

Appeal No: VA23/2/0002

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

Persian Properties Unlimited trading as The Mont Hotel

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In relation to the valuation of

Property No. 837584, Hotel at 1-4 Merrion Street Lower, County Dublin.

B E F O R E

Donal Madigan MRICS, MSCSI

BarraMcCabe BL, MRICS, MSCSI

Annamaria Gallivan FRICS, FSCSI, MPhil SEE

Deputy Chairperson

Deputy Chairperson

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF MAY, 2024**

1. THE APPEAL

1.1 By Notice of Appeal received on the 13th day of April, 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 €**316,000**.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows: “(a) The Valuation is incorrect”.

The grounds upon which the Appellant considers that the determination of the valuation of the property is not a determination of its value that accords with that required to be achieved by section 49. Because:

“I believe the revaluation proposed is excessive because the proposal represents a c. 50% increase in the rateable valuation. The hotel increased bedrooms from 74 to 96 bedrooms which is a 29% increase from before. Why is the rateable valuation increasing by 50% when the hotel bedroom stock has only increased by 29%. All meeting and event space was removed from the Hotel as part of the works and I requested a breakdown of what credit we are

receiving from this which was not provided. I am requesting again what credit is being provided for what is a clear and demonstrable reduction in rateable use for the property? I requested a breakdown of how the proposed valuation was determined, provision of method of calculation etc. which was not provided. I was only provided with the rates applying to the other hotels in our Group, which naturally we already knew.

Again I am asking to be provided with the clear method of calculation used to arrive at the proposed rate for the Mont Hotel.

I don't believe it is fair to withhold such information I am also asking for a rationale behind the proposed rate. A 50% increase in the rate doesn't make any sense when the facts are considered; there was a 29% increase in bedrooms, there was a 100% reduction in all meeting and event space so how does that warrant a 50% increase?

The floor area of the building only increased c. 10% as result of the extension, again a 50% increase in rateable valuation makes zero sense.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of **€275,000**.

2. VALUATION HISTORY

2.1 On the 30th day of December, 2022 a copy of a valuation certificate proposed to be issued under section 29 of the Valuation Act 2001 (“the Act”) in relation to the Property was sent to the Appellant indicating a valuation of **€336,000**.

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 of the Property was reduced to **€316,000**

2.3 A Final Valuation Certificate issued under section 28 of the Valuation Act 2001 on the 11th day of April, 2023 stating a valuation of **€316,000**.

2.4 The base valuation date by reference to which the value of the property, the subject of this appeal, was determined is 7th April, 2011 with effect from the 2014 Revaluation for the rating authority of Dublin City Council.

3. THE HEARING

3.1 The Appeal proceeded by way of an oral hearing, held remotely, on the 6th day of October, 2023. At the hearing the Appellant, Mr. Charles O’Callaghan, on behalf of The Mont Hotel, represented himself and the Respondent was represented by Mr. Sean Donnellan, MSCSI, MRICS, BSc Hons (Property Valuation and Management) of the Commissioner of Valuation, now Tailte Eireann.

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.

4. FACTS

From the evidence adduced by the parties, the Tribunal finds the following agreed or undisputed facts:

4.1 This Property comprises a 4* hotel in a six storey over basement building with 96 bedrooms located at Lower Merrion Street and Clare Street in Dublin 2. towards the North West corner of Merrion Square.

4.2 The Appellant makes this appeal as owner of the Property.

4.3 A material change of circumstances within the meaning of section 3(1) of the Valuation Act occurred wherein structural works were undertaken at the Property resulting in an increase in the number of bedrooms from 74 to 96; an increase in the gross external floor area and other changes in 2019.

4.4 As a result of the physical changes the Property moved from a 3* classification to a 4* classification

4.5 It is understood that the Property is freehold.

5. ISSUES

The issue arising in this appeal is one of the quantum of the valuation only.

6. RELEVANT STATUTORY PROVISIONS:

6.1 All references to a particular section of the Valuation Act 2001 ('the Act') refer to that section as amended, extended, or modified by the Valuation (Amendment) Act, 2015 and other subsequent Acts.

