

Appeal No: VA23/5/0245

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

MC DERMOTTS HOUSE FURNISHERS LTD

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

**In relation to the valuation of
Property No. 1340197, Retail Shop at Spencer Street, Castlebar, County Mayo.**

B E F O R E

Mr. Donal Madigan - MRICS, MSCSI

Deputy Chairperson

Mr Allen Morgan – FSCSI, FRICS

Member

Ms Avril Sheridan – Solicitor

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF MAY 2026**

1. THE APPEAL

1.1 By Notice of Appeal received on the 10th 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 **€101,000**.

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: *“The valuation is excessive and inequitable. The valuation is*

not a determination of value that accords with that required to be achieved under the valuation acts. The valuation is excessive in comparison with the valuations of comparable properties on the Valuation List. The valuation does not achieve correctness of value and equity and uniformity of value between comparable properties on the list as required under the valuation acts.”

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 **€50,000**.

2. REVALUATION HISTORY

2.1 This is a Revaluation appeal arising from Mayo County Council revaluation which was undertaken as a result of the Mayo 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 25th day of May, 2023 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 **€110,400**.

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 **€101,000**.

2.5 A Final Valuation Certificate was issued on the 15th day of September, 2023 stating a valuation of **€ 101,000**.

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 a remote hearing held via Zoom, on the 22nd day of May, 2024. At the hearing, the Appellant was represented by Mr Liam Cahill, MSCSI, MRICS, Chartered Surveyor & Rateable Valuation Consultant of O' Toole & Co and the Respondent was represented by Ms Ciara Marron, MSCSI, MRICS, Chartered Surveyor, 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 oath, adopted their précis as the 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 as being the agreed or undisputed facts:

4.1 The Property is situated on the south side of Spencer Street in Castlebar, the county town in the centre of Mayo, which has a population of 13,054 persons (Census 2022). The Property is in a tertiary retail location.

4.2 The Property comprises of nine former terraced houses which have been amalgamated over time to provide a retail shop, spread over two levels, for bedroom furniture. The building has been fully refurbished, includes an 8 person passenger lift and has five separate entrances at the front with a further two from a private car park to the rear. The rear includes showroom space and stores and further to the rear, separated by a laneway, is a two storey modern building used for sale of discounted stock and garden furniture. The car park has capacity for 20-22 spaces.

4.3 The floor areas are generally agreed, overall, but with some subtle differences to account for the basis adopted for measurement, for some space, by each Valuer, as follows:

| | | <u>Net Internal Area</u> | | <u>Gross Internal Area</u> |
|--------------------------|---------------|----------------------------|----------------|----------------------------|
| <u>Ground Floor</u> | Retail Zone A | 280.80m ² | | |
| | Zone B | <u>222.07m²</u> | | |
| | | 502.87m ² | Retail Overall | 537.65m ² |
| <u>First Floor</u> | Retail | 443.47m ² | | 466.54m ² |
| <u>Rear Building</u> | | | | |
| | Ground Floor | | | 173.60m ² |
| | First Floor | | | 80.85m ² |

The approach on floor areas was agreed by the parties as a preliminary issue at the start of the hearing, as set out above, with the further clarification, during the hearing, that gross external and gross internal bases would be the same for the rear building used as showrooms/stores.

4.4 The Property is held freehold.

5. ISSUES

The Valuers are agreed on several matters, the dispute being one, essentially of quantum, with the Appellant contending for a valuation of € 50,000 and the Respondent contending for a valuation (revised at the hearing) of € 95,800. The figure appearing on the Final Valuation Certificate is € 101,000. There are differences in their valuation approach, the Appellant opting to use overall unit value rates per square metre (on gross internal area) with the Respondent using a zoning approach for the main front ground floor/first floor (on net internal area) and overall unit value rates per square metre on the rear building of the Property, similar to the Appellant.

