

Appeal No: VA23/5/1474

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

SHANAHAN'S GARDEN CENTRE

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

**In relation to the valuation of
Property No. PN 35526, Retail (Shops) at Inchinveema, Farranfore, County Kerry.**

B E F O R E

Mr Donal Madigan - MRICS, MSCSI

Deputy Chairperson

Ms Suzy Quirke - MSCSI, MRICS, Dip. Arb. Law.

Deputy Chairperson

Ms Avril Sheridan - Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 27TH DAY OF MARCH 2026**

1. THE APPEAL

1.1 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 was fixed in the sum of € **25,300**.

1.2 The grounds of appeal as set out in the Notice of Appeal are that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 19 (5) of the Act because:

1. The valuation of the subject property is excessive owing to the level applied to the glasshouse. The occupiers do not take fundamental issue with the levels applied as base (€15/m² industrial). However, the glasshouse to front cannot be of a higher value than the warehouse. Whilst we accept that it is in use as retail, physically, it is vastly inferior being completely uninsulated and no longer waterproof. There is no retail fit-out of any kind. It is simply shelving on concrete floor enclosed in greenhouse. We suggest a level of 33.3% of the industrial level (i.e. midway between that of open-sided industrial and a canopy).

2. The valuation of the subject property is excessive owing to the level applied to the display yard. The display yard is no better than conventional yard already assessed at €1.60/m².

1.3 The Appellant considered, in the Notice of Appeal, that the valuation of the Property ought to have been determined in the sum of € **16,080**.

2. REVALUATION HISTORY

2.1 This is a Revaluation appeal arising from Kerry County Council Revaluation which was undertaken as a result of the Kerry County Council Valuation Order 2022 that was signed by the Commissioner of Valuation on 6th September, 2022 and is for the Valuation List published on 22nd September 2023.

2.2 The functions of the Commissioner of Valuation are now performed under the authority of Tailte Éireann with effect from 1st March, 2023 (S.I. No.58/2023 - Tailte Act 2022 (Commencement) Order 2023).

2.3 On the 23rd day of September 2022 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of € **57,100**.

2.4 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to € **25,300**.

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

2.6 The date by reference to which the value of the property, the subject of this appeal, was determined is the **1st day of February, 2022**.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 15th day of September 2025. At the hearing the Appellant was represented by Mr David Halpin of Eamonn Halpin & Co. Ltd., Chartered Valuation Surveyors & Estate Agents and the Respondent was represented by Ms Maria Breukers BSc. Geography & Urban Planning, M.Sc. Real Estate of Tailte Éireann.

3.2 In accordance with the Rules of the Tribunal, the parties had exchanged their respective reports and précis of evidence prior to the commencement of the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the affirmation, adopted their précis as evidence-in-chief in addition to giving oral evidence.

3.3 Each Valuer provided a Declaration and Statement of Truth in their précis in accordance with Rule 41 of the Valuation Tribunal (Appeals) Rules 2019.

4. FACTS

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

4.1 The Property is situated in the townland of Inchinveema, approximately 2.5 kilometres north of Farranfore, at the intersection of the N22, Tralee to Killarney road with the L7001 road.

4.2 The Property comprises a garden centre, consisting of a variety of greenhouses/buildings and yard areas, to the rear of which are nursery areas, which are excluded from this Determination as

being exempt, following from the earlier consideration of the representations made to the original Proposed Valuation Certificate for this Property.

4.3 The agreed areas for the Property are as follows:

Greenhouse (Showroom)	573.00m ²
Store	30.94m ²
Warehouse	226.75m ²
Mezzanine Warehouse	226.75m ²
Canopy	226.49m ²
Yard	494.76m ²
Display Yard	4,300.00m ² (or 3,440.00m ² if reduced by 20% for circulation).

4.4 The Property is freehold

5. ISSUES

The sole issue arising in this appeal is regarding the amount of the valuation only, wherein the Appellant contends for a valuation of € **14,500**, in contrast to the Respondent, who contends at the hearing, as set out in her précis, for the revised valuation of € **23,200**. The valuation appearing in the Valuation List, currently, is € **25,300** as per the Final Valuation Certificate.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references in this document 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 and other Acts.

