

**Appeal No: VA17/5/147**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**WILLIAM CRIBBIN LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1737666, Guesthouse, Sports & Leisure Centre at 10e Kilcullen Road,  
Newbridge, County Kildare.

**B E F O R E**

**Barry Smyth – FSCSI, FRICS, MCI Arb**

**Deputy Chairperson**

**Pat Riney – FSCSI, FRICS, ACI Arb, FIABCI, PC**

**Member**

**Caroline Murphy - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE (th) DAY OF (month), 201**

**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 €54,000.

1.2 The Grounds of Appeal are fully set out in the Notice of Appeal. Briefly stated they are as follows:

- The Valuation of the subject property is excessive and inequitable. The property’s value is not in line with its potential rental value.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €40,500.

## **2. REVALUATION HISTORY**

2.1 On the 10<sup>th</sup> day of March, 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 54,000.

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, valuation manager did it not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the XX day of XX, 201X stating a valuation of €54,000.

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 14<sup>th</sup> day of November, 2018. At the hearing the Appellant was represented by Mr Eamonn Halpin BSc (Surveying), MRICS, MSCSI of Eamonn Halpin & Co Ltd and the Respondent was represented by Mr Martin O’Halloran MSCSI, MRICS 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:

This property comprises a 24 bedroom (plus one staff room) registered Guest House with an agreed floor area of 1,121.68 square metres, together with a Leisure Centre, including a Swimming Pool, with a total area of 886.18 square metres.

The property is located at Ryston, Kilcullen Road, Newbridge, Co. Kildare, a residential location, approximately 750 metres from the centre of Newbridge.

4.2 The parties are agreed on the Fair Maintainable Trade for both the Guest House and the Leisure Centre, each being €225,000 per annum. The Guest House has been valued at 9% of the Fair Maintainable Trade giving an NAV of €20,250 applicable to this portion of the property and this is not disputed.

## **5. ISSUES**

5.1 The Valuation of the Swimming Pool and Leisure Centre/Gym.

5.2 The Appellant calculates the NAV on this portion of the property at 9% of the FMT, or, in the alternative, applying the rates applied to other Leisure Centres discounted to reflect the variety and age of the buildings at between €25 & €30 per square metre.

5.3 The Respondent applies a rate of 15% to the Fair Maintainable Trade in line with the Swimming Pool and Leisure Facilities attached to various Hotels, and, in the alternative, a rate of €55 per square metre in line with the NAV rate on a number of Sports & Leisure Facilities.

## **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. Eamon Halpin, on behalf of the Appellant, opened by confirming that the net point is the Net Annual Value on the Gym/Leisure Centre/Pool. He outlined the history of the property, which had originally been a Private Residence, and was purchased by the present owner in the early 2000's and was converted to a Guest House with a Gym/Leisure Centre/Pool. Circa 2008/9 the owners got Planning Permission for a new pool. This is effectively a Guest House with a Pool and Gym and is mis-described as a Leisure Centre. He accepted the 9% of FMT applied to the Guest House element and while the FMT applying to the Leisure element was also agreed the applicable rate or percentage was not.

7.2 Mr. Halpin stated that a considerable part of the property is old although the Pool is relatively modern. The Gym dates from the 1980's and is a somewhat piecemeal construction with older sections at the rear including Plant Rooms. He offered the view that Leisure Facilities are Loss Leaders and that many Hotels subsidise their Leisure Facilities. Mr. Halpin also produced a Receipts and Expenditure Valuation of the property which in his opinion indicated an amount available for rent of €44,029. From this he deducted the agreed NAV on the rooms of €20,250 giving a remainder of €23,779 as the NAV for the Leisure Centre which equates to 10.56% of the FMT. He expressed the view, that as the rooms are assessed at 9%, the Appellant's view is that the Receipts and Expenditure calculation supports the contention that the Leisure Centre Assets should also be assessed at 9%.

7.3 Mr. Halpin then provided details of three facilities in the immediate locality including Treacy's Swimming Pool at Great Connell, Newbridge where the NAV was calculated at €35 per square metre; Newbridge Sports & Leisure Centre, Station Road, Newbridge, where the Sports & Leisure Facility was calculated at €35 per square metre and Ryston Sports & Social Club, a Club House, also calculated at €35 per square metre. He expressed the view that these would be a starting point for the Hypothetical Tenant to reach an NAV for the subject property if he were a Leisure Operator. He would then discount this rate owing to the rooms which he must pay €20,250 for, which would be a significant drain on the rent which could be paid for the Leisure Assets. He concluded therefore that if the Leisure Accommodation was to be calculated at a rate per square metre it should be at €25-€30 per square metre because of the variety and size of buildings. He concluded by confirming that in his view the appropriate Valuation was:

