

**Appeal No: VA23/5/1292**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**JERRY KENNELLY**

**APPELLANT**

**AND**

**TAILTE ÉIREANN**

**RESPONDENT**

**In relation to the valuation of**

Property No. 65916, Retail (Shops) at College Street, Killarney, County Kerry (the “**Property**”)

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 30<sup>TH</sup> DAY OF APRIL 2026**

**BEFORE:**

**Barra McCabe BL, MRICS, MSCSI**

**Deputy Chairperson**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 18<sup>th</sup> 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 €36,500.

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 19 (5) of the Act because: *The value and use of the property has not increased since the last valuation. We do not accept the current valuation. What was formerly 3 units has now been amalgamed into one without consultation.*

1.3 In their Notice of Appeal, the Appellant considers that the valuation of the Property ought to have been determined in the sum of €25,000. This sum was decreased in the Appellant's précis to €11,800.

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

2.1 On the 25<sup>th</sup> 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 €36,500.

2.2 A Final Valuation Certificate issued on the 15<sup>th</sup> day of September 2023 stating a valuation of €36,500.

2.3 The date by reference to which the value of the Property, the subject of this appeal, was determined is 01<sup>st</sup> day of 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, 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 Tribunal's directions, the parties exchanged their respective summaries of evidence and submitted them to the Tribunal.

## **4. FACTS**

The parties are agreed as to the following facts:

4.1 The Property is entered on the valuation list for the Kerry County Council rating authority area in the category Retail (Shop), with the use recorded as Shop, at 26 College Street, Killarney, Co. Kerry, Eircode V93YN57, and the NAV on the list is €36,500.

4.2 The valuation date is 1 February 2022.

4.3 The property is situated on College Street in Killarney town centre, close to Main Street, and the retail unit fronts onto College Street with additional access from Clover's Lane.

4.4 The Property comprises a ground floor unit used for bicycle and renting, with extensive rear storage accommodation, and the Respondent records that the two storey structure fronting Clover's Lane, formerly used for domestic purposes, is now used for storage on both ground and first floors.

4.5 The parties are agreed that the overall floor area is 388.04 sq.m.

4.6 The Respondent analyses that total area as 28.60 sq.m. Retail Zone A, 28.41 sq.m. Retail Zone B, 26.88 sq.m. Retail Zone C, 283.57 sq.m. store at ground floor level, and 20.58 sq.m. at first floor level.

4.7 The occupational arrangement commenced with a six-month lease from March 2015 to September 2015 and thereafter continued under a licence from 1 October 2015 at €827 per month plus VAT, with the licensor entitled to terminate on 90 days' written notice.

4.8 The Respondent records that the written lease and licence related to the front portion of the former "O'Callaghan's" on College Street, but also records that the occupier had use of the storage areas during the currency of that arrangement.

4.9 In relation to condition, the Respondent describes the front retail unit as being in reasonable condition, the rear stores as basic open plan stores with part of the flat roof needing repair, and the former domestic part fronting Clover's Lane as being in use as stores and in need of modernisation.

4.10 The Appellant describes the property as a largely single storey flat roof bicycle workshop and "rent-a-bike" premises, with a very small mezzanine store to the rear, an extremely basic fit-out, and a roof in severe disrepair with leaks and local collapses.

4.11 The Respondent records that, at representations stage, property numbers 2203722 and 2206583 were treated as duplicates and amalgamated into the subject property, with all areas thereafter valued under Property No. 65916, and that no change was made to the valuation.

## **5. ISSUES**

5.1 The parties are agreed that the sole issue for determination is the quantum of the valuation.

5.2 The principal dispute between the parties is whether the Property should be valued as a retail property on the College Street retail scheme, as contended for by the Respondent, or whether, because of its physical character, configuration, actual use and condition, it should be valued on an industrial showroom/workshop or store basis, or otherwise be the subject of a substantial end allowance, as contended for by the Appellant.

5.3 A further issue is the extent to which the current rent and short-term licence arrangements are probative of NAV for the appeal property.

5.4 A further issue is the significance to be attached to the Appellant's assertions concerning the condition of the roof and rear accommodation, and whether that condition justifies the substantial reductions contended for by the Appellant.

## **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.”*

## **7. APPELLANT’S CASE**

7.1 The Appellant’s case, as advanced in the Notice of Appeal and in the Appellant’s two précis documents, is that the valuation is excessive, that the value and use of the property have not increased since the last valuation.

