this ground floor area is an open space but provides a passageway for clients accessing both the treatment room and the stairs to the first floor. She states that this is not an area that is used for working other than welcoming clients, some storage and has a desk. She states that Retail Zone B is used as a treatment room for which she does not charge the full commercial rate, being part charitable.

7.3 The Appellant gives her areas of the ground floor as being 54.18 sq m and the treatment room as 9.66 sq m. She states that the 'downstairs' is used as a reception area and office with a treatment room to one side.

7.4 The Appellant states that her premises is incorrectly categorised as Retail when it is a Pilates Studio/Room. She cites the golf shop which has a turnover of €500 k - €600 k pa but that her Pilates studio is a different prospect. She submits that the premises is not a retail unit/shop.

7.5 The Appellant further states that there is no parking outside the building.

7.6 The Appellant states that she believes the correct valuation of her premises should be €15,500.

7.7 The Appellant has provided information relating to the lease and states that the current rent of €650 per month has been payable since 9 October 2017.

7.8 The Appellant gives evidence of two other businesses providing the same services as she does but are in Ennis, in heavily populated areas and both have car parking outside. She claims that they use the same amount of space as her business does. She claims that these are categorised as 'Office' and that hers should also be categorised as such.

These are -

Excel Physiotherapy, Kildysart Road, Ennis

PN 5016557

Category 'Office'

NAV €7,520

Youtherapies, Claireen House, Lahinch Road, Ennis

PN 5021934

Category 'Office'

NAV €10,400

The NAV of both were published as part of the revaluation of Clare County Council on 22 September 2023.

8. RESPONDENT'S CASE

8.1 The Respondent alleges that the property benefits from a highly visible retail frontage seen from Kettle St and that it is passed by all traffic entering Lahinch from Ennistymon. The Respondent states that the premises presents a bright and spacious ground floor and WC on first floor.

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 provided the following Key Rental Transactions –

Lahinch Chipper, Main Street, Lahinch extends to a floor area of 64.18 sq m on the ground floor. The lease commenced on 1 May 2019 on a one year lease at a rent of **€28,600 pa**. The NAV of **€17,180** is expressed as follows -

PN 1442769 Lahinch Chipper, Main Street, Lahinch

Level		Size	Rent per sq m	NAV per sq m
0	Retail Zone A	26.46	€938.50	€400
0	Kitchen	25.48	€93.80	€240
0	Store	12.24	€20.00	€40
	Total	64.18	€27,464	€17,180

The Respondent noted that the above is located on Main Street approximately 80 m from the subject property. The Respondent alleges that the property is similar in size and type to the subject.

The Green Room, Marine Parade, Lahinch extends to a floor area of 19.88 sq m on the ground floor. The lease commenced on 1 February 2019 on a two year lease at a rent of **€13,200 pa**. The NAV of **€7,390** is expressed as follows -

PN 2188805 The Green Room, Marine Parade, Lahinch

Level		Size	Rent per sq m	NAV per sq m
0	Retail Zone A	17.08	€686.00	€400
0	Retail Zone B	2.80	€343.00	€200
	Total	19.88	€12,675.96	€7,390

The Respondent noted that the property is located on Marine Parade approximately 90 m from the subject. And that it was appealed to the Valuation Tribunal.

8.4 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.

PN 1455520 Pearl Garden, Main Street, Lahinch

Level		Size	NAV per sq m
0	Retail Zone A	33.66	€400
0	Retail Zone B	7.58	€200
0	Store	32.38	€40
1	Restaurant	29.22	€65
	Total	102.94	€18,170

The Respondent states that the property is located on Main Street approximately 80 m from the subject. They submit that this property has a similar retail type frontage as the subject and that it is zoned and valued at the same Retail Zone A of €400 per sq m on the ground floor as the subject.

PN 1442786 Lahinch Property Management, Kettle Street, Lahinch

Level		Size	NAV per sq m
0	Retail Zone A	18.36	€400
0	Retail Zone B	1.51	€200
	Total	19.87	€7,640

The Respondent states that the property is located on Kettle Street across the road from the subject. They submit that this property has a similar retail type frontage as the subject and that it is zoned and valued at the same Retail Zone A of €400 per sq m on the ground floor as the subject.

PN 1455511 The Design Lodge, Main Street, Lahinch

Level		Size	NAV per sq m
0	Retail Zone A	35.45	€400
0	Retail Zone B	15.26	€200
0	Store	11.78	€40
	Total	62.49	€17,700

The Respondent states that the property is located approximately 100 m from the subject. They submit that this property has a similar retail type frontage as the subject and that it is zoned and valued at the same Retail Zone A of €400 per sq m on the ground floor as the subject.

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 Clare County Council.

9.2 The Tribunal finds that the Appellant has alleged that the floor areas and the use category of her premises have been incorrectly stated. In relation to floor areas she states that the ground floor is mostly a passageway to the first floor where the majority of her work occurs and is really a reception/waiting area and has a desk. If the ground floor was a space shared by more than one tenant then circulation areas would not be included in the calculation of net areas. Where a tenant has exclusive use of a space, circulation areas are included in the net floor area. It is at the tenant's discretion as to how she uses the premises. The fact that she has reformer equipment at ground floor or at first floor does not impact on the valuation or that she uses the ground floor as a reception area and waiting area for clients is of no relevance.

The Tribunal finds the floor areas put forward by the Respondent, supported by the floor plan at page 15 of the Precis of Evidence, are the correct areas on which to base the valuation.

9.3 In terms of the use category of the premises the Tribunal notes that under Section 48 of the Valuation Act 2001 Net Annual Value means in relation to a property, the rent for which the property might in its actual state, be reasonably be expected to let from year to year'. The actual rent being paid by the tenant is not in itself conclusive of Net Annual Value. In other words the NAV must reflect what the premises would let for on the open market if it were vacant and available to rent. Its location on a retail parade would likely attract interest from a range of retailers and shops. The fact that it is being run as a Pilates and injury therapy studio does not impact the NAV. The fact that it is located on a parade of shops does.

9.4 The Appellant has submitted limited evidence of two businesses similar to hers, in the fitness and therapy sector, and claims that they have been correctly categorised as 'offices' and not retail. The Respondent states that the two premises in Ennis submitted by the Appellant are run from premises which are in fact 'Office House' type properties houses and not located on a retail parade with neighbouring shops (in the case of the subject a café, an art gallery and a pharmacy on Kettle Street). And that the two valuations submitted by the Appellant do not have retail type frontage.

9.5 The Tribunal notes the limited information on the two premises put forward by the Appellant as comparisons. They are both located in Ennis, some 30 km from the subject and do not provide floor areas or analysis of Retail Zone A rates. Together with the Respondent's comments on their use category, which is accepted by the Tribunal, the Tribunal finds them to be of no assistance in arriving at a valuation for the subject.

9.6 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.

9.7 The Respondent provided two Key Rental Transactions and three NAV Comparisons all located in Lahinch. In the case of the NAV Comparisons all were valued on the basis of a Retail Zone A of €400 per sq m.

9.8 The Appellant has not provided any evidence to support their claim that the property should be valued at an NAV of €15,500 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 €25,300 in line with an NAV of €400 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 to €24,100.

Use	Floor Areas sq m	NAV per sq m	NAV
Retail Zone A	49.34	€400	€19,736.00
Retail Zone B	11.88	€200	€2,376.00
Offices - First Fl	36.89	€55	€2,028.95
Total	98.11		€24,140.95
			€24,100

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.