**Rooms:** €225,000 - FMT @ 9%, - €20,250, which is agreed,

**Leisure:** €225,000 - FMT @ 9% - €20,250

**Total:** €40,500

7.5 Under cross examination Mr. Halpin responded to questions in relation to the growth in the hotel sector and forecasts for the Dublin and Leinster area by stating that his main reservation was that this subject property is not a hotel, that capital appreciation has not led to an increase in rents and that there is no connection in the guest house area between capital values and rental values and that hotel statistics do not apply to guest houses. He accepted that approximately 35% of hotels have 30 bedrooms or less but stressed that this was a registered guest house and not a hotel and that hotels have licences and serve drink and food in a bar and restaurant albeit that these areas would be separately valued. He accepted that the existing occupier of the subject property may be considered as a Hypothetical Tenant. He stated that he had not checked the Guidance Notes in relation to Receipts and Expenditure Valuations but stated that his R&E basis was related to the Valuation date of October 2015. He accepted that the Guidance Notes indicate that what should be calculated is the potential rent for the year commencing on the Valuation date, i.e. from October 2015 to October 2016. He stated that the increase in turnover for 2017 was a trend that was common across the country and expressed the view that the €1.1 million that had been spent on the building in 2009 was really a modest figure when compared with other premises and that this was replacing an older pool and the expenditure had now been incurred almost ten years ago.

7.6 In relation to his comparisons, he accepted that the photo he had included for comparison 1 was in error and apologised for that. He accepted that the pool was only 12 metres by 12 metres and that while it is only open by appointment or for lessons, a Hypothetical Tenant could open it fulltime. In relation to comparison 2, he accepted that it did not have a swimming pool and comparison 3 was a clubhouse with no pool or leisure centre.

7.7 In response to questions from the Tribunal he confirmed that the pool in the subject property was 20 metres in length and described the difference between registered guest house, B&B's and hotels.

## 8. THE RESPONDENT'S CASE

8.1 Mr. O'Halloran confirmed that the Guesthouse portion of the net annual value was agreed and that the only area in dispute related to the Leisure Centre/Gym/Swimming Pool. He acknowledged that the property was previously a former private dwelling which has been extended throughout the years and comprises a two-storey Guesthouse and a single-storey Leisure Centre, the latter having the benefit of a Gymnasium, a Studio, a 20 metre Swimming Pool, Sauna & Steam Room, Plunge Pool, Reception area, Changing rooms, Showers and Toilets. An extension which comprised the building of a new Swimming Pool replacing an older one in 2009 has cost €1.1 million. He noted that the occupier had stated that the revenues are split 50/50 between the hospitality accommodation and the Leisure Centre. It was agreed that the Fair Maintainable Trade applicable to each section was €225,000 per annum.

8.2 Addressing the Valuation on the Leisure Centre, he noted that other hospitality premises are valued at 15% of the Fair Maintainable Trade and he noted the following:

**The Westgrove Hotel**, Abbeylands Shopping Centre, Clane valued @ 15% of FMT but noted that it was under appeal to the Tribunal.

**Keadeen Hotel**, Ballymany, Newbridge, Co. Kildare valued @ 15% of the FMT.

**Glenroyal Hotel**, Straffan Road, Maynooth, Co. Kildare valued @ 15% of the FMT.

**Osprey Hotel**, Limerick Road, Naas, Co. Kildare valued @ 15% of the FMT.

8.3 Mr. O'Halloran also provided comparisons of a number of Leisure Centres valued on a rate per square meter and including:

**Spin Activity Centre**, Station Road, Newbridge, two-storey over basement valued at totalling 1,962.94 sq. metres, valued at €55.00 per sq. metre.

**K Leisure**, St. John's Lane, Athy with a 25 metre Pool, single-storey 1,892.04 sq. metres valued at €55.00 per sq. metre.

**Energie Fitness Ltd**, Monread Avenue, Naas 2,952.38 sq. meters including a 25 metre Pool, the entire spread over 4 floors and valued at €55.00 per sq. metre.

8.4 Mr. O'Halloran therefore valued the subject property as follows:

**The Guesthouse:** FMT €225,000 @ 9% - €20,250, agreed.

**Leisure Centre:** €225,000 FMT @ 15% - €33,750.

8.5 In further support of these figures, he noted that the amount of €33,750 applicable to the Leisure Centre equated to €38.09 per sq. metre and if the rate applied to other standalone Sports & Leisure Centres of €55.00 per sq. metre was applied to the subject, it would give rise to an NAV on that element of €48,739.09.

