

Appeal No: VA23/5/0874

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

VANILLA GRAPE LIMITED T/A ALAIN & CHRISTINE'S

APPELLANT

AND

TAILTE ÉIREANN

RESPONDENT

**In relation to the valuation of
Property No. 2184400, Shop at 12 Henry Street, Kenmare, County Kerry.**

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

BEFORE

Eoin McDermott - FSCSI, FRICS

Deputy Chairperson

1. THE APPEAL

1.1 By Notice of Appeal received on 17th 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 €12,910.

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

An allowance for Frontage to Depth should be considered: the shop measurement is 6.40mtrs front x 4.39mtrs depth.

The property could not be put on the open rental market based on its current condition. It would take extensive work to bring it up to modern day standards i.e., there is no heating

system, we use a stand-alone electric heater in winter months, shelving dates back to the 1960s shop, the property is circa year 1905.

Access by the owner, Edward O'Sullivan, and other family members and friends is through the shop to his private living quarters i.e., his kitchen at the back of shop and living quarters on the two upper floors.

Stock must be micro-managed to be able to restock. Deliveries must be dismantled in the shop and outside shop on arrival, put on shelves and when applicable delivered to local wholesale customers on the same day or organise collection by courier for a few non-local customers. Stock on occasion must be stored in our private dwelling.

The shop does not have a toilet facility.

€ per meter squared of 420.00 Zone A is excessive for a small town like Kenmare with vastly fluctuation tourist footfall, a very small year-round population, no industries and with a huge lack of public parking for cars and buses.

We are struggling every year to just stay profitable with all the increases in overheads. We have gone through a recession, Brexit, covid, much lowered tourist footfall in the past year and a cost-of-living crisis which means people are spending less on non-essential products and services. If our rates double, we will find it extremely hard to survive.

- 1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €5,196.

2. RE-VALUATION HISTORY

- 2.1 On 23rd 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 €12,910.
- 2.2 A Final Valuation Certificate issued on 15th September 2023 stating a valuation of €12,910.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1st February 2022.

3. DOCUMENT BASED APPEAL

3.1 The Tribunal considered it appropriate that this appeal be determined on the basis of documents without the need for an oral hearing and, with the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal. The Appellant also furnished a response to the Respondents submission. The Appellant's summary and response was prepared directly by the Appellants, and the Respondent's summary was prepared by Mr. Kevin O'Doherty MSCSI MRICS of Tailte Éireann.

4. FACTS

4.1 The parties are agreed as to the following facts.

4.2 The subject property is located on the west side of Henry Street, between New Road to the south and Main Street to the North. The surrounding area is predominantly retail.

4.3 The subject property comprises part of the ground floor in a three-storey property, currently used as an off-licence, stationery and card shop. The property has street access. There are no toilet facilities and there is no integral heating system servicing the property.

4.4 The current rent payable on the property is €5,169 per annum. No further details were provided.

5. ISSUES

The issue is one of quantum.

6. RELEVANT STATUTORY PROVISIONS:

6.1 The net annual value of the Property has to be determined in accordance with the provisions of section 48 (1) of the Act which provides as follows:

“The value of a relevant property shall be determined under this Act by estimating the net annual value of the property and the amount so estimated to be the net annual value of the property shall, accordingly, be its value.”

6.2 Section 48(3) of the Act as amended by section 27 of the Valuation (Amendment) Act 2015 provides for the factors to be taken into account in calculating the net annual value:

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

6.3 Section 19 (5) of the Act provides:

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

(a) correctness of value, and

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

and so that (as regards the matters referred to in paragraph (b)) the value of each property on that valuation list is relative to the value of other properties comparable to that property on that valuation list in the rating authority area concerned ...”

7. APPELLANT’S CASE

7.1 The Appellants contend that the valuation of €12,910 is excessive and does not reflect the property’s actual rental value or trading circumstances. They noted the following points:

- Frontage-to-Depth Ratio: The shop measurements are 6.40m frontage x 4.39m depth, giving a total area of 28.1 sq.m., limiting retail display and trading potential.

- Condition: The property was constructed in the early 1900s and has no heating system (they use a portable electric heater), the shelving dates from the 1960s and overall the property is in a poor state requiring major refurbishment before being marketable.
- Restrictive access: The property owner and family members access their private living quarters through the shop, reducing privacy and usability.
- No storage facilities: Stock management is severely constrained; deliveries dismantled in shop or outside, occasional storage in private dwelling.
- No toilet facility in the property.
- Location & Market Factors: The Zone A rate of €420/m² is excessive for Kenmare—a small town with seasonal tourist footfall, limited year-round population, no major industry, and inadequate public parking.
- Economic Context: The business faces ongoing challenges— in the past it was the recession, Brexit, COVID-19, cost of living crisis that had a cumulative effect and over past 2 years the dramatic fall in tourist numbers has a serious impact on our business survival.

