

**Appeal No: VA17/5/120**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

**AN tACHTANNA LUACHÁLA, 2001 – 2015  
VALUATION ACTS, 2001 – 2015**

**JOHN DUFFY SUPERMARKET LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 2195096, Retail (Shops) at Floors 0, 1, 43A Ballaghaderreen, County Roscommon

**B E F O R E**

**Dolores Power – MSCSI, MRICS**

**Deputy Chairperson**

**Eoin McDermott – FSCSI, FRICS, ACI Arb**

**Member**

**Kenneth Enright – Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 18<sup>TH</sup> DAY OF SEPTEMBER, 2018**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 4<sup>th</sup> day of October, 2017 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 €197,900.

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:

*“Quantum”*

*“Store to the rear of the supermarket is unfitted as genuine warehouse”*

*“General submissions: equity, uniformity and correctness of value”*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €128,000.

## **2. REVALUATION HISTORY**

2.1 On the 12<sup>th</sup> day of January, 2017 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 €197,900.

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

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €197,900.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30<sup>th</sup> day of October, 2015.

## **3. THE HEARING**

3.1 The Appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 27<sup>th</sup> day of July, 2018. At the hearing the Appellant was represented by the Mr Eamonn Halpin BSc (Surveying), MRICS, MSCSI of Eamonn Halpin & Co Ltd and the Respondent was represented by Ms Ciara Hayes of the Valuation Office.

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 taken the oath, adopted his précis as his evidence-in-chief in addition to giving oral evidence.

## **4. FACTS**

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

4.2 The subject property is a supermarket located in the town of Ballaghaderreen.

4.3 It was completed and opened in August 2007.

4.4 It is the only supermarket in Ballaghaderreen.

4.5 The agreed floor areas are as set out below in Section 7 “Appellant’s Case”.

## **5. ISSUES**

5.1 Quantum

5.2 What fit-out rate is to be applied to the Property and the specific area to which it should be applied.

## **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 Halpin stated that the property was a large – in his view, overly large – supermarket in Ballaghaderreen. It was opened in August 2007 at or near the height of the economic boom. In the light of the seemingly positive economic conditions, the Appellant, said Mr. Halpin, “futureproofed” the premises to keep up with expected future demand. The anticipated demand has not materialised.

7.2 The 2016 census recorded the population of Ballaghaderreen at 1,808, similar to that of Castlerea. Mr Halpin took the view that Ballaghaderreen was likewise similar to Castlerea in terms of economic development but quite a way behind Roscommon town and Athlone, part of which latter town is located in the Roscommon valuation area.

7.3 The subject property is the only supermarket in Ballaghaderreen. Mr Halpin acknowledged that this was advantageous to the Applicant but contended, at the same time, that the very lack of competition – and the fact that none of the major supermarket chains had established a presence in Ballaghaderreen – bespoke a low volume of purchasing power in the town.

7.4 Mr Halpin stated that the property was away from the town centre and did not have a profile on to Market Street or Main Street. He acknowledged in cross-examination that the supermarket was only a couple of minutes’ walk from Main Street but stated that the weakness of the location was highlighted by the fact that other much smaller retail units, located nearer Main Street than the subject property – and which one had to pass by in order to gain access to the subject property from the Main Street – remained vacant, except for a (separately rated) café which the Appellant let to a tenant, on a fully-fitted basis, at a rent of €100 per week.

7.5 Mr. Halpin stated that the essence of his argument related to the size of the subject property.

The agreed measurements are as follows:

Supermarket	2,272.19 sq m
Store	554.24 sq m
Office (first floor)	197.41 sq m
Mezzanine Store	30.5 sq m
Total	3,054.34 sq m

7.6 The floor area of the supermarket, at 2,272 square metres, was, Mr Halpin said, overly large for such a town. The stores, he added, were also far bigger than required especially in the light of modern supermarket practice of just-in-time delivery. The subject property was one of only two supermarkets in the county with a total floor area exceeding 2,500 square metres. The other such property – Tesco in Roscommon town – was, Mr Halpin stated, much better located. The subject property was much larger than other supermarket properties located in regional towns and submitted as comparable properties.

7.7 Mr Halpin accepted that a supermarket with a floor area of 1,500 to 1,800 square metres in a regional town in Roscommon could be worth €65 per square metre (the NAV set by the Commissioner in a number of the comparable properties) but contended that any additional space above these levels would be in excess of business requirements and accordingly would not attract the same rate per square metre from a hypothetical tenant.

