Appeal No: VA23/5/0140

AN BINSE LUACHÁLA
VALUATION TRIBUNAL

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

PATRICK JOYCE AND KAREN CLARKE t/a TOBY'S BAR **APPELLANTS**

and

COMMISSIONER OF VALUATION **RESPONDENT**

In relation to the valuation of
Property No. 1343361, Hospitality at The Fairgreen, Westport, County Mayo.

B E F O R E

Margaret Nerney - SC **Chairperson**

Fergus Keogh – MSCSI, MRICS **Member**

Peter Stapleton - FSCSI, FRICS, Dip Arb **Member**

DECISION OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF AUGUST 2026

1. THE APPEAL

1.1 By Notice of Appeal received on the 6th October 2023 the Appellants appealed against the determination of the Respondent pursuant to which the net annual value ('the NAV') of the above relevant Property ('the Property') was fixed in the sum of €26,000.

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:

(a) The Valuation is Incorrect.

1. The subject property's is [sic] *excessive and inequitable owing to the goodwill and business acumen of the occupiers. The property is occupied by Patrick Joyce and Karen Clarke who are fourth generation publicans and have been behind the bar for 21 years. The pub has been in the same family since 1907 and is the oldest family run establishment in Westport. Their turnover could not be replicated by the hypothetical tenant and is very* [sic] *unfair test of the building.*

2. The building has just 47m2 trading area and is hence believed to be the smallest pub in Westport. It's [sic] *actual location at the bottom end of Mill Street is significantly away from the footfall of the town, be it retail or tourist. As the subject boasts no physical or locational advantages over its competitors, the only explanation for its high turnover are its occupiers.*

3. This is further confirmed by the valuations applied to comparable and superior premises in Westport and in particular PNs 1344321, 1343213 & 1343707. Given the subject's actual location and size, the subject cannot be held to be better than the lowest value of equivalent property and hence should not be valued at more than €12,000 NAV.

4. The occupiers took considerable time to prepare their own representations which featured, amongst other information, an independent valuation by a local auctioneer. The Commissioner wilfully ignored the information put to him and left the valuation unchanged, which is most unsatisfactory given the quality of the evidence.

1.3 The Appellants considers that the valuation of the Property ought to have been determined in the sum of €12,000, as per the Notice of Appeal.

2. REVALUATION HISTORY

2.1 This is a Revaluation appeal arising from the 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 the 6th September 2022 and is for the Valuation List published on the 22nd September 2023.

2.2 The functions of the Commissioner of Valuation are now performed under the authority of Tailte Éireann with effect from the 1st March 2023 pursuant to the provisions of the Tailte Éireann Act 2022 (Commencement) Order 2023 [S.I. No. 58/2023].

2.3 On the 23rd September 2022 a copy of a valuation certificate proposed to be issued under section 24(1) of the Valuation Act 2001, as amended, ('the Act') in relation to the Property was sent to the Appellants indicating a valuation of €26,000.

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 manager did not consider it appropriate to provide for a lower valuation.

2.5 A Final Valuation Certificate issued on the 15th September 2023 stating a valuation of €26,000.

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

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing held remotely on the 11th February 2025. At the hearing the Appellants were represented by Mr David Halpin, M.Sc. (Real Estate) Ba. (Mod) of Eamonn Halpin & Co. Ltd and the Respondent was represented by Mr Vasile Goian BEng (Hons) MSCM of Tailte Éireann. In addition to giving evidence on the Appellants' behalf, Mr Halpin called Mr Andrew Crowley ASCIS ARICS of Sherry Fitzgerald Crowley as a witness on the question of the Property's open market rental value. Mr Goian gave evidence on behalf of the Respondent.

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 made an affirmation, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

3.3 Each Valuer provided a Standard Declaration and Statement of Truth to the Tribunal in compliance with Rule 41 of the Valuation Tribunal (Appeals) Rules 2019.

4. FACTS

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

4.2 The Property is located at Mill Street, Westport, Co. Mayo and is removed from the town centre.

4.3 The Property is a traditional ground floor, no food, pub in a mid-terrace two storey building with two storey houses on either side. The trading area is 47 sq. m. The Property comprises a bar/lounge area, small store and toilet area. There is residential accommodation above. This is a pub with the smallest trading area in this location.

4.4 Details of the location, description, floor areas, title and turnover have been agreed between the parties.

4.5 There is a lease in place for a term of five years only between related parties as set out in Appendix 1 attached (N/A to public).