8.6 Under cross examination Mr. O'Halloran confirmed that he inspected the property in some detail, approximately mid October 2018, and had carried out a more cursory inspection previously. He accepted that the rear section of the Leisure Centre had been built at an earlier date and in a different form but was well maintained and expressed a view that the layout of the property works well. He could not express a view as to the age of some of the older buildings and stated that it wasn't apparent from the previous Valuation in 1990. He accepted that the Plant Rooms at the rear of the Pool were basic but that they were functional. He also expressed the view that the bedrooms were adequate for a Three Star Guest House. He stated that the property was both a Leisure Centre and a Guest House, neither one nor the other. He accepted that his comparisons of, the West Grove, the Glenroyal, the Keadeen and the Osprey were all Hotels rather than Guest Houses. He stated that in relation to the Glenroyal the Leisure Centre made up approximately 50% of the income. He did not have figures for the amount of money spent on the Glenroyal and Osprey Hotel extensions and said that they had been included to show the fairness and equity of the Subject Valuation as those Leisure Centres were done at 15%. He accepted that there were 822 Hotels in the country with less than 30 bedrooms but did not know how many had Pools or Leisure Facilities, but did not accept that it would not be unusual for a Hotel to have these facilities. He said that hotels were generally valued on the Rooms at 10%, Food at 5%, Drink at 7% and Sundries including Leisure Centres at 15% of FMT. He accepted that his comparisons are better than the Subject property in being hotels and accepted that in those instances the rooms were valued at 10% whereas the Subject was valued at 9%. There were then a number of questions as to where the rate of 15% of FMT had come from but he stated that when compared with the €55 per square metre on Leisure Centres the 15% seems reasonable and if €55 per square metre was applied to the Subject then the resultant NAV would of course be higher. He felt that by tying the Leisure FMT in with Hotels at 15% that he was tying it in with the Hotel Sector which was equitable. He accepted that there was no empirical proof of 15% as being the appropriate figure. He stated that the Receipts and Expenditure method of Valuation had not been applied in line with the Guidance Notes and should have taken into account the years 2016/17 and that the Guidance Note is best practice.

8.7 In response to a question from the Tribunal, in relation to equating Leisure Centres and Hotels with the Subject which is clearly not to the same standard as these hotels he responded that the Turnover was considerably different, the FMT in the subject being assessed at €225,000 whereas that at one of the Hotels was €1.95 million and included two 20 metre pools,

## **9. SUMMATIONS**

9.1 In summing up, Mr. Halpin for the Appellant's stated that this was a unique property combining as it does, a Guesthouse with a Leisure Centre and is quite different from a Hotel. He also noted that it had previously been a residential property which had been extended. He stated that there was no evidence to support 15% of FMT as the appropriate rate to apply to Leisure facilities. He noted he had done a Receipts and Expenditure calculation which supported his opinion of the appropriate NAV. He stated that much of the accommodation was substandard and that the hypothetical Tenant would have concerns about taking a Lease on both sections.

9.2 Mr. O'Halloran in summing up stated the key to the Valuation was in the Leisure Centre as the Guesthouse element was agreed. The rate applied of 15% of the FMT was the same as on other Leisure facilities attached to Hotels. He noted the good location of the property and also the emerging tone of the list for standalone Leisure Centres @ €55.00 per sq. meter. His applicable rate of 15% of the FMT equated to €38.09 per sq. meter, a considerable discount on the level of standalone Centres. The Leisure Centre compliments the Guesthouse and he reiterated that the operator had spent €1,100,000 in 2009.

## **10. FINDINGS AND CONCLUSIONS**

10.1 The Tribunal has reservations about the application of 15% of FMT as applied to Leisure Centres in large Hotels being applicable to the subject. The Appellant however offered no basis for his proposal of 9% of the FMT being applicable.

10.2 However there is considerable evidence put forward by the Appellant at NAV's of €35.00 per square metre on Leisure Centres with no apparent difference for quantum and indeed many or some have no Swimming Pools.

10.3 Even Treacy's Swimming Pool, which appears to be a Commercial part of an otherwise Domestic property, the Pool measuring only 12m x 12m plus changing rooms etc.... and used

for lessons and by appointment, and thus sparingly, is valued at an NAV of €35 per square metre.

10.4 The Respondent questioned the Receipts and Expenditure Valuation and suggested that figures that should be utilised were for the later years in accordance with the Guidance notes for Receipts and Expenditure Valuations and making that adjustment would produce a higher figure for the amount available for rent than the Appellant indicates in his calculations.

The Respondent also produced a number of comparisons of standalone Leisure Centres including Swimming Pools at €55.00 per square metre NAV.

10.5 While the Tribunal acknowledges that this facility is not directly comparable with the Hotel leisure facilities utilised by the Respondent, the other comparison levels lead us to the conclusion that the Respondent has been reasonable in this case and we therefore disallow the Appeal and affirm the Valuation of €54,000.

And the Tribunal so determines.