

Appeal No: VA23/5/1370

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BLACKROCK CLINIC UNLIMITED COMPANY

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of

Property No. 501257, Hospital at Rock Road, Blackrock, County Dublin.

B E F O R E

Dairine McFadden - Solicitor

Killian O'Higgins - FSCSI, FRICS

Peter Stapleton - FSCSI, FRICS, Dip Arb

Deputy Chairperson

Member

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF JULY, 2024

1. THE APPEAL

1.1 All references to a particular section of the Valuation Act 2001 (“the Act”) refer to that section as amended, extended, modified or re-enacted by the Valuation (Amendment) Act, 2015.

1.2 By Notice of Appeal received on the 19th 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 (“the subject property”) was fixed in the sum of €6,307,000.

1.3 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the subject 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 excessive and inequitable "

1.4 The Appellant considers that the valuation of the subject property ought to have been determined in the sum of €4,000,000.

2. REVALUATION HISTORY

2.1 On the 23rd day of February, 2023 a copy of a valuation certificate proposed to be issued under section 24(1) of the Act in relation to the subject property was sent to the Appellant indicating a valuation of €6,307,000.

2.2 A Final Valuation Certificate issued on the 15th day of September, 2023 stating a valuation of €6,307,000.

2.3 The date by reference to which the value of the subject property was determined is the 1st February 2022.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing remotely, on the 25th day of April, 2024. At the hearing the Appellant was represented by Mr Terry Devlin B.Sc., RICS, SCISI, Dip Rating, Head of Business Rates and Compulsory Purchase in CBRE and the Respondent was represented by Dean Robinson MSCSI, MRICS, ACCA Dip, RICS Dip Rating of Tailte Éireann (previously the Valuation Office).

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.

3.3 Mr. Devlin on behalf of the Appellant had submitted to the Tribunal a supplementary précis which was received by the Tribunal on the 18th April 2024. Mr. Robinson in response had submitted a supplementary précis to the Tribunal. Neither party had sought the permission of the Tribunal as required by the Valuation Tribunal (Appeals) Rules, 2019 (“the Rules”), to submit a supplementary précis. Mr. Robinson initially objected to the submission by Mr. Devlin of a supplementary précis on the grounds that there was no analysis provided in same as regards the additional site comparisons which the Appellant’s valuer had now sought to introduce and given the lateness of same, that he did not have adequate time to consider. Mr. Devlin’s view was that the information he had included in his supplementary précis only came to hand after he had submitted his original précis and that it would assist the Tribunal in its determination. The Tribunal rose to consider the matter and while making it clear to Mr. Devlin that the Rules should be followed, decided to admit Mr. Devlin’s supplementary précis for consideration by the Tribunal

as to what weight was to be attached to same, on the grounds that: firstly Mr. Robinson had himself submitted, in response, a supplementary précis and had commented also therein on the trading figures which he had received also from Mr. Devlin a number of days before the hearing and secondly, it was important that the Tribunal have as much information as possible to allow it to make the appropriate determination. Mr. Robinson was advised that, if in the course of Mr. Devlin's evidence, he was prejudiced by anything in Mr. Devlin's supplementary précis, that he could object and that the Tribunal would consider the matter further. No such objection was made in the course of the hearing.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following facts:

- 4.1** The valuation date is the 1st of February 2022.
- 4.2** The subject property is located on the Rock Road in Blackrock, adjacent to Blackrock College, Co. Dublin. It is in use as a private hospital.
- 4.3** The hospital now has 170 private bedrooms, consultants' clinics (separately valued) intensive care wards, operating theatres, inpatient and outpatient services, pathology and lab testing facilities. There is a mix of surface and multi storey car parking, all accessed off a single entrance on the Rock Road. The multistorey car parking is separately rated. The site also includes former houses now in use as auxiliary office accommodation (St. Catherine's and Glenala).
- 4.4** The areas of the subject property are agreed as follows:

Hospital: 21,020 sqm.

St. Catherine's: 1,799 sqm net internal area (NIA), valued at the rate of €170/sqm as agreed by the parties.

Glenala: 297.07 sqm NIA, valued at the rate of €170/sqm as agreed by the parties.

The subject property includes 255 surface car park spaces, valued at the rate of €750 per space as agreed by the parties.

The agreed area of the overall site is 8.88 acres, of which 2.57 acres is agreed to be part of the subject property to be valued.
- 4.5** The original hospital was built circa 1985. In circa 2010 an extension was constructed which added an additional 3 floors to the original hospital, resulting in an additional 141 beds.

Circa 2007/2008, an energy centre was constructed (area not established).

Circa May 2009, a restaurant was constructed comprising an area of 273.6sqm.

Circa Jan 2012, a catheterisation laboratory was constructed comprising an area of 312sqm.

Circa April 2012, a decontamination unit was constructed comprising an area of 690.86sqm.

Circa October 2013, an emergency department was constructed comprising an area of 995sqm.

Circa October 2013, an Intensive Care Unit was constructed comprising an area of 494sqm.

4.6 The title to the subject property is freehold.

5. ISSUES

5.1 At the hearing the Appellant contended for a valuation of €4.8m (revised upwards from €4,150,000 contended for in the précis submitted on behalf of the Appellant). The Respondent contended for a valuation of €6,800,000 (increased from the valuation of €6,307,000 entered in the valuation list).

5.2 The Respondent and Appellant valuers agreed that the application of Part 11, section 50 of the Act, also known as the contractor's method of valuation, is the most appropriate method to establish the valuation of the subject property save in respect of those parts known as St, Catherine's, Glenala and the surface car parking spaces, the areas and values of which are agreed and outlined at 4.4 above.

5.3 In respect of the remaining part of the subject property, which the valuers agreed was to be valued on the "contractor's method" of valuation, the valuers were agreed that this valuation approach involves 5 stages as follows:

Stage 1 – Estimate the replacement cost of the site works, buildings, rateable structures and rateable plant and machinery. At the Tribunal hearing, Mr. Devlin removed his 10% Contract Allowance deduction for the estimated replacement cost of the subject property. Accordingly, both parties agreed that the estimated replacement cost was €4,200 psm or €88,281,900 but Mr. Robinson added an undisputed allowance of 5% for external works and 9% for professional fees to bring his figure to €100,641,366.

Stage 2 – Apply any appropriate adjustments and allowances to reflect the difference between cost and effective capital value (ECV).

Stage 3 – Add the site value to arrive at a total ECV.

Stage 4 – Decapitalise the EVC at the prescribed rate. The rate of decapitalisation is prescribed by section 50 (1) of the Act, is 5% and is not in issue in dispute.

Stage 5 – Review “stand back and look” at the result of Stage 4 and make any further adjustments considered necessary.

5.4 There were a number of areas of dispute between the parties;

Stage 2 – This was substantially agreed but there were two areas of difference on the percentage discount applied to the section of the hospital developed in 1986 and some small sections developed in 1991. In respect of these sections in dispute, the Appellant applied allowances at the rate of 30% and 25% and the Respondent applied a uniform 18%. In one area, “Sub Lease” constructed in 2000, Mr. Devlin claimed a 1% allowance whereas Mr. Robinson offered a 16% allowance.

Both parties had agreed that when considering the age profile it was more appropriate to do this on an individual basis as regards each building or room within the subject property. The parties differed in their approach as to when the depreciation figure should be applied i.e. before adding on the fees and expenses (Appellant’s approach) or after (Respondent’s approach), but nothing turned on this.

Stage 3 – Site value for a private hospital. At the hearing, the Appellant put forward a revised value of €5m per acre having originally contended for a value of €2.5m per acre. The Respondent contended for a value of €15m per acre.

Stage 5 – The application of an end allowance with the Appellant contending for an allowance of 10% and the Respondent arguing that no end allowance should be applied.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the subject 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 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.”

6.3 Section 50 of the Act provides as follows:

(1) If, in determining the net annual value of property or any part of it in accordance with *section 48*, a method of valuation relying on the notional cost of constructing or providing the property or part is used, then, notwithstanding *subsection (3)* of that section, the net annual value of the property or part, for the purposes of that section, shall, subject to subsection (2), be an amount equal to 5 per cent of the aggregate of the replacement cost, depreciated where appropriate, of the property or part and the site value of the property or, as the case may be, part.

(2) An adjustment shall be made so that the amount arrived at by such means to be the property’s net annual value is (insofar as is reasonably practicable and in accordance with *section 19(5)* or *49*, as appropriate) determined by reference to the values of other properties comparable to that property as appearing on the valuation list.

6.4 Section 19 (5) of the Act provides as follows:

The valuation list as referred to in this section shall be drawn up and compiled by reference to relevant market data and other relevant data available on or before the date of issue of the valuation certificates concerned, and shall achieve both (insofar as is reasonably practicable)—

(a) correctness of value, and

(b) equity and uniformity of value between properties on that valuation list,

and so that (as regards the matters referred to in *paragraph (b)*) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area

6.5 Section 37(1) of the Act provides as follows:

37.—(1) The Tribunal shall consider an appeal made to it under *section 34*; in

considering the appeal, unless the issues in the appeal do not relate to the value of property, the Tribunal shall achieve a determination of the value of the property concerned that accords—

(a) with that required to be achieved by *section 19(5)*,

6.6 Section 63 of the Act provides as follows:

63.—(1) The statement of the value of property as appearing on a valuation list shall be deemed to be a correct statement of that value until it has been altered in accordance with the provisions of this Act.