7.2 The Appellant originally stated in the Notice of Appeal that the correct valuation was €25,000, later contended in the main appellant’s précis for a valuation of €11,800, and in the responding précis advanced revised calculations of €12,400 on an industrial/showroom basis or €12,300 on a hybrid basis.

7.3 The Appellant describes the property as a largely single storey flat roof bicycle workshop and “rent a bike” premises with a very small mezzanine store to the rear, arranged as a largely open-plan workshop with ancillary storage, and says that its specification is extremely basic, with unfinished floors, exposed services, minimal decorative finishes and very little conventional retail fit out.

7.4 The Appellant says that the Property is more accurately described as an industrial showroom to the front, where bicycles are displayed, and industrial workshop or industrial store type accommodation to the rear, rather than as a traditional retail unit.

7.5 The Appellant further contends that the roof is in a severe state of disrepair, that there are multiple active leaks, that daylight penetrates the unit in several areas, that parts of the suspended ceiling have collapsed, that temporary structural props are in place, and that lighting has ceased to function in a large portion of the store.

7.6 The Appellant relies on the current occupational arrangement and passing rent as evidence of value, stating that the property was first let on a six-month agreement from March 2015 and thereafter licensed from October 2015 at €827 per month plus VAT, and contending that the deficiencies in the structure are fully reflected in that rent.

7.7 The Appellant submits that the principal difference between the parties is their approach to the property’s actual state and to the repairing assumption in the hypothetical tenancy, and says that the property could not in its present condition let on full repairing and insuring terms.

7.8 The Appellant accepts that the licence contains a 90 day notice provision, but says that the tenant has remained in occupation for almost 11 years and contends that the short notice provision had no meaningful bearing on the rental level.

7.9 The Appellant further contended that, although the original agreement was for the front portion only, by 2018 the occupier had full use of the rear and that any benefit from that rear accommodation was included in the rent of €12,000 exclusive of VAT, while also contending that the poor condition of the rear makes it highly improbable that it could have been separately let.

7.10 The Appellant puts its case on two alternative valuation bases, namely that the property could be occupied as an industrial store/workshop, warranting a low but uniform level of value across the whole, or alternatively that only a limited front section could attract retail value and that the rear would require a very substantial allowance. In support of the first of those approaches, the Appellant's main précis values the property at €11,800 by applying €30 per sq.m. to the front showroom and rear store areas and €15 per sq.m. to the mezzanine store.

7.11 In the responding précis, the Appellant advances a revised industrial/showroom valuation of €12,400 at €32 per sq.m. across 388.04 sq.m., or alternatively a hybrid calculation using retail zoning to the front at €260/€130/€65 per sq.m. with a 20% allowance, and store and first-floor rates at €26 per sq.m. with a 75% allowance, producing €12,300.

7.12 The Appellant relies on four comparison properties, the first at 8 College Street, valued at €1,200 on a workshop basis, which the Appellant says is directly opposite the subject, appears also to rent bikes in the same manner, and demonstrates that College Street accommodates properties valued on an industrial rather than a prime retail basis.

7.13 The second comparison is the Failte Hotel Store on Clover's Lane, valued at €8,880, which the appellant says is a mostly unfitted property used for storage, located approximately 100 metres from the subject, and, notwithstanding its basic specification, is superior to the subject as an industrial property in very poor condition.

7.14 The third comparison is O'Shea's Tyre and Battery Centre on High Street, valued at €34,400, which the Appellant says is an industrial workshop on one of Killarney's busiest shopping streets, superior to the subject in size, specification, eaves height, nature and condition, but valued at a much lower rate per sq.m. than the subject.

7.15 The fourth comparison is Straight Blast Gym on Ross Road, valued at €6,950, which the Appellant says is an open plan gym of mass concrete construction with galvanised roof and is arguably superior to the subject in type, nature, eaves height, specification and condition.

7.16 In the responding précis, the Appellant also criticises the Respondent's key rental evidence on the basis that neither key rental transaction is on College Street and that the Respondent provides no explanation as to why New Street Lower should support a Zone A level of €450 per sq.m. for College Street.

7.17 The Appellant says that, although it did not originally intend to challenge the general €450 Zone A rate for College Street, the subject is sufficiently different in size, layout, construction and rent level to warrant a different treatment.

7.18 The Appellant further submits that if the front of the property is to be treated as retail, then the rear storage areas require very substantial allowances for size and condition, and that the need for such allowances demonstrates that the property is being forced into an inappropriate category.