6.2 In **Revaluation** type appeals, as in this appeal, section 37 of the Act provides that the Valuation Tribunal must reach a determination having regard to the provisions of sec. 19 (5) of the Valuation Act, 2001,

that 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.

6.3 The net annual value (NAV) of the Property must 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.”

6.4 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the basis in calculating the net annual value:

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

7. APPELLANT'S CASE

7.1 Mr David Halpin, Valuer for the Appellant, provided a detailed written submission to the Tribunal in which he outlined, inter alia, the location, description and accommodation of the Property supplemented by maps, photographs, copies of both the appeal and earlier representations and his valuation, as well as the rationale for his opinion and other comparable properties. He provided a valuation of the Property, as at the valuation date of 1st February, 2022, of € 14,500 which he calculates (rounding errors corrected) as follows:

		€
Greenhouse (Showroom)	573.00m ² @ € 5.33 per m ²	3,054.09
Store	30.94m ² @ € 16.00 per m ²	495.04
Warehouse	226.75m ² @ € 16.00 per m ²	3,628.00
Mezzanine Warehouse	226.75m ² @ € 3.20 per m ²	725.60
Canopy	226.49m ² @ € 2.40 per m ²	543.58
Yard	494.76m ² @ € 1.60 per m ²	791.62
Display Yard	4,300.00m ² @ € 1.60 per m ²	<u>6,880.00</u>
		16,117.93
	<u>Deduct 10% end allowance overall</u>	<u>1,611.79</u>
		14,506.14 NAV € 14,500.

7.2 In support of his valuation, the Appellant Valuer relied on the following comparables, brief summary details of which are set out hereunder:

NAV 1.

PN 2179991

NAV € 4,810.

Willowfield Garden Centre, Sneem Road, Kenmare, Co. Kerry

This property is valued at the NAV of € 4,810 which is calculated as follows:

Shop 70.80m² @ € 48.00 per m² 3,398.40

Store 70.80m² @ € 20.00 per m² 1,416.00

4,814.40 rounded to NAV € 4,810.

NAV 2.

PN 57527

NAV € 5,350

Liscahane Garden Centre & Nursery, Liscahane, Tralee, Co. Kerry

This property is valued at the NAV of € 5,350 which is calculated as follows:

Office 10.80m² @ € 20.00 per m² 216.00Shop 115.90m² @ € 24.00 per m² 2,781.60Store 117.84m² @ € 20.00 per m² 2,356.80

5,354.40 rounded to NAV € 5,350.

NAV 3.

PN 2196809

NAV € 6,930

Curley's Garden Centre, Tralee, Co. Kerry

This property is valued at the NAV of € 6,930 which is calculated as follows:

Retail Zone A 26.50m² @ € 120.00 per m² 3,180.00Yard (hardcore) 1,500.00m² @ € 2.50 per m² 3,750.00

6,930.00 NAV € 6,930.

NAV 4.

PN 2192487

NAV € 5,470

Hickey's Garden Centre, Ballyfinnane Road, Farranfore, Co. Kerry

This property is valued at the NAV of € 5,470 which is calculated as follows:

Showroom 94.86m² @ € 24.00 per m² 2,276.64Store 48.18m² @ € 10.00 per m² 481.80Display Yard 754.86m² @ € 3.60 per m² 2,717.49

5,475.93 rounded to NAV € 5,470.

7.3 In his oral evidence Mr Halpin made the following points, in summary, as follows:

(a) This garden centre is located just 2.5 kilometres north of Farranfore in a rural, roadside, low lying setting, (liable to flooding) and was built up over time since the 1970s and is operated by the owner, who lives adjacent to it, along with nursery grounds, He said that the vast majority of plants sold are from the owner's own produce, in addition to external sources of product but that this Property is not like a garden centre of the commercial calibre of, for example, Woodies;