6.2 Section 3(1) of the Act, in so far as material to this appeal, defines "material change of circumstances" as meaning a change of circumstances that consists of

- (b) a change in the value of a relevant property caused by—*
 - (i) the making of structural alterations to that relevant property,*

6.3 If a Revision Manager is satisfied that a material change of circumstances as defined by section 3 of the Act has occurred, then that Revision Manager has power under section 28(4) (a) of the Act, to do, as follows:

(a) if that property appears on the valuation list relating to that area, do whichever of the following is or are appropriate—

(i) amend the valuation of that property as it appears on the list

6.4 Where a property falls to be valued for the purpose of section 28(4) of the Act, that value is to be ascertained in accordance with the provisions of section 49 (1) of the Act as substituted by section 13 of the Valuation (Amendment) Act, 2015, which provides:

“If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28(4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property”.

7. APPELLANT’S CASE

7.1 Mr. Charles O’Callaghan for the Appellant, The Mont Hotel, confirmed that his email letter of 20th July 2023 comprised his precis which was augmented by a letter from SSA Architects dated 24th January, 2023 in which the increase in the floor areas of the Hotel was outlined, in summary, as being from 3,983.87m² to 4,433.41m² (an increase of 449.54m²) or 11.28% following from the refurbishment and enlargement. He said that he could not understand an increase in the valuation by 58% when the bedroom count had only increased by 29%. (74 to 96 bedrooms, an increase of 22)

7.2 In his precis Mr. O’Callaghan outlined his case in summary as being that:
(a) He believes that the revaluation proposed is excessive because the proposal represents a 58% increase in the rateable valuation whereas the number of bedrooms increased from 74 to 96 bedrooms, which is only a 29% increase. Therefore, he queries why the gross rateable valuation increases by 58% when the hotel bedroom stock has only increased by 29%.

(b) He states that he can understand an increase in rateable value on a pro-rata basis but the proposed rateable value represents a 22% increase in rateable value on a per bedroom basis and that no rationale was provided for this increase. Accordingly, he queries why the valuation per bedroom increases by 22%.

(c) He outlined that all meeting and event space was removed from the Hotel as part of the refurbishment works and that, as a result, he had requested a breakdown of what credit was being allowed in the valuation for this, which he said was not provided. He is reiterating this request again to find out what credit is being provided for what is, in his view, a clear and demonstrable reduction in the rateable use of the property.

(d) He had requested a breakdown of how the proposed valuation was determined and the provision of method of calculation etc. which was not provided. He is asking again to be provided with the clear method of calculation used to arrive at the proposed valuation for The Mont Hotel.

7.3 At the hearing he dismissed comparability with the other neighbouring hotels cited as evidence by the Valuer for the Respondent because he said the bedrooms in these other hotels are larger even though this was not mentioned before, either on the Notice of Appeal or in his written submission.

7.4 Mr. O’Callaghan accepted in cross examination that the hotel was refurbished, and 22 bedrooms added in around 2019, resulting in an upgrade in the classification from 3 star to 4 star and accepted that there had been a material change of circumstances resulting in a change to the value, but his main issue is with the quantum of the increase in the valuation. His Notice of Appeal identified an alternative valuation of € 275,000 but this was not submitted in his subsequent precis nor were calculations shown to demonstrate how that figure was calculated nor what comparable property net annual values had been relied upon, to support that alternative valuation, separate to the ones cited by the Valuer for the Respondent.

7.5 In answer to a question from the Tribunal, Mr. O’Callaghan confirmed that he had read the Tribunal rules and was also aware, in response to a further question, that the burden of proof rested with him to make his case and demonstrate that the valuation by the Respondent is incorrect.

7.6 Mr. O’Callaghan referred, on several occasions, in his oral testimony, to the difficulty of reconciling a 58% increase in the valuation with only an 11% increase in the floor area. The proposed valuation was € 336,000 (original valuation € 212,000) which would have been an increase of 58%, but, in fact, the Respondent had reduced this in the Final Certificate to a valuation of € 316,000 (the current figure under appeal) which is an increase of 49.06% on the original valuation prior to the refurbishment. Please see further in this regard under section 10.10 below of this Determination.

8. RESPONDENT’S CASE

8.1 Mr. Sean Donnellan, Valuer for the Respondent, Tailte Eireann, submitted a precis containing a Statement of Truth and Standard Declaration in accordance with Rule 41 of the Valuation Tribunal (Appeals) Rules 2019. In his precis he outlined the basis of valuation, background to the appeal and facts such as the location and description of the Property including a note on the title and other matters. He supplemented his text with maps, plans and photographs and copies of the Appeal, Proposed Valuation Certificate, Revision Representations Report, SSA note on floor areas, the Final Valuation Certificate and an extract from the Mont Hotel website.

