

**Appeal No: VS23/6/0004**

**VALUATION TRIBUNAL  
AN BINSE LUACHÁLA**

**URBAN REGENERATION AND HOUSING ACT, 2015  
AN tACHT UM ATHBHEOCHAN UIRBEACH AGUS TITHE 2015**

**STARGEM PROPERTIES LTD**

**APPELLANT**

**AND**

**DUNLAOGHAIRE-RATHDOWN COUNTY COUNCIL**

**RESPONDENT**

**In relation to the market valuation of Clonard Lodge, Sandyford Road, D16N872, Dun-Laoghaire Rathdown, County Dublin.**

**TRIBUNAL**

**Dairine Mac Fadden – Solicitor**

**Frank O’Grady – MA, FSCSI, FRICS.**

**Ray Finlay – FIVAP, MMII, ACI Arb, TRV, PC.**

**Chairperson**

**Member**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 26<sup>th</sup> DAY OF OCTOBER, 2023**

**Appearances**

For the Appellant: Mr James Farrelly - BSc. (Surv.) MSCSI MRICS, Director of Professional Services in Colliers.

For the Respondent: Ms Sheila Farrell – MRICS, MSCSI, Senior Executive Valuer in Dublin City Council.

Observers from Dun Laoghaire-Rathdown County Council - Mr Anthony Fitzpatrick and Mr Garry Conville.

**THE APPEAL**

1. On the 18<sup>th</sup> of April 2023 a copy of the Notice of Determination of Market Value issued in accordance with section 12 of the Urban Regeneration and Housing Act, 2015 Act (‘the Act’) was sent to the Appellant indicating a market value of €500,000 in respect of the vacant site situated at Clonard Lodge, Sandyford Road, D16N872, Dun-Laoghaire Rathdown, (hereinafter referred to as ‘the Vacant Site’).

2. The date by reference to which the value of the Vacant Site was determined by the Respondent planning authority is the 18<sup>th</sup> of April 2023.

3. By Notice of Appeal received on the 12<sup>th</sup> of May 2023 the Appellant appealed against the Respondent's determination of value. The ground(s) of appeal as set out in the Notice of Appeal is that the determination of the valuation of the derelict site is incorrect because: *"A value has been attached to the subject property that is significantly in excess of the Value Market that the Vacant Site would attract if sold on the open market on the date of determination. In order to obtain the best market price for the subject property a willing buyer would be required to consider the scopes of works and the cost of those works required to improve the property and ready it for habitable occupation and of course the time to complete this. A reasonable approach in this basis results in a market value that is the order of €190,000."*

4. In the Notice of Appeal, the Appellant considered that the market value of the Vacant Site ought to have been determined in the sum of €190,000.

## **THE HEARING**

5. The appeal proceeded by way of a remote hearing held via Zoom platform, on the 09<sup>th</sup> of October 2023.

6. In accordance with the Valuation Tribunal (Appeals) Rules 2019 the parties' valuers exchanged their respective valuation reports prior to the hearing and submitted them to the Tribunal. At the oral hearing, each witness, having taken the oath, adopted their valuation report as their evidence-in-chief in addition to giving oral evidence.

## **RELEVANT STATUTORY PROVISIONS**

7. A planning authority is required by s.12 of the Act to determine as soon as may be, after a vacant site has been entered on the register of vacant sites maintained under s.6 of the Act, and at least once every 3 years thereafter, the market value of the unencumbered fee simple of a vacant site if it was sold on the open market on the date of the determination. In that regard, a planning authority must authorise a person it considers suitably qualified for that purpose to inspect the site and report to it on the site's value.

8. Under s.3 of the Act the 'market value' of a vacant site is to be construed in accordance with s.12 (1) which requires the market value to be determined

*"... by estimating or causing to be estimated the price which the unencumbered fee simple of such site would fetch if it was sold on the open market on the date of the determination in such manner and in such conditions as might reasonably be calculated to obtain for the vendor the best market price for the site."*

9. Under s. 14 of the Act the Tribunal may, where it considers it appropriate in all the circumstances, deem that a vacant site has a zero market value, in particular where

1. no market exists for the site, or
2. the site is situated on contaminated lands and the estimated costs of remedial works necessary to use or develop the site exceed the market value of the site itself.

## **THE FACTS**

10.1 Based on the evidence adduced by the parties, the following facts in respect of the physical condition of the Vacant Site were agreed or proved to the satisfaction of the Tribunal:

10.2 The Vacant Site is in the suburb of Dundrum in south County Dublin at the junction of Sandyford Road and Clonard Road approx. 1.5km south of Dundrum Village and 1km from Dundrum Town Centre. The surrounding area is generally residential in character with low density housing developments. The M50 (Junction 13) can be accessed 1.7km to the south via Sandyford Road and Dublin City centre is approx. 8km to the north.

10.3 Clonard Lodge is a 2-storey structure dating back in its present form to 1912 and was previously occupied as a dwelling and doctor's surgery with an entrance fronting Clonard Road and a pedestrian access on Sandyford Road. The property is in disrepair having been vandalised on several occasions and is now vacant. The building extends to 303.5 sq.m..

10.4 The Vacant Site is irregular in shape, rectangular with frontage to Sandyford Road and Clonard Road and extending to 0.1976 acres (0.08 hac.).

10.5 The Vacant Site is held freehold, apart from a portion on the west side of the Lodge building to which a third party has rights to the airspace above the building.

10.6 The Vacant Site is situated in an area zoned Objective A "to protect and/ or improve residential amenity" in the Dun Laoghaire/ Rathdown County Council Development Plan 2022 -2028.