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. Liam Cahill, Valuer for the Appellant, provided a detailed and comprehensive précis of evidence to the Tribunal. This set out his opinion of the net annual value of the Property as at 1st February, 2022, at € 50,000 which he calculated as follows:

| | | |
|---------------------|---|-----------------------------|
| Ground Floor Retail | 537.65m ² @ € 60.00 per m ² | 32,259.00 |
| First Floor Retail | 466.54m ² @ € 24.00 per m ² | 11,196.96 |
| Rear Building GF | 173.60m ² @ € 30.00 per m ² | 5,208.00 |
| FF | 80.85m ² @ € 12.00 per m ² | <u>970.20</u> |
| | | 49,634.16 say, NAV € 50,000 |

7.2 In support of his valuation, he provided the following five comparable properties, of which summary details only, are set out hereunder:

NAV 1.

PN 2185115

Home Store and More, Castlebar Retail Park, Castlebar.

NAV € 93,100.

This property is located on Castlebar Retail Park approximately 1.9 kms from the subject and comprises a modern purpose built retail warehouse with a total floor area of 1,672.38m² plus a mezzanine of 17.34m² and a yard of 364.99m². The NAV of € 93,100 is based on applying a unit value rate of € 70.00 to the ground floor retail area of 1,161.41m²; € 21.00 per m² to the first floor retail and office of 273.61m²; € 14.00 per m² to the first floor store of 237.36m²; € 10.50 per m² to the mezzanine area and € 7.00 per m² to the yard of 364.99m²

The Appellant contends that the lack of buses, unlike in Dublin, one has to drive to various locations and this is a busy location. This property, being larger and in a better location, but having a lower valuation than the subject Property.

NAV 2.

PN 1342050

Castlebar Tool & Hire, Moneen Road, Castlebar

NAV € 74,600.

This property is located to the east of the town, approximately 1.6 kms from the subject, and comprises a modern building with a total of 1,305.30m² (excluding a mezzanine). The NAV of € 74,600 is based on applying a unit value rate of € 70.00 per m² overall to the ground floor of 894.86m² ; € 21.00 per m² to the first floor retail of 293.21m² ; € 14.00 to the first floor store of 116.96m² and € 10.50 per m² to the mezzanine store of 398.02m².

The Appellant contends that this property is in a prominent location and that the first floor is valued at 30% of the ground floor unit value rate.

NAV 3.

PN 2161648

Fadden's Jeanstore, Breaffy Road, Castlebar

NAV € 96,100

This property is located south east of the subject Property and comprises a modern building of 1,696.42m² which has a retail warehouse at ground floor of 1,235.00m² and a mezzanine of 461.42m². The NAV of € 96,100 is based on applying a unit value rate of € 70.00 per m² to the ground floor and a unit value rate of €21.00 per m² to the mezzanine.

The Appellant contends that this is on a busy road with a lower valuation than the original valuation of the subject.

NAV 4.

PN 1341227

Rabettes Furniture, McHale Road, Castlebar

NAV € 13,990

This property is located approximately 600 metres south east of the subject and comprises a showroom on ground and mezzanine levels with a total of 686.63m² with 391.02m² at ground level and 295.61m² at the mezzanine. The NAV of € 13,990 is based on applying the unit value rates of € 32.00 per m² to the ground floor and € 5.00 per m² to the mezzanine.

The Appellant contends that this property is in a high profile location surrounded by other retail uses and is close to Spencer Street but more of an industrial type being a good comparable for the rear industrial building comprised in the Property.

NAV 5.

PN 2208473

Castle Davitt Furniture, Castlebar Retail Business Park, Castlebar

NAV € 41,200.

This property is located on the extension to the Castlebar Retail Park, approximately 1.8 kms from the subject and further south west of the main park, and comprises a two storey unit of 1,376.64m². This property has suspended ceilings, air conditioning and a lift. The NAV of € 41,200 is based on the application of a unit value rate of € 30.00 per m² to each level overall.

The Appellant contends that, although close to Castlebar Retail Park, that this is not as good a location as that but is nonetheless a purpose built two storey building with the benefit of a lift, with good car parking facilities and similar in size to the subject Property but is valued considerably less than it.

