

Appeal No: VA24/3/0021

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

**APPEAL SUBMITTED IN THE NAME OF THE DEPARTMENT
OF SOCIAL PROTECTION BRANCH OFFICE**

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

**In relation to the valuation of
Property No. 175000001939327, Office(s) at 7/1 Cross Street, Kells, County Meath.**

B E F O R E

Barra McCabe - BL, MRICS, MSCSI

Deputy Chairperson

Fergus Keogh - MSCSI, MRICS

Member

Ken Enright - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 28TH DAY OF APRIL 2026

1. THE APPEAL

1.1 By Notice of Appeal received on the 16th day of September 2024 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 €9,740.

1.2 The sole ground of appeal as set out in the Notice of Appeal is that the determination of the valuation of the Property is not a determination that accords with that required to be achieved by section 28(4) of the Act because:

'As this office is dealing with customers on behalf of the Department Of Social Protection I am requesting for the property to be exempt from commercial rates. I'm happy to discuss my situation with he appeals team or go to a hearing. If you require any further information please let me know. I can be contact by phone or mail'

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.

2. VALUATION HISTORY

2.1 On the 16th day of May 2024 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 €9,740.

2.2 Being dissatisfied with the valuation proposed, representations were made to the valuation manager in relation to the valuation. Following consideration of those representations, the valuation manager did not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 5th day of September 2024 stating a valuation of €9,740.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 8th day of October 2025. At the hearing the Appellant was represented by Mr Brendan Crosbie and the Respondent was represented by Mr. Keith Rooney, BL, instructed by Mr. Michael Collins on behalf of the Chief State Solicitors Office (CSSO) with Mr. Thomas Walsh (Valuer) of Tailte Éireann called to give evidence.

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 his précis as his evidence-in-chief in addition to giving oral evidence.

4. FACTS

- 4.1 From the evidence adduced by the parties, the Tribunal finds the following facts.
- 4.2 The Property is located on Cross Street in the centre of the town of Kells, County Meath.
- 4.3 The Property comprises a two storey over ground floor building which was originally two separate properties that have been amalgamated so that the top floor is in residential use and the ground and basement areas are in commercial use, the latter forming the subject Property. Internally, the accommodation comprises office space on the ground floor with basement storage and residential use on the upper floor. The front of the building has traditional thick solid mortar walls and the rear area of the building is an extension of block built construction.
- 4.4 The ground floor office extends to 128.98 sq.m and basement store to 28.58 sq.m.
- 4.5 The Property is held on a leasehold basis from 01 June 2019 at an annual rent of €14,400 per annum on a non-related parties basis.
- 4.6 The upper floor residential section is exempt from being valued.

5. ISSUES

The Appellant considers that the Property falls to be considered Relevant Property not Rateable in accordance with Schedule 4, Paragraph 12(a) Valuation Act 2001 as amended.

6. RELEVANT STATUTORY PROVISIONS:

The value of the Property falls to be determined for the purpose of section 28(4) of the Valuation Act, 2001 (as substituted by section 13 of the Valuation (Amendment Act, 2015) in accordance with the provisions of section 49 (1) of the Act which provides:

“(1) If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property.

7. APPELLANT’S CASE

7.1 While the Appeal was submitted in the name of the Department of Social Protection Branch Office, all submissions on behalf of the named Appellant were made by Mr. Brendan Crosbie. Mr Crosbie brought the Tribunal through details about the Property including, description,

location and use. Mr. Crosbie did not submit a précis of evidence in accordance with Rule 35 and 36 of the Valuation Tribunal (Appeals) Rules, 2019 as requested, and instead submitted an email in advance of the hearing. In the email in question Mr. Crosbie submitted that when he took over the building in June 2019, there were two rateable areas within the premises, as it had previously accommodated both a restaurant and an office. Following planning changes, the building now comprises solely an office on the ground floor and a residential apartment upstairs. He said was advised at the time that the two rateable areas would need to be consolidated into a single rateable unit and he complied with this instruction, submitted the necessary documentation, and paid the required €1,000 fee. Due to delays largely caused by the COVID-19 pandemic, a physical inspection did not take place for some time. Once the valuation decision was issued, Mr Crosbie appealed and paid the appeal fee. He said his first contact with Tailte Éireann, which he understood to have been with Mr. Walsh was when Mr. Walsh visited his office to inspect the Property.