(b) The greenhouse was initially used in the 1990s for growing but has changed into what is notionally a retail space but due to the poor structure and size it is sub-standard and that, unlike the Commissioner of Valuation, he does not consider it equivalent to industrial space such as a warehouse and further that, although the Respondent has made some allowance for this structure, he believes he must go further [in discounting the value] because it is very large and a poor structure, that is not, in his view, even watertight;

(c) He considers that this Property, as presently constituted, would be difficult to let as he feels it would be hard to find occupiers that considered it suitable;

(d) Although there is a display yard holding plants for sale, he does not consider that such requires a premium to the value applicable, as it is purely a yard;

(e) The two major differences between the Valuers are in respect of the greenhouse/showroom and the display yard and that, in regard to the greenhouse, he said the Respondent's approach is to add 20% to the value for industrial purposes which is usually the case where both are part of the same building. However, he said that in this case, the two are separate, one made of glass, the other made of industrial panel. He said that he had misinterpreted the allowance granted by the Respondent in that he thought this was an overall allowance, (for flooding or size) whereas it is only an allowance in respect of the greenhouse/showroom to bring that value down to more of a standard industrial unit value rate which he said is € 16.00 per m² [€ 15.36 in actuality] being the same as the rear warehouse but that, it is not watertight, is impossible to heat, having no form of insulation and that, consequently, at best it is only worth a third of the value of a warehouse;

(f) In regard to the display yard, the Property has an internal division between the yard and the display yard as shown on the block plan in the Respondent's précis, and that the concrete yard is assessed at 10% of the prevailing unit value on the building [€ 16.00 per m² @ 10% = € 1.60 per m²] whereas the display yard is assessed at a premium to this level, at € 2.40 per m², although to an occupier, that there is no real difference between the two yards in practice and that, whilst a premium might apply in other cases, that none is warranted here, considering the large size of the yard in question as being over 4,000 square metres. He acknowledges that the Respondent has tried to ameliorate this situation by giving a discount of 20% for circulation to the display yard but he submits that comparables relied on by both parties have yards which do not appear to have even been assessed, by contrast;

(g) That this type of nursery/garden centre property, being adjacent to the occupier's residence, is usually considered to be the most basic for commercial purposes and that this is horticultural diversification at its lowest form, akin to someone at the roadside selling strawberries from a portacabin for produce from adjacent agricultural lands and that the occupier here is, in his view, fundamentally a horticulturist;

(h) He further commented on his NAV comparable properties as follows:

NAV Comparable No. 1 Willowfield

This is also on a national secondary route, as the subject Property is, and shop and store figures are [as set out above] but from the overhead photograph you can see that it has a yard as set out on Google Earth and it would be next to impossible to operate a garden centre without a yard. For this property he estimates the yard to be approximately 700 square metres and the valuation does not record any addition for this. The NAV is € 4,810. He believes the subject Property is better overall than this property, except for location, expressing the view that the location of this in Kenmare is better. He states that, by comparison, he rejects that the subject [at NAV € 25,300] would be five times more than the value of this comparable.

NAV Comparable No. 2 Liscahane

This is a common comparable to both Valuers and the valuation includes office, shop and store but, like Willowfield, there is no value for a yard and by his reckoning the yard is around 2,000 square metres in total, comprising 800 square metres of parking and 1,200 square metres of garden centre yard. The NAV is € 5,350. He accepts that the subject Property is better than this comparable but that, in his view, not five times better.

NAV Comparable No. 3 Curleys

This has a yard of 1,500 square metres all of which is valued at € 2.50 per m² and that the standard level on the outskirts of Tralee is € 25.00 per m² which means the garden centre yard is valued at 10% of the prevailing industrial unit value rate. He cannot see why the hypothetical Tenant would pay a premium [over 10% of the prevailing industrial unit value rate] in the case of the subject Property, as both the display yard at the subject and the yard in this comparable are for display, the latter being next to a major population centre.