7.3 In his oral testimony Mr Cahill contended, inter alia and in summary, that

(a) the location of this Property is tertiary, with no footfall of any significance, that it is comprised of a terrace of nine former protected residential buildings which is now, after acquisition piecemeal over 20 years, a substantial bedroom store over two floors with an 8-person lift;

(b) the Property has several entrances and includes a customer car park with space for 20-22 cars;

(c) there is also on street parking for “pay and display “with a tariff of € 1.00 per hour and there is a public car park to the rear of the Property (in addition to the private car park) with a daily tariff of € 3.00;

(d) to the rear of the Property, separated by a laneway, there is also a two storey industrial building used as an outlet centre for selling discounted stock;

(e) he is not sure how this Property is best described whether it be shop or showroom and he is not aware of any precise definition used by Tailte Éireann to be conclusive on this;

(f) Spencer Street is very much inferior to other retail locations in Castlebar where the new prime area centres around Hopkins Road, having moved over the years from Ellison Street and Market Street;

(g) his floor areas are computed on a gross internal basis like his comparables to be consistent but he is not in disagreement on the net internal areas adopted by the Respondent;

(h) there are no retail buildings of similar size to the subject in a tertiary location in Castlebar;

Mr Cahill also provided brief comments on each of his own comparables and for clarity here, these comments have been inserted after each NAV comparable in section 7.2 above.

7.4 Under cross examination, Mr. Cahill confirmed, in summary, as follows:

(a) that the main difference between the parties is in the valuation, primarily, but also in the designation, as he believes the Property to be a **retail warehouse** in contrast to the Respondent who considers it to be a **shop**;

(b) he does not have a definition for a retail warehouse but considers that a retail warehouse is normally purpose built, sometimes with large floor plates and usually concentrated in groups around a shared car park, being modern and normally a “drive to” type location (out of town) but, that, outside the main urban areas they can be in more town centre sites e.g. like former builder’s providers etc;

- (c) that retail warehouses do normally have higher headroom, than shops, usually to provide for the flexibility of installing a mezzanine;
- (d) that typically purpose built retail warehouses have a loading bay but that he has not seen the rear of his comparables to confirm if they have;
- (e) the subject is a terrace of nine protected buildings (previously residential) which required the frontages to be retained and that these were converted to the current use, over time, piecemeal, by breaking down the dividing walls;
- (f) there are still a number of dividing walls in the structure and that there is a lift installed and that there are three stairwells;
- (g) that there is only one (private) car park on site; and
- (h) that in respect of the rear building he had taken the structure to be double skin-roof and cladding;

7.5 In taking questions from the Tribunal, Mr. Cahill clarified that:

(a) the unit value rate of € 24.00 per m² to value the first floor had been derived from a consideration of the comparable evidence, in particular. Home Store & More, where the ground floor in that unit is valued at € 70.00 per m² which in his view supports his adoption of a unit value rate to apply to the ground floor in the subject Property of € 60.00 per m² and the first floor in this other comparable is valued at € 21.00 per m² (being 30% of the ground floor rate) and that, because the subject Property has a lift, he applied 40% of the ground floor unit value rate to value the first floor accordingly.

8. RESPONDENT'S CASE

8.1 Ms Ciara Marron, Valuer for the Respondent, provided a detailed and comprehensive précis of evidence to the Tribunal. This set out her revised opinion of value at € 95,800 as the net annual value of the Property, as at 1st February, 2022 which she calculated (rearranged here slightly for clarity of reading) showing measurement basis applying, as either net internal area (nia) or gross external area (gea) as follows:

Ground Floor

| | | | |
|---------------|-----|--|-----------|
| Retail Zone A | nia | 280.80m ² @ € 160.00 per m ² | 44,928.00 |
| Zone B | nia | 222.07m ² @ € 80.00 per m ² | 17,765.80 |

First Floor

| | | | |
|------|-----|---|-----------|
| Shop | nia | 443.47m ² @ € 75.00 per m ² | 33,260.25 |
|------|-----|---|-----------|

Ground Floor

| | | | |
|----------|-----|---|----------|
| Showroom | gea | 173.60m ² @ € 50.00 per m ² | 8,680.00 |
|----------|-----|---|----------|

First Floor

| | | | |
|-------|-----|---|---------------|
| Store | gea | 80.85m ² @ € 7.50 per m ² | <u>606.38</u> |
|-------|-----|---|---------------|

105,240.38

Deduct allowance 15% 9,404.04 (applied to Zone A & B values)

95,836.19

8.2 In support of her valuation she provided the following five comparable properties, of which summary details are set out hereunder

NAV 1.