7. APPELLANT’S CASE

7.1 Addressing the first issue in dispute between the parties (Stage 2 of the valuation, the appropriate adjustment for depreciation), Mr. Devlin, valuer for the Appellant, described the build of the hospital as being of its time in both design and appearance and of basic construction. In calculating the depreciation to be allowed, both he and the Respondent’s valuer were in agreement that the Monsanto scales (derived from the approach determined in the case of Monsanto PLC (now Solutia UK Ltd) and Farris (VO) RA/356-362/1993 and RA/373-375/1993. These scales set out suggested allowances for a percentage depreciation ranging from 0% for a building with an age of 1 year to a maximum of 50% for buildings with an age of 52 years or over. Mr. Devlin in his calculation of the depreciation allowance on the original hospital, had applied an allowance of 30% to the original hospital built in 1986 and 25% to buildings added on in 1991. In one area “Sub Lease” constructed in 2000, Mr. Devlin claimed a 1% allowance. He was not proposing to apply a further Ebdon allowance.

7.2 Addressing the second issue in dispute (Stage 3 of the valuation, the site value), Mr. Devlin stated that the site to be valued was that with an area of 2.57 acres of land. In his first précis, Mr. Devlin had stated that the value of the site should reflect the land “*Rebus sic Stantibus*” being its actual use. He stated that on the valuation date, the zoning for the site was “SNI” ‘*To protect, improve and encourage the provision of sustainable neighbourhood infrastructure*’. Permitted in Principle includes *Assisted Living Accommodation, Car Park, Community Facility, Childcare Service, Cultural Use, Doctor/Dentist etc., Education, Health Centre/ Healthcare Facility, Hospital, Open Space, Place of Public Worship, Sports Facility, Public Services, Transitional / Step-Down Medical / Rehabilitation Services, Veterinary Surgery.*

7.3 He stated that the prime evidence of site value is the purchase price of land bought at, or near, the date of valuation for the purpose of forming the site of the buildings subsequently

erected thereon, being the Blackrock Clinic. There did not appear, he said, to be any direct evidence of land sales for use as a *Health Centre/Healthcare Facility* or *Hospital* in the South Dublin area. As a result, he had to have regard to land sales close to the relevant date for development sites of less than 10 acres.

7.4 In his original précis, he put forward a number of comparisons as per Appendix 1 (N/A to public).

7.5 He said that two of these comparisons had the same zoning as the subject property, “SNI” and two more had full planning permission in place for residential development. He accepted that as the sale in comparison 4 had fallen through, that it should not be given the same consideration.

7.6 In addition, Mr. Devlin put forward 3 further comparisons which he had set out in his supplementary précis as per Appendix 2 (N/A to public).

7.7 Mr. Devlin stated that in his view, these sales all showed site values in the range of €2.5m - €5m per acre and he submitted that there was nothing to support the Respondent’s level of site valuation at €15m per acre. Mr. Devlin stated that his comparisons were for the most part residential but that a residential site would be more valuable than a site for a hospital. At the hearing, Mr. Devlin amended his site valuation from €2,500,000 to €5,000,000. The revised figure approximately reflected the price paid for lands adjacent to the subject property (Supplementary Evidence Comparison 2)

7.8 Addressing Stage 5 of the valuation (the application of an end allowance), this was being proposed by Mr. Devlin following his “stand back and look” part of the valuation exercise. He said that the site had poor access, with only one road in and the same road was required to exit the subject property, which he said was a serious issue. The hospital was not purpose built but was developed in a piece meal fashion over a number of years. He described the site as being a “tight” site bounded by Blackrock College and said that it was not conducive to a modern clinic, in contrast to the Hermitage Private Hospital. Mr. Devlin contended for an end 10% allowance to take account of the above factors.

7.9 Under cross-examination, Mr. Devlin agreed that the onus of proof lay with the Appellant to show that the valuation was incorrect.

7.10 On the issue of depreciation, he reiterated his opinion that the hospital building remained a building constructed in 1985 and that should be reflected in the depreciation allowance. It was put to him that he had not given any evidence to support a percentage depreciation allowance other than as applied by the Respondent and in particular had not made any reference to the Respondent’s 18% allowance in his précis or demonstrated that the 18% allowance applied by the

Respondent was incorrect. He disagreed and said that the Respondent had randomly selected and capped the allowance at 18%, when the Monsanto scaled provided for a 30% depreciation allowance for a 36-year old building.

7.11 On the site value:

It was put to Mr. Devin that he had not provided any commentary or analysis of the comparative properties set out in his supplementary précis, but he disagreed. He said that the best evidence of the site value was to look at sales and he referred again to the price paid for lands adjacent to the subject property which he said supported a value per acre in the region of €5m. It was put to him that the Beacon Hospital was on the list, to which he agreed but said that there was no breakdown of how the NAV was calculated.

Mr. Robinson put it to Mr. Devlin that he had increased his value per acre from €2m in his first précis to €5m in his supplementary précis. Mr. Devlin agreed that he had. Mr. Robinson put it to him that he had not set out any calculation as to how he had arrived at that figure, to which he responded that he had submitted eight comparators and had given his opinion of value. It was put to Mr. Devlin that in his first précis all the sales he had included had taken place after the valuation date and three had taken place after the publication date of the valuation list and that pursuant to s. 19(5) of the Act, they could not be taken into account. Mr. Devlin responded that it was helpful to stand back and look and that the comparisons in the period from 2020-2023 were useful. He accepted that the subject property had to be valued in its actual state "*Rebus sic Stantibus*". He accepted that the turnover was in the sum set out in Appendix 3 (N/A to public) hereto and that the Appellant as the occupier could also be considered as the hypothetical tenant. It was put to him that none of his comparator properties had planning for a private hospital to which he responded that one had planning permission for a nursing home (comparison 3, supplementary précis, Appendix 2 hereto, N/A to public).

7.12 In relation to his proposed end allowance of 10%, Mr. Robinson put it to Mr. Devlin that he had not produced any calculation to show how he had arrived at the 10% end allowance to which Mr. Devlin responded that it was very difficult to put a number on the end allowance and that 10% was his view on what the allowance ought to be.

7.13 He was asked whether he had carried out a receipts and expenditure and a residual value exercise and he said that he had but the residual value had arrived at a negative value for the site and that when he used the receipts and expenditure method, he had arrived at a valuation which did not make any sense. It was put to him that none of these calculations were in his précis, to which he responded that he did not see the point of including a residual value which showed a negative value, that it all depended on the input of information and that he had applied the contractors method of valuation.

7.14 Under questioning by the Tribunal, it was put to him that the Monsanto scales were more appropriate to industrial buildings and he agreed that they had originated in that context but that

they were applicable in the absence of any alternative. He accepted that the Monsanto scales provide for not only physical obsolescence (age of a building) but also for functional or technical obsolescence. He said that the depreciation allowance he had applied was on the basis of physical obsolescence only. He accepted that it could be said therefore that his allowance of 30% should be less since he had allowed for physical obsolescence only but that the same could also be said for the Respondent's percentage allowance. He accepted that when the 3-floor extension was constructed that this would have resulted in some upgrade to the original building and that age was not everything in terms of depreciation as stated in the RICS professional standards and guidance, UK, on "*The Contractor's Basis of valuation for rating purposes*", ("the RICS Guidance Note"). It was put to him that the SNI zoning designation which he had referred to in the table of comparisons in his first précis had not actually been in effect on the dates of those sales (or the date of valuation), having come into effect only in the new Dún Laoghaire-Rathdown ("DLRCC") County Development Plan in April 2022, to which he responded that there would have been similar zoning at those dates. At the Valuation Date, the Draft DLRCC County Development Plan demonstrated the intent to change the zoning to SNI which identifies existing facilities and services considered by DLRCC to be central to sustaining and building neighbourhoods.. The earlier designation in the 2016-2022 development Plan was designated "*MH – to improve encourage the provision and expansion of medical/hospital uses and services*" He was asked for his evidence to support his statement that residential sites would be more valuable than a hospital site and he responded that this would be the general consensus in the market having spoken to colleagues in his office who dealt with residential sales, that the sale of a residential site would be easier to dispose of than a hospital site.

8. RESPONDENT'S CASE

8.1 On the first issue (Stage 2 of the valuation, the appropriate adjustment for depreciation), Mr. Robinson stated that at this stage, the valuer should be mindful of any capital expenditure on improvements between the date the hospital was constructed and the publication date. Such expenditure may result in improved operating efficiency, and he said that the allowances should be adjusted accordingly.

He referred to point 3.2.3 of the RICS Guidance Note, while dealing with the Stage 2 adjustment where it states that:

"It is unusual for an older property not to have been subject to some refurbishment and/or renewal throughout its lifespan with works such as re-wiring, new windows, etc. being common. Where this is the case, any allowances need to be reviewed depending on fact and degree."

8.2 He referred to the works which had been carried out to the hospital since it was originally built which he had been advised of on his inspection. The costs which he said he had been advised of associated with these works are set out in Appendix 4 hereto (N/A to public).

