

Appeal No: VA17/5/988

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

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

ALDI STORES IRELAND

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

In relation to the valuation of
Property No. 2211389, Retail (Shops) at 3A/B Grey Abbey Road, Kildare, County Kildare.

B E F O R E

Eoin McDermott – FSCSI, FRICS, ACI Arb

Deputy Chairperson

Dairine Mac Fadden – Solicitor

Member

Frank O’Grady MA, FSCSI, FRICS, FIABCI.

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF NOVEMBER, 2019

1. THE APPEAL

1.1 By Notice of Appeal received on the 12th 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 €147,300.

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:

“We are of the opinion that the valuation as set on the Final Valuation Certificate in relation to the subject property is excessive and not in accordance with a the definition of Net Annual Value as per section 48 of the Valuation Act, 2001 as amended by the Valuation (Amendment)

Act, 2015 and by reference to the values of comparable properties published on the Valuation list in accordance with Section 19(5) of same Acts.”

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €131,300.

2. REVALUATION HISTORY

2.1 On the 10th 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 €147,300.

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 not consider it appropriate to provide for a lower valuation.

2.3 A Final Valuation Certificate issued on the 7th day of September, 2017 stating a valuation of €147,300.

2.4 The date by reference to which the value of the property, the subject of this appeal, was determined is the 30th 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 4th day of November, 2019. At the hearing the Appellant was represented by the Mr. John Algar B.Sc. (Surv), MRICS, MSCSI of GVA Donal O Buachalla and the Respondent was represented by Ms. Fidelma Malone B.Sc. (Hons), MSCSI, RICS 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 their précis as their 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 situated on Grey Abbey Road on the outskirts of Kildare town, a short distance from the Kildare Village Outlet Centre (KVOC).

4.3 The property comprises a stand alone detached supermarket building with large tarmacadamed carpark. The building houses a supermarket and ancillary accommodation and is fitted out to a high standard.

4.4 The gross internal floor areas have be agreed between the parties;

Ground floor	Supermarket	1,139.65 sq.m.
	Office	71.40 sq.m.
	Plant Room	28.00 sq.m.
	Store Room	314.20 sq.m.
	Cold Room	<u>50.94 sq.m.</u>
	Total Floor Area	1,604.19 sq.m.

4.5 The property is held freehold.

4.6 The parties are agreed that the value of the off-licence is €10,000 and that the fit-out allowance is to be assessed at 7%.

5. ISSUES

The sole issue to be determined by the Tribunal is 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. John Algar for the Appellant adopted his precis as his evidence in chief and described the property, the location and the growth of supermarkets in Kildare.

7.2 He stated that there was a lack of market rental evidence for supermarkets due to the number of owner-occupiers and multi-nationals.

7.3 He stated that the Commissioners opinion of NAV @ €147,300 equated to €80 /sq.m. for the property was excessive. There are 4 supermarket properties including the subject located in Kildare town. The Lidl supermarket is also subject to a Valuation Tribunal appeal and has been excluded from his comparisons.

7.4 To support his case 4 supermarket NAVs were submitted (App.1) showing a range from €65 /sq.m. to €90 /sq.m.

7.5 He stated that the Tesco unit @ €65 /sq.m. was the most relevant as it was close to both the subject and KVOC. The Naas and Newbridge comparisons @ €90 /sq.m. were located in larger towns and in his opinion a difference of €10 /sq.m. was not a sufficient differential to allow for the size difference in the towns .i.e. Naas and Newbridge c.20,000 pop. to Kildare town at c.9,000 pop.

7.6 Mr. Algar stated that a fair valuation of the subject would be in the order of €131,100 NAV, indicating a rate of €70 /sq.m. overall for the supermarket.

7.5 Under cross examination he confirmed that the Tesco premises in Kildare was 4,600 sq.m. almost 3 times the size of the subject. He also confirmed that there was a pedestrian access from the subject to KVOC.

7.6 He confirmed that the Aldi supermarket in Athy had been valued at €80 /sq.m. and that this had been accepted by the occupier and not appealed to the Tribunal.

8. RESPONDENT'S CASE

8.1 Ms Fidelma Malone for the Respondent adopted her precis as her evidence in chief and confirmed agreement with the location, description and floor areas. She also confirmed that the Fit-Out allowance @ 7 % and Off-Licence (€10,000) had been agreed between the parties.

8.2 She confirmed that there was a pedestrian walkway across the road from the subject to KVOC and that there was a shortage of market rental evidence for supermarkets.

8.3 To support her case 4 Key Rental Transactions were introduced (App.2) which gave a range of NERs from €60,000 pa. to €150,000 pa.

8.4 Ms. Malone stated that there were 39 supermarket premises in the county in the size category from 500 sq.m. – 2,500 sq.m. and that the NAVs ranged from €65 /sq.m.- €90 /sq.m.. NAVs from 8 properties were introduced (App.3), 2 of which were under appeal to the Tribunal.

The properties in Kilcullen and Athy were valued at €80 /sq.m. and Newbridge @ €90 /sq.m.. Only the Tesco property in Kildare was valued at a lower rate /sq. m. than the subject.

8.5 Ms. Malone stated that no evidence for a reduction in the NAV had been put forward and asked the Tribunal to affirm the valuation of €147,300 NAV as fair and reasonable.

8.6 Under cross examination Ms. Malone agreed that the Key Rental Transactions were mainly showrooms /retail warehouses and not supermarkets and bore little relevance to the rate for NAV, but confirmed that there were very few market rentals available.

8.7 She confirmed that the Tesco unit had been discounted due to its size and that the Athy supermarket with no ancillary units and not in close proximity to KVOC was valued @ €80 /sq.m.

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 Kildare County Council.

10.2 The Tribunal has examined the particulars of the subject property and considered the written and oral evidence adduced by Mr. Algar on behalf of the Appellant who contended for a revised valuation of €130,100 and Ms. Malone for the Respondent who sought confirmation of €147,300 as NAV.

10.3 Both parties commented on the lack of market rental evidence and both supplied quality NAV comparisons which the Tribunal found to be most helpful, although the Tribunal were concerned that the rent/sq.m. of the only supermarket put forward as a Key Rental Transaction appeared to bear no relationship to any of the Supermarket NAVs put forward.

10.4 The scheme of valuation used by the Commissioner, grading the population and the size of the units was mentioned by Ms. Malone but no details were included in her precis of evidence, which could have been of assistance to the Tribunal.

10.5 The Tribunal accepted the Respondents explanation that the difference in the rental value/sq. m. between the Tesco unit in Kildare and the subject property was due to the significantly larger size of the Tesco unit

10.6 The Tribunal noted that the populations of Athy and Kildare are similar at c.9,000 people each and the Aldi property in Athy was valued @ €80 /sq.m. and not appealed. The Tribunal attached significant weight to this.

10.7 The proximity of the Kildare Village Outlet Centre was not a significant factor in arriving at the NAV.

DETERMINATION:

The Tribunal disallows the appeal and confirms the decision of the Respondent with the NAV at €147,300.

And the Tribunal so determines.