7.8 Referring to the comparable properties he put forward from both inside and outside Roscommon town and the Commissioners valuations of these properties, Mr. Halpin stated that while a hypothetical tenant would pay an amount within the expected range for an average size property in the regional towns, and a certain amount above this for a supermarket of above average size, the figure a hypothetical tenant might pay would not exceed the value of the superior supermarkets in Roscommon town. He noted the total NAV of Lidl, Circular Road, Roscommon town at €140,000 (the lowest value of all the Roscommon town comparables) and expressed the view that a hypothetical tenant would not pay more than this for the subject property.

7.9 Mr Halpin proposed an NAV of €43/sq m for the supermarket and store; €21.50/sq m for the first floor offices and €8.60/sq m for the mezzanine store.

## **Comparable Properties**

Mr Halpin, having pointed out that there was no open market rental information available for supermarkets in Roscommon, put forward a number of properties from the Roscommon valuation list for the purpose of NAV comparison:

### **Appellant Comparison 1**

Super Valu, Boyle, Co Roscommon.

This property is smaller than the subject property (at 1,099 sq m for the ground floor supermarket and 541 sq m for the ground floor store) and located in a commercial development with other smaller retail units, all occupied. Boyle is a larger town than Ballaghaderreen with a population of 2,568 per Census 2016. The Applicant contends on this basis that it is a more attractive property.

The NAV has been set at €65/sq m for both the supermarket and the store, and €32.50 for the first floor office.

### **Appellant Comparison 2**

Lidl, Williamstown Road, Castlerea, Co Roscommon

This property has a supermarket area of 1,723.39 square metres. The population of Castlerea is similar to Ballaghaderreen and Mr. Halpin expressed the view that the two towns are of similar wealth and potential for trade but noted the difference in size between this property and the subject property.

The NAV of this property has been set at €65 per sq m.

(The Respondent put this property forward as their Comparison Number 3 and stated that representations were made by an agent representing Lidl but that no change was made to the valuation and no appeal was made to the Tribunal.)

### Appellant Comparison 3

Supervalu, Monksland, Athlone, Co Roscommon.

This property is located in a commercial development which includes other retail units and a hotel. The supermarket floor area is 1,156.64 square metres with a small additional lobby space and a ground floor store of 218 square metres.

Mr Halpin stated that Monksland was a superior location to that of the subject property and emphasized the point that the supermarket floor area of the Monksland property was considerably smaller than that of the subject property.

The NAV of all of the ground floor property, the supermarket, the lobby and the stores were set by the Commissioner at €70/sq m.

(The Respondent put this property forward as their Comparison Number 4 and noted no representations were made in respect of the valuation and there had been no appeal to the Tribunal.)

### Appellant Comparison 4

Lidl, Sligo Road, Carrick-on-Shannon, Co Roscommon

Mr Halpin described this premises as being part of a broader retail and industrial development situated just off the N4.

The supermarket area of 1,293.02 square metres, the store of 278.25 square metres and the office of 51.36 square metres, all situated on the ground floor, were rated by the Commissioner at €65/sq m.

(The Respondent put this property forward as their Comparison Number 5 and noted that no representations were made in respect of the valuation and there had been no appeal to the Tribunal.)

### Appellant Comparison 5 – properties in Roscommon Town

Mr Halpin put forward the following properties in Roscommon town, all of which he stated were in locations superior to the subject property in terms of potential trade and profile.

a) Lidl, Circular Road

This property has a supermarket floor area of 1,612.76 square metres, together with a small office and store, all situate on the ground floor and valued at €70/sq m.

b) Aldi, Roscommon Retail Park

This property has a supermarket floor area of 1,253.64 square metres, together with a small office and a store of 665.05 square metres, all situate on the ground floor and valued at €70/sq m.

c) SuperValu, Main St

This property has a supermarket floor area of 1,629.92 square metres, together with a ground floor store of 525.56 square metres, both valued at €70/sq m. It has an office on the first floor of 428.37 sq metres valued at €35/sq m. as well as a basement store of similar size, also valued at €35/sq m.

(The Respondent put this property forward as their Comparison Number 2 and noted that areas were amended following representations but no other changes were made and there had been no appeal to the Tribunal.)

d) Tesco, Market Street

This property has a supermarket floor area of 2,399 square metres, together with an office of 259 square metres and a store of 596 square metres, all situate on the ground floor and valued at €70/sq m.

(The Respondent put this property forward as their Comparison Number 1 and noted that no representations were made in respect of the valuation and there had been no appeal to the Tribunal.)

Mr. Halpin noted that this was the one property with a similar floor area to the subject property.

### **Fit-out**

Mr Halpin contended that the fit-out percentage applied should be 3%, not 7%, in accordance with the Commissioner's own arbitrary "10 year rule". Mr Halpin said the effect of the rule was that if a property is more than ten years old at the date of the valuation certificate, 3% fit – out is applied; if it is less than ten years old at the relevant date, 7% is applied.