7.2 The Appellant notes that the proposed NAV of €12,910 would be unattainable due to the condition, restrictions, and local market evidence of the property based on the appeal grounds set out at 7.1. They state that the property is not rentable on the open market due to its current condition and lack of facilities. They believe that it is not feasible in the current climate to increase costs and state that the viability of doing business is being challenged more than ever in the last few years. They note that the current rental for this property is €5,196 per annum.

7.3 The Appellant makes reference to S.19 (5) of the Act, noting that the valuation must reflect the property's rental value in a fair and equitable manner; and S. 49 (2), comparison with similar properties within the same rating authority area.

8. RESPONDENT'S CASE

8.1 Mr. O'Doherty, on behalf of the Respondent, described the property and its location using photographs and plans contained in his submission. The property is described as being in reasonable condition throughout. Mr. O'Doherty states that the floor area of the property at 30.74 sq.m. is not in dispute and provides a sketch showing measured areas of 6.64m width and 4.63m depth. He also notes that the lease under which the property is held is between related parties and not reflective of a market transaction.

8.2 In response to the Appellants submission, Mr. O'Doherty notes generally that the Appellant has relied on opinion rather than evidence. Dealing with the points raised, he states that no other property on the same street as the subject has benefitted from a frontage to depth allowance and that the valuation adopted reflects the prevailing basis of valuation for comparable properties in that location. He gives his opinion that the application of a frontage to depth allowance solely to the subject would therefore create inconsistency on the Valuation List and undermine the principle of equity. He states that the Appellant's assertions regarding age, layout, and dual use as a family home do not provide sufficient grounds to conclude that the property's desirability or rental value is adversely affected. He notes that no evidence has been put forward to support the Appellant's opinion that properties with a toilet rent at higher levels than those without.

8.3 Mr. O'Doherty put forward four Key Rental Transactions in support of his case, which are set out in Appendix A (N/A to public). He also put forward four NAV comparisons as follows:

Prop. No	Address	Area sq.m.	Zone A NAV	NAV
20988	4 Henry Street, Kenmare.	63.23	€420	€20,000
20990	5 Henry Street, Kenmare.	43.48	€420	€7,280
20997	9 Henry Street, Kenmare.	40.70	€420	€17,090
2192196	3 Henry Street, Kenmare.	55.31	€420	€17,060

8.4 Mr. O'Doherty requested the Tribunal to affirm the valuation of €12,910, made up as follows: -

Use	Floor	Area (sq.m.)	NAV (€ per sq.m.)	NAV
Retail Zone A	0	30.74	€420	€12,910.80
			Say	€12,910.00

8.5 Replying to the Respondents submission, the Appellant made a number of points as follows:

- The measurements provided in her submission are the exact figures taken by the Valuation Officer who visited the premises from Dublin when the shop first opened and were confirmed by a local estate agent.
- The business has declined year on year over the past four years, during which time costs and business competition have increased.
- There has been a significant reduction in local visitor capacity, which has had a negative effect on local tourism footfall and retail spending. Simultaneously the cost-of-living crisis has severely reduced discretionary spending locally.
- Kenmare should not be treated on the same basis as Killarney.
- There is limited parking availability in the town.
- The Respondents rental comparisons all predate COVID and comparison 3 has been vacated. They cannot be relied upon to support the NAV.

9. FINDINGS AND CONCLUSIONS

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

9.2 The Tribunal has found on several occasions that the onus of proof rests with the Appellant in an appeal (See *Proudlane Ltd. t/a Plaza Hotel (VA00/2/032)* and *AIB Group PLC v Commissioner for Valuation (VA20/4/0053)*). The position was expanded on in Tribunal decision *FGM Properties v Commissioner for Valuation (VA19/5/1091)* wherein it was

held: *“The onus of proof rests on the Appellant to demonstrate, through cogent evidence that the Respondent has erred.”*