7.2 Mr Crosbie said he was appealing on the basis that he believed the premises should be exempt from commercial rates. He submitted that he operates a Department of Social Protection Branch Office from the premises and while this operates as a designated branch, the same core functions are carries out as at any Intreo office.

7.3 Mr Crosbie said there are three staff employed directly by him and in addition, several civil servants work from the office, including a:

- Community Welfare Officers
- Social Welfare Inspectors
- Activation Team personnel

7.4 Mr. Crosbie also explained that the entire office had been fitted out by the Department of Social Protection including all printers, scanners, and franking machines, which are used by everyone working in the building. All staff and customers share the same facilities, including the reception/waiting area, toilets, and canteen. Customers attend for a range of appointments and are directed to the appropriate rooms upon arrival. He said that all staff have their own keys with 24/7 access to the premises.

7.5 Mr Crosbie pays €1,200 per month in rent to the landlord, and the Department of Social Welfare pay Mr. Crosbie €300 per week.

7.6 He submitted that given that the building is solely used to deliver public services on behalf of the government, like any government service office, he was requesting that the Tribunal consider exempting the Property from commercial rates.

7.7 In his oral evidence, Mr Crosbie said that he was the Branch Manager of the Department of Social Protection Office, located across the street in Caddleson, County, Meath.

7.8 Mr. Crosbie said that the nature of the branch office at the subject Property is that it is fully operational Branch of the Department of Social Protection, functioning under the oversight of Navan Welfare Office, and it serves the local community by delivering critical state services and supporting the citizens in need. He said the service offered from this office are non-commercial in any way, but rather they form part of the core public service provided by the State. Mr Crosbie said the team based there included a community welfare officer, a social welfare inspector, members of the Special Investigation Unit, the Activation Team, and Mr. Crosbie himself as Branch Manager, as well as three administrative staff under Mr. Crosbie's supervision. He said all the resources and facilities within the office had been provided and maintained by the Department, and were shared amongst all the staff who worked there. This included printers, photocopiers, franking machines and IT infrastructure. Mr. Crosbie said all common areas such as toilets, canteens and customer waiting areas were all used collectively by staff, regardless of which branch of service they were providing. Each staff member had a key with unrestricted access to the premises, in the same manner as any Departmental office across the country. He submitted that the Department's offices at the subject Property were functionally and operational similar to Intreo offices in locations such as Navin, which operate under the Department of Social Protection and are exempt from commercial rates. He said the offices share the same logo and design, the same opening hours, same public service mission, and the same central oversight and function from the Department. Mr. Crosbie submitted that the offices at the subject Property should be treated consistently and fairly under the same exemption principles.

7.9 Under cross examination by Mr Rooney BL, for the Respondent, Mr. Crosbie was referred to the submissions he made at Representation stage, which were similar submission to those made at appeal stage. At section 6 of the Representation form Mr. Crosbie indicated that the Property should not be included on the Valuation list and went on to explain that the offices were used to carry out day to day services for the Department of Social Protection. Further explanation was included on who owned the office equipment (the Department), the job titles of those working at the Property and the different Department services offered and provided at the Property. The Representations also identified each of the rooms at the Property and the use that those rooms were put to. Mr. Crosbie also included a comment that there is "*no retail zone in the building*". He acknowledged that he had taken over the lease from a Mr. John Clare in

2019 but no written lease existed, and Mr. Crosbie received money from the Department of Social Protection for the use of the Property, which was executed via a written Branch Office Agreement with the Department, which was not available to the Tribunal on the date of the hearing.