NAV Comparable No. 4 Hickeys

This is a local comparable, near Farranfore, common to both Valuers and he says that this is the only comparable, from both sides, that is assessed in similar fashion to the subject Property, at a standard industrial level, which appears to be € 20.00 per m² but valued at € 10.00 per m² (because it is open sided), the showroom at a 20% premium and the display yard at 15% of the showroom level. However, this is valued at the NAV of € 5,470 which puts the subject Property at more than five times this comparable which he contends cannot be right. He states that if this property and Respondent's No. 1 comparable are taken to be the lead comparators, a substantial discount still needs to be applied to the valuation of the subject Property to make it relative to them.

(i) Mr. Halpin feels that some allowance must be made for quantum and he accepts that he misinterpreted what the Respondent had allowed in this case believing it, initially, to be an overall allowance, whereas in fact it was in respect of the greenhouse value only. He considers that in the circumstances that some end allowance should be made.

7.4 Under cross examination Mr Halpin confirmed the following:

- (a) the Property is in use as a garden centre;
- (b) it includes a display yard used for display of goods for sale;
- (c) that without the yard it would be difficult to operate as a garden centre;
- (d) that the presence of the yard increases the value as a garden centre;
- (e) that with regard to his first comparable, that it is eight times smaller than the buildings in the subject Property based on what has been valued by the Respondent in the Valuation List;
- (f) that, generally speaking, smaller properties attract higher unit values per square metre but that it is difficult to find comparables in the category of garden centres;
- (g) that with regard to his comparable number 2, located 23 kilometres north of Tralee, it is also on a busy road but not as good as the subject, in his view, in terms of location;
- (h) that, with regard to his comparable number 3, this property has a shop which is valued on a zoning basis and that it has a yard that has been valued;
- (i) that, with regard to his comparable number 4, that this is closest to the subject Property and also has a greenhouse element and display yard which is valued at € 3.60 per m² contrasted to a unit value rate of the display yard in the subject Property which is valued at € 2.40 per m² which he says is calculated as being 15% of the value of the building, and that the unit value rates applied in the comparables is higher than in the subject Property because an automatic ratio applies.

7.5 In answer to questions from the Tribunal, Mr. Halpin clarified that:

- (a) Kerry Flowers Limited is the Appellant company but that the trading name is Shanahans;
- (b) that the display yard, at 4,300 square metres is agreed and that the reduction for circulation given by the Respondent provides an area of 3,440 m² but that he does not agree that this represents an adequate allowance for circulation, if a reduced area approach is to be followed, but would contend, instead, for a minimum allowance in this regard of 33%, (as opposed to the 20% indicated here) in his opinion but that there is no hard and fast rule to be applied on circulation;
- (c) that the greenhouse is valued, by him, at € 5.33 per m² which in his view is one third of the prevailing industrial level as against a de facto level of € 16.00 per m², because although the use

warrants a value as a garden centre, it would not have a value otherwise, as it is just barely a building, in his view, not being capable of being heated in Winter or cooled in Summer or kept watertight;

(d) that the end allowance, he suggested, of 10%, was originally for flooding because for 3 months of the year the yard and greenhouse are under water (less than 3 feet depth) and, consequently, that this restricts trade to March to October as the trading year, but that one could also take the view that it be applied for quantum. He had originally made the allowance for flooding because the hypothetical tenant would not be able get insurance for flooding.

8. RESPONDENT'S CASE

8.1 Ms Maria Breukers, Valuer for the Respondent, provided a detailed submission to the Tribunal in which she outlined a comprehensive report covering, inter alia, the location, description, accommodation and title as well as the history of the appeal, statutory basis and copies of the appeal and valuation certificate supplemented by maps, photographs and a block plan. She provided her opinion along with the rationale for her valuation and both supporting key rental transactions, as well as other NAV assessments for comparable properties. She provided a valuation of the Property, as at the valuation date of 1st February, 2022, of € 23,200 which she calculates as follows:

		€
Greenhouse (Showroom)	573.00m ² @ € 19.20 per m ²	11,001.60
Store	30.94m ² @ € 16.00 per m ²	495.04
Warehouse	226.75m ² @ € 16.00 per m ²	3,628.00
Mezzanine Warehouse	226.75m ² @ € 3.20 per m ²	725.60
Canopy	226.49m ² @ € 2.40 per m ²	543.58
Yard	494.76m ² @ € 1.60 per m ²	791.62
Display Yard		
(less 20% for circulation)	3,440.00m ² @ € 2.40 per m ²	<u>8,256.00</u>
		25,441.44
	<u>Deduct 20% of Greenhouse/Showroom</u>	<u>2,200.32</u>
		23,241.12

rounded to NAV € 23,200.