8.3 This capital expenditure on the extension or upgrading of the subject property should reduce the extent of any depreciation allowance to be applied. He said that Mr. Devlin had applied the scales as if no refurbishment/expenditure has occurred. Mr. Robinson's view was that some adjustment needed to be made to reflect the improvements made. As a result of these improvements, he had limited depreciation of up to 18% on the oldest elements of the buildings. He said that his application of depreciation would suggest that the older 1985 element of the building is 13% less profitable than the newer 2011 portion, which has an agreed 5% depreciation applied. Further, from a visual inspection, he did not notice a discernible difference between profit making ability and operating costs between the 1985 areas (the original construction) and the 2011 area extension (additional 3 floors). Information detailing the difference in efficiency between the new portion built in 1985 and that built in 2011 was available to Mr. Devlin but he had not provided it. The Appellant did not put forward any evidence to show that there were no improved efficiencies in the older part of the hospital building.

8.4 Mr. Robinson contrasted the differences in the valuation approach to the contractor's method in the UK and in Ireland; the "classical approach" being applied in Ireland where the valuation was of the "actual" building as required under s.50 of the Act rather than a substitute building, which was the approach taken in the UK.

8.5 On the issue of Stage 3 of the valuation (the site value), Mr. Robinson commented on Mr. Devlin's approach to the valuation. Three of the five comparisons (comparisons 3, 4 and 5) in Mr. Devlin's précis were from transactions which took place after the publication date 15th of September 2022 and could not be considered as "relevant data on or before the date of issue of the valuation certificate" as set out in Part 5, Section 19(5) of the Act. It was his view that with only two transactions provided, both which were post the valuation date, there was insufficient evidence to arrive at an accurate site value, especially when further adjustments/assumptions were required to arrive at the correct site value of a private hospital in Blackrock. Further, these two comparisons cited were a considerable distance, c.4.5km from Blackrock and he considered that the site of the subject property would achieve more than those of sites in Churchtown and Cabinteely. Neither had the planning permission associated with that of a private hospital. Three of Mr. Devlin's comparisons were in respect of sales which may have taken place during Covid-19 restrictions, some had planning, some did not and one was a sale which had fallen through.

8.6 Mr. Robinson said that what had to be valued was the open market capital value of the land, to reflect the actual property in situ at the valuation date being a site in use as a private hospital, with zoning SNI, "Sustainable neighbourhood infrastructure", in close proximity to a prime market. The valuation should reflect all advantages and disadvantages of the site and its location. The land value should reflect the income capacity of the subject property. At no point did Mr. Delvin arrive at a "value" for the site.

8.7 As is the case with a private hospital, Mr. Robinson said that it may be difficult to establish the appropriate land value when the property is in a class of its own, and where there is

no evidence of a market in land for the particular use. In the absence of such evidence, a valuer is not precluded from considering values relating to land in the vicinity but must be mindful of the objective which is to value the land with its actual use/permission. Comparable site transactions while they could be looked at as a first step, as stated in the RICS Guidance Note, required a further step to reconcile the value of that of land for the only private hospital located in Blackrock, Dublin. Looking at alternative site sales transactions therefore has its limitations and is only relevant in so far as it would inform the negotiations between landlord and tenant. An important point is that the actual occupier, is not precluded from being considered as a hypothetical tenant.

8.8 Mr. Robinson said that he had applied €15,000,000/acre for the 2.57 acre site – a total value of €38,550,000 - which he had believed to be fair and reasonable. He noted that the site to be considered is only 2.57 acres, which excluded any area not part of the subject property or elements which are considered on a rate (€/sqm) basis. In valuing the site and to arrive at the correct rate €/acre he said that he had used a number of approaches.

8.9 He had firstly analysed site sales for the actual property. He referred to the RICS Guidance Note which provides that

“3.3.4 Evidence as to the value of the land should, where possible, be obtained from market transactions in sites of a comparable size for use within the same mode or category as the subject property. Any price paid for the site itself may require adjustment to bring it into line with the date of valuation, or to exclude any value attributable to development not yet realised”.

8.10 He said that in 2007 the hospital purchased a 0.36 acre site located to the front, formerly a Texaco petrol station (“the Texaco site”). The site was purchased for the sum set out in Appendix 5 (N/A to public) hereto and now forms part of the subject property. While this was 14 years before the valuation date, as part of the subject property itself, he said that it was a best reflection for the site value, with the necessary adjustments for size, time and use.

8.11 He also said that he had been advised that the hospital bought the St. Catherine’s (office) building on a site of 1.97 acres in 2017 for the amount outlined in Appendix 6 hereto (N/A to public).

8.12 He had then done an analysis of revaluation site values. Firstly, within the same local authority, DLRCC, there is another Private Hospital, the Beacon Hospital, (Property Number 2187634) entered onto the valuation list with a Net Annual Value of €5,291,000, not subject to appeal.

That property (Beacon Hospital) is 23,980 sqm in size while the hospital within the subject property is 21,020sqm. Similar to the subject property, the comparison has features associated with a hospital, operating theatres, bed space and laboratories.

Mr. Robinson maintained that per the application of section 50 of the Act, the Beacon site value had been “established” at €20,000,000/ acre for 0.81 acres. Given the size, location and inherent characteristics, he believed that this demonstrates that €15,000,000m/acre applied to the subject property of 2.57acres to be fair and reasonable. This valuation of the Beacon as entered on the list was deemed correct as per section 63 of the Act.

8.13 Secondly, N1034659 is a large office block located in Leopardstown, Sandyford. Occupied by a clinical research company and consists of 11,356sqm valued at €280/sqm. Given the “actual state” of the subject property, applying €296/sqm for the subject property appeared to be reasonable.

8.14 He had then done an analysis of the site value of alternative uses. He said that Mr. Devlin had said that it was not possible to provide evidence of alternative sites with a similar income generating capital as the subject property. However, Mr. Robinson referred to Mr. Devlin’s comparison 2 in his first précis (the Cabinteely site) and estimated that this could generate an annual income of €2.1 million based on a monthly rent of €2,500 for each of 72 apartments. This he contrasted with the subject property generating a sum in profits as set out in Appendix 3 hereto (N/A to public). While it could be argued that the profits figure for the subject property included depreciation which should be excluded and did not allow for costs associated with rental, this analytical approach would also have been open to Mr. Devlin when considering a residential site as against a private hospital site.

8.15 He put forward three site sales with alternative uses which he believed were comparable and as set out in Appendix 7 hereto (N/A to public). He said that this evidence suggested a value for the lands in relation to the hospital in the region of €12.44m to €39.13m. At a conservative estimate, he was of the view that the appropriate value for these lands is €15m/acre.

8.16 He referred to section 3.3.1 of the RICS Guidance Note;
“Two stages are involved in valuing the land element. The first is to find the 'cost' of the site, which is based on the open market capital value of the land as at the valuation date. The second is to consider any adjustment for any disadvantageous effects that the actual buildings or rateable structures may have on the value”

He said that in Ireland, when considering unique properties in their actual state, not only should any “disadvantageous effects” be considered but also the advantageous effects. This is provided for in 3.3.8 of the RICS Guidance Note. As a valuation principle, without this further step, a valuation would not be in line with section 19(5) of the Act. Net annual values of unique

properties and those having an effective monopoly should be more valuable than those with a number of competing properties in which a potential tenant would have a number of options.

8.17 Mr. Robinson said that the bidder would not place more weight on residential developments, as the Appellant was proposing, but would have greater regard to the fact that the site is for a private hospital, in a location where there are no others. Equally, when negotiating the letting, the hypothetical landlord and hypothetical tenant must be taken to be aware of this, while they may consider the values of comparative lands, these alone would not capture the site value.

8.18 He gave his site value summary as outlined in Appendix 8 hereto (N/A to public).

8.19 On Stage 5 (stand back and look/end allowance), Mr. Robinson said that it could be argued that this aspect of the valuation was already captured in Stage 2 (depreciation) but that was not clear. He said that there was no reference to this in section 50 of the Act but he accepted that there could be a minor adjustment when arriving at a section 50 valuation. In his stand back and look approach, he said that a receipts and expenditure analysis should be carried out to ensure the Net Annual Value arrived at is fair and reasonable. He had requested trading details but had only been provided with same on 23 April 2024, a number of days prior to the hearing. He had carried out a receipts and expenditure analysis and his calculation was based on the turnover by a multiplier of x2, which multiplier he said he had arrived at having considered newspaper reports of sales of the Mater Private and the Beacon as per Appendix 9 hereto (N/A to public). He said that he had adopted a cautious approach and that on an R&E analysis, the site would come in with a value of €28m.

8.20 He had also looked at other valuations on the list. The Beacon Hospital which was a private hospital within the same Local Authority rating area was on the list at €5,291,000 for 23,980 sqm. There were no car spaces or additional offices included in that valuation. This devalued at c. €226/sqm. Having regard to the location and income generating capacity of the subject property, he believed that an uplift to €296/sqm for the subject property was merited. He had also looked at alternative use properties in the same Local Authority area namely PN1034659 which was a large office block located in Leopardstown, Sandyford. Occupied by a clinical research company and consisting of 11,356sqm valued at €280/sqm. Given the “actual state” of the property, €296/sqm for the subject property appeared to him to be reasonable.

