

**Appeal No: VA23/5/1185**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**HOLLAND AND BARRETT LIMITED**

**APPELLANT**

**and**

**TAILTE ÉIREANN**

**RESPONDENT**

**In relation to the valuation of**  
Property No. 2178481 at Unit 27, Level 1, Dundrum Town Centre, Dundrum, Dublin 16.

**B E F O R E**

**Ms Fiona McLafferty – Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 2<sup>ND</sup> DAY OF JUNE 2026**

**1. APPEAL**

1.1 By Notice of Appeal received on 19 October 2023 the Appellant appealed against the determination of the Respondent pursuant to which the net annual value (NAV) of the above relevant Property was fixed in the sum of €414,000.

1.2 The ground of appeal 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: *‘I believe the valuation of the subject property is excessive and does not accord with Section 19(5) of the Valuation Act, 2001 as amended by the Valuation (Amendment) Act, 2015 (the Act) as in my opinion it does not achieve both correctness of value and equity and uniformity of value between comparable properties on the list.*

*More specifically, a new 10-year lease was agreed in July 2019 at a rent of €331,000 per annum which was previously detailed to Tailte Eireann, through the Representations stage. In addition to this the subject also occupies an inferior location removed from the prime area and footfall within Level 1 Dundrum and as per the approach adopted at the previous Revaluation consideration should also be had to these specific locations when applying adjustments to the Zone A level within each mall for units such as this. In consideration of these specific matters, I believe a lower valuation as set out herein is more representative of a reasonable Net Annual Value in accordance with Section 48 of the Act.’*

1.3 In the Notice of Appeal, the Appellant considers that the valuation of the Property ought to have been determined in the sum of €331,000. In the Précis of Evidence, the Appellant considers that the valuation of the Property ought to have been determined in the sum of €329,000.

## **2. RE-VALUATION HISTORY**

2.1 On 23 September 2022 a proposed Valuation Certificate for the Property issued under section 24(1) of the Valuation Act 2001 (as amended) and was sent to the Appellant indicating a valuation of €508,000.

2.2 Being dissatisfied with the valuation proposed, representations were made to the Respondent in relation to the valuation. Following consideration of those representations, the valuation of the Property was reduced to €414,000.

2.3 A final Valuation Certificate issued on 15 September 2023 stating a valuation of €414,000.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 1 February, 2022 (‘the valuation date’).

## **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, on the agreement of the parties, the Chairperson assigned the appeal to one member of the Tribunal for determination.

3.2 In accordance with the Rules of the Tribunal, the parties exchanged their respective documents and submitted them to the Tribunal.

#### **4. ISSUE**

4.1 The issue in the appeal is the quantum of the valuation of the Property. The Appellant requests the Tribunal to determine the NAV in the sum of €329,000. The Respondent requests the Tribunal to determine the NAV in the sum of €414,000.

#### **5. FACTS**

5.1 The following findings of fact are made:

5.2 The Property is situated at Unit 27 on Level 1 of a development known as Dundrum Town Centre, which is a mixed-use development laid out across three levels. Unit 27 is a unit in which the Appellant operates a retail business.

5.3 The Property is held under a lease dated 1 August 2019 for a term of ten years, with a term commencement date of 16 July 2019 and an initial rent of €331,000 per annum. The date of the first rent review is provided in the lease as 16 July 2024.

5.4 The floor area of the Property has been agreed by the parties as:

Ground Floor	Retail Zone A	75.20 sq.m
Ground Floor	Retail Zone B	72.60 sq.m
Ground Floor	Retail Zone C	36.18 sq.m
Ground Floor	Store	14.70 sq.m
Total		198.68 sq.m

#### **6. RELEVANT STATUTORY PROVISIONS**

6.1 All references to a 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.

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

*“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.”*

6.3 Section 48(3) of the Act provides the following meaning of ‘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.”*

6.4 Section 20(1) of the Act provides:

*“A valuation order shall specify one date by reference to which the value of every relevant property, the subject of the valuation mentioned in the order, shall be determined.”*

6.5 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 or, if no such comparable properties exist, is relative to the value of other properties on that valuation list in that rating authority area.”*

6.6 Section 37(4) of the Act provides:

*“For the avoidance of doubt, neither subsection (1)(a) or (2)(b)(ii) (so far as it relates to section 19(5)) nor section 19(5) shall require the Tribunal to achieve the determination of the value of a property concerned by reference to any particular method of valuation and the Tribunal may arrive at its determination by reference to whatever method of valuation or combination of methods of valuation as the Tribunal, in its discretion, may deem appropriate.”*