8.2 In support of her valuation she relied on the following two key rental transactions (details here partly redacted to preserve confidentiality) and four comparable NAV assessments from the Valuation List, brief details of which are also set out below:

KEY RENTAL TRANSACTIONS

1. Key Rental Transaction No. 1

Workshop near Killorglin, Co. Kerry

NAV € 5,120

This property comprises a workshop and office of 161.38m² together with a yard of 1,400.00m² which was let on a 4 year 11 months lease from June 2020 at the rent of € 11,700 per annum. The rent devalues to € 40.00 per m² on the workshop and office and € 4.00 per m² on the yard. It is valued at the NAV of € 5,120 which devalues to unit value rates of € 17.00 per m² on the workshop/office and € 1.70 per m² on the yard.

2. Key Rental Transaction No. 2

Workshop near Killarney, Co. Kerry

This property comprises a workshop of 256.80m² which was let on a 4 year 10 months lease from 1st July 2017 at the rent of € 8,640 per annum equating to a net annual equivalent of € 8,380.80 at the valuation date. The rent, after adjustment, devalues to € 33.00 per m². It is valued at the NAV of € 4,360 which devalues to a unit value rate of € 17.00 per m².

NAV COMPARABLES.

NAV 1. [same property as Appellant's NAV No. 4]

PN 2192487

NAV € 5,470

Hickey's Garden Centre, Ballyfinnane Road, Faranfore, Co. Kerry

This property is valued at the NAV of € 5,470 which is calculated as follows:

Showroom	94.86m ² @ € 24.00 per m ²	2,276.64
Store	48.18m ² @ € 10.00 per m ²	481.80
Display Yard	754.86m ² @ € 3.60 per m ²	<u>2,717.49</u>

5,475.93 rounded to NAV € 5,470.

NAV 2. [same property as Appellant's NAV No. 2.]

PN 57527

NAV € 5,350

Liscahane Garden Centre & Nursery, Liscahane, Tralee, Co. Kerry

This property is valued at the NAV of € 5,350 which is calculated as follows:

Office 10.80m² @ € 20.00 per m² 216.00

Shop 115.90m² @ € 24.00 per m² 2,781.60

Store 117.84m² @ € 20.00 per m² 2,356.80

5,354.40 rounded to NAV € 5,350.

NAV 3.

PN 2167556

Castlemaine Garden Centre, Brackhill, Milltown, Killarney, Co. Kerry

This property is valued at the NAV of € 4,520 which is calculated as follows:

Shop 24.70m² @ € 60.00 per m² 1,482.00

Store 93.24m² @ € 20.00 per m² 1,864.80

Yard 45.68m² @ € 2.00 per m² 91.36

Display Yard 136.06m² @ € 8.00 per m² 1,088.48

4,526.64 rounded to NAV € 4,520.

NAV 4.

PN 5012227

Listowel Garden Centre & Florist, Church Street, Listowel, Co. Kerry

This property is valued at the NAV of € 43,700 which is calculated as follows:

Ground Floor Retail Warehouse 416.80m² @ € 80.00 per m² 33,344.00

Store 117.04m² @ € 32.00 per m² 3,745.28

First Floor Retail Warehouse 148.75m² @ € 32.00 per m² 4,760.00

Store 68.94m² @ € 16.00 per m² 1,103.34

Canopy 175.28m² @ € 4.80 per m² 841.34

43,793.66

rounded to NAV € 43,700.

