

**Appeal No: VA17/5/353**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**JOE CONCANNON**

**APPELLANT**

**and**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of**

Property No. 1333421, Retail (Shops) at 2.2b.2c The Bawn, Athlone, County Westmeath.

**B E F O R E**

**Majella Twomey - BL**

**Deputy Chairperson**

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

**Member**

**Frank O’Grady – MA, FSCSI, FRICS, FIABCI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 3<sup>RD</sup> DAY OF JULY, 2019**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 11<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 €18,590.

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

1. The property is overvalued.
2. The property is not located on the main thoroughfare.
3. 3 years of company accounts.

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €9,600.

## **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 €19,830.

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 €18,590.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €18,590.

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 24<sup>th</sup> day of October, 2018 and on the 26<sup>th</sup> day of June, 2019. At the hearing the Appellant was represented by the Mr. Daragh Hayden LLB and the Respondent was represented by Ms. Triona Mc Partlan 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 located in an area known as ‘The Bawn’, which is a small street located off Dublin Gate Street.

4.3 The subject property consists of 3 units (converted houses) that have all been amalgamated into one unit. They are inter-connecting and all have retail frontage. It is currently in use as a fireplace/ stove shop.

4.4 The floor areas are agreed on a Retail Zone basis. Retail Zone A is 48.19 sq.m, Retail Zone B is 22.94 sq.m, Retail Zone C is 5.81 sq.m and the store is 8.64 sq.m.

## **5. ISSUES**

5.1 The sole issue to be determined by the Tribunal is that 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 Concannon gave evidence, as the Appellant. He said that the premises is owner occupied and that he has been trading there since 1980. It used to be three terraced houses and they have

been altered into one building. The subject property is the ground floor of the three terraced houses. He said that no major works have been carried out on the property.

7.2 The evidence was that the rates on this building had almost doubled from the figure which they have been previously set.

7.3 The Appellant produced a valuation from Oates Auctioneer stating that the market rent for this property would be €800 per month or €9,600 per annum.

7.4 Mr. Concannon said the location of his property is inferior to other areas in the town. He said that when one looks out of the window of the shop, one sees a black wall. He said that his property cannot be compared to the Chinese restaurant or the amusement arcade next door as a lot of money has been put into those premises.

7.5 Mr Concannon was taken through the comparators put forward by The Valuation Office. In relation to KRT 1, The Bawn, Athlone (set out in Appendix 1), which was put forward by Ms. McPartlan, and which devalues at €375 per Retail Zone A, Mr Concannon said that this is on the Main Square and could not be compared with the subject property. He said that KRT1, as put forward by Ms McPartland is situate in a much busier thoroughfare than the street where the subject property is located. The subject property is on a back street and not in an area where a lot of people walk by.

7.6 In relation to KRT2 of The Valuation Office's comparators (Appendix 1), situate in Mardyke Street, Mr. Concannon said that this property is beside Ulster Bank and near the entrance to the shopping centre. He said there is much more footfall there than there would be near the subject property, which is not on the main street.

7.7 Mr. Concannon was asked for his views on KRTs 3 &4 (Appendix 1) of The Valuation Office's comparators and he said that these properties are across the road from Dunne Stores and adjacent to The Golden Island Shopping Centre, therefore, putting them in a far superior location to the subject property, which is not visible from the town centre.

7.8 Mr. Concannon put forward a number of his own comparators. He referred to his first comparator being Hynes Auctioneers, which has an overall NAV of €225. He accepted that

this was not rated on a zone basis. However, he said that the location of that property was superior and that it benefited from passing trade.

7.9 A further comparison of a barber shop situate on Lloyd's Lane was put forward and this is rated at an overall NAV of €230 per sq.m. Mr. Concannon said that this was a better location than the subject property as there is a car park at the end of that street. The subject property does not benefit from parking.

7.10 A third NAV comparator called Sheffield's Jewellers was put forward and Mr. Concannon said that this property was, again, far superior to the subject as it was situate on the Main Street. He said that this had a NAV of €290 per sq.m for Retail Zone A.

7.11 Mr. Concannon also put forward a fourth comparator, that being Clooney's Pharmacy. He said that this is a new building in the Athlone Town Surgery, with an overall NAV of €231.

7.12 In cross examination, by Ms. McPartlan, Mr. Concannon said that he understood that his property was zoned and that he was aware that the old system of rating was extinguished when every property was re-valued. However, he said that not every property jumped so high in terms of valuation as his did.

7.13 Ms. McPartlan also put it to Mr. Concannon that her KRT 1 had a Retail Zone A of €375 and, therefore, The Valuation Office had taken the difference in terms of location of the property into account.

7.14 Ms McPartlan put it to Mr. Concannon that Sheffield Jewellers was further away from the shopping centre, hence the lower valuation. The Appellant said that his property also gains nothing from the shopping centre. He said that people do not, generally, walk through The Bawn.

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

8.1 Ms McPartlan said that the floor areas are agreed.

8.2 Ms McParlan said that the Zoning for Athlone Town Centre began at €550 for Retail Zone A.

8.3 The evidence was that the property was rated at a Retail Zone A level of €300. She said that she had no KRTs for The Bawn.