8.21 As regards Mr. Devlin’s proposed 10% deduction by way of end allowance on the grounds of “possible” reasons to include poor site access and poor building/site and piecemeal development, he said that as regards access, the same could be said for the Beacon and the Hermitage. No calculation or analysis has been provided to support the 10% end allowance allocation and further such an allowance was incorrect when other evidence is considered. He said that Mr. Devlin was trying to impose a UK approach to the end allowance arguing that the

subject property had been developed on a piecemeal basis. However, Mr. Robinson said that a piecemeal development allowance has no place when the actual property had been costed. He noted that in the UK via the “tenant’s alternative” approach, the property costed may not necessarily be the actual property, hence a “piecemeal development allowance” may be appropriate. In accordance with the Act, it is “the property” which is costed at the valuation date and not some “substitute building”. As regards the subject property, the adjusted replacement cost had been identified at Stage 2 and, issues for functionality and technology concerned with the building had been allowed for at that stage.

8.22 He said that Mr. Devlin cited the Hermitage as an example of a purpose-built hospital without site constraints. However, the Hermitage sits on c.12 acres but only 4.2 acres is in use. This includes a large surface car park of 1.78 acres and when this is deducted, this leaves 2.42 acres for the site of the hospital which he said very much aligned to the 2.57 acres at the subject property.

8.23 Mr. Robinson said that Mr. Devlin’s original valuation for the subject property, €3,602,883m, would equate to €171.40/sqm. This was almost at the same level as St Catherine’s and Glenala House, office space which was of poor quality, which the parties had agreed at €170/sqm, in contrast to the far superior hospital in terms of fit out. This would result in a valuation which is not in accordance with section 19(5) of the Act, correct, uniform and equitable. This he said was prime evidence showing that Mr. Devlin’s proposed rate of €171.40/sqm in his original valuation to be incorrect. He said that Mr. Devlin’s evidence as regards residential sites commanding higher values than a site for a hospital was “hearsay” based on conversations with colleagues.

8.24 Mr Devlin had not provided evidence of a satisfactory nature to allow the Tribunal to adjust the valuation. Mr. Robinson was of the opinion that the correct NAV for the subject property is €6.8m, an increase from the NAV of €6,307,000 which had been entered on the list, the adjustment being as a result of the individualised approach to the floor areas when considering the age profile of the various buildings, referred to at 5.4 above.

8.25 On cross-examination, Mr. Devlin put it to Mr. Robinson that his evidence on the value of residential sites compared to a hospital site was not hearsay but was his opinion and that what any valuer would do is speak to experts working in that area, which is what he did. He then asked Mr. Robinson if he was seeking an adjusted valuation of €6,871,000 rather than for the Tribunal to affirm the valuation which had been entered in the list at €6,307,000. Mr. Robinson responded that he was seeking the adjusted valuation.

8.26 Mr. Robinson in response to Mr. Devlin accepted that the negotiations which had taken place in 2011 were not now relevant given that trading information had been supplied.

8.27 In relation to the works which had had listed at page 23 of his précis, it was put to Mr. Robinson that these were extensions rather than alterations. He accepted that but said that on inspection that he noted that, for example, the restaurant was the one which had been extended and he also referenced the energy centre which he had been told had been built in 2000 but also was given a year built date of 2011. He believed that the alterations were improvements which allowed the older buildings to be operated more efficiently. He referred to the RICS Guidance Note on the application of allowances in an older building which had been refurbished. Mr. Devlin asked him how he had arrived at this allowance of 18% and he responded that on inspection in 2019 pre-covid, he noted no discernible difference between the old and the new buildings and in light of that had reduced the 30% by half, which gave a figure of 15% and then added another 3% thereafter to allow for the 3 intervening years to the valuation date in 2022. He said that Mr. Devlin had not provided any information to “differ” from that and had not provided any energy costing contrasting the energy efficiencies of the newer versus the older buildings. It was his view that there had been considerable capital expenditure after the original hospital building had been constructed in 1985. The application by Mr. Devlin of a 30% allowance was to disregard the actual buildings in their condition at the valuation date and also the RICS Guidance Note.

8.28 On the site value, Mr. Robinson had worked on the basis that Mr Devlin’s designation of SNI zoning where stated was factually correct but accepted that said zoning and MH zoning of the earlier DLRCC County Development could be very similar.

8.29 In relation to the Texaco site, Mr. Robinson was asked how a site with an area of 0.36 acres to the front of the subject property, sold in 2007 to the Appellant, before the financial crash, could best reflect the site value of the subject property. He responded that this was the only site which was part of the subject property and that all other evidence was analysis or comparable. As regards what adjustments he had made to that 2007 value to arrive at a 2022 value, he said that he had carried out a number of checks as outlined in his evidence. The income generating capacity of the subject property had increased in the period from 2007 to 2022 and his valuation reflected that. He had put a value per acre on the subject property’s site of €27.7m and on his residual valuation, he had arrived at a figure of €28m per acre. He had valued the actual site and all his checks stood up to support his value of €15m per acre which he said was more than fair and reasonable. He did not accept that the 2007 sale was unreliable and believed that it was pertinent information for the Tribunal.

8.30 In relation to the St. Catherine’s site, it was put to Mr. Robinson that this included both the site and the buildings, to which he responded that he had asked for those details but had not been provided with them. He had also asked the question if the Appellant had been a tenant of that property prior to the sale. Mr. Devlin confirmed during this cross-examination that they were. It was put to Mr. Robinson that the analysis of the St. Catherine’s property gave a figure (Appendix 6, N/A to public) which was only a small fraction of the €15m per acre contended by Mr.

Robinson to which he responded that said property was not a private hospital. It was another piece of evidence for the Tribunal, said Mr. Robinson.

8.31 In relation to valuations on the valuation list, the Beacon Hospital, (€5,291,000), Mr. Robinson confirmed that this had not been appealed and accepted that this was a brand-new, purpose-built development in 2006 with easy access off the M50. On being questioned as to which of the Beacon or the subject property would be more attractive to a hypothetical tenant, he said that in terms of quantum as regards site value per acre with the subject at €15m per acre and the Beacon at €20m per acre, he had already allowed for a differential of 25% with the subject at 2.57 acres and the Beacon being 0.81 acres. In terms of the hospital buildings, he said that he had valued the Beacon at €228psm and the subject at €292psm and as regards the Beacon had arrived at his site value after carrying out an analysis. He was asked how €20m per acre for the Beacon had been arrived at and he said that it was as a result of the same exercise and tests carried out for the subject property. Mr. Devlin put it to him that the Beacon was not a market valuation to which he responded that it had been arrived at after a section 50 value and was on the list. He also said in response to it being put to him that the Beacon was a newer building that this had been taken account of in the depreciation allowance for the subject property. He did not accept that the valuation of the subject property was excessive having regard to the value of the Beacon. The main difference between the two properties was the different site values.

8.32 On his inclusion of PN1034659 (large office block located in Leopardstown, Sandyford), it was put to him that as this was a third-generation office, it was not comparable to the subject property. Mr. Robinson responded that it was just a comparison for the purposes of a check. The subject property was of a high quality finish and similarly third generation office blocks would generally have elevators, air conditioning and raised floors. It was put to him that at the time the hospital was constructed in the 1980's, there were no third-generation offices, to which he responded that depreciation of the subject property allowed for that fact. Mr. Devlin put it to him that it would have been more appropriate to compare the subject property with a second generation office building but Mr. Robinson said that the Appellant had not provided any evidence to that effect. He further stated that on his inspection he had noted no discernible difference between the old and the new hospital floors.

8.33 On his alternative site values, he accepted that three of his comparisons were not located in the rating authority area Dún Laoghaire-Rathdown and were pre-Covid-19. Mr. Robinson was asked why he had no comparisons from the area or after 2017. He responded that he was trying to reflect the income generating capacity of the subject property and the magnitude of these sales would be in the mind of the operator of the subject property.

8.34 He was asked if he was being disingenuous in comparing income from residential and commercial sites and he said that was the exact point he was making, that you could not compare residential with a private hospital.

8.35 It was put to him that the build costs for residential would be different to those for a hospital. Mr. Robinson referencing his three alternative site comparisons (two in the Docklands and the RTÉ site) said that they were a mix of residential and office developments. He had been given limited financial information and in the absence of that he could only provide what he believed were comparisons of the magnitude of what would be in the mind of the hypothetical tenant. There was nothing available with the magnitude of the earning capacity of the subject property.

8.36 In response as to how he had arrived at a value of €15m from his analysis of those sites, he referred to the summary of how he had arrived at the site value as outlined in his evidence (Appendix 8, N/A to public). The average from all of these was circa €18m.

8.37 It was put to him that the value agreed in 2011 was of no relevance as it related to a 2005 valuation date to which Mr. Robinson responded that it had relevance as the hospital buildings had increased by the addition of 3 floors in the interim. It was the same site with a different valuation date and should hold weight with the Tribunal but as regards any comparisons provided before the valuation date, he provided the information and would let the Tribunal draw its own conclusions.

8.38 In relation to his residual valuation, it was put to him that the reported turnover for the Beacon in 2022 was the figure indicated for the Beacon at Appendix 3 hereto (N/A to public) to which he responded that to the best of his knowledge that included clinics and car park spaces. Mr. Devlin put it to him that even at that, the NAV of the Beacon as a percentage of turnover, equated to 2.62%. Mr. Robinson did not agree as it was not clear to him if that turnover related to that relevant rated property. Mr. Devlin suggested that it might have been more appropriate to use EBITDA but Mr. Robinson said that EBITDA had not been provided by Mr. Devlin and that the financial information provided to him had only come to hand on the 23rd April 2024 so he was working in a tight time frame.