Mr Halpin stated that the property was completed in August 2007 and opened for trading on 31 August 2007. The date of the valuation certificate was 7 September 2017. On this basis, Mr Halpin argued, a 3% fit-out rate should be applied.

Mr Halpin added that the fit-out should be applied only to the supermarket area as the stores had not been fully fitted out.

During Mr Halpin's cross-examination both parties agreed the submission of two valuation office guidance notes called "Fitting Out of Dept Stores and Supermarkets" (2010) and "Valuation Practice Note – Department Stores" (2017). The 2010 note gave a fit-out rate to be applied to supermarkets in "Year 10-15" at 3% and both sets of notes included matters to be taken into account in defining the term "fit-out".

## **8. RESPONDENT'S CASE**

8.1 Ms Hayes, referring to the map and aerial photographs contained in her precis of evidence noted that the property, located in Ballaghaderreen Shopping Centre, was set back to the west of Market Street and was some small distance north of Main Street and accessed from Main Street via a laneway. The property, she stated, had ample free car parking spaces.

8.2 Ms Hayes, in putting forward evidence of correctness of the valuation, acknowledged the dearth of open market information of comparable properties.

8.3 The single “key rental transaction” she referred to was situate outside the Roscommon Rating Authority area, relating to Heatons Ireland, St Brigid’s Road, Edenderry with a net effective rent of €147.68/sq m under a twenty year lease commencing on 1 July 2014.

8.4 Mr. Halpin for the Appellant indicated that while the NAV of a property from outside the Roscommon Rating Authority area could not be taken into account in determining equity and uniformity the Roscommon list, he had no objection in principle to the Offaly property being brought forward as evidence of rental values, especially where open market rental evidence was scarce. Mr Halpin contended, however, that the particular store, Heatons, was not comparable with the subject property.

8.5 As evidence of the equity and uniformity of the valuation, Ms Hayes put forward the following comparisons.

#### Respondent’s Comparison 1

Tesco, Main Street, Roscommon

This comparator was also put forward by the Appellant (Appellant’s Comparison 5 (d)) and the relevant floor area and NAV are set out above.

Ms. Hayes noted that this property, of all the comparators, was the one closest in size to the subject property, with a supermarket floor area of 2,399 square metres (as against 2,272.19 square metres for the subject property) and ground floor stores of 596 square metres (as against 554.24 square metres ground floor storage space for the subject property).

Ms. Hayes acknowledged the superior location of the Tesco store and noted the respective populations of Roscommon and Ballaghaderreen at 5,876 and 1,808.

She stated that the NAV of €60 given to the subject property as opposed to the NAV applied to Tesco took account of the difference in the location and population.

#### Respondent’s Comparison 2

SuperValu, Main Street, Roscommon.

This is the same property as the Appellant's Comparison 5 (c) above.

Respondent's Comparison 3

Lidl, Castlerea, Co Roscommon.

This is the same property as the Appellant's Comparison 2, above.

Respondent's Comparison 4

SuperValu, Gateway Business Park, Monksland, Athlone, Co Roscommon

This is the same property as the Appellant's Comparison 3, above.

Respondent's Comparison 5

Lidl, Boyle Road, Carrick on Shannon, Co Roscommon.

This is the same property as the Appellant's Comparison 4, above (although Mr Halpin in his precis of evidence refers to the address as Sligo Road, Carrick on Shannon).

During cross-examination, Ms Hayes expressed the view that the size of supermarkets varies throughout the country and that the subject property was not exceptional. She stated that the level of €60 applied to the subject property was the lowest that had been applied in the Rating Authority area and that in her view, taking account of all matters, it was fair.

She acknowledged that the town of Ballaghaderreen had suffered in recent years but no more so, in her view, than other country towns. She said small retailers were closing and people tended nowadays to visit "one stop shops", which term would, she said, include the subject property given that it contained an off-license and sold a wide range of goods, including gardening equipment. She acknowledged that the neighbouring retail units (except for the café) remained vacant.

On the plus side, Ms Hayes stated that the subject property had a large catchment area, particularly on the Mayo side and that, as the only supermarket in Ballaghaderreen, it had no competition.

Ms Hayes accepted that the location was not as good as the similarly sized Tesco located in Roscommon town but stated that this had been taken into account in arriving at the €60 level, noting that a rate of €70 had been applied to Tesco. She was asked in cross-examination if the difference between the €60 level and the €70 level, put to her as 15%, was entirely related to location and she agreed it was. She said that allowance was not given for size and referred to other supermarkets in the comparisons, including Monksland SuperValu and Supervalu, Main Street, Roscommon which, though considerably smaller than the subject property, were rated higher than it – at €70/sq m. in the case of the two mentioned premises, the same level as the considerably larger Tesco property. She said that the rate per square metre as applied, taking account of the location, was fair, that supermarkets varied in size and that the adjustment made for location was appropriate.