4.6 The parties agree that the FMT should be valued at 7%.

4.7 The advised turnover attributable to the business, inclusive of VAT, for the years 2016 to 2022 inclusive is set out in Appendix 1 (N/A to public).

5. ISSUES

5.1 The issue before the Tribunal is one of the quantum of the valuation only.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references hereinafter to a particular section of the Act refer to that section as amended, extended, modified, or re-enacted by the Valuation (Amendment) Act 2015 and other statutes.

6.2 In Revaluation type appeals, as in this appeal, s. 37 of the Act provides that the Valuation Tribunal must reach a determination, having regard to the provisions of section 19(5) of the Act, as follows:

> *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.

6.3 The NAV 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.*

6.4 Section 48(3) of the Act 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 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

Evidence of Mr Andrew Crowley

7.1 Mr Eamonn Halpin represented the Appellants on the hearing of this appeal and firstly called Mr Andrew Crowley to give evidence on their behalf. At the outset Mr Crowley adopted his report dated 11th October 2022 as his evidence in chief.

7.2 Mr Crowley confirmed that his instructions were to advise on his opinion of the open market letting value of the Property and he said that he was very familiar with the local market, having been involved in a number of transactions.

7.3 Mr Crowley described the Property as one that was not a central pub but that patrons were comfortable with the offering, the Property was limited to no more than 45/50 persons at any one time and there was no fire certificate or compliance certificate for the overhead residential space. He described the many years of trading by the tenants, that it was a fourth-generation business with strong goodwill generated and a business which would not trade as well with replacement occupiers.

7.4 Mr Crowley confirmed his opinion of rental value of €15,600 p.a. as of October 2022, including the disused residential content, having regard to its size and location. He compared it to Blouser's, a better located property with a two-bed apartment, seeking a tenant at €26,000 p.a. and including an apartment valued at €10,000 p.a., which suggested a net quoted rent of €16,000 p.a. for the pub only.

7.5 In cross-examination, Mr Goian asked about Blouser's overhead apartment and Mr Crowley confirmed that the apartment is on the third floor with the first and second floor being used occasionally for parties and dancing. When asked by the Tribunal for clarity, Mr Crowley confirmed that there was no third floor, that the apartment was on the second floor and there was occasional use of the first floor for parties and dancing/licensed use.

7.6 In response to a question from the Tribunal regarding a comment in his précis that he did not consider that another trader would trade as well as the Appellants in the Property, he said that this was based on his experience in leasing other properties in the area where the occupier is significant in attracting trade to the Property.

Evidence of Mr Halpin

7.7 Mr Halpin then gave evidence and described the Property as being "a very small pub of 47 sq. m." on the edge of the town of Westport, at Fairgreen, as shown on his map at page 2 of his précis. He stated that he had concentrated his comparisons predominantly in secondary and tertiary areas within the town. This business has had significant good will built up over four generations, with an inter-family lease and it was impacted by Covid in 2020/2021. Mr Halpin argued that the goodwill element of turnover was 45%. He further stated that the occupiers have built up a loyal, drink only, customer base which would not be available to the hypothetical tenant. He said that the valuation presented by Mr Goian had been prepared purely by considering the turnover and goodwill, and that this did not represent the building which is inter-family leased at the advised rent.

7.8 To assist his case Mr Halpin provided a chart of comparison properties set out below, giving details of the NAV, estimated FMT and estimated size of nearby businesses. He pointed out that a comparison property named “No. 8”, which is similar in size, was the smallest pub in the area, yet it was valued at €14,800 and located closest to the Property, 170m distant and had the benefit of a commercial kitchen in addition to 50 sq. m.

Mr Halpin referred to and discussed Lofty’s valuation of €12,000 involving an estimated 90 sq. m. and estimated FMT of €150,000, highlighting the better location and prominence of Lofty’s.

Mr Halpin said that trading figures were not available for Danny’s which has a beer garden, (comparison number 3). He argued that Jesters, the largest property of the comparisons, was better located in the centre of the town, in a prime location, with an estimated trading area of 187.35 sq. m. and was valued at €28,000.

He said that Blouser’s was in a better location and has a similar ground floor size but has a first-floor element and is valued at €23,400.

7.9 Mr Halpin questioned the disparity between the Property’s NAV and that of the rest of the town centre premises and the size of the comparators, stating that the Commissioner only took turnover into consideration and should be concerned with other factors such as size, location and rental potential.