8.39 Mr. Robinson was asked whether the hypothetical tenant would achieve the turnover for the subject property which he contended for and whether he had made an allowance for goodwill. Mr. Robinson responded that it had been agreed that there was nothing to preclude the Appellant from being such a tenant. He said that the NAV equated to the percentage of turnover indicated in Appendix 3 hereto (N/A to public) and that was fair and reasonable. Mr. Robinson's opinion was that a hypothetical tenant would accept that as a reasonable level.

8.40 In answer to questions from the Tribunal, Mr. Robinson said that he did not regard the RICS Guidance Note in its entirety as being applicable in Ireland compared to the UK. Unlike the position in Ireland, the modern substitute is allowed for under the contractor's method in the UK.

He applied a depreciation allowance in accordance with the Act. He was not in a position to advise the Tribunal if there was any difference in the zoning (MH or SNI) from a comparison point of view or whether it affected the valuation. He personally had also valued the Beacon. While he accepted that the Beacon hospital was a more modern building than the subject property, the depreciation would be a factor in that consideration. It was not simply a question of age related e.g. a modern theatre in an older hospital could mean a lot more than a less modern theatre in a newer hospital.

8.41 As regards the Texaco site, Mr. Robinson was asked what influence the fact that this was bought by a special purchaser (the Appellant) had on his appraisal. He responded that as the Appellant had purchased that property and it was accepted that the Appellant could be regarded as a hypothetical tenant, that sale offered evidence of what the hypothetical tenant would pay. He could not say if it was an open market or an off-market sale. It was prime evidence of the valuation of the actual property to be valued and the same could be said of St. Catherine's which was being valued on a straight-line basis (€/sqm) and did not form part of the contractor's method of valuation.

8.42 As regards the Beacon, he said that only the footprint of the building on 0.81 of an acre, was available, whereas in the subject property, there was a much larger area of 2.57 acres available. The car parking for the Beacon was a separate relevant property as was the car parking in the subject property including the multi-story car park. He was asked what his view on the density of the subject property was versus the Beacon. Mr. Robinson said the density had been dealt with; the subject property had an overall site area of 8.88 acres but all that was being considered for the purposes of the valuation was 2.57 acres. The density of 21,020 sqm on a site of 2.57 acres for the subject property, in contrast to 23,980 sqm for the Beacon on a site of 0.81 acre was reflected in the site valuation. The subject property had to be valued in its actual state and any development potential had to be excluded.

8.43 As regards the North Docklands site, in terms of density, 4.6 acres, 300,000 sqm, he said these were the type of figures around pre-Covid-19 and would be in the mind of the hypothetical tenant. In an ideal world he would be able to provide income earning capacity of these. It was put to him that these alternative site comparisons were of a completely different nature to the subject property. He responded that this was the problem in drawing conclusions by reference to properties for which information regarding the income earning capacity was not available. In light of that response, he was asked whether these comparisons were of any value at all to the Tribunal and he responded that they were only of limited value if an income generating capacity exercise was not done. He said that 6 or 7 avenues had to be used in arriving at a valuation. The big point is that the actual occupier cannot be precluded as the hypothetical tenant. He simplified it to one question, what would the Appellant pay for the subject property, knowing the development costs and the income generating capacity. That was effectively the exercise in trying to arrive at a site value. He was asked why more comparisons were not put forward. He responded that there were only two private hospitals and that in itself contributed to the site value. In order of priority of his comparisons, he said that all his comparisons had to be considered equally but special regard

should be had to his residual valuation, although it was somewhat rushed as he was only given the information a few days before the hearing and that worked out at €28m and he was seeking a site value of €15m site value.

9. CLOSING SUBMISSIONS

9.1 Mr. Devlin said that there was nothing to back up the Respondent's 18% depreciation other than it being half of 30% plus 3%.

He said that evidence of site value was the best way to value the subject property. On Mr. Robinson's residual valuation, Mr. Devlin said that Mr. Robinson had arrived on his residual valuation at a value of €251m for the site only. He pointed out that in his evidence, Mr. Robinson had said that the Beacon was sold for the price set out in Appendix 9 hereto (N/A to public). In light of that Mr. Devlin questioned why someone would pay €251m for a site only and that this showed that a residual valuation was not the best way to look at the valuation.

He said that Mr. Robinson's comparisons were not reliable. It was difficult to get a valuation on the site and €15,000,000/acre was not supported by the actual evidence.

An end allowance should be made and he proposed a valuation of €4.8m.

9.2 Mr. Robinson said that what had to be valued was a private hospital on a 2.5 acres site generating a substantial income and profit. The actual occupier could not be precluded from being a hypothetical tenant. The Appellant had not put forward any quantifiable evidence to support his proposed valuation. The depreciation allowance proposed by Mr. Devlin did not reflect improvements made and the subject property in its actual state. There was a lack of calculations and analysis. On site value, he said that he had provided up to seven avenues to arrive at site value. He has said there were difficulties moving from residential land sales to a private hospital site and Mr. Devlin had not provided any calculation or analysis whatsoever on that matter. The onus of proof was on Mr. Devlin to show that each stage of the valuation was incorrect. He asked the Tribunal to determine a valuation of €6, 871,047.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the subject property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the subject 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 Dún Laoghaire-Rathdown.

10.2 Section 37(1) (a) of the Act provides that in considering an appeal, the Tribunal shall achieve a determination of the value of the property concerned that accords with that required to be achieved by section 19(5) of the Act; that section requires that the valuation achieves both

correctness of value and equity and uniformity of value between properties on the relevant valuation list.

10.3 The contractors method of valuation is referred to in the marginal note to section 50 of the Act rather than in the body of the section itself and as such and in accordance with section 18 of the Interpretation Act 2005, the reference to the method in the marginal note cannot be taken into account when interpreting section 50. However, the method is the subject of the RICS Guidance Note and at the valuation date, it was the 2nd edition of that Guidance Note dating from August 2017 which was in force. Further the contractors method and the applicable stages were all agreed by the two valuers. Notwithstanding that the RICS Guidance Note has no formal legal status in Ireland, the Tribunal notes that such guidance notes are commonly relied on by valuers and the courts and this Tribunal consequently will consider it in reaching its determination. In relation to guidance notes, the RICS states: “*Where recommendations are made for specific professional tasks, these are intended to represent ‘best practice’, i.e. recommendations that in the opinion of RICS meet a high standard of professional competence.*” As indicated in respective parties’ precis each of the parties before the Tribunal was a member of the RICS.

10.4 It was accepted by the Appellant that the onus of proof rests on the Appellant to show that the valuation is incorrect. In order to succeed in the appeal, the Appellant must put forward a rationale as to why the valuation for the subject property being the site and the buildings, entered on the valuation list should be altered. This flows from section 35 of the Act which provides as follows:

35.—An appeal made under *section 34* shall, as appropriate—

(a) specify—

(i) the grounds on which the appellant considers that the value of the property, the subject matter of the appeal (in this section referred to as ‘the property concerned’), being the value as determined by the valuation manager or revision manager, is not a determination of its value that accords with that required to be achieved by *section 19(5)* (Tribunal emphasis).

10.5 The Tribunal does not accept as contended by Mr. Robinson that Mr. Devlin must show that each stage of the valuation was incorrect. While there were five stages to the valuation process, the Tribunal must look to the final determination of value proposed by each party having gone through those five stages. In this regard the Tribunal notes that section 2.3 of the RICS Guidance Note states as follows:

Although the valuation process can usefully be broken down into five stages, it is the property as a whole that is to be assessed. The valuer should therefore take care to adopt an integrated approach and not be diverted into regarding each stage in isolation. The valuer needs to have regard to every intrinsic quality and every intrinsic circumstance that will affect value.”

Nevertheless, it is important for the Tribunal in assessing whether the Appellant has discharged the onus of proof to look at the evidence presented by each party on the issues in dispute between them at the five stages of the valuation (Contractor’s Method) process. Following the assessment of the five stages, the Tribunal must consider the result in the context of section 50 of the Act.

10.6 Stage 1 – the estimated cost to construct the subject property was agreed between the parties at €4,200/sqm. In adding 5% for external works and 9% for fees, Mr. Robinson arrived at a Total Replacement Cost of €100,641,366. Mr. Devlin estimated the Total Replacement Cost at €88,281,900 but did not separately add additional amounts for external works and fees. Nevertheless Mr. Devlin did not challenge Mr. Robinson’s approach.

10.7 The first issue in dispute between the parties (Stage 2 – adjusted replacement cost) was the percentage discount to be applied to the original hospital developed in 1986 and subsequent alterations and extensions, most significantly in 2010. Both parties referenced the Monsanto scales which took their name from an appeal in England under English law but, other than the scale factors below, was not made available to the Tribunal. However, Mr. Devlin provided a schedule of Monsanto Scales allowances at Appendix 3 of his précis (reproduced below, N/A to public) and this was not challenged by Mr. Robinson for the Respondent.