8.4 Ms McPartlan put forward four NAV comparators, all of which have a Retail Zone A of €375 and all of which are situate at Dublin Gate Street, Athlone.

8.5 Four KRTs were also put forward by Ms. McPartlan, all of which devalued at a Retail Zone A value of €375 per sq.m. These are set out in Appendix 1.

8.6 In terms of KRT1 (Appendix 1), Ms McPartlan said that it is just around the corner from the subject and has a Retail Zone A of €375.

8.7 Ms McPartlan referred to two properties next door to the subject which also have a NAV Retail Zone A of €300, those being a Chinese restaurant and an Amusement arcade.

8.8 In cross examination, Mr. Hayden put it to Ms McPartlan that the Bawn was not equivalent to Main Street as it looks out onto the back of a building and she agreed.

8.9 It was also put to her that before the town centre was developed that cars could go down that street and she agreed.

8.10 It was put to Ms. McPartlan that her KRT1 looks out onto the plaza, which has been recently developed and she agreed.

8.11 In terms of Ms McPartlan's KRT2, Mr Hayden put it to Ms McPartlan that it is right across from the shopping centre and that footfall is better and she said that it 'definitely' is. Ms McPartlan also agreed that the location of KRT3 was better than that of the subject.

8.12 Mr Hayden asked Ms. McPartlan if the two properties next door to the subject property were fully licenced as they are a restaurant and a gambling arcade and she said that she presumes that they are. It was suggested by Mr. Hayden that these premises would have to seek Court applications for such licences and that these applications were expensive. Ms McPartlan said that she just looks at each unit as a retail unit. She said that The Valuation Office does not

get into the intricacies of the property and that a clothes shop could go into a restaurant in the morning.

8.13 It was put to Ms Partlan that the valuation set down for The Bawn is arbitrary and that the properties have been valued without reference to any rent in that street. Ms McPartlan said that the subject is owner occupied and if she does not have a rent she will go to another property.

## **9. SUBMISSIONS**

9.1 No legal submissions were made.

## **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 Westmeath.

10.2 Having weighed and evaluated all of the evidence before us, including the oral and written evidence of both parties, along with an assessment of the KRTs and the NAV comparators, the Tribunal finds that the location of the subject property is inferior to any of the KRT comparators. The subject property is situate on a back street with no vehicular access and it looks out onto the back of another property. It is not visible from the main street and it is clear that it does not benefit from the footfall coming from Athlone Town Centre or from Dunnes Stores.

10.3 In terms of KRT1, as provided by The Valuation Office, the Tribunal finds that, that property while close by, is in a far superior location as it sits on the corner and is right beside the recently upgraded plaza. It is visible to potential customers, unlike the subject property, which is situate in an area which is not a street for browsing and where there is very little footfall.

10.4 The Tribunal finds that the subject property does not benefit from The Athlone Town centre due to its unfortunate, isolated location, nor does it benefit from passing trade from the walkway.

10.5 The Tribunal finds that while the two next door properties are valued at €300 per sq.m for Retail Zone A, that they are, in fact, very different properties. One is a restaurant, with a licence and a kitchen and the other is an amusement arcade. The uncontradicted evidence which Mr. Concannon gave was that these properties are much better than his in terms of specification as they have been upgraded and improved. The Tribunal finds the fact that neither of these properties have been appealed is not relevant to its assessment.

10.6 The Tribunal also finds that it is relevant that there are no KRTs, before it, for The Bawn. Therefore, the only indicator of rental value which the Tribunal has before it, is the valuation which the Appellant produced from Oates auctioneers, which estimated the rental value at €800 per month.

10.7 The Tribunal notes the scheme adopted by The Valuation Office in valuing commercial properties in Athlone. The evidence was that some properties are rated on a zone basis and that others are rated on an overall basis, if they are not conducive to zoning. Ms McPartlan said that zoning is not relevant depending on the property.

10.8 The Tribunal notes, in particular, that the zoning method was not used to calculate the rates in Hynes Auctioneers, which was rated on an overall sq.m basis.

10.9 The Tribunal finds that the two best comparators for the subject property are the Barber Shop on Lloyds Lane and Sheffield Jewellers on Church Street. It is noted, however, that Sheffield Jewellers is on the Church Street on a corner. The Barber shop is rated at a Retail Zone A of €230 and Sheffield Jewellers is rated at a retail Zone A of €290.

10.10 In the circumstances, the Tribunal finds that the correct Retail Zone A valuation for the subject property should be €200 sq.m, taking into account its inferior location, lack of footfall, isolation from Athlone Town Centre, lack of KRT for The Bawn and the Retail Zone A NAVs for the comparators set out above.

**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 €12,400.

<b>Use</b>	<b>Area</b>	<b>€ per sq.m</b>	<b>NAV</b>
Retail Zone A	48.19	€200	€9638.00
Retail Zone B	22.94	€100	€2294.00
Retail Zone C	5.81	€50	€290.50
Store	8.64	€25	€216.00
Total NAV			€12,438.50
Say			€12,400.00

And the Tribunal so determines.