

**Appeal No: VA23/5/0907**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**TUTHILLS**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2185245, Retail (Shops) at The Kiosk, Town Square, Dundrum Town Centre,  
Dublin 14 (“**the Property**”).

**B E F O R E**

**Barra McCabe- BL, MRICS, MSCSI**

**Deputy Chairperson**

**Frank O’Grady- MA, FSCSI, FRICS**

**Member**

**Allen Morgan- FSCSI, FRICS**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 10<sup>TH</sup> DAY OF DECEMBER 2025**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 16<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 €116,900. The Respondent reduced the NAV to a figure of €67,800 in the written précis of evidence submitted in advance of the appeal hearing.

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*

*Set out the grounds upon which the Appellant considers that the determination of the valuation of the property is not a determination of its value that accords with that required to be achieved by section 19(5).*

*The determination of valuation is deemed to be incorrect having regard to the passing rent applicable to the subject property and by reference to the emerging tone of the list of similarly circumstanced units’*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €45,000.

## **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 €116,900.

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 manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September 2023 stating a valuation of €116,900.

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 in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 3<sup>rd</sup> day of October 2025. At the hearing, the Appellant was represented by Mr Niall Brereton BSc MRICS MSCSI, and the Respondent was represented by Mr John Kelly, senior executive officer of the 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 an external stand alone unit within the environs of Dundrum Town Centre (the “Centre”) and is located a short distance from pedestrian steps leading to Sandyford Road. The Centre is a large successful suburban shopping centre located on the southside of Dublin, which is the second major town centre in Dun Laoghaire Rathdown County Council (DLRCC) after the county town of Dun Laoghaire. The Centre houses over 120 retail shops, 40 restaurants, offices, community centre and a medical centre. Leisure facilities include Multiplex cinema, children’s adventure zones and a theatre venue. Dundrum is served by the Luas Green line and major road networks including the M50.

4.3 Dundrum Town Centre formally started trading in March 2005 and is laid out over three floors with multi-storey carpark, with parking for 3,400 cars, two external malls and a single exterior kiosk.

4.4 The Property is a stand-alone, cylindrical shaped unit with open front to street and retails newspapers, confectionery, lottery tickets and tobacco products.

4.5 The floor area is agreed at 11.3 sq.m.

4.6 The premises is held on a 20-year lease from 2012 with 5 yearly rent reviews with a passing rent of €50,000 per annum.

4.7 The unit is in good condition.

## **5. ISSUES**

5.1 The matter at issue 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 considered 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. Niall Brereton of Bannon represented the Appellant and submitted a detailed precis which he adopted as his evidence in chief outlining inter alia, the location, description, size and title of the property, supplemented by photographs and maps and included a history of the appeal to date.

7.2 He commented on the Centre overall and the access to the unit including the carpark and the multiple entrances/egress points from both Dundrum By-pass and Main Street.

7.3 He stated that the service charge on the property was in the order of €656.25 pa. which reflected the external location and minimal space which the subject occupies.

7.4 He opined that prior to the 2023 Revaluation, the NAV on the unit was €45,200 and that this was increased to €116,900 which equates to an uplift of 159%.

7.5 Mr. Brereton further submitted that the external position of the kiosk resulted in reduced visibility and footfall compared to more centrally located units within the Centre. He emphasised that these factors, together with the relatively modest scale of the premises, warranted a lower Net Annual Value (NAV) assessment than might otherwise be attributed to kiosks in a more prominent location. He also stated that as a result of the NAV under appeal, proposed by the Respondent, the resultant rates liability for the unit had increased from €9,577 to €24,771, which equates to half the rental value (i.e. the current passing rent of €50,000p.a.). He also referred to the prevailing market conditions and the competitive environment within the Centre, noting that the subject kiosk's trading potential was constrained by its peripheral position and limited customer exposure. In his view, the unique disadvantages attributed to its location should be carefully weighed when determining the appropriate NAV, ensuring that the assessment fairly reflects both the physical attributes and commercial realities associated with the property.

7.6 Mr Brereton assessed the value of the Property at €38,400 NAV, devalued as 11.3 sq.m. @ €3,400/ sq.m. = €38,400/ sq.m. To support his valuation, he relied on Key Rental Transaction (“KRT”) 1, 2, 3 and 4 and tone of the list comparables 1, 2, 3 and 4 as set out respectively at

Appendix 1 and 2 (N/A to public). In respect of KRT's 1, 2, 3 and 4 the following observations were also submitted

1. Similarly sized kiosk unit in highly desirable location facing escalators and elevators.
2. Larger than the subject, desirable location with access to main mall and large footfall.
3. Larger highly visible unit facing central atrium.
4. Substantially larger unit adjoining big named brands.

7.7 Tone of the List comparables are available for review at Appendix 2 (N/A to public).

7.8 To assist the Tribunal Mr Brereton also outlined the median passing rental levels across the shopping centre as follows:

Main Building	Level One	€3,800 - €4,200 /sq.m.
	Level Two	€3,400/ sq.m.
	Level Three	€3,000/ sq.m.
Mall Units	Town Square	€1,800/ sq.m.
	Pembroke Square	€1,500 /sq.m.