8.2 At the start of his oral evidence, Mr. Donnellan amended his written precis of evidence by deleting the reference on page 8 thereof to “three meeting rooms” , which he acknowledged as being an error from the application of a cut and paste of previous information by mistake.

8.3 Mr. Donnellan provided a valuation at € 316,000 which he calculated as follows:

96 bedrooms at € 3,291.67 per bedroom
4,534.00m² @ € 69.70 per m²

8.4 In support of his valuation he referred to the following six NAV comparables:

PN 837584

The Subject Property (prior to refurbishment and enlargement)

74 bedrooms

3 star * classification

4,231.40m²

Net Annual Value: € 212,000

Analysis € 2,864.86 per bedroom & € 50.10 per m²

PN 837592

O'Callaghan Davenport Hotel, Lower Merrion Street

115 bedrooms

4 star * classification

7,025.84m²

Net Annual Value: € 540,000

Analysis € 4,695.65 per bedroom & € 76.86 per m²

PN 836914

O'Callaghan Alexander Hotel, Fenian Street

102 bedrooms

4 star * classification

7,057.30m²

Net Annual Value: € 474,000

Analysis € 4,647.05 per bedroom & € 67.16 per m²

PN 839530

Kildare Street Hotel, Kildare Street

33 bedrooms

2 star * classification

2,237.00m²

Net Annual Value: € 175,000

Analysis € 5,303.03 per bedroom & € 78.23 per m²

PN 839392

Buswells Hotel, Molesworth Street

67 bedrooms

3 star * classification

4,298.70m²

Net Annual Value: € 327,000

Analysis € 4,880.60 per bedroom & € 76.07 per m²

PN 762670

The Ripley Court Hotel, Talbot Street

100 bedrooms

3 star * classification

4,966.25m²

Net Annual Value: € 325,000

Analysis € 3,250.00 per bedroom & € 65.44 per m²

8.5 In answer to questions from the Tribunal, Mr. Donnellan confirmed that he had taken account of the points made by the Appellant in his representations and reduced the proposed NAV from € 336,000 to € 316,000 having reviewed the comparables. He also confirmed that he had not been put on notice by the Appellant of any trading losses on account of the removal of the meeting rooms at the hotel. In response to a question from Mr. O’Callaghan about providing a full explanation of the methodology used to value the Property he confirmed that he had supplied this in an email of 5th January 2023 although Mr. O’Callaghan stated that the position was still unclear.

9. SUBMISSIONS

There were no legal submissions in this appeal.

10. FINDINGS AND CONCLUSIONS

10.1 On this appeal the Tribunal must determine the value of the Property so as to achieve, insofar as is reasonably practical, a valuation that is correct, equitable and uniform 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 Dublin City Council.

10.2 The process for an Appellant in dealing with their appeal is provided for on the Valuation Tribunal website and all Appellants are encouraged to read the relevant guidance and rules applicable to their appeal, which, in this case, are the Valuation Tribunal (Appeals) Rules 2019; the other various guides and the Remote Hearing Protocols. These documents provide valuable guidance on all aspects of the process and outline what is usually expected to be comprised in a summary of evidence that is to be submitted to the Tribunal, as well as guidance on expected behaviour at the remote hearing. For the avoidance of doubt, a party is not permitted to leave the hearing without seeking the permission of the Tribunal in advance, nor to shut off their camera or audio. Previous judgments of the Tribunal covering all types of commercial properties are listed on the website, too, from which knowledge can be obtained to assist in presenting a case.

10.3 The Tribunal finds that confusion can arise in the understanding of a revision valuation which is concerned with ascertaining net annual value (as per section 48(3) of the Valuation Act 2001 as amended) which states that:

“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 average 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.

but, in a **revision appeal**, as in the present case, this is tempered by the fact that section 49 of the Act permits this valuation to be ascertained by **only** having regard to the tone of values established for the Valuation List in question, by reference to other net annual values for

comparable properties. These other comparable net annual values are computed by reference a common base valuation date, which, for the city of Dublin is 7th April, 2011 i.e. the date at which the level of rental values prevailing at that time was computed for the 2014 rating calendar year onwards.