7.10 Mr. Crosbie confirmed that the Branch Office Agreement with the Department did not relate to the entire building, but instead covered the services that are provided within the building. In this regard, Mr. Crosbie confirmed that the copy of a 2019 EFT Remittance Advice included in the Respondent's précis was payment for rent of just "*two offices in the Branch Office for the provision of a Community Welfare Clinic and an outreach interview room for SWI and Employment Support Services*" of the Branch Office Agreement with the Department". He said that while the Department rented just two rooms, in order to run the Branch Office for the Department, that other support and administration services were needed that required the rest of the Property and for this reason possibly the wording of the Branch Office Agreement was wrong.

7.11 Following a question from the Division, Mr. Crosbie provided a breakdown of the services provided at the Property. He said that for fourteen years he had been contracted to the Department as a Branch Manager and before 2019 he was located at another office. He said that services provided by other persons contracted to the Department were consolidated in the Property and that the services in the branch located at the subject Property were the same as provided at the Intreo offices in Navan. He said the fitout and decoration at the Property was carried out with the guidance of the Department who also dictated the layout of each room. Mr. Crosbie explained that there was two agreements with the Department including an employment services agreement and a branch management agreement.

7.12 Subsequent to the hearing and at the request of the Division, Mr. Crosbie submitted a number of supplemental documents to the Tribunal in order to support his oral evidence. These documents pertained mainly to his appointment as a Branch Manager to the Department of Social Welfare in 2013, a one line email from the owner of the Property confirming that Mr. Crosbie rented the Property from him and an internal email from a senior staff member at the Department of Social Protection expressing support for the consolidation of a range of services to the Property in Kellys. A copy of these documents can be found at Appendix 1 of this determination (N/A to public).

7.13 Mr. Crosbie confirmed that the only services provided at the Property were those provided for the Department of Social Welfare and that everything he did to and in the Property had to

be done under the guidelines of the Department. He also explained that every Intreo office offers a full suite of Department services, but not every Branch office can offer the same range of services as an Intreo office, but that the Branch office located at the Property does offer the full range of services that can be found at the Intreo office in Navan.

7.14 At the request of the Division, Mr. Crosbie reviewed the block plan of the Property submitted in the Respondent's précis and he provided a detailed explanation of what activity took place in each room and specifically in the part of the Property where a shop used to operate.

7.15 In his summary, Mr Crosbie said that previously the the Department of Social Welfare Inspector's office and a Community Welfare Office in Kells were located totally separately and they were closed down in order to bring them under the one roof at the subject Property, so that customers of the services could be dealt with dignity and respect and could come into a waiting area and then come through and go into the relevant sections of the Branch Office that were required. Mr. Crosbie accepted that there was no document or lease reflecting the rent payment for the Property. He submitted that all areas of the Property are required to carry out the services required at the Branch Office similar to the Intreo offices in the Navan office that undertake services on behalf of the Department of Social Protection. He said in 2019, the Department wanted to bring all its services under one roof in Kells, similar to the Intreo office in Navin, which is reflected in the full range of services provided at the subject Property at the time of valuation. He reiterated that everything that goes on in the Branch Office is completely controlled by the Department, and all facilities and areas, including the area formerly occupied and operated as a shop, for this purpose.

8. RESPONDENT'S CASE

8.1 Mr Walsh said the Revision valuation was as a result of an amalgamation of two former separate properties that were a restaurant and an office. He said Mr. Crosbie was a contractor, but he is not the Department of Social Protection and only two of the rooms / offices in the Property were rented by the Department and that these two offices and the hallway leading to them had been excluded from the valuation. He undertook a Zone A valuation of the former retail space that was now in use as a waiting area used, but not rented by the Department.