8.3 In her oral evidence Ms Breukers made the following points, in summary, as follows:

(a) That the Property had been valued originally at € 57,100 but on inspection (following representations) a large part of the yard was exempted as being used for horticultural purposes and that, after receiving the Appellant's précis, that a further reduction of 20% has now been granted to the remaining yard for circulation;

(b) With regard to the Appellant's comparables, that, in the case of Willowfield, this has a much higher unit value rate per square metre than the subject, being € 48.00 per m² contrasted to the unit value of € 19.20 per m² in the subject; that with regard to the second comparable that this does have a yard but it is classified as horticultural and therefore exempted; that in the case of the third comparable that both shop and yard are valued and for the final Appellant's comparable that this is the most comparable to the subject Property, in her view, because it is similar in layout and has a showroom being a glass house and the display yard is also very similar too, and this property is valued at higher unit value rates to the subject at € 3.60 per m² on the display yard contrasted to the subject at € 2.40 per m² ;

(c) With regard to her own rental information that the first KRT (see section 8.2 above) is an industrial property near Killorglin where the lease commenced in 2022, and the rent devalues at € 40.00 per m² for the building and € 4.00 per m² for the yard; with regard to the second KRT, that this is a workshop near Killarney that was let from 2017 at a net effective rent of € 33.00 per m² (on the building) contrasted to the subject which is assessed at € 16.00 per m²;

(d) She further commented on her NAV comparable properties as follows:

NAV Comparable No. 1 Hickeys

That this is the same as the Appellant's No. 4 comparable, which is very close to the subject. And the glasshouse is rated at € 24.00 per m² and has a store and display yard assessed at € 10.00 per m² and € 3.60 per m² respectively;

NAV Comparable No.2 Liscahane Nursery

Her second comparable is the same as the Appellant's No. 2 comparable and the shop is valued at € 24.00 per m² whilst the subject Property is valued significantly lower and that this property is more rural, in location, in an area north of Tralee, than the subject which is on a busy road and this has a horticultural yard at the back that is exempted;

NAV Comparable No. 3 Castlemaine

Her third comparable is also located on a main road, from Tralee to Killarney, and comprises a shop, store, storage yard and display yard and that the display yard is valued at € 8.00 per m² which indicates the value of the display yard to the garden centre;

NAV Comparable No. 4 Listowel Garden Centre

Her fourth comparable is a garden centre in Listowel which is like a Woodies type operation and this is what you would normally expect a garden centre to be, is located in a busy town and this is valued at € 80.00 per m² and it has a yard which is covered by a canopy and that this is valued at € 4.80 per m² ;

(e) The main difference between the Valuers is for the showroom, for which she has made a discount and then there is the display yard used for selling goods, which makes it valuable and that all the comparables show a higher unit value rate per square metre than the subject Property;

8.4 Under cross examination, Ms Breukers confirmed the following:

(a) she stated that, by reference to the comparables, that the subject Property is not, in her view, necessarily unique;

(b) the subject Property has a 20% allowance on the greenhouse and also a 20% for circulation unlike the comparables despite the fact none of the other comparables have such allowances granted and this does not make it unique, as every property will have its own separate characteristics;

(c) with regard to her KRT No.1 with a yard stated to be 1,400m² it is her information that this is the yard area relevant from the rent analysis and that the larger area (being some 5,270m²), suggested by Mr. Halpin in earlier correspondence, included part of another property;

(d) in respect of her KRT No. 2 that she cannot account for the absence of a value for the yard as the information from the rental analysis is as set out in her précis and that if there is an error, that must be dealt with by way of a revision request;

(e) for common comparable No. 2 (Liscahane) that this is a nursery/garden centre but that she agrees the distinction between nursery and garden centre can get muddled and that the yard has been completely exempted, but that by reference to page 19. of the Appellant's précis, if you see the overhead photo, she accepts that there is parking and a yard which do not appear to be valued;

(f) for her comparable number 1, Hickeys, that this is a garden centre and nursery but that it is all valued, as being commercial in nature;

(g) for her third comparable, Castlemaine, that the area of 136.06m² marked as display yard, that it is covered by a canopy but that she is unable to confirm if the entire is covered;

(h) for the fourth comparable, that the unit value rate on the building of € 80.00 per m² is the highest value of all the evidence of both parties in this appeal and she could not confirm why the rest of the yard, not covered by the canopy, is not valued;