## **8. RESPONDENT'S CASE**

8.1 The Respondent's case is that the sole issue for determination is the quantum of the valuation.

8.2 The Respondent describes the Property as a retail property on College Street, which it says is a prime location close to the centre of Killarney, sitting between Main Street and Emmett's Road, with the unit fronting onto College Street and additional access from Clover's Lane.

8.3 The Respondent says that the property is a ground floor retail unit of single storey construction with a flat roof and simple open plan layout, having a glass door and windows onto College Street, and that it is currently in use as a bicycle shop for sales and renting.

8.4 The Respondent further says that to the rear of the shop there is a large store of about 304 sq.m. separated by a stud partition wall, and that the two storey structure fronting Clover's Lane, formerly used for domestic purposes, is now used for storage on both floors.

8.5 The Respondent accepts that part of the roof in the rear store needs repair and that the Clover's Lane accommodation needs modernisation, but says that the entire rear area is being used for storage purposes and is capable of beneficial occupation.

8.6 The Respondent records that the front retail unit is in reasonable condition, that the rear stores are basic open plan stores, and that the Clover's Lane accommodation is in use as stores on the ground and first floors.

8.7 The Respondent records the tenure as a licence, notes that the written lease and licence referred to the front portion only, and says that the passing rent is more accurately attributable to the short-term and uncertain nature of the tenancy arrangement, under which the occupier may be required to vacate on 90 days' written notice.

8.8 The Respondent says that the Appellant's comparison at 8 College Street is an industrial unit situated down a laneway adjacent to a shop and is not comparable to the subject retail unit on College Street.

8.9 The Respondent says that the Failte Hotel Stores property on Clover's Lane is not comparable because it has no retail element, is not visible from College Street, and was valued for hotel barrel storage and upper floor office/storage accommodation.

8.10 The Respondent says that O'Shea's Tyre and Battery Centre is an industrial workshop with yard valued at industrial levels and is not comparable to the subject retail unit.

8.11 The Respondent says that Straight Blast Gym is not a retail unit, is not in the town centre, and is valued in line with other industrial units in its vicinity.

8.12 More generally, the Respondent says that the subject Property has retail frontage onto College Street in Killarney town centre, displays all the hallmarks of a retail premises, including a conventional shopfront and direct customer access from the street, and is used for the day to day operation of selling and hiring bicycles to the public.

8.13 The Respondent says that the Appellant's assertion that the Property should be regarded as a workshop is not supported by the physical characteristics or the primary use of the property, and that any storage activity is merely ancillary and does not redefine the Property's primary retail function.

8.14 The Respondent further says that, while there are leaks, the rear store is actively used by the occupier for the storage of bicycles offered for sale or hire, and that this ongoing use undermines the Appellant's contention that the rear is significantly compromised.

8.15 The Respondent says that, under the hypothetical tenancy, the Property is to be assumed to be in a reasonable state of repair and to be assessed on the same basis as other retail units on College Street.

8.16 The Respondent says that College Street is a busy destination in Killarney town centre with a variety of commercial uses, that there are 12 retail units on the street, and that only one appeal has been made to the Tribunal, namely the present appeal.

8.17 The Respondent says that the prevailing tone for College Street is €450 Zone A, with rear stores correctly valued at 10% of that level and the first floor at the applicable office level, and it values the subject on that basis at €36,500.

8.18 In support of that approach, the respondent relies on two key rental transactions on New Street Lower, which it says is an inferior street to College Street, both analysed at €430 per sq.m. Zone A.

8.19 The Respondent also relies on three College Street retail NAV comparisons, namely Miss Courtney's Tearooms, Fone Dealz Killarney, and Caseys, each valued by reference to a €450 Zone A level, together with two industrial/store comparisons which it says are not comparable to the subject as a retail property.

8.20 The Respondent's opinion is that the correct NAV is €36,500 and it asks the Tribunal to affirm the valuation appearing on the valuation list.

## **9. SUBMISSIONS**

9.1 There were no legal submissions.

## **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 comparable properties on the valuation list in the rating authority area of Kerry County Council.

10.2 The Tribunal is satisfied that the sole issue is quantum, and more particularly whether the subject should be valued on the established retail tone for College Street or on the industrial/store basis advanced by the Appellant, with or without substantial end allowances.

10.3 The Tribunal finds that the subject is a property with direct retail frontage onto College Street in Killarney town centre, with a glass door and windows to the street, and that it is occupied and used for bicycle sales and renting, with substantial ancillary storage to the rear extending towards Clover's Lane.