Monsanto Allowances

Age (Years)	Other Civils	Buildings
1	0	0
2	0	0.5
3	0	1
4	0	1.5
5	0	2
6	0	2.5
7	0	3
8	0	3.5
9	0	4
10	0	4.5
11	0	5
12	0.5	6
13	1	7
14	1.5	8
15	2	9
16	2.5	10
17	3	11
18	3.5	12
19	4	13
20	4.5	14
21	5	15
22	5.5	16
23	6	17
24	6.5	18
25	7	19
26	7.5	20
27	8	21
28	8.5	22
29	9	23
30	9.5	24
31	10	25
32	10.5	26
33	11	27
34	11.5	28
35	12	29
36	12.5	30
37	13	31
38	13.5	32
39	14	33
40	14.5	34
41	15	35
42	15	36
43	15	37
44	15	38
45	15	39
46	15	40
47	15	41
48	15	42
49	15	43
50	15	44
51	15	45
52	15	45 to 50
53	15	45 to 50
54	15	45 to 50
55	15	45 to 50
Pre 1955	15	50

Neither valuer made any reference to later critiques of the “Monsanto” approach as regards their unsuitability for anything other than industrial buildings (a chemical works was the subject in the Monsanto case) as put to the Appellant’s valuer under questioning by the Tribunal. However, both the valuers agreed that these scales did apply and the Tribunal will accordingly deal with matters based on said scales provided in Mr. Devlin’s précis and reproduced above.

10.8 The Tribunal notes that the RICS Guidance Note deals with the issues to be considered at Stage 2 as follows:

3.2 Stage 2 – Adjusted Replacement Cost

3.2.1 *The costs estimated at Stage 1 relate to the provision of new buildings, structures, plant and machinery, etc. As it is the actual property that has to be valued, in its existing physical state, adjustments may properly be considered at this stage to reflect certain deficiencies in comparing the actual property with the 'new' property costed at Stage 1.*

3.2.2 *The deficiencies that may be taken into account at Stage 2 can, for convenience, be grouped under the heading of 'obsolescence' and usefully subdivided into the following:*

(a) 'Physical obsolescence' relates to the deterioration of the buildings or other parts of the property through the wear and tear of the components. Although age is not in itself justification for an allowance, the tenant will reflect the prospect of increased maintenance costs due to deterioration over time by a reduction in his or her rental bid.

(b) 'Functional obsolescence' relates to the problems that may be present in the design of the property, which could be deficient by comparison with current requirements, for example, excessive ceiling heights, inappropriate layout, inadequate load bearing of floors, inferior heating and ventilation, etc.

(c) 'Technological obsolescence' arises where current technology has changed so that the actual buildings or plant to be valued have become significantly redundant, economically outmoded or an alternative use has been adopted. Discussion with the ratepayer may assist in identifying such technological deficiencies.

3.2.3 *While an adjustment for the deficiencies of buildings, site works or plant will be accounted for as referred to in paragraph 3.2.2 above, valuers should bear in mind the following points:*

- (a) An older building may require some adjustment not because of age per se, but because the original design, services and facilities are outdated.*
- (b) It is unusual for an older property not to have been subject to some refurbishment and/or renewal throughout its lifespan with works such as re-wiring, new windows, etc. being common. Where this is the case, any allowances need to be reviewed depending on fact and degree.*
- (c) Any adjustments should be approached with caution, as it is not possible to provide guidance on the level of adjustment that is appropriate for all types and uses of property. For example, there may be instances where 'age' enhances the value of the property, or*

where a specific design has quickly become obsolete, or where an item of plant and machinery has rapidly deteriorated in value. Adjustments in each case should be considered on their own merits.

10.9 Mr. Devlin contended that a significant area of the subject property was 36 years old in 2022. Accordingly, Mr. Devlin had adopted a 30% depreciation allowance for any part of the property constructed in 1986 (aligned with the 36 years scale in "Monsanto Allowances" and 25% for parts of the property constructed in 1991 being the MRI plant room and the MRI machine room (aligned with 31 years in "Monsanto Allowances"). In one area "Sub Lease" constructed in 2000, Mr. Devlin claimed a 1% allowance whereas Mr. Robinson offered a 16% allowance.

10.10 Mr. Robinson said that there was agreement that a significant upgrade of the subject property had taken place in 2011 and it was not a tenable position that the older parts of the property had not received significant investment at the time of the 2011 investment. From his inspection, Mr. Robinson stated that he could not easily differentiate between the sections dating from 1986 and 2011 and that the profit making capacity of the older section was no less than that constructed in 2011. Accordingly, Mr Robinson had adopted a maximum depreciation rate of 18 per cent. Mr. Robinson did not provide a scale of Monsanto allowances but in interpreting Mr. Devlin's unchallenged "Monsanto Scales" at Appendix 3 of his précis, the 18% rate contended by Mr. Robinson is equivalent to a building age of 24 years albeit the major modern sections were 11 years old at the valuation date in 2022. Mr. Devlin did not put forward any evidence whatsoever to contradict the position of the Respondent's valuer that these works had improved the original hospital building.

10.11 The deficiencies identified in the RICS Guidance Note are as stated above, to cover not only physical obsolescence but also functional and technological obsolescence. This is also the position under the Monsanto Scales. The Appellant's valuer accepted that he had not made any adjustment downwards to his proposed percentage allowance to take into account that he stated that while the Property was in part an old building, he did not believe that further allowances should be made for either functional or technological obsolescence (as stated in his précis under "Stage2: Adjusted Replacement Cost").

10.12 Further, the Tribunal finds that Mr. Devlin's approach is inconsistent with the RICS Guidance Note in circumstances where the parties had agreed that significant works were carried out to the subject property in 2011, having regard in particular to section 3.2.2(a) and 3.2.3(b) of the RICS Guidance Note as referred to above.

10.13 The Tribunal believes that Mr. Robinson, for the Respondent, has taken an approach which is consistent with the RICS Guidance Note and adopts Mr. Robinson’s approach and figures in reflecting the adjusted or depreciated replacement cost for Stage 2 (€87.919.315).

10.14 In relation to the site value part of the valuation, this is without doubt the most challenging aspect as accepted also by the two valuers. The area of land to be valued was agreed between the parties at 2.57 acres. The difficulty as acknowledged by the parties, is the lack of comparative evidence as regards the sale of sites for specific use as a private hospital, with the comparators being provided by the Appellant all being of a residential nature save for one and the Respondent’s comparators being for mixed use developments or of an historic nature, or many years before the valuation date. The only other private hospital within the relevant local authority area is the Beacon Hospital but that being on the list, it could be said goes more to the equity and uniformity aspect of the valuation rather than to correctness of value. Further, the valuation entered on the list for the Beacon Hospital was in respect of the site and the buildings, whereas at Stage 3 of the valuation exercise for the subject property, the valuers are seeking to arrive at a “site” value. Finally, that value will not be the NAV of the relevant property as the site is only part of that and the Tribunal must consider the valuation in its totality, in a “stand back and look” exercise beyond the ‘stand back and look’ as undertaken by the two valuers.

10.15 Turning to the eight comparisons offered by the Appellant, the Tribunal disregards the evidence put forward in respect of the St. Joseph lands in Killiney, and Temple Road, Blackrock as these were offered on the basis of “Sale Agreed”. As such with no contract having been entered into, they cannot be taken as definitely establishing a market value, as either party could back out or terms could be changed.

10.16 Project Vista, Merrion House, Merrion Road was sold in Quarter 4 of 2023, which commenced on the 1st day of October 2023. The Valuation Date was the 1st day of February 2022 and the publication date was the 15th day of September 2023. Accordingly, the evidence is of very little assistance to the Tribunal other than indicating a significant disparity between prices quoted and prices achieved in quarter 4 of 2023.

10.17 Although Whitehall Road Churchtown and Cabinteely Road, Churchtown were sold after the Valuation Date, the sales occurred before the Publication Date and therefore could be considered as evidence by the Tribunal and weighted accordingly.

10.18 Both the Cross Avenue (Q3 2021) and Glenageary (Q1 2021) properties had been sold during the period of Covid-19, government imposed, restrictions, before the Valuation Date and

the Monkstown property was sold in the same quarter as the Valuation Date and before the Publication Date.

10.19 The Tribunal notes that of the five site sales put forward by the Appellant which it finds of relevance for consideration and as outlined above, the price per acre ranged from €1,930,380m at the lowest to €5,333,333m at the highest. At the hearing Mr. Devlin increased his value per acre assessment from €2,500,000 to €5,000,000 and from €6,425,000 to €12,850,000 for the 2.57 acres. As all but one of the relevant comparator sites offered in evidence by Mr. Devlin were less than €5,000,000/acre, the Tribunal disregards them and, from the Appellant's perspective, focuses only on the evidence for the site at Cross Avenue.

10.20 In respect of that latter site, there was no planning permission and it was zoned residential. Mr. Devlin's revised site valuation contended for at the hearing (€5,000,000 per acre) is close to that achieved for the site at Cross Avenue, Blackrock and that site is also, at 3 acres very comparable in size to the area of the subject site at 2.57 acres. However, there is a difference between the site to be valued as part of the subject property and the Cross Avenue site in the context of the Contractor's Basis, as Cross Avenue had no planning permission whereas the RICS Guidance Note states:

3.3.2 The value adopted for the land should be on the basis that the site is undeveloped, with such services as existed at the relevant date available for connection, and with planning permission for development of the property. This will have regard to the existing use and should reflect all advantages and disadvantages of the site and its location. [Tribunal's emphasis].