- 10.4 The scope of the Tribunal's power in determining appeals is restricted to those grounds which have been identified in the Notice of Appeal. The reasons for this are to allow parameters to be set for consideration of the appeal and to identify these for response by the Valuer for the Respondent who, under the Tribunal rules, files his precis (second) subsequent to the Appellant. The onus is on the Appellant to show that the valuation of the Property made by the Respondent is incorrect.
- 10.5 The Appellant stated several grounds of appeal (see Section 1.2 and 7.2 (a) to (d) above) and outlined these by sworn verbal testimony at the hearing. In the exchanges at the hearing, it emerged that his main grievances arose from the amount of the increase in the valuation when contrasted by the lower relative increase in gross floor area; lack of information/explanation or clarity on the methodology employed by the Respondent in calculating the value and also the reference by the Respondent Valuer to meeting rooms being retained, which he argued was factually incorrect. This latter point concerning meeting rooms was corrected by the Valuer for the Respondent at the commencement of his oral evidence.
- 10.6 Accordingly, the floor area issue needs further examination and clarification. The Appellant contends that, by reference to a schedule of floor areas provided by his Architects, that the increase in gross floor area was from 3,983.87m² to 4,433.41m² (an increase of 449.54m²) or 11.28%. The Valuer for the Respondent had put forward the floor areas, measured on a gross external basis, as originally being 4,231.40m² and after enlargement increased to 4,534.00m². He offered the view that he thought the Architects may have adopted a different basis of measurement and considered that it might be gross internal floor area they had measured. No expert appeared at the hearing from the Architect's firm to verify this and the Appellant himself could not confirm either. In the absence of hearing testimony from the Architect and being able to examine him at a hearing, this is not proven by the Appellant. Accordingly, on the basis that the Respondent Valuer has used the method of measurement applicable (Gross External Area) in these types of properties and on which the same analysis has been used to value the comparables, the Tribunal must find that the gross external floor areas are the applicable ones to invoke and accept the testimony of the Respondent Valuer on same.
- 10.7 Aside from the precis submitted, the Appellant did not dispute the factual information provided by the Respondent's Valuer and agreed that these other comparable property net annual values were the most relevant. The Appellant did not offer any additional or alternative comparable properties to support his view. Neither did he provide any computation or basis for the valuation of € 275,000 mentioned on his Notice of Appeal form.
- 10.8 Taking the Appellant's issues with obtaining credit for removal of meeting rooms, this fact was accepted by the Valuer for the Respondent and, although the fact of such removal was corrected at the hearing, the point about reconfiguring space internally for differing purposes (and obtaining some form of credit for same) was not, as replacement of some space, for

example by a gym, as occurred here, is viewed as being a business decision that successful hotel operators are presumed to make prudently, knowing their business, but such fine detail is not encompassed in the metrics used here in revision type appeals which are based on a value per bedroom overall and a unit value rate per square metre of the gross external area. If meeting rooms are voluntarily removed by a hotel operator and replaced, partly, by adding the amenity of an on-site gym the result is considered by the Tribunal to be some added value to the overall hotel “offer” rather than of little or no value. To state that meeting rooms are income producing and a gym is not income producing is not, in the view of the Tribunal, an accurate reflection of the myriad components of a hotel business where extra amenities for guests make the hotel more attractive thus giving rise to greater room rates and, in all probability, contributes to a regrading of the classification upwards.

The hotel tariff will reflect extra amenities and so the added value from the gym may not have a direct income stream but is reflected in the ability of the operator to charge a higher room tariff.

10.9 Before turning to the Respondent Valuer’s valuation it may help to summarise in one place the changes occurring here as a result of the material change of circumstances that gave rise to the new valuation, taking a “before and after” look at the Property as the Tribunal finds it.

	<u>Previous Hotel</u>	<u>Present Hotel</u>	<u>Change</u>
	3 star 74 bedrooms	4 star 96 bedrooms	quality + (+22 bedrooms/ 29.73%)
Net Annual Value	€ 212,000	€ 316,000	(+ 49.06%)
NAV per bedroom	€ 2,864.86	€ 3,291.67	(+ 14.89%)
Gross External Area	4,231.40m ²	4,534.00m ²	(+ 7.15%)
NAV per square metre	€ 50.10 per m ²	€ 69.696 per m ²	(+ 39.11%)

10.10 To properly address the Appellant’s concerns over the magnitude of the increase in the valuation of the Property, the Tribunal needs to examine the valuation submitted by the Valuer for the Respondent and how that has been calculated and supported by the evidence.