PN 1341082

Room for a Rug, Spencer Street

NAV € 17,840

This property is opposite the subject Property and comprises a two storey building with a total of 185.10m² with 95.41m² of retail at ground level and a further 89.69m² of retail at first floor. The NAV of € 17,840 is based on applying a Zone A unit value rate of € 160.00 per m² and halving back in the usual way, with a unit value rate of € 75.00 per m² being applied to the first floor.

This valuation was not subject to representations.

The Respondent contended that in regard to this property that this is directly opposite the subject and occupied by the same family as the Appellant and, although smaller than the subject is the closest comparable and is valued by zoning in like manner to all the shops on Spener Street.

NAV 2.

PN 1341096

Café Rua, Spencer Street

NAV € 22,800

This property is also on Spencer Street, about 120 metres from the subject Property and comprises a two storey building with a total of 359.18m² with 205.50m² of retail at ground level, a store of 49.70m² and a further store of 103.98m² at first floor. The NAV of € 22,800 is based on applying a Zone A unit value rate of € 160.00 per m² and halving back in the usual way, with a unit value rate of € 20.00 per m² being applied to the ground floor store and € 65.00 per m² being applied to the first floor store.

The Respondent contends that (allowing for correction of photograph from her precis) this is also zoned and is close to both the subject and the County Council offices.

NAV 3.

PN 2198474

Also identified as Café Rua, Spencer Street

NAV € 16,130

This comprises a three storey building of 242.56m². The NAV of € 16,130 is based on applying a Zone A rate of € 160.00 per m² with the first floor offices/stores valued at € 65.00 per m² and the second floor offices/stores valued at € 45.50 per m².

The Respondent contends that this is similarly zoned to the subject.

NAV 4.

PN 1340190

Michael McDermott, Spencer Street

NAV € 7,140

This comprises a ground floor shop and mezzanine store with a total of 68.20m². The NAV of € 7,140 is based on applying a Zone A rate of € 160.00 per m² with the mezzanine stores valued at € 45.50 per m².

The Respondent contends that this is similarly zoned to the subject but does not have a first floor.

NAV 5.

PN 2118755

Stauntons Pharmacy, Main Street, Castlebar

NAV € 50,000.

This property is located approximately 1.5kms from the subject Property and comprises a shop on ground floor with stores at basement level and an office at first floor with a total floor area of 547.40m² with 321.35m² of this as retail at ground floor. The NAV of € 50,000 is based on applying a Zone A unit value rate of € 350.00 per m², and halving back in the usual way with a unit value rate of € 65.00 per m² being applied to the basement and a unit value rate of € 65.00 per m² being applied to the first floor office. The ground floor devalues overall at a unit value rate of € 109.84 per m².

The Respondent contends that although this is not on Spencer Street that it is 1.5 kilometres from the subject and in a better location and hence valued at a higher Zone A but with the first floor offices valued at € 65.00 per m².