## **7. APPELLANT’S CASE**

7.1 The précis of evidence on behalf of the Appellant was given by Ms Claire Mason, B.Sc (Surv), Associate Director of Avison Young. Ms Mason described the Property as comprising a rectangular retail unit with managers office, staff toilet and stockroom to the rear with corridor access to a shared service area. She further states that the Property has a ceiling height of less than 2.9m which she maintains is significantly lower than other comparable retail units on Level 1 or elsewhere in the centre. Ms Mason states that the profile of the Property is impeded by the lift, stairwell and supporting columns and is further compounded by the angled floor layout of the centre. The main retail area of the Property is fitted with tiled floor, panelled walls and a suspended painted ceiling.

7.2 Ms Mason provides two key rental transactions (KRT) which are set out in Appendix A (N/A to public). KRT 1 (PN 2178481) is the transaction pertaining to the subject Property. The property at KRT 2 (PN 2178483) is presented by Ms Mason as a key rental transaction and a comparable property. KRT 2 relates to a property which Ms Mason submits is located at the same end of Level 1 as the Property, shares a similar ceiling height of just under 2.9m, but is in the

walkway to the Level 1 car park. She states that a final valuation certificate for the property in KRT 2 was issued at a NAV of €253,000, which was based on a Zone A rate of €3,000 per sq.m. This was appealed to the Valuation Tribunal. Ms Mason states that prior to a hearing before the Tribunal, it was agreed with the Respondent that the NAV be reduced from €253,000 to €228,000, which Ms Mason states devalues to a Zone A rate of €2,675 per sq.m. She states that the reduction was agreed *‘to reflect the significantly lower ceiling height and the inferior retail pitch’*. Ms Mason submits that the rent on the Property (which she states devalues to a Zone A rate of €2,700 per sq.m) and the NAV for the property at KRT 2 (which was reduced from a Zone A rate of €3,000 per sq.m to €2,675 per sq.m) supports her opinion of value in relation to the subject Property.

7.3 Ms Mason states that retail units elsewhere in Dundrum Town Centre are not directly comparable to the Property based on their superior retail pitches and higher ceiling heights. She states that there is a small barbers located in between the subject Property and KRT 2 but it is not comparable in size. Ms Mason states that retail units on the opposite side of the centre benefit from higher ceilings and improved visibility being located next to the travelators.

7.4 Ms Mason submits that a Zone A rate of €3,400 per sq.m resulting in a total NAV of €414,000 for the Property is excessive. She submits that there are specific features in the Property which must be considered in assessing an appropriate valuation. Ms Mason submits that the Property is situated in arguably one of the worst, off-pitch retail locations at the very end on the ground floor (Level 1). Due to the layout of Dundrum Town Centre, particularly the angled layout for this part of Level 1 the subject Property is not immediately visible as a customer approaches this end of Level 1. She states, by reference to the photographs in her précis, that there is only a direct line of sight to the Property as the customer walks directly alongside the entrance to Marks and Spencer. She further states that the positioning of the stairwell and lifts along with the supporting columns almost completely impedes the profile and visibility of the Property. Ms Mason states that it is relevant that the travelators are positioned on the opposite side of the centre which is the primary mode of accessing the other floors in the centre. She states that as a result of the entry and exit points the primary footfall is drawn away from the Property and bypasses the end of the centre where the Property is entirely situated. Furthermore, the Property has a ceiling height of less than 2.9m which is significantly lower than the majority of the retail units in the

centre, which she states is very noticeable in direct comparison with other units which are located on the opposite side of the centre.

7.5 Ms Mason submits that as the valuation date is 1 February 2022, the date of the lease and the rent for the Property is very relevant in determining a fair and equitable valuation for the Property. She states that the Property is held under a ten-year lease commencing in July 2019 which is only two and half years before the valuation date. The lease provides for a rent of €331,000 per annum with five yearly rent reviews. The rent review due in 2024 was not initiated by the Landlord, so the rent remains unchanged at €331,000 per annum. She submits that as the valuation date is after a period of stagnation in the retail sector due to the Covid-19 closures and uncertainty within the retail market there were very few market transactions taking place. Ms Mason submits that the subject lease and rent is demonstrative of the market rent achievable in Dundrum Town Centre for an off-pitch retail unit and considerable weight should be applied to it when determining the NAV for the Property.

