

Appeal No: VA23/5/1445

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

HAMMERSON

APPELLANT

and

TAILTE ÉIREANN

RESPONDENT

In relation to the valuation of
Property No. 2201405, Retail (Shops) at Main Street, Dundrum, Dublin 14.

B E F O R E

Barra McCabe- BL, MRICS, MSCSI

Deputy Chairperson

Mema Byrne- BL

Member

Paul McElearney- FRICS, FSCSI, FCI Arb

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 29TH DAY OF APRIL 2026

1. THE APPEAL

1.1 By Notice of Appeal received on the 19th 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 €35,600.

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:

1.2.1 The valuation is excessive and inequitable.

1.2.2 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €0.00.

1.3 In advance of the appeal hearing, the Appellant changed the valuation it contended for on the Property and submitted a valuation of €10,300 in its précis.

2. REVALUATION HISTORY

2.1 On the 23rd day of 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 €35,600.

2.2 A Final Valuation Certificate issued on the 15th day of September 2023 stating a valuation of €35,600.

2.3 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 an oral hearing held remotely on the 19th day of January 2026. At the hearing the Appellant was represented by Fodhla Gallagher of CBRE, and the Respondent was represented by Darragh McMorrough B.Sc. (Hons) Real Estate Mgmt. 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 hearing, each witness, having taken the oath, adopted their précis as evidence in chief in addition to giving oral evidence.

4. FACTS

4.1 From the evidence adduced by the parties, the Tribunal finds the following facts:

4.2 The Property is Property No. 2201405 and is entered in the valuation records as Retail / Shop with a valuation of €35,600.

- 4.3 The address of the Property is given in the materials variously as 4 Waldemar Terrace, Dundrum, Dublin 14, and as 3A Waldemar Terrace, Main Street, Dundrum, Dublin 14, but at the hearing the parties confirmed that both addresses refer to the same property.
- 4.4 The Property is a single storey, flat roofed unit located at the LUAS Bridge at the end of Main Street in Dundrum and to the rear of Waldemar Terrace.
- 4.5 The Property is accessed through a glazed entrance and roller shutter, has a frontage of approximately five metres, and has an overall agreed floor area of 115.35 square metres.
- 4.6 The evidence establishes that the Property is on a sloping and sunken site below street level.
- 4.7 The Property was previously used as a fitness studio or fitness centre and, before that, as a launderette or dry cleaner, and it was vacant on the valuation date.

5. ISSUES

- 5.1 The only issue in the appeal is the quantum of the Property.

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 Ms. Gallagher adopted her précis as her evidence in chief and said that the Property is located in Waldemar Terrace at the LUAS Bridge end of Main Street in Dundrum, where it is cut off from the Main Street, and is situated beside a terrace of domestic properties and in close proximity to Dundrum bus terminus.
- 7.2 She described the Property as a single-storey, flat roofed building, previously used as a gym and before that as a launderette, accessed by a roller shutter and glazed entrance, below street level on a sloping site, with a frontage of about five metres, with much of the unit hidden behind a block wall.
- 7.3 Ms. Gallagher said the Property is in poor condition, that the previous fitness studio fit out remains, that the flooring was lifting or “bubbling”, and that the Property has been vacant since 2017. She contended that the Property has no meaningful retail profile, is not in a retail location, has no retail neighbours in close proximity, has no profile from the Dundrum Road or the Dundrum bypass because of its sunken - below road level position, and is not suitable for zoning as a normal retail unit.
- 7.4 She said that the Property's previous uses as a fitness studio and launderette or dry cleaner showed that it was not a typical retail unit, and she maintained that in reality its only present uses were as a gym/fitness centre or storage. Ms Gallagher's primary valuation case was that the Property should be valued on an overall basis as a gym at €90 per square metre, giving a total NAV of €10,381.50 rounded to €10,300.
- 7.5 In support of that approach, she relied in particular on her first two comparisons, namely the PrimalX Fitness properties in Mounttown Industrial Estate and Urban Fitness in Glasthule, which she said were similar in construction, use and type, with roller shutters and flat roofs, and which were valued at €90 per square metre. She also relied on a range of Dundrum and nearby retail comparisons, including Pembroke Cottages, Lower Main Street, Windy Arbour, St Galls Gardens South, the Old Dundrum Shopping Centre and 9 Main Street (Rear of), to demonstrate that units away from the prime Main Street pitch were valued at materially lower levels and that there was a lack of uniformity within parts of the Dundrum list. She pointed in particular to the Lower Main Street / Dundrum Road terrace as showing that some properties

close to the subject were valued at €450 Zone A while others in the same row appeared at €750 Zone A, which she said demonstrated inconsistency.

7.6 In the alternative, if the Tribunal were to hold that the Property should be valued on a zoned retail basis, Ms Gallagher proposed Zone A at €180 per square metre, Zone B at €90 per square metre and the shaded area at €45 per square metre, which also produced a NAV of €10,300. She explained that her €180 Zone A figure reflected a 33% allowance from the €270 Zone A level at Pembroke Cottages to recognise the subject Property's inferior location, condition and use.

7.7 A summary schedule of the Appellant's NAV comparables provided by the Appellant's are contained at Appendix 1 (N/A to public), but it should be noted that the Appellant put approximately 29 NAV comparables in all into evidence, all of which were considered by the Tribunal.

7.8 Ms Gallagher accepted that she had not produced any key rental transactions, explaining that she had been unable to identify sufficiently similar type properties or rental evidence and that her case was based on NAV comparisons.

7.9 In closing, she maintained that the correct valuation was €10,300 because of the Property's poor location and its lack of profile (no shop front) its sunken level below street level of the adjoining roads, the property being access down a ramp from the street (no passing footfall) its condition renders the property less suited to retail use and more toward a gym and similarity to her gym comparisons.