8.3 In her oral testimony she contended, inter alia and in summary, that

- (a) the Property is located on Spencer Street which is a tertiary location in Castlebar, the largest town in Mayo with a population of 13,054 (Census 2022) second to Ballina;
- (b) the Property consists of nine former domestic dwellings now converted into a large shop with a ground floor retail area of 502.87m² and has been refurbished to a high standard and the entire of the Property is used for the display and sale of bedroom furniture and accessories, on both floors;
- (c) access is via five entrances on Spencer Street and from two entrances from the rear car park;
- (d) the building has a small lift that can be used by customers and for staff moving furniture;
- (e) to the rear is a two storey stores building used for selling garden and discounted furniture, which she states is only of single skin construction/cladding and this is separated from the front building by a laneway;
- (f) the layout over the nine former units is that each group of two is separated by a dividing wall and that the building is listed for protection, each being capable of being converted back for letting as individual shops quite easily, as indicated by one of the last units which the occupier attempted to let as a coffee shop at one stage;

(g) in her approach to the valuation that because the Property is large, with a long frontage of 47 metres, she has allowed a discount of 15% to account for this in her computation of the valuation from the zoned values, for fairness;

(h) in her view the essential difference between the Valuers is whether this is a retail warehouse or a shop and that she maintains it is a shop;

(i) as regards the Appellant's comparables

Comparable Number 1 this is much larger than the ground floor in the subject and has 8 metre eaves in contrast to the subject and is in a traditional retail warehouse location on the outskirts of the town, and she does not feel, therefore, that it is a valid comparable

No representations were made in respect of this valuation.

Comparable Number 2 this is on the outskirts of Castlebar on the Moneen Road being again much larger than the subject, at 1,305.00m² and is valued at € 70.00 per m² which is because it is an out of town retail warehouse, being a modern building, quite different to the subject

No representations were made in respect of this valuation.

Comparable Number 3 this is in an out of town location, approx.. 1.1 kilometres from the subject, being a retail warehouse, not in her view comparable to the subject.

No representations were made in respect of this valuation.

Comparable Number 4 this is located on McHale Road being the most similar, in size, to the subject and this has a ground floor showroom plus a mezzanine floor.

Comparable Number 5 this is located 1.8 kilometres from the subject on Castlebar Retail Park with a total building area of 1,376m² comprising a two storey showroom and is valued at € 30.00 per m² but is located in an industrial area outside the town but in her view is not a retail unit like the subject.

(j) that in accordance with the guidelines for the use of zoning that her approach is in keeping with those in adopting a zoning method for the valuation of the subject property which she asserts is a shop and not a retail warehouse;

Ms Marron also provided brief comments on each of her own comparables and for clarity here, these comments have been inserted after each NAV comparable in section 8.2 above.

8.4 Under cross examination, Ms Marron confirmed, in summary, that

- (a) with regard to the rear building she assures that it is only of single skin construction;
- (b) the floor areas for this rear building on either a GEA or GIA basis are the same;
- (c) she is adopting NIA as the measurement basis for the front building;
- (d) the Property is large and should be valued in line with large retail (as opposed to retail warehouses) properties;
- (e) she had considered valuing the subject on an overall basis but considers that the configuration of the Property means that it could be divided into individual units in the future
- (f) there are no comparable “large” retail units on Spencer Street, the larger examples are in more prominent locations like Boots and Next referred to in the earlier sister appeal heard on 1st May, (VA. 23.5.0246) for the property, directly opposite the subject and occupied by the same Appellant on Spencer Street;
- (g) she chose not to include evidence of other large units preferring other units located on Spencer Street instead;
- (h) market evidence was not included as that was not raised by the Appellant but that market evidence had been considered in arriving at a Zone A unit value for the street of € 160.00 per m²;
- (i) although her Comparable Number 1 is smaller than the subject she is referencing the Zone A unit value rate of € 160.00 per m² but is making an allowance in the subject for size of a 15% discount to the value;
- (j) the Property is rather unique in the context of Castlebar;
- (k) does not agree that her Comparable Number 1 be ruled out on the grounds that it is not similarly circumstanced to the subject as it is also a “shop” on the same street though not similar in size;
- (l) for her Comparable Number 2 (correcting the photograph in the written evidence) that the overall retail rate analyses at € 73.40 per m² for a smaller unit of 205.00m² ;
- (m) for Comparable Number 3, notwithstanding the retail size at 55.91m² that it is appropriate to rely on this to value the ground floor of the subject of 502m², albeit not ideal;
- (n) in respect of Comparable Number 4, that it is a beauty salon of some 58.00m² compared to the ground floor in the subject of 502m² and is valued at € 7,140 that it is the equivalent of one of the nine units making up the subject Property which when compared to the total value of the ground

floor subject Property at € 53,000, [€ 53,289.76] then this demonstrates a discount (9 X € 7,140 = € 64,260) to the value of individual units; and

(o) notwithstanding that some large units such as department stores and supermarkets may be valued at overall unit value rates per square metre she did not feel it appropriate to depart from zoning for the subject Property in spite of it being unique, as she had made a discount of 15% to allow for size.