10.21 In the Tribunal's view, the value of land with a planning permission for the '*development of the property*' aligned with a developer's or occupier's ambitions for a final development is more valuable than the value of lands without planning permission, as risk associated with the planning process is eliminated. Mr. Devlin has offered no additional uplift on the Cross Avenue comparator which has no planning permission. The approach to the valuation of land on the Contractor's Basis assumes such planning permission is in place.

10.22 Turning now to the six comparators offered by Mr. Robinson, firstly on the two site sales, the Tribunal disregards the evidence from the sale of the Texaco site as being acquired by the Appellant. It is not evidence of market value, given that the Appellant would be regarded as a special purchaser and the Tribunal could not be satisfied therefore that in those circumstances, a premium had not been paid for it. The RICS definition of "Market Value" (*RICS Valuation - Global Standards* effective 31 January 2022) "...ignores any price distortions caused by special value (an amount that reflects particular attributes of an asset that are only of value to a special purchaser) or marriage value." Further to that, the year 2007 was at the end of a period

of (commonly described) ‘irrational exuberance’ leading to a time in 2010 when the IMF and the EU provided funds to bail out the Irish economy; and the transaction occurred approximately 15 years prior to the Valuation Date of the 1st day of February 2022.

10.23 In the second site sale, the Appellant was also a ‘special purchaser’ in the acquisition of St. Catherine’s in 2017 and the ‘irrational exuberance’ of the Texaco acquisition is clearly demonstrated in the comparative equivalent price per acre paid for each property as set out in Appendices 5 and 6 hereto (N/A to public). It would be normal to attach more weight to evidence relatively closer to the valuation date. The Tribunal considers the Texaco evidence to be of no assistance to the Tribunal and the St. Catherine’s evidence to be of some, if limited, assistance. However, Mr. Devlin contended for a higher value than the evidence offered for St. Catherine’s, therefore it is not necessary to consider St. Catherine’s further.

10.24 One revaluation site was offered as regards the Beacon Hospital, in the same Local Authority area as the subject property. Mr Robinson’s evidence is that he was the valuer acting for the Chief of Operations, Tailte Éireann in valuing the Beacon Hospital using the Contractor’s Basis, in arriving at the valuation of €20,000,000 per acre for the land. There is no detail on the list to identify the approach adopted in calculating the NAV. The NAV of €5,291,000 for the entire of the Beacon Hospital (including the site) which Mr. Robinson advised had not been appealed. The Tribunal considers the detail supplied as to the NAV to be of some assistance but no supporting calculation was provided for the Beacon Hospital and therefore there is no supporting evidence to confirm the elements of value and cost contained in the Beacon Hospital’s NAV. Lacking data and adding the critique of Mr. Robinson’s Residual Valuation approach below the Tribunal adds little weight to this evidence for site value, however it is a relevant property on the list to be considered in the context of section 50(2) of the Act.

10.25 Three land values were offered by Mr. Robinson for lands with alternative uses all of which were located in the administrative area of Dublin City Council and outside the Local Authority area in which the subject property is located. Mr. Robinson stated that the reason for introducing this evidence was to provide site sale comparisons from transactions with similar income generating capacity. That said, Mr. Robinson provided no evidence of income generating capacity for the ultimate development at these three sites. Mr Robinson provided detail of the Blackrock Clinic turnover, operating profit and margin as supplied by Mr. Devlin (Appendix 3, N/A to public). It is worth noting that Operating Profit is a profit from business operations (gross profit minus operating expenses) before the deduction of interest and taxes and therefore does not, necessarily, provide a full picture of the financial health of a business.

10.26 Although evidence was offered as to the floor area of the commercial offices (300,000 sq. ft.) at North Docklands, no floor area figure was provided for the 420 apartments which are

likely to provide considerably more space. No floor area figures were provided for Coopers Cross (City Block 3) or RTÉ at Montrose, making it impossible to analyse the evidence and apply it to the subject property in the context of the size of the subject property. In endeavouring to apply relativities, the absence of analysis of price per acre is deficient if the ultimate quantum of development on site cannot be identified.

10.27 Given (1) the location of the three ‘Alternative Use Sites’ outside the Dún Laoghaire Rathdown County Council administrative area; (2) no indication of the rental income generating capacity of the ‘Alternative Use Sites’ (3) deficiency of information on development quantum or potential, the Tribunal considers that the evidence provided in relation to the ‘Alternative Use Sites’ is of no assistance.

10.28 Before proceeding further it is worthwhile to examine the Contractors Basis approach outlined in the RICS Guidance Note – Stage 3 – Value of Land

“3.3.1 Two stages are involved in valuing the land element. The first is to find the 'cost' of the site, which is based on the open market capital value of the land as at the valuation date. The second is to consider any adjustment for any disadvantageous effects that the actual buildings or rateable structures may have on the value of the site.

3.3.2 The value adopted for the land should be on the basis that the site is undeveloped, with such services as existed at the relevant date available for connection, and with planning permission for development of the property. This will have regard to the existing use and should reflect all advantages and disadvantages of the site and its location.

3.3.3 There may be some cases where a property is located in an area of high land value for historical reasons but derives no enhanced benefit from that location. In these circumstances it may be appropriate to adopt a lower value derived from comparison with more appropriate locations.

3.3.4 Evidence as to the value of the land should, where possible, be obtained from market transactions in sites of a comparable size for use within the same mode or category as the subject property. Any price paid for the site itself may require adjustment to bring it into line with the date of valuation, or to exclude any value attributable to development not yet realised.

3.3.5 Caution should be exercised in using individual site rents within the Contractor’s Basis of Valuation as this may misrepresent the value on the rating hypothesis.

3.3.6 For certain categories of property (e.g. masts), there may be a reasonable body of reliable market evidence for site rental values. In these cases it may be appropriate to use this evidence for the site element of the valuation.

3.3.7 It may be difficult to establish the appropriate land value when the property is in a class of its own, and where there is no evidence of a market in land for the particular use. While it would

not be correct to value the site as if it were available for some other use, in the absence of more suitable evidence the valuer is not precluded from considering values relating to land used (or to be used), for other purposes in the vicinity. However, such an approach can only be used to the extent that it would be considered relevant by the hypothetical negotiating parties.

3.3.8 While the value of the land should reflect all inherent advantages and disadvantages it should not include any development potential over and above that required for the buildings and/or rateable structures within the property. Thus, surplus land within the property that is reserved for future expansion should be valued as it stands, which may result in only a nominal value being applied. However, the valuer needs to exercise care in distinguishing surplus land from that which, while undeveloped with buildings, forms part of the overall development as open areas of amenity land or safety buffer zones that should properly be taken into account.

3.3.9 To reflect the fact that the whole site is initially valued as undeveloped it is necessary to apply the average allowance that was adopted at Stage 2 to those parts of the site encumbered by buildings, etc. This is commonly referred to as the Ebdon allowance.”

10.29 The Ebdon allowance arises under another UK case *Imperial College of Science and Technology v Ebdon VO and Westminster City Council 1984 (Lands Tribunal England)*. This case is referred to in Appendix B of the RICS Guidance Note. The approach to calculating an Ebdon allowance is by applying the average obsolescence allowance adopted for buildings at Stage 2, to those parts of the site encumbered by buildings etc. (surplus land does not attract an Ebdon allowance). This could consist of land reserved for future development (or surplus land which is simply excess to requirements). Neither party’s valuer applied such an allowance.

10.30 Mr. Robinson gave evidence of his residual valuation approach of the site contending correctly in his supplementary précis that the “*land value should reflect the earning capacity (income) of the property that is in situ*”. The ‘income’ should have been rental income. However, Mr. Robinson’s approach was to calculate the income generating capacity of ‘the business’ as opposed to ‘the property’. Mr. Robinson took the “income generated by the hospital” (Appendix 3, N/A to public), not the potential rental income which could be generated by the buildings.

10.31 In advancing his case, Mr. Robinson provided information on the sales of two hospitals, one in 2017 and the other in stated to be 2024 as set out in Appendix 9 hereto (N/A to public). In the second case, the evidence dates from a period beyond the Valuation Date and Published Date and Mr. Robinson only analysed the revenue at the highest level of revenue within the range offered.

No reference to any source of a report was supplied and there is no evidence of what the price reflects – the purchase of any business will reflect bricks and mortar assets (whether leased or

owned), plant and equipment and goodwill. It may also reflect other assets and liabilities - perhaps intellectual property or assumed loans.

Mr. Robinson then went on to apply a turnover multiple of 2.0 to the turnover of the Blackrock Clinic - a wholly inaccurate approach and based on unsupported data. Mr Robinson states that his approach complies with RICS professional standard (formerly 'Guidance Note'), Global Valuation of Development 1st edition, October 2019 , effective , from 1 February 2020. This is not the case as outlined in 10.33 below.

10.32 In relation to costs adopted, Mr. Robinson adopted the (agreed) adjusted or depreciated replacement cost. The appropriate level to adopt was the total replacement cost of €100,641,366 contained in his précis assuming inter alia, development levies under a planning permission, utility connection costs, developers profit and finance costs are included. Accordingly, the 'Development Costs' provided by Mr. Robinson reflect the depreciated value of the existing structure, not a new build.

10.33 The RICS Guidance (professional standard referenced at 10.31) states:

“The basic application of the residual method is a simplified representation of the expected revenue and expenditure from a development. The residual land value is derived from the value of the completed development (net) minus the development costs, including developer's profit.