8. RESPONDENT'S CASE

8.1 Mr. McMorrough adopted his précis as his evidence in chief and said that the appeal arose from the Dun Laoghaire Rathdown revaluation and concerned the categorisation of the Property and the valuation level applied to it.

8.2 He described the Property as a single storey, flat roofed retail unit to the rear of Waldemar Terrace on Main Street, Dundrum, accessed by a glazed entrance and electronic roller shutter, with approximately five metres of retail frontage, open plan accommodation, a WC and locker area to the rear, five windows, and off street parking for up to four vehicles at the front.

8.3 He said the Property was currently vacant but had previously been used as a fitness centre and before that as a dry cleaner.

- 8.4 Mr McMorrough's said that the Property is located at the beginning of Main Street, Dundrum, in a busy commercial area adjacent to Dundrum Village Centre, within a one minute walk of the Dundrum LUAS stop, accessible by Bus Connects, and benefiting from passing pedestrians, passing traffic and nearby paid parking.
- 8.5 He contended that the Property displays all the hallmarks of a retail premises, including a shop front and customer access from the street, that a former dry cleaner falls within a standard shop type, and that the fundamental character of the Property is retail rather than industrial or workshop based.
- 8.6 He said the Property was in reasonable condition with much of the fit out from the previous tenant in situ.
- 8.7 Mr McMorrough said the valuation tone for Main Street Dundrum had been established at €750 per square metre Zone A and €375 per square metre Zone B, that the shadow area of the subject Property was already valued at only 10% of the prevailing Zone A level, and that the valuation scheme had been derived from available market information and comparable retail properties.
- 8.8 Details of the three principal NAV comparisons relied on by the Respondent are summarised at Appendix 2 (N/A to public). All the Respondent's NAV comparisons were retail properties located on Main Street, Dundrum and all were valued at €750 Zone A and €375 Zone B. Mr. McMorrough submitted that the Respondent's three NAV comparables had similar retail type frontage to the subject Property and were provided to support the Respondent's proposed valuation levels for the subject Property.
- 8.9 Mr McMorrough responded to the Appellant's comparisons by saying that the Appellant's NAV Comparables 1 and 2, summary details of which can be found at Appendix 1 (N/A to public), were industrial or workshop type properties in inferior locations, and that the other comparisons relied on by the Appellant were either in inferior locations, different developments or too small to be relevant comparables.
- 8.10 Mr McMorrough concluded that the correct NAV was €34,100 rather than €35,600 because of the removal of the WC from the calculation.
- 8.11 In cross-examination he accepted that a gym occupier could hypothetically occupy the Property, that the Appellant's first comparison properties were on the valuation list as gyms, that the subject Property is sunken down somewhat below street level, that the Dundrum

Village Centre car park was paid public parking, and that some of the Dundrum Road / Lower Main Street valuations appeared to be outliers. He also accepted that his précis had mistakenly described the St Galls Gardens South properties as being in Churchtown, and he corrected that to Windy Arbour.

8.12 In his closing submissions, Mr McMorrough said that the Property is correctly classified as retail and should be valued in line with Main Street Dundrum retail levels.

9. SUBMISSIONS

9.1 There were no legal submissions by the parties.

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 Dun Laoghaire Rathdown County Council.

10.2 The Tribunal has considered all the evidence submitted both parties précis, the appendices, and the oral evidence of Ms Gallagher and Mr McMorrough.

10.3 The Tribunal is satisfied that the appeal was concerned with valuation approach and quantum, and not with exclusion of the Property from the valuation list.

10.4 The Tribunal does not accept the Respondent's case that the Property can properly be equated with standard terrace retail units on Main Street Dundrum at Zone A €750 and Zone B €375.

10.5 The evidence shows that the subject Property is materially different in its physical characteristics and setting from the Respondent's three principal comparisons. In particular, the Property is to the rear of Waldemar Terrace, on a sloping and sunken site below street level, with much of the unit hidden behind a wall, and without adjoining retail units.

10.6 The Tribunal accepted that, when standing outside the main street comparison properties, the subject Property could not be seen, that there was no adjoining retail unit to the subject Property, and that the subject Property was sunken below street level. Those features materially weaken the Respondent's comparable evidence because the Respondent's three

chosen comparisons all form part of established main street retail frontages with direct street presence.

- 10.7 The Tribunal accepts the substance of the Appellant's evidence that the Property's location, lack of profile, sloping access, non-standard layout and use history make it an unusual property and a weak fit with the Respondent's standard main street shop comparisons.
- 10.8 The Tribunal further accepts that the Property's last established use as a fitness centre, together with its physical form as a flat roofed unit with roller shutter access, means that the Appellant's gym/fitness comparisons, while not perfect, are closer in character to the subject than the Respondent's traditional main street terrace shops.
- 10.9 The Tribunal notes that both parties relied principally on NAV comparisons rather than Key Rental Transactions, and the Tribunal therefore has to decide the appeal by assessing the relative usefulness of those comparison exercises on the evidence actually before it. Having regard to the whole of the evidence, the Tribunal is satisfied that the Respondent's valuation, and the Respondent's revised written figure of €34,100 do not adequately reflect the Property's inferior profile, unusual siting and limited retail utility.
- 10.10 The Tribunal finds therefore that the more appropriate approach on the evidence is to value the Property on an overall basis, and that the correct NAV is €10,300.

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 €10,300.

The Property is to be valued on an overall basis by applying €90 per square metre to 115.35 square metres, producing €10,381.50 and rounded to €10,300, and the valuation list is to be amended accordingly.

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.