7.6 Ms Mason acknowledges that the Respondent did endeavour to factor the inferior location of the Property together with its impeded profile and visibility and lower ceiling height at the final valuation stage by applying a Zone A rate of €3,400 per sq.m in comparison to a Zone A rate of €4,200 per sq.m. which was applied to superior retail units elsewhere on Level 1. However, Ms Mason submits that the Zone A rate applied to the Property does not adequately reflect the inferior retail pitch having regard to the actual passing rent of the Property. In her opinion, an adjustment to the Zone A rate of €3,400 per sq.m is warranted.

7.7 Ms Mason submits that having regard to the foregoing, and having analysed the rent for the Property which she states devalues to a Zone A rate of €2,700 per sq.m, and applying the same approach as the Respondent to the remaining zone rates and store, Ms Mason submits that the NAV of the Property ought to be determined at €329,000 as follows:

Floor	Use	Area (m <sup>2</sup> )	NAV (€ per m <sup>2</sup> )	NAV
0	Retail Zone A	75.20	€2,700	€203,040
0	Retail Zone B	72.60	€1,350	€98,010
0	Retail Zone C	36.18	€675	€24,421.50
0	Store	14.70	€270	€3,969
			Total	€329,440.50
			NAV	<b>€329,000</b>

## 8. RESPONDENT'S CASE

8.1 The précis of evidence on behalf of the Respondent was given by Maria Breukers of Tailte Éireann. Ms Breukers states that revaluation refers to the process whereby the valuation of every relevant property in a particular rating authority area is updated by reference to one single valuation date. She submits that revaluation brings greater equity, uniformity, fairness and transparency into the local authority rating system, resulting in more equitable distribution of the commercial rates burden among ratepayers.

8.2 Ms Breukers states that the subject Property was inspected and her précis included both internal and external photographs of the Property. She states the Property was in good condition throughout.

8.3 Ms Breukers states that following consideration of the representations made on behalf of the Appellant which were received after the proposed valuation certificate was issued, the Zone A rate applied was reduced from €4,200 per sq.m. to €3,400 per sq.m to '*reflect the location and physical characteristics of the unit*'. Consequently, the NAV was amended from €508,000 to €414,000. The information produced at the representation stage on behalf of the Appellant were reproduced in the précis of Ms Breukers and have been reproduced herein at Appendix B (N/A to public).

8.4 Ms Breukers submits that the valuation of the Property was conducted according to the provisions of the Act. She further submits that the value of the Property was determined by reference to the values of other properties comparable to the Property appearing on the valuation list in the same rating authority area as the Property, in accordance with correctness of value, equity and uniformity. The estimate of the NAV is what a hypothetical tenant would pay in rent on the

terms set out in section 48 of the Act, which is not necessarily what any particular tenant is paying. Ms Breukers submits that the actual rent for a property may be material in deriving an estimate of the NAV but is not conclusive.

8.5 Ms Breukers states that it is the collection of data on net effective rents (NER) that provides the basis for developing a scheme of valuation to be applied to properties sharing similar characteristics. She states that properties which are similarly circumstanced are considered comparable, which she states means they share characteristics such as use, size, location and/or construction. She states that the scheme of valuation for most classes of property are expressed in terms of €/sq.m. or €/Zone A for retail properties. Ms Breukers states that the application of the scheme is only the starting point and that following application of the scheme NAV, if there are any relevant individual considerations in relation to a property, relative to that group, further adjustments may be made to the NAV of that property.

8.6 Ms Breukers provided relevant market data in the form of three key rental transactions and also produced three comparisons of other properties on the valuation list. Details of the three key rental transactions produced by the Respondent are set out in Appendix C (N/A to public). Details of the three comparisons produced by the Respondent are set out in Appendix D (N/A to public). The précis of evidence of the Respondent included photographs of the properties and their location relative to the subject Property. In relation to the key rental transactions, Ms Breukers provided a comparative analysis of the NER and NAV in each transaction, and commented that the NER was higher than the NAV applied. She further commented that the analysis of the rental evidence supported the scheme NAVs. In relation to the comparisons, the précis also provided information on the characteristics of the properties.