The Gross Development Value is defined as *“The aggregate market value of the proposed development, assessed on the special assumption that the development is complete on the date of valuation in the market conditions prevailing on that date. Where an income capitalisation approach is used to estimate the GDV, normal assumptions should be made within the market sector concerning the treatment of purchaser's costs. The GDV should represent the expected contract price.”*

This is the product of the interaction of a market rent and yield providing 'market value' . In simple terms, ignoring taxes and purchasers costs, a €100 rental income at a 10% yield = €1,000. The profitability or otherwise of the business which might occupy a finished building is of little relevance in arriving at the Gross Development Value under the RICS professional standard, except that a poorly performing company would be reflected in a higher yield, and vice-versa.

Net Development Value is defined as *“The gross development value (GDV) minus assumed sale costs.”*

Market Rent : *“ Defined in International Valuation Standards (IVS) 104 as ‘the estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion’ .”*

10.34 Mr Robinson's conclusion as to site value of €251,264,316 under his residual approach should have alerted him that it was highly unlikely to be correct. Within his evidence he had identified another site (St. Catherine's, including the area occupied by an office building), of similar size to the entire area of the site to be valued at Stage 3 (2.57 acres) , was sold in 2017, at a figure per acre substantially less of the value per acre Mr Robinson was attributing to the site value of the subject property at the valuation date - €15,000,000 per acre. Also calculating a site value at 2.50 times the 'Total Replacement Cost' identified in his précis should also have been a 'red flag'.

10.35 Unsupported information, then incorrectly applied in calculating the Gross Development Value, renders Mr. Robinson's Residual Value unsafe and of no evidential value to the Tribunal.

10.36 Mr. Robinson, under cross examination, said that he had adopted the same approach to NAV calculation at the Beacon Hospital as the approach adopted for the subject property. Given the Tribunal's critique of Mr. Robinson's approach in relation to his comparable evidence and his approach to the residual valuation, the Tribunal considers the site value analysis offered for the Beacon Hospital as both an unsupported and an unreliable indicator of site value.

10.37 Stage 4 is not at issue as the decapitalisation rate is set at 5% under the Act

10.38 As regards Stage 5 of the valuation process (stand back and look), Mr. Devlin considered the outcome of Stage 4 was to create a '*ceiling value*' and that the hypothetical tenant will pay no more than the amount arising after the operation of Stage 4. Mr. Devlin outlined '*possible reasons*' which 'could include' poor site access, poor building/site layout and piecemeal development'. Mr. Devlin contended that the subject property should qualify for an allowance to reflect each of these issues, particularly parking and access challenges. Mr. Devlin adopted a 10% end allowance. Mr. Robinson did not agree that an end allowance should apply as the Adjusted Replacement Cost at Stage 2 provided adequate allowance. The Tribunal was not presented with any compelling evidence to support an end allowance.

10.39 Mr. Robinson referenced the definition of Net Annual Value in section 48 of the Act and aligned with section 19.5, submitted that the valuation should be correct, uniform and equitable. It was in the context of providing a check that Mr. Robinson prepared the Receipts and Expenditure valuation.

10.40 Mr. Robinson advised that accounts received shortly before the date of the hearing were “somewhat limited” and “only produced a basic interpretation of the accounts can be taken to produce a relative Receipts and Expenditure approach”. Mr. Robinson produced a shortened Receipts and Expenditure Valuation (Appendix 10 hereto, N/A to public) which was not challenged by Mr. Devlin. This produced a figure “Available for Rent” of €8,050,000 having allowed for future growth of total revenue by 8% on average, and similarly an 8% growth in total expenses. However, Mr Robinson did not contend for that figure but simply used it to justify his contention under the Contractors Basis. Accordingly, the Tribunal was not called to weigh up the Receipts and Expenditure figure other than to look at it in the context of support for Mr. Robinson’s contended figure of €6,871,947.

10.41 The relevant comparable evidence available to the Tribunal, following analysis above narrows to:

Party	Location/Type	Price per acre	NAV	Comments
Appellant	Cross Avenue	Appendix 2, N/A to public		Without planning permission
Respondent	St. Catherine’s	Appendix 6, N/A to public		

10.42 As Mr. Devlin contended for a figure above that of St. Catherine’s, it is not necessary to consider that transaction. Consequently, having examined all the evidence, it is the Cross Avenue sale that the Tribunal considers most relevant, sold 16 to 19 months before the valuation date during a period when Covid-19 restrictions were in place. Mr. Robinson did not query the accuracy of the Cross Avenue data contending simply that his approach and comparable information were superior to those provided by Mr. Devlin.

10.43 The Tribunal considers the Cross Avenue sale the best comparable data available in the absence of evidence of the value of a site for a private hospital. The site is immediately adjacent to the subject property and of similar size. It is likely that the value of the land at the subject property would be benchmarked against residential values. Even if considered more valuable as a site for a private hospital, given the limited participants in the market for private hospitals, it is possible that it would only require one bid beyond residential values to secure the property. The RICS Professional Standard (formerly known as a Guidance Note) - “Comparable evidence in real estate valuation” 1st edition October 2019 states that “Transactions in the open market close to the date of valuation will almost invariably provide the best and most reliable source of evidence.”

10.44 It is public knowledge that the ECB started tightening interest rates on the 27th day of July 2022 (+0.50% increase) and by the 2nd day of August 2023 had risen by a total of 4.25% from a low of -0.50% to 3.75% by the time the Final Valuation Certificate was published on the 15th day of September 2023. Whilst the Tribunal is aware that the Cross Avenue sale took place during a period of Covid-19 restrictions, whatever value depressing impact such restrictions may have had, the increase in ECB rates in 2022 and 2023 between the Valuation Date of the 1st day of February 2022 and the publication date of the Final Certificate on the 15th day of September 2023, provide a reasonable basis for considering the value comparable to that which would have applied at the property on the Valuation Date. However, an adjustment needs to be made to reflect the fact that the Cross Avenue site had no planning permission whereas the subject property must be valued on the basis that it has planning permission for the hospital.

10.45 The Tribunal's judgement is that the premium outlined in Appendix 11 (N/A to public) should be applied to the price/acre achieved at Cross Avenue. The premium to be applied is a matter of expert valuation judgment. The factors which the Tribunal has had regard to in deciding on the appropriate premium are the risks, costs and delays, associated with the planning process which could include judicial review. It was not in dispute between the valuers that a site with planning permission is more valuable than one without planning permission. Therefore, the Tribunal adopts a value of €17,819,000 for the site value element of the subject property, calculated as set out in Appendix 11 (N/A to public).

10.46 The Tribunal finds that Mr. Devlin offered no compelling evidence to support a 10% end allowance.

10.47 Section 50 of the Act obliges the Tribunal to establish the NAV by applying a factor of 5% to the aggregate of the replacement cost, depreciated where appropriate, and adding the site value. It then obliges the Tribunal to make an adjustment so that NAV so calculated is comparable to other properties on the list.

In essence section 50 (1) and (2) of the Act requires the Tribunal to undertake five operations:

1. Assessment of the aggregate of the replacement cost

This is agreed between the parties at €4,200 psm. However, Mr. Robinson added an additional (unchallenged) 14% for fees and external works in arriving at a figure of €100,641,366 which the Tribunal adopts.

2. If appropriate, calculating the depreciated value of the property or part thereof

The Tribunal adopts Mr. Robinson's approach at €87,919,315 for the reasons outlined above.

3. Calculating the site value of the property, or part of the property

€17,819,000 from above

4. Applying 5% multiplier to the result of 2+3 above

€87,919,315 + €17,819,000 = €105,738,315 @ 5% = €5,286,916.

5. Comparing the result by reference to other comparable properties on the list.

Both parties have agreed that the only comparable on the Dún Laoghaire-Rathdown List is the Beacon Hospital and therefore the Tribunal must compare the result of the subject property NAV to that at the Beacon Hospital. In his précis and cross examination, Mr. Robinson provided information on the Beacon Hospital and the comparison with Blackrock Clinic is provided at Appendix 12 (N/A to public).

Both hospitals are very similar in size, bedrooms (180 at the Beacon) and turnover. The Beacon hospital dates from 2006 but Blackrock Clinic was substantially upgraded in 2010. Apart from a 10% turnover differential (Appendix 3, N/A to public), the only other major area of differentiator is the size of the site area – the Beacon Hospital has a site which is 31% of the size of that at Blackrock Clinic. Although the Act references ‘properties’ (plural) the only other private hospital on the List is the Beacon Hospital. By reference to the NAV of the Beacon Hospital of €5,291,000, the only other private hospital on the list comparable to Blackrock Clinic, the Tribunal, in making its assessment of the decapitalised NAV at €5,286,916.00, is of the opinion that no further adjustment is required under section 50(2) of the Act.

10.48 The Tribunal must add the other elements agreed between the parties to the decapitalised NAV

Decapitalised NAV		€5,286,916.00
Add other elements agreed between the parties:		
Car Spaces	255 no. x €750	€ 191,250.00
St Catherine’s	1,799.00 sqm x €170	€ 305,830.00
Glenala	297.07 sqm x €170	€ 50,501.90
Total		€5,834,497.90

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the subject property as stated in the valuation certificate to **€5,834,000.**

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.