

Appeal No. VA16/2/016

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Supermac Ireland Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

In Relation to the Issue of Quantum of Valuation in Respect of:

Property No. 2213463, Restaurant/Café at Tivoli Road, Clonmel, Sundry Townlands, Clonmel East Urban, Clonmel Borough, County Tipperary.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF MAY, 2017

BEFORE:

Rory Lavelle – M.A., FRICS, FSCSI, ACI Arb

Deputy Chairperson

David Gill – FSCSI, FRICS, FCI Arb, Dip Arb Law

Member

Orla Coyne – Solicitor

Member

By Notice of Appeal received on the 29th day of April, 2016 the Appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €338 on the above described relevant property on the grounds as set out in the Notice of Appeal as follows:

"The valuation is excessive and not in line with the tone of the list as per Section 49 of the Valuation Act 2001."

The Tribunal, having examined the particulars of the property the subject of this appeal; having confirmed its valuation history; having examined and considered the written evidence put forward by both valuers and having heard the oral evidence on the 17th day of January 2017 adduced before us by Ms. Siobhan Murphy of GVA Donal O’Buachalla on behalf of the Appellant, who contended for a Net Annual Value (NAV) of €43,982.00 and a rateable valuation of €220, and by Mr. Paul Ogbemor on behalf of the Respondent to the appeal who proposed a NAV of €67,551.00 and a Rateable Valuation of €338.00.

DETERMINES

That the rateable valuation of the subject property be as set out below:

€220 - Decrease

Matters Agreed

In advance of the exchange of submissions and hearing the parties had agreed the floor areas and a description of the property. Both illustrated the location of the property relative to the town centre.

The property is described as a two storey detached restaurant and drive thru comprising some 640 m² with circulation and customer car parking. The valuers supplied plans and photographs to assist the Tribunal. Ms. Murphy’s photographs also showed the internal finishes to the first floor areas.

Valuations

The parties submitted their valuations of NAV as follows:

The Appellant’s valuation:

Description	Area Sq.M.	Rate € psm	Totals
Ground floor			
Restaurant	128.00	€135.00	€17,280
Kitchen	103.89	€81.00	€8,415
Cold Rooms	37.51	€41.00	€1,538
Office	3.30	€41.00	€135
Stores	40.54	€41.00	€1,662
First floor			
Restaurant	122.00	€54.00	€6,588
Stores	170.00	€41.00	€6,970
Staff Rooms	34.00	€41.00	€1,394
External Car Spaces	40	€0.00	€0
Totals	639.24		€43,982
RV			€219.91

Rounded to			€220.00
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The Respondent's valuation:

Description	Area Sq.M.	Rate € psm	Totals
Ground floor			
Restaurant	128	€150.00	€19,200.00
Restaurant	3.89	€90.00	€350.10
Office	3,3	€60.00	€198.00
Kitchen	100	€90.00	€9,000.00
Cold Room	37.5	€50.00	€1875.29
Store	40.51	€50.00	€2,026.94
First floor			
Restaurant	292	€100	€29,200.00
Staff Room	34	€50	€1,700.00
External Carspaces	40	€100/space	€4,000
		Total	€67,550.33
		RV	€338

Comparisons

The Appellant referred to the KFC Unit in Poppyfields, and Eddie Rockets, Unit 24, Showgrounds Shopping Centre for ground floor evidence and two properties on O'Connell Street for first floor evidence.

The Respondent refers to 4 comparisons including KFC Poppyfields, McDonalds Gladstone Street, McDonalds drive through Cashel, and McDonalds drive through Roscrea.

The Appellant also included a schedule of Rateable Valuations for Restaurants in the town with the subject property listed with a total RV at €338 being significantly higher than any other property shown with the next closest being McDonalds on Gladstone Street at €177.76.

Issues identified in this appeal included:

Location

The Appellants case was that the location of the subject property was not as good as Poppyfields, the location of their primary comparison, because of the nature of the Business Park and adjacent occupiers. The Respondent argued that the subject location was superior to Poppyfields.

Car Parking

Whilst noting that spaces are rentalised in the case of Poppyfields but are not in either of the 2 other comparisons (Cashel and Roscrea) put forward by the Respondent, the Appellant

argued that car spaces should not be rentalised and contended that car spaces are not usually valued with drive thrus, supermarkets or retail warehousing. The Tribunal noted that the subject property has the benefit of 40 spaces associated with the subject as against 12 with the KFC unit in Poppyfields.

Rate applicable to Upper Floor

The Appellant argued that a lower rate of €41psm should be applied to the area of the first floor that was not fitted out as restaurant/retail and was actually used for storage with €51psm to the restaurant area. The Appellant's rates for the first floor are based on 2 comparisons provided in O'Connell Street in the town centre where €41 was used for retail and office/stores.

In his valuation Mr. Paul Ogbemor for the Respondent applied a rate of €100psm to the entire first floor area described in his valuation as 'restaurant' but which it was acknowledged included both fitted and unfitted areas. The Respondent referred to McDonalds on Gladstone Street where first floor offices (incl storage & staff rooms) were assessed at €54.60psm and first floor restaurant space at €109.19psm. The Appellant described the Gladstone Street comparison as a prime town centre property.

Findings and conclusions:

1. The Tribunal is not persuaded that the (upwards) adjustment for location as contended for by the Respondent as between Poppyfields and the subject is supported by empirical evidence.
2. The Appellant argued that the car spaces should not be valued in assessing the NAV whereas the Respondent argued that on the basis of the Poppyfields assessment (not appealed) a rate per car space of €100.00 should be applied. The Tribunal carefully considered the comparisons of other drive through restaurants provided in both Cashel and Roscrea, the arguments put forward on behalf of both parties, the number of car spaces (40) allocated to the subject property together with market practice in valuing such properties and concluded that in this instance the respondent had not established the validity of valuing the car parking spaces in addition to the space within the building.
3. The Tribunal accepts the Appellant's arguments and opinion evidence as to the rates psm to be applied to the upper floor accommodation distinguishing between restaurant space which had been fitted out for such use and the storage and staff areas which were finished to a more basic standard.
4. Accordingly, the Tribunal concludes that on the balance of evidence the Appellants approach to the valuation is to be preferred; it finds in favour of the Appellant and agrees with the Appellant's assessment of NAV at €43,982.00 giving a RV rounded to €220.00.

And the Tribunal so determines.