8.7 An extract of the key rental transactions, as relating to Zone A rates, shows the following:

	Lease Date	Floor Area (sq.m) (Zone A)	NER per sq.m (Zone A)	NAV per sq.m (Zone A)
KRT 1	April 2022	28.43	€4,248	€4,200
KRT 2	October 2022	33.81	€3,632.10	€3,400
KRT 3	September 2022	37.14	€3,959	€3,400

8.8 An extract of the NAV comparisons, as relating to Zone A rates, shows the following:

	Property No.	Floor Area (sq.m) (Zone A)	NAV per sq.m (Zone A)
NAV 1	2178478	52.44	€3,400
NAV 2	2178475	40.01	€4,200
NAV 3	2178492	28.43	€4,200

Following her summary of the NAV comparisons, Ms Breukers states '*The locational characteristics of the subject unit have been reflected in its lower valuation assessment. It has been calculated at a reduced base level of €3,400 Zone A. Typical mall units at this level are valued at a higher rate of €4,200 per sq.m.*'.

8.9 Ms Breukers provided the following responses to the submissions made on behalf of the Appellant:

8.9.1 As regards the location and visibility of the Property, Ms Breukers states that it is clear that the subject Property has significant glazed dual frontage and that adjustments were made to account for the location compared to more prime locations, which were assessed at a Zone A rate of €4,200 per sq.m, whereas the Property was assessed at the lower Zone A rate of €3,400 per sq.m.

8.9.2 As regards the ceiling height, Ms Breukers states that the ceiling height is agreed and that the photographs illustrate that the height does not have a negative impact on the visibility of the unit or its prominent display. She states that the unit continues to benefit from its corner position and its dual frontage is suitable for advertising its products.

8.9.3 As regards the comparison provided by the Appellant, Ms Breukers states that the property was subject to appeal and was agreed prior to a hearing before the Tribunal. She states that it is a unique unit that distinguishes it from other units in Dundrum Town Centre as it is located within a narrow corridor leading from the car park to the main mall. She confirms that an end allowance adjustment of 10% to the valuation was agreed between

the parties to account for this location. Ms Breukers states that the subject Property does not suffer the same locational disadvantages.

8.9.4 As regards the lease on the subject Property and that the rent in the lease would be the most relevant rent when applying the NAV, Ms Breukers states that a number of rental transactions were investigated and analysed having regard to the date of the transaction and any inducements included in the transaction, and the results of this investigation provided NER data which she states *'equates to the basis of valuation as set out in s.48 of the Valuation Act, 2001 (as amended) on the statutory valuation date.'*

8.10 Ms Breukers provided the following responses to the key rental transactions provided on behalf of the Appellant:

8.10.1 In relation to KRT 1 provided by the Appellant, Ms Breukers states that the lease of the subject Property commenced two and half years before the valuation date whereas the key rental transactions provided in her précis shows rental evidence from 2022 which has a higher net effective rent than the subject Property.

8.10.2 In relation to KRT 2 provided by the Appellant, Ms Breukers states that an allowance was granted to that property to reflect the unique characteristics of the unit that distinguishes it from other units within Dundrum Town Centre, particularly as it is located in a corridor to the car park, with no mall frontage onto Level 1. She states that the subject Property has more positive attributes including located on the retail mall and a corner configuration that benefits from prominent glazed dual frontage.

8.11 Ms Breukers submits that having investigated the particulars of the appeal, and having considered the grounds of appeal and the evidence of the Appellant, and having regard to the market data and comparable properties, the opinion of the Respondent is that the correct NAV of the Property is €414,000, calculated as follows:

Floor	Use	Area (m <sup>2</sup> )	NAV (€ per m <sup>2</sup> )	NAV
0	Retail Zone A	75.20	€3,400	€255,680
0	Retail Zone B	72.60	€1,700	€123,420
0	Retail Zone C	36.18	€850	€30,753
0	Store	14.70	€340	€4,998
Total				€414,851
<b>NAV</b>				<b>€414,000</b>

8.12 In conclusion, Ms Breukers submits that the Property has been valued in accordance with section 48 and section 19(5) of the Act. She submits that the key rental transactions in her précis of evidence show rents in 2022, which are closer to the valuation date of 1 February 2022, and consequently, these rental transactions prove that a NAV of €3,400 per sq.m for Zone A is reasonable and relevant to the subject Property. Ms Breukers submits that the appropriate adjustment to the Zone A rate has been made for the Property and that reducing the valuation any lower would cause the Property not to be in line with section 48 and section 19(5) of the Act. In all the circumstances, the Respondent submits that a valuation of €414,000 should be entered in the valuation list as representing the NAV of the Property.

## 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 Dun Laoghaire Rathdown County Council.

9.2 Section 35 of the Act provides that the appeal from the Appellant must specify the grounds on which the Appellant considers that the NAV determined by the Respondent is incorrect and the value the Appellant considers ought to have been determined as the NAV. It is recognised that the onus of proof in appeals before the Tribunal rests with the Appellant.