He stated that the above median passing rental levels were agreed between the parties.

7.9 Mr. Brereton stated that the proposed NAV was an increase of approximately 134% on the passing rent and he demonstrated this via a chart available at Appendix 3 (N/A to public) that most of the units in the centre had NAVs that were less than the actual rents. These ranged from a base of -54.8% of rent to the highest of + 134% for the subject Property .

7.10 Under cross-examination he confirmed that two rent reviews, 2017 and 2022 were not actioned on the assumption by the landlords, a major development company that the passing rent represented the full open market rental value of the unit.

7.11 Mr. Brereton stated that the proposed and now revised NAV of €67,800 was unreasonable, inequitable and that his opinion that an NAV of €38,400 was fair and reasonable in accordance with S48 of the Act.

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

8.1 Mr. John Kelly of Tailte Éireann acted for the Respondent and adopted the Respondent's precis of evidence in which he confirmed details on location, tenure, description and condition in addition to a commentary on the grounds of the appeal, his opinion and supporting comparables which were supplemented by maps and photographs.

8.2 He gave a brief description of Dundrum Town Centre and the various occupiers and tenant movements over the years.

8.3 Mr. Kelly submitted the following calculation for the valuation of the subject Property: 11.3 sq.m. @ €10,345/sq.m. = €116,900. This figure was then amended before the hearing to 11.3 sq.m. @ €6,000/ sq.m. = €67,800. Mr Kelly stated that the change in valuation was to reflect the subjects location in comparison to comparable properties included in his submission.

8.4 He stated that properties which are "similarly circumstanced" such as size, use, location and/or construction are comparable. Mr Kelly introduced No.3 x KRT and No. 2 NAV comparisons to assist his case, which are listed at Appendix 4 (N/A to public). In addition, he made the following observations in respect of the following KRT's.

1. Larger unit in prominent position adjacent to stairs and lifts.
2. Kiosk unit located close to escalators and stairs.

Identified as Retail shop in Reval 2023.

3. Kiosk unit larger than subject.

Identified as Retail shop Reval 2023.

## 8.5 NAV Comparisons

1. Larger kiosk unit in prominent position on ground floor, with remote store.
2. Located close to Anchor tenant and surface car park.

8.6 Under cross-examination by the Appellant, Mr. Kelly stated that the initial valuation was incorrect, and he could offer the Tribunal no clarity on how it was arrived at. He further stated that he had applied a discount of 30% to allow for the external nature of the subject in comparison to the value of kiosks located within the main centre.

8.7 When questioned as to why the NAV of the subject was more than the rent, he commented that the actual rent for any individual property may be material, but it is not definitive of NAV under S. 19 (5) of the Valuation Act 2001 as amended. He stated that the estimate of value is what a hypothetical tenant would pay which is not necessarily what any tenant is paying. He did not consider the passing rent of €50,000 pax. to be indicative of the market rent as of the valuation date.

8.8 Mr. Kelly confirmed it was his opinion that the correct NAV for the property is €67,800 based on the following calculation: 11.30 sq.m. @ €6,000/ sq.m. = €67,800. NAV.

## 9. SUBMISSIONS

9.1 There were no legal submissions.

## **10. FINDINGS AND CONCLUSIONS**

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other comparable properties on the valuation list in the rating authority area of Dun Laoghaire-Rathdown County Council.

10.2 The Tribunal has considered all the information both oral and written placed before it and the fact that the Tribunal does not make specific reference to any document or submission does not indicate that it has not been considered.

10.3 Both parties presented their case in a professional manner, agreed essential facts and gave evidence to support their opinion.

10.4 The matter of the passing rent was discussed in detail, No rent reviews were activated by the Landlord on two occasions in 2017 and 2022. The Tribunal cannot concur with the Respondents' submission that the Property was undervalued and that a hypothetical tenant would pay more than the passing rent. This position contradicts the decision taken by the landlord, a large international property company, not to trigger rent reviews in 2017 and 2024. No evidence was submitted to the Tribunal to support Mr Kelly's submission in this regard.

10.5 The Tribunal notes the agreement between the parties on the rental levels pertaining within the Centre and the external Malls of the Centre. The rent paid on the various floor levels indicate the most popular and preferred trading positions within the centre with the rental values reducing on the upper floors and further again in the external malls.

10.6 The Tribunal is at a loss to understand the rationale between the rent payable for the smaller units referred to as a "Retail shop" and the "Kiosks units", particularly on Level 2 with rents @ €7,000/sq.m and the NAV @ €3,500/ sq.m. The Tribunal also notes it is also agreed by both parties that the external units command a lower rent than similar units on the ground floor of the main centre.

10.7 The Respondent was unable to clarify the reasoning which clearly explains the different classification of “Kiosk” versus “small Retail shop”, considering the unit size varied between 11-40sq.m. and 120-400sq.m. contended that a standard classification for kiosk should apply.

10.8 Taking into account the foregoing the Tribunal is not convinced by the Respondent’s submissions and apportionings greater weight to the rental evidence and submissions of the Appellant.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to €38,400.

Sandyford Road Kiosk 11.3 sq.m. @ €3,400/ sq.m. = €38,420, say NAV €38,400.

**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.