8.2 Mr Walsh said he removed the two rooms/offices that fall under Schedule 4 of the 2001 Act because they are occupied by the Department of Social Protection, but that all other rooms are rateable. He said the proof of this was the EFT Bank Transfer for the two offices rented to the

Department, provided to him by Mr. Crosbie. He said he had come across examples of six or seven other Branch Offices but that these were located outside the rating area. Mr. Walsh confirmed that the Branch Office operated at the subject Property was operated by a contractor, namely Mr. Crosbie himself. He said he could only exclude those parts of the building where there was evidence that they were rented by the Department of Social Protection and this evidence only pertained to two particular rooms / offices, which had been excluded in the Respondent's valuation. All other areas were rateable and had been included in the valuation by Mr. Walsh.

8.3 Under cross examination by Mr. Crosbie, Mr. Walsh said that there were two entrances to the Property, one which goes into the hallway and one goes into the area marked as shop on the block plan of the building. He said that if one entrance was closed the other entrance could be used by those wanting to gain access to the building. The issue of which door customers used was up to Mr. Crosbie notwithstanding that the Department only rented two rooms and a hallway from Mr. Crosbie.

8.4 Mr. Walsh said in response to a question from the Division that his rental of €80 per sq.m came from the Tone of the List, which relied on other valuations in the area. As this was a Revision and not a Revaluation it was not required to provide any Key Rental Transactions and he could rely solely on NAV Comparisons, a summary of which are provided at Appendix 2 (N/A to public).

9. SUBMISSIONS

9.1 Mr. Crosbie made no legal submission beyond those that are detailed in section 7 of this determination.

9.2 Mr. Rooney making submissions on behalf of the Respondent said that the Appellant did not challenge in anyway the calculation or quantum. He said it was the Appellant who bears the burden of proof and the Appellant did not submit any evidence whatsoever to challenge the quantum.

9.3 Mr. Rooney said that on the fundamental issue or whether the subject Property is rateable due to the fact that it ostensibly occupied by government department and therefore excluded pursuant to Schedule 4, section 12A of the 2001 Act, he cited a decision of the Valuation Tribunal VA17/5/523 relating to an appeal between Transport Infrastructure Ireland and the Commissioner Valuation. He said the lengthy sixty-seven-page determination that was delivered on the 16th of December 2020 undertook an evaluation of Section 12A, Schedule 4

of the 2001 Act, which states that a property being a building or part of a building, land or waterway or harbour directly occupied by any department or office of state is excluded from rateability. This he said begged the question of what is meant by directly occupied and the Tribunal answered this question in this judgment. He said that in the Transport Infrastructure Ireland judgment at paragraph 184, it says that in the Tribunal's opinion, the word directly emphasizes that which is required for the purposes of paragraph 12A namely occupation, the essential feature of which is the physical presence. Mr. Rooney submitted that if the property is let in its entirety the Tribunal considers that by using the words directly occupied, the Article 12A is intended to restrict this exemption so as to preclude occupation through the medium of another person such as a caretaker, or occupation through a person required to occupy the property such as an independent contractor, agent or employee. He said that paragraph from the TFI judgment, which he commended to the tribunal is the beginning and end of the argument that Mr. Crosbie makes because Mr. Crosbie is an independent contractor.

9.4 Mr. Rooney submitted that Mr. Crosbie confirmed in his own evidence that he contracts with the Department of Social Protection to provide services at this location. He said the Tribunal will be very familiar with the principles of interpretation of the Valuation Act and the exemptions must be read against the ratepayer. In this case the exemption available under Section 12A, being that the property is directly occupied by the Department of Social Protection, has been applied by the Respondent to the two rooms / offices within the building that are directly occupied by the Department of Social Welfare, rooms which were identified both by Mr. Walsh and by Mr. Crosbie. Mr. Rooney said the balance of the Property is not directly occupied by the Department of Social Protection, but instead it is occupied by Mr. Crosbie, an independent contractor. That he submitted, was precisely the circumstance envisaged by the Tribunal in the Transport Infrastructure Ireland case. That is where Mr. Crosbie leases the Property and provides services on behalf of an otherwise exempted body, he does not benefit from that exemption. He submitted that that being so, there simply is no exemption available to Mr. Crosbie, nor has he suggested any exemption.