9.3 The NAV of the Property means the rent which the Property might, in its actual state, be reasonably expected to let from year to year on the terms set out in section 48(3) of the Act. The rent is measured on a hypothetical tenancy of the Property and not by reference to the actual occupancy circumstances of the existing operator. There are different methods of valuation

designed to assist in determining the NAV. The objective of the valuation exercise is to achieve correctness, and equity and uniformity of value between properties on the valuation list. Multiple factors can influence valuation and no single factor is conclusive. All the characteristics of a property have to be evaluated and assessed against comparable properties. This involves an exercise in relativity regarding the physical nature, age, location and quality of the property as well as market characteristics for same. The date by reference to which the value of a property is to be determined is the specified valuation date.

9.4 The valuation assessments applied in the comparison properties of the Respondent are based on the adoption of a scheme of valuation devised by the Respondent. The Respondent states in the précis of evidence *‘It is important to note that the application of the scheme is only the starting point. Following application of the scheme values if there are any relevant individual considerations in relation to the subject property, relative to that group, further adjustments may be made to the subject property’s estimate of NAV’*. The Tribunal considers that the strict application of a scheme of valuation may give rise to uniformity, but the statutory requirement also refers to equity and further, that correctness of value should not be sacrificed to ensure uniformity. The Tribunal is not persuaded that the statement by the Respondent that the *‘NER equates to the basis of valuation as set out in s.48 of the Valuation Act, 2001 (as amended) on the statutory valuation date’* reflects the full breadth of the statutory requirements on valuation.

9.5 In examining the properties on which a Zone A rate of €3,400 per sq.m has been applied the Tribunal notes the following:

9.5.1 KRT 2 produced by the Respondent shows a Zone A rate of €3,400 per sq.m. In the commentary by the Respondent, it is stated that this property has a *‘better location with more visibility than subject property’*. The location map shows that KRT 2 is located at the front of the centre near an external area described as Town Square.

9.5.2 KRT 3 produced by the Respondent shows a Zone A rate of €3,400 per sq.m. In the commentary by the Respondent, it is stated that this property has a *‘better location with*

*more visibility than subject property, located on Level 2'*. The location map shows that KRT 3 is located on a different level than the subject Property.

9.5.3 NAV 1 produced by the Respondent shows a Zone A rate of €3,400 per sq.m. This property is occupied by a financial institution, which is a use in which the characteristics may not be as relevant as in a retail business.

9.6 Further, in considering the NAV of the Property, the Tribunal notes that the Property is the subject of a ten-year lease which commenced on 16 July 2019 for a rent of €331,000 per annum. The Tribunal further notes that the property in KRT 2 (PN 2178483) produced by the Appellant, had a Zone A rate of €3,000 per sq.m, which was reduced by agreement of the Respondent by what is described in the précis of evidence of the Respondent as an '*end allowance adjustment of 10%*'.

9.7 Having examined the particulars of the Property and the maps and photographs provided in evaluating and assessing all the characteristics of the Property and the comparable properties, and having regard to the physical nature, location and quality of the subject Property, together with the relevant market data, the Tribunal considers that when one stands back and looks at the scheme of valuation relative to the NAV of the subject Property, that an adjustment is necessary to accord with the requirements of section 19(5) of the Act and determines that an adjustment of ten-percent is appropriate to the Zone A rate for the Property. The remaining zones and the store are computed in accordance with the methodology applied in the valuation certificate, namely Zone B valued at 50% of Zone A, Zone C valued at 25% of Zone A, and the Store valued at 10% of Zone A.

## **DETERMINATION**

Accordingly, for the above reasons, the Tribunal allows the appeal in part and decreases the valuation of the Property as stated in the valuation certificate to €373,000, determined as follows:

Floor	Use	Area (m <sup>2</sup> )	NAV (€ per m <sup>2</sup> )	NAV
Level 1 (0)	Retail Zone A	75.20	€3,060	€230,112
Level 1 (0)	Retail Zone B	72.60	€1,530	€111,078
Level 1 (0)	Retail Zone C	36.18	€765	€27,677.70
Level 1 (0)	Store	14.70	€306	€4,498.20
			Total	€373,365.90
			<b>NAV</b>	<b>€373,000</b>

## **RIGHT OF APPEAL**

In accordance with section 39 of the Valuation Act, 2001 any party who is dissatisfied with the Determination of the Tribunal 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 Determination of the Tribunal 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.