### **Fit-out**

Ms. Hayes accepted during cross-examination and following reference to the Commissioner's Guidance Notes that a 3% fit-out could be applied given the property was over ten years old at the date the valuation certificate issued.

Ms. Hayes said that there was an element of fit-out in the stores and in her view the rate should be applied to the stores as well as the supermarket.

## **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 Roscommon.

10.2 The Tribunal has carefully considered all the evidence and arguments put forward by the parties and finds as follows:

10.3 The town of Ballaghaderreen in which the property is located has, in common with similar country towns in Roscommon and elsewhere, suffered in the years since the end of the economic boom. In terms of economic activity and the size of the potential market, Ballaghaderreen as a location is inferior to Roscommon town.

10.4 The profile of the subject property within the town of Ballaghaderreen, being offset from the Main Street and Market Street is somewhat inferior to the profile of some of the comparable properties.

10.5 However, the subject property is the only supermarket in Ballaghaderreen and the lack of competition must be taken into account as a positive factor.

10.6 The Tribunal takes the view that the rental evidence relating to the Heaton's property in Edenderry, County Offaly, submitted by Ms. Hayes is of no particular assistance as this property is not comparable to the subject property in terms of type, size, use or location.

10.7 The subject property is significantly larger than other supermarket properties put forward by the parties as comparisons and located in the towns of Castlerea, Boyle and Carrick on Shannon as well as the Super Valu in Monksland and all of the supermarkets in Roscommon town, with the exception of Tesco. In the light of these comparators – and noting that the storage area of the subject property is similar to that of a number of the comparators – the Tribunal accepts that the supermarket floor area of the subject property is larger than is necessary for the current level of business available in the town of Ballaghaderreen.

10.8 Looking at the comparisons provided in the Rating Authority area of Roscommon, the Tribunal notes a wide variation in floor area size for supermarket use, from 1,099 square metres in the SuperValu in Boyle to 2,399 in Tesco in Roscommon town.

10.9 In the light of the variation in the floor area of the comparable properties, and the fact that the supermarket and storage floor areas of Tesco are somewhat higher than that of the subject property, it is the Tribunal's view that having a supermarket the size of the subject

property at 2,272 square metres is not in itself something that the Commissioner should view as a particular disadvantage, provided sufficient account is taken of the supermarket's location. The subject property might be bigger than required for the level of business carried out in it but it is the Tribunal's view that this is a consequence of the subject property's location.

10.10 Ms Hayes stated in her evidence that the Commissioner took account of the subject property's location and, in her view, had made sufficient allowance for it. The Tribunal notes the NAVs of the various comparators in the Roscommon list, none of which have been appealed. The comparable properties located outside the larger urban centres of Roscommon and Athlone, namely the Boyle SuperValu, the Castlerea Lidl, and the Carrick on Shannon Lidl, have all been set at a rate of €65/sq m, €5 (or 8%) higher than the rate set for the subject property. The Monksland SuperValu in Athlone, much smaller than the subject property, is rated at €70/sq m. All of the Roscommon town supermarkets, those that are smaller than the subject property – namely Lidl, Aldi and SuperValu – and the single one that is larger than the subject property – namely Tesco – are valued at €70/sq m.

10.11 Thus, the subject property at €60/sq m is set at a rate lower than all the comparable properties, including the property larger than it.

10.12 Having carefully considered the type, size and location of the particular property, the arguments advanced by both parties and the comparator properties put forward by them, the Tribunal takes the view that the Commissioner has taken due account of the subject property's circumstances both positive and negative and, in the light of the emerging tone of the list, has made sufficient allowance for the local conditions.

10.13 As to the question of fit-out, the Tribunal has considered such evidence as has been submitted by the parties and has had regard to the Valuation Office guidance notes submitted. The Tribunal is satisfied that a 3% fit-out is the correct rate to be applied given the fact that the property was over 10 years old on the date of the certificate and determines that this rate should be applied to the supermarket floor area only and not the stores where, on the evidence presented, the level of fit-out is minimal.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal determines the net annual value of the Property as follows:

Floor Level	Use	Area sq m	NAV €/sq m	NAV €
0	Store	554.24	60	33254.40
0	Supermarket	2272.19	60	136331.40
1	Office	197.41	30	5922.30
Mezz	Store	30.50	9	274.50
Total				175,782.60

**Additional Items**

Fit-out allowance at 3% of the supermarket NAV:

3% of 136,331.40 = €4,089.94

Off License: €10,000

Total NAV (rounded): €189,800

And the Tribunal so determines.