8.5 In answer to questions from the Tribunal, Ms Breukers clarified that:

(a) with regard to the calculation of the 20% allowance for circulation she just made an allowance overall, and not a consideration of actual pathways;

(b) in regard to KRT 1 that the lease commenced in 2020;

(c) notwithstanding the size of the yard (be that either 4,300 square metres or 3,440 square metres) the valuation scheme adopted does allow, indirectly, for quantum and that the unit value rate applied by her of € 2.40 per m² adequately reflects this value to the garden centre;

(d) none of the assessments have been subject to representations and therefore not tested;

(e) with reference to her comparable No. 2 (Liscahane), that the difference between a display yard and a horticultural yard is essentially down to the fact that access is not generally available for customers to the horticultural yard unlike to the display yard;

9. SUBMISSIONS

There were no legal submissions in this appeal.

10. FINDINGS AND CONCLUSIONS

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

10.2 Many of the unit values (per square metre) applied to the various component elements of the Property appeared, at initial review, to be agreed by the respective Valuers for each party, but the overall composition of each valuation renders these, in fact, as unagreed, if the differences are considered in detail, as the Appellant makes an overall end allowance reducing these (otherwise agreed) unit value rates per square metre and, furthermore, the Respondent makes an allowance to one component of the valuation, being the greenhouse/showroom, which is contrary to the approach adopted by the Appellant for that part, who, instead, applies a unit value rate to that area without adjustment. A further difference arises in respect of the display yard. As a result, the difference arising between the Valuers, overall, is therefore significant, being € 8,700 (€ 23,200 minus € 14,500).

10.3 Whilst the Appellant did not advance any rental transactions in support of his valuation, the Respondent submitted two key rental transactions in support of her valuation. These two examples are, however, not considered highly relevant by the Tribunal because the two properties concerned are of an industrial character rather than satisfying the mode of use normally attributed to a garden centre/nursery enterprise. It is acknowledged that there may be difficulty in finding lease details for garden centre/nursery type properties, appropriate for the valuation date of 1st February, 2022, but notwithstanding that, the examples given do not show a close relationship or discernible pattern between rent and net annual value, other than to indicate, in these two examples, that the rent, in each case, is much higher than the net annual value. For KRT No.1 the rent is € 11,700 whilst the NAV of that property is € 5,120 and for KRT No. 2, the rent is € 8,640 (before adjustment) whilst the NAV of that property is € 4,360. KRT No. 1 is in an equally remote rural location, resembling that of the subject Property although with much less roadway profile, and it is considered that KRT No. 2 also occupies a rural but industrial type of location, quite different to the subject Property, and likewise with less profile. The buildings for the KRTs in each case are valued at the NAV unit value rate of € 17.00 per square metre. The Tribunal has concerns that there is no additional value applicable to a yard at KRT No. 2 and is not persuaded that none is occupied with this property.

10.4 However, the Tribunal can only deal with the appeal on what is submitted coupled with what can reasonably be established from the cross examination of the Experts and questions/enquiries raised at the hearing of the appeal. It is an unfortunate (but understandable) fact that, as not all properties are inspected prior to the Revaluation, the records of some properties may be out of date and might not reflect the true physical status for every property at the date of issue of the final valuation certificate. The Tribunal is, accordingly, cautious in interpreting or accepting, as conclusive, the facts for comparables that have not been inspected and is not, realistically, in a position to endeavour to fully unearth the circumstances pertaining to other properties not the subject matter of the appeal. The Tribunal must be guided, ultimately, by the sworn testimony of the two Valuers and, in this case, is appreciative of their candour in answering questions in cross examination and on enquiry from the Tribunal members. None of the various other comparable

properties that were submitted were subject to representation and so those would not have had their valuations examined or tested/challenged.

10.5 Accordingly, in the absence of suitable **relevant rental transactions**, this leads the exercise of fixing the correct, equitable and uniform valuation to a consideration of the Valuers' opinions, their basis and rationale, as supported by the other comparable net annual values from the Valuation List submitted.