(a) The first comparable is the subject property before the refurbishment and enlargement and this is for a 3-star hotel with 74 bedrooms which is important because, save for the expansion and improvements, it is the same property as the subject of this appeal. This analyses at € 2,865 per bedroom (rounded) or € 50.00 per square metre. In the Tribunal’s view this represents a base value or “floor” for the NAV as it is for a lesser quality hotel, being a 3 star and not a 4 star hotel. It is noteworthy that this NAV of € 212,000 was the subject of representations by an agent with no subsequent appeal.

(b) The next comparable, the Davenport and the following comparable, The Alexander, are close to the subject and both are 4 star (as is the subject Property now) with similar bedroom count at 115 and 102 respectively (subject has 96) but both are significantly larger in gross floor area at 7,025.84m² and 7,057.30m² (contrasted with the subject at 4,534.00m²) - a difference of 55/56%. These are valued at NAV € 540,000 and € 474,000 (Davenport 70.89%

more and Alexander 50% more than the subject at NAV € 316,000) based on bedroom rates of € 4,696 (rounded) and € 4,647 (rounded) (subject valued at € 3,292-rounded) or € 76.86 per m² and € 67.16 per m² (subject valued at € 69.70 per m²). Both these assessments were subject to representations.

(c) The next comparable is the Kildare Street Hotel (NAV € 175,000) and although in a similar type location to the subject this is only classified as a 2 star and on analysis this yields quite a high per bedroom rate of € 5,303 reflecting a bedroom count of only 33 (contrasted to 96 in the subject), and a value overall based on the gross external area of € 78.23 (€ 69.70 per m² in subject). This is useful for context in the overall pattern of net annual value assessments but is less determinant than the Davenport and Alexander owing to the size being 2,237.00m² and classification. This was also subject to representations.

(d) Next is Buswells Hotel which is valued at an NAV of € 327,000 and it is a 3 star hotel with 67 bedrooms and a gross external floor area of 4,298.70m² and, though close in size to the subject (4,534.00m²) has only 70% of the bedroom count of the subject (96) and this valuation breaks back to € 4,880.60 per bedroom and € 76.07 per m². This assessment was subject to representations.

(e) Finally, there is the Ripley Court Hotel on Talbot Street which has 100 bedrooms (comparable to the subject at 96 bedrooms), is a 3 star hotel and has a gross external floor area of 4,966.25m² (compared to 4,534.00m² in the subject) and this is valued at an NAV of € 325,000 which reflects a rate of € 3,250 per bedroom and € 65.44 per m². This was acknowledged by the Respondent to be in an inferior location to the subject Property but nonetheless provides context for a similar bedroom count and close floor area. This was not subject to representations.

The two main indicator metrics that guide these net annual values for the purpose of ascertaining the correct NAV in a revision appeal are the NAV per bedroom rate and the NAV analysed on a gross floor area basis. The Tribunal considers that the metrics that emerge from the two other 4 star hotels (Davenport and Alexander) are the most preferable comparables but do not dismiss the other comparables cited, because they give context to the overall pattern of assessments. The value proposed for the subject at € 316,000 is considered in line with the general tone of values as cited by the Valuer for the Respondent and at € 69.70 per m², is valued relative to these other hotels and at a much lesser per bedroom rate. In the context of all the comparables this NAV sits well in the spectrum of values whether analysed on a per bedroom or rate per square metre basis.

10.11 There is the final point raised by the Appellant with regard to securing a satisfactory explanation of the methodology from the Valuation Office for the calculation of the value. He referred at several stages at the hearing to the process being unclear or opaque. The Tribunal were of the opinion that those familiar with valuation methodologies would have found the calculations clear. The methodology employed by the Valuer for the Respondent is recognisable and transparent. The Respondent Valuer gave sworn testimony that the methodology had been made clear at all times.

10.12 Therefore, the Tribunal cannot find any reasons to dispute the revised valuation made by the Respondent, having considered, in detail, the grounds of appeal and all the evidence submitted by the Respondent Valuer indicating equity and uniformity of his approach from the unit value rates per square metre and net annual value per bedroom adopted for comparable properties. The net annual value of the Property has been correctly assessed in the opinion of the Tribunal.

DETERMINATION:

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

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.