7.10 In conclusion Mr. Halpin contended for a valuation of €12,250 based on valuing an estimated FMT of €175,000 at 7%.

7.11 In reply to a question by Mr Goian concerning the rent paid for the Property, Mr Halpin replied that it was a yardstick to measure the Property but that is was not a rent established in the open market with vacant possession and that, more often than not, “zero weight” could be attributed to such rents. Mr Goian referred to the rental value of €15,600 p.a. offered in evidence by Mr Crowley and Mr Halpin said that their opinions differed.

7.12 Mr Goian queried the comparisons number 1,3 and 4 as being in similar locations and this was agreed by Mr Halpin.

7.13 Mr Goian asked about the commercial kitchen in comparison 2 and Mr Halpin said that he had not inspected the property but that it would need a kitchen to provide food.

7.14 In reply to a question from the Tribunal regarding his estimated FMT, Mr Halpin said that the allowance sought for goodwill was 50% based on turnover achieved for similar properties and the location of the Property.

7.15 In reply to a further question from the Tribunal regarding the rent agreed between the lessor and lessee, Mr Halpin said that the parties were independently advised and that while the rent was designed to reflect open market, it is not open market rent and such non open market rents are generally “overruled”. Mr Halpin said that the previous rent was returned by the Appellant’s accountant, details of which are set out in Appendix 1 (N/A to public).

8. RESPONDENT’S CASE

8.1 Mr Goian gave evidence on behalf of the Respondent and adopted his précis as his evidence in chief. In doing so he amended the valuation figure from €26,000 on the Valuation List to a NAV of €24,500. He confirmed agreement with the details on location, frontage, title and floor area. Additional photographs and a block drawing of the premises were provided.

8.2 Mr Goian said that the property was not in a primary location but in a secondary one.

8.3 Mr Goian agreed, at paragraph 6.4 of his written précis, that the Covid pandemic and the associated postponement of the valuation date to February 2022 had presented issues in assessing trading information for valuation purposes. He asserted that, typically, a property’s

FMT is assessed by reference to three years' audited accounts prior to the valuation date. However, due to the significant disruptions caused by the pandemic in 2020 and 2021, he felt it prudent, in the unusual circumstances of Revaluation 23, to examine longer periods of trade. He was of the view that as of the valuation date of 1st February 2022, the hypothetical parties would be fully aware that both the 2020 and 2021 trading figures would have been impacted. He was further of the view that the hypothetical parties would consider 2019 or earlier trading figures, which were unaffected by the pandemic, as the starting point for negotiations and for the assessment of FMT for the property. He advised that figures for 2020 and 2021 should certainly not be ignored but should be treated with caution. He further stated that to comprehensively understand the impact of the pandemic on the properties, a thorough examination of accounts for 2022 and 2023, where made available, was also deemed prudent before adopting an FMT. He advised that all evidence made available was assessed in arriving at the FMT.

8.4 Mr Goian pointed out that the opinion by Mr Crowley had not been supported by relevant comparators.

8.5 Mr Goian said that the Property should be valued based on rental evidence, trading information and comparable properties, but that he had limited evidence.

8.6 In support of his valuation, Mr Goian provided a summary chart giving details of the NAV, and the estimated FMT for comparable properties as follows:

No.	PN	Location	Trading area, m2	Drink FMT	Food FMT,	Drinks % applied	Food % applied	Ent. Allowance 1 %	NAV, €
1.	1343154	High Street	118.43 m2	€460,000	-	9 %	-	Yes	€36,800
2.	1342728	Bridge Street	81.76 m2	€400,000	-	9 %	-	-	€36,000
3.	1342679	Bridge Street	163.05 m2	€440,000	€660,000	9 %	5 %	-	€72,600
4.	1342678	Bridge Street	63.41 m2	€450,000	-	9 %	-	-	€40,500
5.	1342879	Linen Hall Street	100.3 m2	Estimated	-	-	-	-	€48,000

6.	1343707	Castlebar Street	85.15 m2	Estimated	-	-	-	-	€20,200
Subject	**1343361**	**Mill Street**	**47 m2**	**€350,000**	**-**	**8 %**	**-**	**Yes**	**€24,500**

8.7 Mr Goian also provided details of three KRT comparison transactions, details of which are set out in Appendix 1 attached (N/A to public) and summarised as follows;