10.6 The Tribunal has considered all the comparables in turn, but has attached much less weight to the two KRT examples as explained in paragraph 10.3 above and is also inclined to attach less weight to the Respondent's NAV comparable No. 4, as that is located in a much more urban town environment, albeit set back from Church Street in Listowel, but having a yard that is not valued and no reliable explanation being advanced for this apparent omission at the hearing. It nonetheless provides a contextual comparable in the overall consideration of this appeal.

10.7 This distils the preferred evidence down to the remaining comparables and for the most similarly circumstanced to the subject Property. In this regard it is noted that the Valuers had two common comparables, being PN 57527 (Liscahane) and PN 2192487 (Hickeys Garden Centre) and the Tribunal considers these to be the most relevant also.

10.8 Having reviewed the most relevant comparable evidence, the task moves to the application of appropriate unit value rates per square metre to the various components in the subject Property. The Tribunal is not inclined to change the unit value rates already **agreed**, (using that term with caution as discussed at section 10.2 above) being satisfied that these are appropriate to leave in place, there being no compelling counter evidence to guide it otherwise. The two main differences (before any discount/end allowance is applied **overall**) are in respect of:

(a) the Greenhouse/Retail where the Appellant Valuer contends for a unit value rate of € 5.33 to yield a value of € 3,054, in contrast to the Respondent who contends for a net effective unit value rate of € 15.36 per m² (573.00m² X € 19.20 per m² = € 11,001.60 minus the allowance {20%} of € 2,200.32 = € 8,801.28 divided by 573.00m²). The Tribunal considers that the appropriate unit value rate to apply to this part of the Property is € 12.00 per m² to reflect the large size of this area (573.00m²) but also taking account of its other elements, especially location, use and construction. This yields a value for this component of the subject Property of € 6,876.

(b) the Display Yard where the Appellant Valuer values all of this (i.e. without reducing for circulation) at € 1.60 per square metre to yield a value of € 6,880 (4,300.00m² @ € 1.60 per m²) in contrast to the Respondent Valuer who adopts a smaller area (allowing a reduction of 20% for circulation) of 3,440.00m² and values this at a unit value rate of € 2.40 per m² to yield a value of € 8,256. The Tribunal considers that, although it is more uniform practice to take all of this area of 4,300.00m² without reduction, it accepts that this area is unusually large, relative to the comparables, and therefore agrees that a reduction of 20% gives this a quantum discount, not specific for circulation, but to align it for valuation purposes with a common sense approach and then to value this area at a unit value of € 1.75 to properly reflect it comprising such a large value component in the constitution of the valuation overall, to yield a value of € 6,020 (being 3,440.00m² @ € 1.75 per m²).

10.9 Turning then, finally, to the issue of the end allowance claimed for in the computation of the Appellant Valuer's figures, the Tribunal cannot find grounds to apply an additional discount for this and most especially, not, if this is claimed for the impact of flooding, as insufficient detail was submitted in respect of this, and it did not form part of the original grounds of appeal and could, therefore, be viewed as constituting a new ground of appeal, despite it featuring in the original representations. This must not be taken to infer that a problem with flooding does not exist but, rather, that the Tribunal can only deal with the possible effects on the valuation of net annual value

of that factor, based on evidence being submitted, by the Appellant, in some tangible form such as, but not limited to, the history of actual occurrences, propensity of flooding, insurance documentation and other verifiable sources. The submission that an end allowance should be applied is therefore rejected.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal allows the appeal and decreases the valuation of the Property as stated in the valuation certificate to **€ 19,050**.

Greenhouse(Showroom)	573.00m ² @ € 12.00 per m ²	6,876.00
Store	30.94m ² @ € 16.00 per m ²	495.04
Warehouse	226.75m ² @ € 16.00 per m ²	3,628.00
Mezzanine Warehouse	226.75m ² @ € 3.20 per m ²	725.60
Canopy	226.49m ² @ € 2.40 per m ²	543.58
Yard	494.76m ² @ € 1.60 per m ²	791.62
Display Yard	3,440.00m ² @ € 1.75 per m ²	<u>6,020.00</u>
		19,079.84

Rounded to NAV € 19,050.

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.