8.5 In taking questions from the Tribunal, Ms Marron clarified that:

(a) the allowance of 15% was applied only to the values for Zone A and Zone B;

(b) the photograph for her NAV comparable number 2 is incorrect and she would forward a correct photograph by email subsequent to the hearing; and

(c) she would also provide written confirmation of her revised opinion of value at € 95,800.

[Ms Marron clarified both issues in (b) and (c) above by email after the hearing]

9. SUBMISSIONS

There were no legal submissions in this case.

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 Mayo County Council.

10.2 The authority for the Tribunal in deciding appeals is limited by the provisions of sec.37 of the Valuation Act, 2001, as amended, and in these appeals the Tribunal can only reach a conclusion based on the evidence placed before it, and that which can reasonably be found or unearthed by enquiry at the hearing, or by direction to the parties. In a Revaluation type appeal, such as in this case, the primary mandate of the Tribunal is to ensure compliance with the requirements of sec.19(5), being to determine a valuation that is correct, equitable and uniform on the basis of the net annual value outlined by sec.48(3), as set out in section 6. of this Determination.

10.3 In this appeal neither Valuer advanced any rental evidence and so the case for this determination rests on the interpretation of the unit values indicated by other assessments of net annual value for comparable properties, on the Valuation List, as adjusted and applied to guide the valuation of the subject Property. In the absence of rental evidence to properly ground the tone of net annual values, especially in the early stages of a Valuation List, the net annual values of comparables where the original proposed valuations have been challenged are to be preferred to those which have not mounted representations or subsequent appeals. Furthermore, preference will be given in the selection of these other net annual values to those where a professional rating adviser or surveyor has been involved. Valuations that were subject to representations will accordingly have been tested, which should ensure the acceptability and integrity of the Valuation List and the emerging tone of values resulting from such challenges.

10.4 Much of the evidence and exchanges at the hearing centred around the correct assignment of an accurate designation for the Property overall. The Appellant contended that the linked front buildings are a retail warehouse (in his précis) but seemed less decisive in oral testimony claiming the description as either “shop” or “showrooms” is not as important as the value ascribed to the components of the property. The Respondent countered with the designation of “shop” for the front buildings. The Tribunal finds, as this point is important as to what the subject Property is ultimately compared to, that it is not a retail warehouse in the accepted sense, but being linked structures converted to the current use, is more in the nature of what can best be described as “showrooms” because of the buildings’ characteristics, including age, the bulky products displayed and offered for sale and the in town location.

10.5 Turning now to a consideration of the comparables, the Tribunal makes the following observations and findings, taking each comparable in the sequence it was presented at the hearing, commencing with those submitted by the Appellant before reciting those lodged by the Respondent. The Tribunal has already reviewed some of the comparables in the earlier appeal of McDermotts VA.23.5.0246 which was heard before this appeal regarding the nearby premises, directly opposite the subject, on Spencer Street of **PN 1341092** (the “furniture stores” as opposed to the premises in the subject appeal being the “bedroom stores”)

Appellant

NAV 1.

PN 2185115

Home Store and More, Castlebar Retail Park, Castlebar.

NAV € 93,100.

This property comprises a modern purpose built retail warehouse with a total floor area of 1,672.38m² plus a mezzanine of 17.34m² and a yard of 364.99m² compared to the subject Property with a total of 1,258.64m² being superior in the view of the Tribunal for the use and more modern layout. The ground floor level of unit value is € 70.00 per m² with € 21.00 per m² being applied on the first floor main area.