- 9.3 The Appellant advanced their appeal primarily on the layout and condition of the property, raising issues such as the area of the property, the frontage to depth ratio and various operational issues.
- 9.4 In their submission and again in their response to the Respondents submission, the Appellants contended for an area of 28.1 sq.m., citing a frontage of 6.4m and a depth of 4.39m. The sources for these dimensions were cited as being a valuer from the Valuation Office and a local estate agent, although no documentary evidence was provided. In their submission the Respondent states that the area is 30.74 sq.m. and that the floor areas are not in dispute. A sketch in the Respondents submission suggests a frontage of 6.64m. and a depth of 4.63m.
- 9.5 The Tribunal notes with a degree of concern that despite having the Appellants measurements prior to making their own submission, the Respondent has contended for a larger area and stated that the areas are not in dispute. Nor does the Respondent state in their submission as to whether they actually measured the property during their inspection, or whether they simply relied upon the measurement used in arriving at the original valuation. While it would have been preferable for the Appellant to produce a report from the local estate agent to support their measurements, the fact that the dimensions were provided by the Appellant at the outset and not dealt with in the Respondents submission leaves the Tribunal to decide which area is correct. Having considered the matter, the Tribunal prefers the Appellants evidence on this point.
- 9.6 The Appellant contended for a frontage to depth allowance. The Respondent disagreed with this approach, stating that no other property on the same street as the subject has benefitted from a frontage to depth allowance and that the valuation adopted reflects the prevailing basis of valuation for comparable properties in that location. The Respondent states that the application of a frontage to depth allowance solely to the subject would therefore create inconsistency on the Valuation List and undermine the principle of equity.

9.7 At this point it should be noted that the Respondent has consistently adopted the zoning method when measuring high street retail premises and analysing retail rents. Zoning is a standard method of measuring retail premises and is a useful tool for analysing rents of properties of differing shapes and sizes. The adoption of the zoning method by the Respondent is not an issue in this appeal.

9.8 A useful starting point in considering the particular issue in dispute is to review “Retail Zoning for the Chartered Surveyor” an Information Paper published by the Society of Chartered Surveyors Ireland (“SCSI”). The first thing to note is that this document has no legal or statutory basis. Its use is not mandatory for Chartered Surveyors. It is defined by the SCSI as an Information Paper, and they state that “*Information papers are intended to provide information and explanation to SCSI members on specific topics of relevance to the profession. The function of this paper is not to recommend or advise on professional procedure to be followed by members*”. Its status is listed as “Information and/or explanatory commentary.” In essence, it provides a framework which members of the SCSI can choose to follow when considering the measurement and valuation of retail properties.

9.9 The Information paper says the following about discounts for frontage to depth ratios:

It has become apparent that the application of zoning can at times overvalue relatively wide premises and at the same time undervalue narrow deep premises.

In terms of frontage to depth a ratio of 1:3 is felt to be ideal.

For the purpose of discounting the Zone A rate it is suggested that a discount in the region of $\pm 10\%$ be applied to units with a frontage to depth ratio of less than 1:2.

This is a guideline figure only and will vary depending on the actual configuration of the unit. It is being suggested as a guideline figure and not as one to be applied rigidly.

For example where a unit is particularly wide and shallow, a substantially larger discount may be appropriate.

In conjunction with this, it is suggested that particularly deep units with frontage to depth ratios in excess of 1:4 could be loaded by up to $\pm 10\%$.

For the sake of clarity, it should be noted that the above suggests that where a particularly wide and shallow premises is being compared with a particularly deep premises the difference can be $\pm 20\%$.

- 9.10 The Information Paper suggests that a ratio of 1:3 is ideal and that discounts of approximately 10% should be applied where the frontage to depth ratio is less than 1:2. The ratio in the subject property is less than 1:1. The Respondent has suggested that no other property on the same street has benefitted from this allowance, but has provided no evidence of similarly circumstanced properties when an allowance would be expected to fall within the parameters as outlined but has not been made.
- 9.11 From the evidence put forward it is clear that the subject property is of a standard width but is particularly shallow. The Tribunal considers that the straightforward application of a standard Zone A level to the particularly shallow property has the effect of overvaluing the property. Accordingly, the Tribunal finds that an allowance of 10% should be made to reflect the frontage to depth ratio.
- 9.12 The Tribunal accepts the Respondents position that the Appellant's assertions regarding age, layout, and dual use as a family home do not provide sufficient grounds to conclude that the property's desirability or rental value is adversely affected. In addition, the Appellants comments on the viability of Kenmare as a location apply equally to the NAV comparisons put forward by the Respondent and do not give cause for any further reduction in the NAV.

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 € 10,620, calculated as follows:

Use	Floor	Area (sq.m.)	NAV (€ per sq.m.)	NAV
Retail Zone A	0	28.1	€420	€11,802.00
Less allowance			10%	€1,180.20
				€10,621.80
			Say	€10,620.00

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.