## **APPELLANT'S CASE**

11.1 Mr. James Farrelly gave evidence on behalf of the Appellant. He described the Vacant Site and the buildings thereon and detailed the planning history and current planning status. He stated that it was anticipated that the Vacant Site would form part of a larger scheme of development but issues including massing necessary to address the issue of third party air rights over part of the site have made the arriving at a suitable and viable scheme impossible to date.

11.2 He expressed an opinion that refurbishment of the existing building would be the most viable option to ensure the long-term survival of Clonard Lodge and its boundary wall and gateways. He referred to planning decision D20A/ 0291 (Appendix 1 –n/a to public) where permission was refused for the demolition of all buildings and the construction of a Build to Rent apartment scheme of 43 units. This application included some adjoining lands.

11.3 Mr. Farrelly stated that due to the absence of a permitted scheme of redevelopment at the valuation date, renovation works to return the property to beneficial use as a doctor's surgery and overhead living accommodation would be the most realistic approach for the development or valuation of the property.

11.4 He proceeded to undertake a residual site appraisal to evaluate a property that could be rented at market levels and capitalised to achieve a market value from which all costs could be recovered and the balance remaining would be the sum attributable to the value of the site. The use of this approach and taking all associated costs into consideration resulted in a negative residual value for the site indicating a non-viable option.

11.5 Mr. Farrelly then went on to suggest other options including the sale of part of the gardens suitable for inclusion in an adjoining development for €65,000 and that limited market participants, i.e., other builders, cash buyers etc. would pay €90,000 for the Lodge as a long-term investment opportunity.

11.6 Mr. Farrelly stated that the market value of the Vacant Site was €155,000.

## **RESPONDENT'S CASE**

12.1 Ms. Sheila Farrell gave evidence on behalf of the Respondent. She confirmed agreement with the details on location, description, site area and title.

12.2 She stated that the basis of valuation under the Act is the unencumbered freehold.

12.3 Ms Farrell proceeded to describe the planning history on the property and stated that decision D20A /0219 did not refuse permission to demolish Clonard Lodge but considered the scheme excessive over- development of the site. She further stated that decision D 09A/0206 granted permission to include the demolition of Clonard Lodge.

12.4 Ms. Farrell stated that the Vacant Site was a vacant, derelict site and that a suitable scheme would get Planning Permission and the Appellant's approach to the valuation was incorrect and that the comparison method of valuation was the more suitable approach.

12.5 To assist her case 5 comparisons were introduced (Appendix 2 – n/a to public) ranging from:

1. A site for a one -off house @ €200,000.
2. A 0.72-acre site with planning permission for 7 houses @ €2,900,000 (€414,000/site.)

3. Site 0.05 acres with pp for dormer house @ €330,000.
4. Site with pp for 3 houses @ €1,650,000 (€550,000/site).

She stated that site values ranged from €200,000 to €550,000 per unit and judged the value of the Vacant Site as follows.

Lot 1. 0.066 acres (forms part of a larger site with pp for 8 houses)	€224,000
Lot 2 0.13 acres (Clonard Lodge) no planning permission Say demolition of Lodge and get 3 townhouses. 3 x €100,00	<u>€300,000</u>
	€ 524,000
Say €500,000	

12.6 Under cross examination Ms Farrell stated that there were no planning objections to the demolition of Clonard Lodge, there was a positive planning history for development on the site and she had adopted a conservative approach to her valuation as there was no actual permission on the site at the valuation date. When questioned on the lien on title, the air space over part of the property, she suggested a small adjustment could be made to the market value.

12.7 Mr. Farrelly stated that the cost of building was similar to the sale price and as no permission had been granted on the property, the actual value was only the “hope or holding“value and not comparable to actual site values in the area.

## **FINDINGS AND CONCLUSIONS**

13.1 On this appeal the Tribunal is required to determine the market value of the Vacant Site in accordance with s.3 of the Act which is to be construed in accordance with s.12 of the Act as of 18<sup>th</sup> April 2023

13.2 The Tribunal on this occasion must decide which course of valuation is more appropriate to arrive at a fair market value, the residual method as suggested by Mr. Farrelly or the comparison method as proposed by Ms. Farrell.

13.3 Mr. Farrelly exhaustively quantified the costs of building and refurbishing the property and produced a non-viable negative value. He then subdivided the site between the land and the building to arrive at a positive figure.

13.4 Ms Farrell interpretation was that the property was a vacant site, and that the comparison method gave a more indicative opinion of value.

13.5 The parties understanding of the planning status of the property differs considerably especially on the Clonard Lodge structure. Mr. Farrelly stating that no demolition would be permitted and Ms Farrell differing in her understanding of the various previous planning applications and outcomes.

13.6 At the date of valuation the Tribunal notes that there were no current permissions on the Vacant Site, the subject of this appeal. The planning history on the site would however suggest that a suitable low-density scheme of development, including the possible demolition of Clonard Lodge could be undertaken.

13.7 The Tribunal is swayed to dismiss the residual valuation method adopted by Mr. Farrelly and look at his second option in dividing the site as a more viable approach to market value.

13.8 The evidence provided by the Respondent does more accurately reflect the market value of sites in the South County Dublin – Dun Laoghaire/Rathdown area and indicate a demand for small development sites. Ms Farrell in arriving at her opinion of market value does take into consideration the planning history and adopts a conservative approach to arrive at her valuation figure of €500,000.

13.9 The Tribunal notes that the onus is on the Appellant to prove its case and while it accepts the argument that there is no planning permission on the Vacant Site, the facts suggest that there would be demand in the marketplace greater than the values supplied by the Appellant.

#### **DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the market value of Five Hundred Thousand Euro, €500,000 as stated in the Notice of Determination of Market Value dated 18<sup>th</sup> April 2023.