

Appeal No: VA19/5/1915

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

BOYLESPTS

APPELLANT

and

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 1282579, Retail (Shops) at 47C, 2 Anne Street, Dundalk, County Louth.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF MAY, 2024

BEFORE

Thomas J Kearns - B.S.c (Surv), MRICS

Tribunal Member

1. THE APPEAL

1.1 By Notice of Appeal received on the 14th day of October, 2019 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 €39,600.

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: *"NAV applied by the Valuation Office is excessive by reference to comparisons provided with representation lodged. The resultant effect is a suggested 50% plus increase in liability for a unit which, I contend, would only command a rent of €16,500 as at the valuation date - the percentage rates to NAV / rent therefore being 54.72% which is grossly excessive, unsustainable and without foundation.*

*A - 89.06 sq m x €125 psm, B - 81.73 sq m x €62.50 psm, C - 8.30 sq m x €31.25 psm
Total - €16,500 "*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €16,500.

2. RE-VALUATION HISTORY

2.1 On the 15th day of March, 2019 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 €39,600.

2.2 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.

2.3 Final Valuation Certificate issued on the 10th day of September, 2019 stating a valuation of €39,600.

2.4 The date by reference to which the value of the Property, the subject of this appeal, was determined is 15th day of September, 2017.

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.

3.3 Both summaries contained the Declaration and Statement of Truth required under Tribunal rules.

4. **FACTS**

4.1 The parties are agreed as to the following facts.

4.2 The property is located on the corner of Anne St and Mary St, outside the core retail thoroughfares of Church St and Clanbrassil St in Dundalk. Anne St is a more mixed retail location including Licenced premises, Church, Residential and some vacant/derelict properties

4.3 The subject property comprises an end of terrace, ground floor retail unit currently in use as a betting shop. The agreed floor area of the property is as follows;

Level	Use	Area m2
0	Retail Zone A	44.44
0	Retail Zone B	34.93
0	Retail Zone C	18.72
Total		98.09

5. **ISSUES**

5.1 The Appellant contends that the Valuation is incorrect and the issue is one of quantum.

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 Mr McHugh, on behalf of the Appellant, described the property as being located outside the main retail core in a mixed retail/residential area with very obvious trading limitations when compared to the core retail area of Clanbrassil Street and Park Street and immediate surrounding areas.

7.2 Mr McHugh makes a distinction between the secondary location of the subject property when compared to the prime core retail streets of Clanbrassil St and Park Street. He also includes photographic evidence of the subject location and the main retail area to demonstrate the two different trading locations.

7.3 Mr McHugh provides three comparisons including two market transactions as set out in Appendix 1 (N/A to public) and one NAV comparison as below;

Property No 1282211 Open marking letting on Jocelyn St, Dundalk

Ground floor Café size 60 sqm and First floor Store 30 sqm.

Described as a superior retail location to Anne St but with a lower zone A rate of €200 compared to the subject’s Zone A rate of €300.

Property No 1318859 Open market letting, Adelphi Centre, The Long walk, Dundalk

A Ground Floor Café, size 123.03 sqm and a superior core retail location to Anne St with a Zone A rate of €300 psm and an equivalent Zone A rate of €210.98 based on the 2018 letting.

Property No 2214799 NAV comparison, Kelly’s Pharmacy, Unit 2B College House, Dundalk

A NAV comparison of a Ground floor Pharmacy comprising 98.09 sqm, situated within a neighbourhood retail centre approx. 2km from subject property. The Appellant contends that this is a superior trading location than Anne St, within a neighbourhood centre and close the Dundalk IT, with a Zone A NAV rate of €120.

7.4 Mr Mc Hugh seeks a valuation of €16,500, calculated as follows:

Level	Use	Area m2	NAV € psm	Total NAV €
0	Zone A Retail	89.06	125	11,132.50
0	Zone B Retail	81.73	62.5	5,108.13
0	Zone C Retail	8.30	31.25	259.38
Total		179.09		€16,500.01
			NAV say	€16,500

8. RESPONDENT'S CASE

8.1 Ms Ruane, on behalf of the Respondent, described the property and its location using photographs and plans contained in her submission. The property is described as an end of terrace ground floor retail unit, in good condition, situated on the corner of Anne St and Mary St.

8.2 In response to the Appellant's submission, Ms Ruane notes that the NAV Zone A rate in Dundalk main retail core is valued at €400 per sq.m. She states that the subject property is not valued at the same rate as those properties situated in the main retail core and states that the property is situated on Anne street which is valued at a Zone A rate of €300 per sq.m.