9.5 Mr. Rooney said that neither in Mr. Crosbie's Notice of Appeal nor in his précis of evidence, did the Appellant identify the specific statutory basis that he was relying upon. That being so, Mr. Rooney submitted that Schedule 4, section 12A was the only legal basis that might be argued in the circumstance, but that direct occupation must be by the entity itself, and all of the evidence submitted at the appeal makes it clear that the Department of Social Welfare is not the sole occupier of the Property, but rather Mr. Crosbie is the occupier.

9.6 In response to a question from the Division, Mr. Rooney confirmed that based on the case law and in particular the St. Vincent's Hospital car park High Court decision that there has never been any question but that individual parts of building can be rateable.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal has to determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct and equitable so that the valuation of the Property as determined by the Tribunal is relative to the value of other properties on the valuation list of County Meath rating authority area there being no comparable properties in existence on that valuation list.

10.2 The Tribunal relies upon and decides on appeals based on the evidence placed before it. It is a well-established principle that the onus rests with the Appellant to prove his / her case and provide evidence to the Tribunal that the Respondent's valuation of the property in question is incorrect and should be amended. It follows that the Tribunal must consider the nature of the evidence submitted to determine whether it supports the argument advanced on behalf of the Appellant.

10.3 The précis, appendices, commentaries and oral evidence adduced by Mr. Crosbie and by Mr. Walsh and the legal submissions by Mr. Rooney along with the clarification information submitted post the hearing have all been considered by the Tribunal in arriving at this Determination, which can only set out a summary of the evidence placed before the Tribunal. The fact that the Tribunal does not make specific reference to any particular document, argument, submission or piece of evidence does not indicate that it has not been taken into account.

10.4 The Tribunal finds based on oral evidence and submissions, as well as documentary evidence submitted to it that the Property is not occupied by the Department of Social Welfare. This conclusion comes from the evidence adduced by both parties, who are in agreement, that under a form of Branch Office Agreement, the Department of Social Welfare rents two rooms and a hallway from Mr. Crosbie with the balance being rented and occupied by Mr. Crosbie directly from the Landlord.

10.5 The Tribunal agrees with the Respondent's submissions that pursuant to Schedule 4, Paragraph 12(a) Valuation Act 2001 as amended, part of the building is exempted from paying rates. It notes that in this regard, the Respondent has already exempted two rooms / offices and a hallway from the Revision valuation, which the Department of Social Protection pays

rent to Mr. Crosbie directly for, for the use of this space. The balance of the space is leased by Mr. Crosbie directly from the Landlord, Mr. John Clare.

10.6 The Tribunal concludes that notwithstanding that Mr. Crosbie permits and accommodates use of parts of the Property rented by him, for the provision of support and administrative services provided by the Department of Social Welfare, the Appellant has not provided sufficient evidence that the remainder of the Property is leased directly by the Department of Social Welfare. As the burden of proof lies with Appellant and exemptions are to be strictly construed against the ratepayer, the Tribunal has not been provided with the necessary evidence to find in favour of the Appellant.

10.7 In circumstances where this is an appeal on a point of law and the Appellant has not provided the Tribunal with any comparable NAV evidence to challenge the NAV applied to the Property by the Respondent, the Tribunal is only able to find in favour of the Respondent in the NAV they contend for the Property.

10.8 The Tribunal concludes based on the foregoing that the Appeal was incorrectly brought in the name of the 'Department of Social Protection Branch Office' and should have been brought in the name of Mr. Brendan Crosbie.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

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.