KRT Comparison	PN	Size M²	€ NAV
1.	1349200	47.60	€12,600
2.	1342808	87.40 (total)	€23,400
3.	1359408	96.00	€4,500

8.8 Subject to the foregoing, Mr Goian valued the Property at NAV €24,500 as follows;

	FMT, €	**% applied**	**NAV, €**
Drink sales, €	€350,000	8 %	28,000
Less 1 % entertainment	-€3,500	1%	-€3,500
Total NAV €			**€24,500**

8.9 Mr Goian was asked by Mr Halpin to comment on the 25% appeal rate in Westport and 10% appeal rate overall in Mayo and its significance across the county to which Mr Goian replied by referring to the large number of pubs in Westport which Mr Goin considered to be 31.

8.10 In response to a question from Mr Halpin regarding the Blouser's comparison, Mr Goian agreed that Blouser's was in a superior location and a better building. Mr Goian confirmed that the same method of valuation was applied to the Blouser's comparison.

8.11 Mr Halpin queried the inclusion of Mr Goian's NAV Comparison Number 3 as he considered it to be very different to the Property. Mr Goian explained its inclusion to demonstrate that the same scheme had been applied for all properties.

8.12 In reply to a question by Mr Halpin regarding NAV Comparison Number 4 and the reserved 2017 rent (see appendix 1, N/A to public), Mr Goian explained that a 2022 rent would be different and he put less weight on the reserved rent than others closer to the valuation date. Mr Halpin asked Mr Goian if he had looked at any photographs of this comparison property, noting that there was a substantial beer garden attached, a larger area than suggested by Mr Goian and that it was in a town centre location. Mr Goian advised that if it was as described by Mr Halpin, it would be more valuable than the subject property and that the NAV proposed reflects that.

8.13 Mr Halpin asked for confirmation that no turnover information was available in relation to NAV Comparisons 5 and 6, which was accepted by Mr Goian who confirmed that the Valuation did reflect the location qualities.

8.14 In reply to a question from the Tribunal regarding the rent reserved for the Property, Mr Goian said that his view on rental value was in excess of the rent advised independently to both parties.

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 practicable, 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 Mayo County Council.

10.2 The issue for determination by the Tribunal is whether the FMT of the subject property is attributable to the longstanding characteristics of the existing business generated since 1907, and that an allowance should be made for same in the calculation of the NAV of the Property, as contended by the Appellant.

10.3 The précis, appendices, reports, commentaries and oral evidence given by Mr Halpin, Mr Crowley and Mr Goian have all been considered in arriving at this Determination which can only set out a summary of the evidence placed before the Tribunal. The fact that the Tribunal does not make specific reference to any particular document, argument, submission or piece of evidence does not indicate and is not to be taken as indicating that it has not been taken into account by the Tribunal in arriving at its Determination.

10.4 This is the smallest size of pub shown in evidence and is subject to an inter-family lease. Two of the years' of turnover before the valuation date were during the Covid pandemic and so a broader examination must be considered, extending to further years' of business. There is also the issue of larger floor areas of many comparators presented, their turnover and their rents, where appropriate.

10.5 The dilemma facing both the Appellants' and the Respondent's valuers is how best to deal with the goodwill generated over many years. The NAV is a function of the building and not of the business and it is therefore important to distinguish the elements of turnover which reflect the location and nature of the building, as opposed to those that reflect the goodwill built up by the proprietor and the ability of a reasonably competent hypothetical tenant to maintain that level of trade.

10.6 The Tribunal considers that a broad view must be taken in these circumstances and is persuaded by the evidence provided of similarly circumstanced properties such as The No 8 of 50 sq. valued at €14,800 NAV with an estimated FMT of €185,000, and the better located Lofty's with an estimated FMT of €150,000 from 90 sq. m. with an advised rent from 2019 and valued at €12,000 NAV. While in Ballina the Tribunal is drawn to the KRT of Breathnach's Bar of 47.60 sq. m. with an advised rent and valued at NAV €12,000, this must be balanced with the level of turnover and goodwill generated from the Property. The Property reflects a business trading since 1907, operated by the current proprietors for more than twenty years and which the Tribunal considers warrants a reduction of 25% to reflect this goodwill on an estimated FMT of €350,000, which the Tribunal considers to be reflective of the various comparators produced.

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 €18,375, calculated as follows:

Estimated FMT as of 1st February 2022 €262,500 @ 7% = €18,375.

NAV say €18,375

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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.