8.3 Ms Ruane, refers to the process of revaluation requiring the collation and analysis of available market evidence to develop a scheme of valuation. In this regard a total of four market transactions are provided to inform the valuation scheme which was used to estimate the Net Annual Value of the subject property and these are set out Appendix 1 (N/A to public).

8.4 Ms Ruane also puts forward five NAV comparisons as follows;

Property No	Address	NAV € psm	NAV €
1282589	68a Anne St Dundalk	ZA @ 300	9,840 p.a.
1282585	63.64 /1 Anne St Dundalk	ZA @ 300	11,740 p.a.
1282607	1/2 Dublin St Dundalk	ZA @ 300	23,400 p.a.

2176071	1b/2 The Long Walk Dundalk	ZA @ 300	€19,970 p.a.
1281810	94a Clanbrassil St Dundalk	ZA @ 400	€36,300 p.a.

8.5 The Respondent is seeking a valuation of €39,600 calculated as follows;

Level	Use	Area m2	NAV € psm	Total NAV €
0	Zone A Retail	89.06	300	26,718
0	Zone B Retail	81.73	150	12,259.50
0	Zone C Retail	8.30	75	622.50
Total		179.09	NAV	€39,600

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 Louth Co Council.

10.2 The Appellant's case is that the valuation as proposed is incorrect as the property is located outside the main retail core in a mixed retail/residential area with very obvious trading limitations when compared to the core retail area. The Appellant contends that the NAV applied by the valuation office is excessive having reference to the comparisons presented. The Appellant's photographic evidence also illustrates the marked difference between the subject location and the core retail streets.

10.3 The Respondent has put forward evidence of 4 market transactions which informed the valuation scheme used to value the subject property with a Net Effective Rate, Zone A rate ranging from €274.50 to a maximum €448 in/close to the core retail area. In addition, 5 pieces of NAV evidence are put forward ranging from a Zone A rate of €300 outside the main retail core area on Anne St to Zone A rate of €400 per sq.m. on Clanbrassil St within the prime

retail core area. The Tribunal notes that PN 1281810 has a higher Zone A rate of €400 per sq.m. within the main prime pitch retail core area. The Tribunal also notes that PN 1282589, PN 1282585 and PN 1282607 are situated closer to the core retail area than the subject property which is situated in a more mixed retail/residential area with inferior trading potential. The aforementioned properties are all valued at a NAV Zone A rate of €300 per sq.m.

10.4 The Tribunal finds Comparisons 1, PN 1282211, an open market letting on Jocelyn St in a secondary retail location, outside the core retail area, at an NAV Zone A rate of €200 per sq.m. to be of assistance in arriving at its decision. The Tribunal also agrees that this property is situated in a superior trading location compared to the subject property which is a more mixed retail/residential location and a further downward adjustment of 25 % from the €200 NAV Zone A rate, is not unreasonable to reflect the subject's property inferior more tertiary type location.

10.5 In addition, the Tribunal finds NAV Comparison 3, PN 2214799, Kelly's Pharmacy, Unit 2B College House, Dundalk, comprising 98.09 sqm, situated in a neighbourhood centre on the outskirts of Dundalk to be of assistance in identifying an NAV rate of €120 in a more suburban/residential location. While it could be argued that this neighbourhood centre is a superior trading pitch for retail purposes when compared to the subject, the Tribunal finds that a loading of 25% is reasonable to reflect the subject property's more central town location.

10.6 Retail is very sensitive to location, footfall and adjacent users and even a small distance in one direction on a street can have a major impact on a property's trading potential. The Tribunal notes that the Respondent made no reference to the residential properties when describing the uses on Anne Street. The following wording is used in the Respondent's submission, in paragraph 4.1, "Anne Street is a mixed-use street with mixture of public houses, retail units and offices and Dundalk Garda station". The Tribunal finds that the presence of residential and vacant properties on this section of Anne Street, diminishes the subject properties trading potential and makes it closer to a tertiary location category.

10.7 The Tribunal finds that while the Respondent has addressed the question of uniformity in this case, there is a lack of equity given the location and evidence presented by the Appellant.

10.8 The onus in an appeal to the Tribunal is on the Appellant to discharge the burden of proving that the valuation placed on the property should be disturbed and the Tribunal finds that the Appellant has successfully discharged this burden on this occasion.

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 €19,800.

Level	Use	Area m2	NAV € psm	Total NAV €
0	Zone A Retail	89.06	150	13,359
0	Zone B Retail	81.73	75	6,129.75
0	Zone C Retail	8.30	37.5	311.25
Total		179.09	NAV	€19,800

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.