10.4 The Tribunal is not satisfied on the evidence that the whole of the property should be treated as an industrial workshop or industrial store for valuation purposes.

10.5 That conclusion follows from the physical characteristics of the front part of the premises, its street frontage and direct customer access, and its admitted use for bicycle sales and renting to the public.

10.6 The Tribunal accepts that the rear portions of the property are basic, that part of the roof needs repair, and that the Clover's Lane accommodation requires modernisation, but it also accepts the Respondent's evidence that these areas are in actual use for storage and are capable of beneficial occupation.

10.7 The Tribunal therefore does not accept the Appellant's contention that the rear accommodation is of such a character or condition that the appeal property should be valued on a wholly industrial basis or that the property requires the very substantial allowances proposed by the appellant.

10.8 The Tribunal does place weight on the passing rent relied upon by the Appellant.

10.9 The written lease and licence described in the materials related to the front portion of the former "O'Callaghan's", whereas the appeal Property includes a substantial rear storage element and first floor accommodation.

10.10 In addition, the occupational arrangement was a short term licence terminable by the licensor on 90 days' written notice, which the Tribunal considers materially affects the utility of the passing rent as a guide to the NAV of the full appeal Property.

10.11 The Tribunal has also considered the Appellant's evidence that, by 2018, the occupier had the benefit of the rear accommodation and that this benefit was reflected in the rent, but the evidence before the Tribunal does not establish with sufficient clarity that the rent relied upon represented the full hereditament as valued for rating purposes.

10.12 The Tribunal finds that the Appellant's comparison properties are of limited assistance in establishing the correct NAV for the subject.

10.13 The property at 8 College Street is described by the Respondent as an industrial unit situated down a laneway adjacent to a shop and is therefore not comparable to the subject's street-front retail unit.

10.14 The Failte Hotel Stores property on Clover's Lane is not visible from College Street, has no retail element, and was valued for hotel related storage and upper floor accommodation.

10.15 O'Shea's Tyre and Battery Centre and Straight Blast Gym are industrial type properties outside the subject's immediate retail context and do not provide a reliable basis for displacing the retail tone of College Street.

10.16 By contrast, the Respondent has produced evidence of two New Street Lower rental transactions analysed at a €430 Zone A level on what it says is an inferior street, together with three College Street retail NAV comparisons valued at a €450 Zone A level.

10.17 The Tribunal finds that this Respondent evidence is the more persuasive guide to the proper tone of the list for a College Street retail property with ancillary storage.

10.18 The Tribunal also notes that the Respondent records that the retail tone on College Street has seen only one Tribunal appeal, namely the present case, and regards that as some support for the general acceptance of the valuation level applied on that street.

10.19 In relation to the Appellant's complaint concerning amalgamation, the Tribunal accepts the Respondent's evidence that the previously separate property numbers 2203722 and 2206583 were treated as duplicates and amalgamated into the subject property, with all areas then valued under Property No. 65916.

10.20 The Tribunal is persuaded that the Respondent has not taken a wholistic approach and given the use and condition of the property at it stands that a substantial end allowance is warranted in the circumstances.

10.21 Having considered all of the evidence contained in the Notice of Appeal and the parties' précis documents, the Tribunal is satisfied that the Appellant has established that the Respondent's valuation of €36,500 is incorrect.

10.22 The Tribunal concludes that the correct NAV for the subject property is €36,500, calculated on the basis of Retail Zone A 28.60 sq.m. at €450 per sq.m., Retail Zone B 28.41 sq.m. at €225 per sq.m., Retail Zone C 26.88 sq.m. at €112.50 per sq.m., Store 283.57 sq.m. at €45 per sq.m., and first floor 20.58 sq.m. at €75 per sq.m, but that the allowances as contended for the Appellant should be applied.

#### **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 €21,405.

Retail Zone A 28.6m<sup>2</sup> @ €450/m<sup>2</sup> = €12,870  
Retail Zone B 28.41m<sup>2</sup> @ €225/m<sup>2</sup> = €6,392.25  
Retail Zone C 26.88m<sup>2</sup> @ €112.50/m<sup>2</sup> = €3,024  
Less Allowance (20%) = - €4,457  
Store 283.57m<sup>2</sup> @ €45/m<sup>2</sup> = €12,760.65  
First floor 20.58m<sup>2</sup> @ €75/m<sup>2</sup> = €1,543.50  
Less Allowance (75%) = - €10,728.11  
Total NAV €21,405

**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.