NAV 2.

PN 1342050

Castlebar Tool & Hire, Moneen Road, Castlebar

NAV € 74,600.

This property comprises a modern building with a total of 1,305.30m² (excluding a mezzanine) which is quite close in size to the subject at 1,258.64m² but occupies a busy location with good profile. Unit value rates of € 70.00 per m² are applied to the ground floor and € 21.00 per m² to the first floor.

NAV 3.

PN 2161648

Fadden's Jean store, Breaffy Road, Castlebar

NAV € 96,100

This property comprises a modern building of 1,696.42m² (larger than the subject at 1,258.64m²) which has a retail warehouse at ground floor of 1,235.00m² and a mezzanine of 461.42m². The NAV of € 96,100 is based on applying a unit value rate of € 70.00 per m² to the ground floor and a unit value rate of € 21.00 per m² to the mezzanine.

NAV 4.

PN 1341227

Rabettes Furniture, McHale Road, Castlebar

NAV € 13,990

The valuation of this in absolute terms is very much below the revised level sought by the Respondent of € 95,800 for the subject Property and is therefore less relevant to the valuation exercise.

NAV 5.

PN 2208473

Castle Davitt Furniture, Castlebar Retail Business Park, Castlebar

NAV € 41,200

This property is located on the extension to the Castlebar Retail Park, approximately 1.8 kms from the subject and further south west of the main park, and comprises a two storey unit of 1,376.64m². This property has suspended ceilings, air conditioning and a lift. The NAV of € 41,200 is based on the application of a unit value rate of € 30.00 per m² to each level overall.

The Tribunal considers that this is less true retail compared to other retail warehouses and is inferior to an in town location, but despite being close in overall size to the subject, is less persuasive as an indicator of value for the subject, having regard to all its characteristics.

Respondent

NAV 1.

PN 1341082

Room for a Rug, Spencer Street

NAV € 17,840

NAV 2.

PN 1341096

Café Rua, Spencer Street

NAV € 22,800

NAV 3.

PN 2198474

Also identified as Café Rua, Spencer Street

NAV € 16,130

NAV 4.

PN 1340190

Michael McDermott, Spencer Street

NAV € 7,140

The Respondent comparables 1-4 above amply demonstrate that for zoning purposes of smaller, what might be termed standard shops, a Zone A unit value rate of € 160.00 per m² is the appropriate level for Spencer Street. However, these net annual values range from € 7,140 to € 22,800 which are far removed, in absolute terms, from the revised NAV submitted by the Respondent of € 95,800 for the subject Property and, consequently, though helpful in providing context to the valuation exercise, are not determinative in themselves, by being materially smaller in size and value.

NAV 5.

PN 2118755

Stauntons Pharmacy, Main Street, Castlebar

NAV € 50,000.

This property is located approximately 1.5kms from the subject Property and comprises a shop on ground floor with stores at basement level and an office at first floor with a total floor area of 547.40m² with 321.35m² of this as retail at ground floor. The NAV of € 50,000 is based on applying a Zone A unit value rate of € 350.00 per m², and halving back in the usual way with a unit value rate of € 65.00 per m² being applied to the basement and a unit value rate of € 65.00 per m² being applied to the first floor office. The ground floor devalues overall at a unit value rate of € 109.84 per m².

This is in what was the traditional prime pitch and is provided to give background to unit value rates applied in the town and thus indicates, on a zoning basis, that Spencer Street at € 160.00 Zone A is heavily discounted to this level of € 350 Zone A. The Respondent also wanted to show that

the first floor in this property is valued at € 65.00 per m² (for an area described as “offices” of 99.55m²) compared to her value in the subject Property of € 75.00 per m² for the revised retail area of 443.47m². This exercise in comparability seems to go against logic in that the ratio of first floor values would not appear to support the adoption of a rate of € 75.00 per m² in the subject, notwithstanding that it is retail compared to what might best be termed ancillary offices, no visible separate entrance to them being evident. The Zone A in this comparable is € 350 with a unit value rate of € 65.00 per m² being applied to the first floor offices, in other words, a percentage rate of some 18.6 % ; the equivalent Zone A rate in Spencer Street is € 160.00 per m² or after applying the 15% discount she had allowed on the ground floor, for the subject Property, a net Zone A of € 136.00 (i.e. € 160.00 less 15% = € 160 X 0.85.) This indicates a percentage for the first floor being 55.15% taking the net Zone A (€ 75.00/€ 136.00 x 100) or 46.88% (€ 75.00/€ 160 X 100) taking the full Zone A rate of € 160.00. This points to € 75.00 being excessive, having regard both to use, size, location and other characteristics. The equivalent ground floor unit value rate in this comparable is € 109.84 per m² for an area of 321.35m² and surprisingly this is only marginally above the equivalent ground floor rate for the subject (ignoring the ground floor of the rear external building) which is € 99.12 per m² despite it being much smaller than the subject at 537.65m², being much better located surrounded by other retail uses. This also points to the subject Property ‘s valuation being excessive.

10.6 The Tribunal finds that the subject Property, being more in the nature of showrooms than a shop or series of linked shops as contended for by the respondent and thus not appropriate for an adjusted zoning approach but fitting more into the character of larger shops that are valued at overall unit value rates per square metre. This reflects the reality of what the Property is, rather than what a future reconfiguration of this building might be, as individual shops, which, if such an assumption were to be adopted, would offend against the rating hypothesis of *rebus sic stantibus*.

10.7 Whilst the comparables advanced by the Respondent provide the context for valuing standard small shops in Spencer Street (her comparables 1-4) and the fifth comparable indicating the higher level of net annual value in the more traditional retail pitch in Castlebar, the comparables advanced

by the Appellant are better value indicators, when adjusted, to align those net annual values with the appropriate level of value to invoke for the subject Property, taking account, not only of location, but also of use, size and configuration. The Property is not ideally a retail warehouse, as outlined above in 10.4, but retail warehouse comparables are closer in application than standard shops to guide the Tribunal on the correct determination of value. The Tribunal acknowledges the difficulty for the Respondent in the assumption of the relevant valuation methodology to employ for the task of valuation, in this appeal, as the Property exhibits characteristics which make it appear unique, with the exception of its sister property across the street, **PN 1341092**, with which it shares some similarities.

10.8 taking account of all the evidence, the Tribunal considers that a **ground floor** unit value rate of €65.00 per m² is appropriate as it is a slight discount to the better retail warehouses valued at € 70.00 per m² and is significantly less than that proposed by the Respondent. If the Respondent's value for the ground floor is analysed in terms compatible with the manner adopted by the Appellant, at overall rates rather than zoning, this indicates that the corresponding overall rate applied by the Respondent is € 99.12 per m² (Zone A and B values € 62,693.80 less 15% discount of € 9,404.04 = € 53,289.76 / 537.65m² (Appellant's GIA area) which is excessive, relative to the comparables. The **first floor**, being retail and having a lift warrants a level reflecting 40% of this which is a unit value rate of € 26.00 because it reflects the in-town location, benefit of two car parks (one private and one public) relative size and layout. The rear building was not supported by direct comparable evidence and the Tribunal has to make a subjective judgment call on that based on the opinions of the two Expert Valuers. Whilst it is ancillary to the main building it appears to function as a valuable component part in the operations and therefore the Tribunal considers a unit value rate of € 40.00 per m² for the ground floor and € 14.00 per m² for the first floor.

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 **€55,150**

This is calculated as follows:

| | | | |
|---------------------|---|-----------------|-------------------|
| Ground Floor Retail | 537.65m ² @ € 65.00 per m ² | 34,947.25 | |
| First Floor Retail | 466.54m ² @ € 26.00 per m ² | 12,130.04 | |
| Rear Building GF | 173.60m ² @ € 40.00 per m ² | 6,944.00 | |
| FF | 80.85m ² @ € 14.00 per m ² | <u>1,131.90</u> | |
| | | 55,153.19 | say, NAV € 55,150 |

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.