

**Appeal No: VA17/5/691**

**AN BINSE LUACHÁLA  
VALUATION TRIBUNAL**

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

**SSDN LTD**

**APPELLANT**

**AND**

**COMMISSIONER OF VALUATION**

**RESPONDENT**

**In relation to the valuation of  
Property No. 1207679, Retail (Shops) at 1.2.3.4/B The Course, Tullow, County Carlow.**

**B E F O R E**

**Hugh Markey – FSCSI, FRICS**

**Deputy Chairperson**

**Claire Hogan - BL**

**Member**

**Raymond J. Finlay – FIPAV, MMII, ACI Arb, TRV, PC**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 21ST DAY OF FEBRUARY, 2020**

**1. THE APPEAL**

1.1 By Notice of Appeal received on the 12<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 €17,210.

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 :

- 1. The Valuation of the subject property is excessive and inequitable. The property’s value as set by the Commissioner is not in line with its actual rental value.*

2. *The subject property was let at €15,000 per annum IRI from the 6<sup>th</sup> December 2016 on a 10 year lease (5 year review 5 year break). The property was let inclusive of goodwill, as the property had been a local convenience store for 25 years prior to letting. Includes parking for ca. 30 customer cars to the side.*
3. *The town of Tullow has some of the lowest rental values in the region with properties available at under €100/week. Over supply, high vacancy and low prevailing rental values must be taken into account.*

1.3 The Appellant considers that the valuation of the Property ought to have been determined in the sum of €10,180.

## **2. REVALUATION HISTORY**

2.1 On the 11<sup>th</sup> day of May, 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 €21,000.

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, the valuation of the Property was reduced to €17,210.

2.3 A Final Valuation Certificate issued on the 7<sup>th</sup> day of September, 2017 stating a valuation of €17,210.

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 4<sup>th</sup> day of December, 2019. At the hearing the Appellant was represented by Mr. David Halpin M.Sc. (Real Estate), Ba. (Mod) of Eamonn Halpin & Co. and the Respondent was represented by Mr. Terry Devlin B.Sc., 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.

4.2 The subject property is a retail unit in use as a newsagent/convenience store. The agreed accommodation is Retail Zone A 68.94 sq. m, Retail Zone B 58.65 sq. m, and there is a ground floor store of 29.95 sq. m. There are approximately 30 customer car parking spaces located to the rear of the property.

4.3 The subject property is located at the junction of Station Road with The Course, approximately 250 metres from Market Square, Tullow, which the parties agreed was the retail centre of Tullow.

4.4 The subject property was let in December 2016 for €15,000 per annum inclusive of fixtures and fittings.

#### **5. ISSUES**

5.1 The main issue between the parties is whether the Zone A rate applied to the subject property ought to have been discounted to reflect what the Appellant contended was its rental value as evidenced by the lease combined with its isolated location, or whether it ought to be maintained in line with the Respondent's position that it fits into the schema of Zone A values in the town of Tullow.

#### **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 The Appellant began by describing the importance of the lease in this case and in his précis, he describes the rent of €15,000 as marking “*the absolute maximum value of the property*”, but he stated that the hypothetical tenant must let the property vacant and so would not pay this level of rent.

7.2 The Appellant’s Comparisons are contained in **Appendix 1**. These were all considered by the Tribunal. The Appellant contended that the subject property is located “*in a tertiary retail location on the edge of town*”, and describes it as being on the “*outskirts of Tullow*”. Of particular relevance in his comparisons were Comparisons Nos 1 and 2 which he described as being similarly “*on the fringe*” of Tullow. In respect of Comparison No 1, the Commissioner has applied a Zone A level of €105/ sq. m and in respect of Comparison No 2, the Commissioner has applied a Zone A level of €110/ sq. m. The Appellant’s Comparisons No 3 and 4 were in the centre of town, on Bridge Street and The Square respectively, and each have a Zone A level of €200/ sq. m. The Appellant argued that the prime location of these properties demonstrated that the Commissioner had over-valued the subject property. Finally, the Appellant discussed Comparisons 5 and 6, which were the subject of previous Tribunal determinations. Those determinations did not disturb the Zone A level of €200/ sq. m and €170/ sq. m respectively. The Appellant argued that the properties were in a far superior location to the subject property.

7.3 Under cross-examination by Mr Devlin, the Appellant was asked about retail surrounding the subject property, namely an Aldi, a filling station with a convenience store and some other shops. The Appellant stated that the subject property was situated at a remove from the N81 and that only locals and schoolchildren frequented it. He maintained that it was isolated. He was asked whether goodwill was included in the lease, and stated that it was not mentioned, and that it was just his own view that it was included. Mr Devlin asked Mr Halpin why, if rental evidence was the best evidence, he was contending for a NAV of €10,630. Mr Halpin replied that the valuation he contended for was a combination of the rental evidence plus the fact that the property was isolated. He stated that there ought to be a 20% deduction from the rental value of €15,000 for the goodwill which attached to the subject property when let by the landlords. Mr Devlin pressed Mr Halpin on whether rental evidence was the best evidence, and Mr Halpin replied that it was a starting point, and that it provided a backstop figure for the maximum value of the subject property. He stated that that figure should be further reduced in order to reflect the location of the subject property.

7.4 Mr Devlin put it to Mr Halpin that Mr Halpin's Comparisons 1 and 2 were some 500 metres away from the AIB Bank in the centre of the town, whereas the subject property was only 240 metres from the AIB. Mr Halpin argued that Comparisons 1 and 2 were very similar to the subject property as they were not surrounded by other shops, and he maintained that there was low footfall. Mr Devlin asked Mr Halpin why he had chosen two properties (Comparisons 1 and 2) at the very lowest end of the valuations for Tullow, and not pointed to the wealth of other properties with a retail zone A rate of €170/sq. m. Mr Halpin responded that he accepted the Commissioner's Zone A levels as applied to town centre retail, but that he chose Comparisons 1 and 2 as they are comparable to the subject property, being on the outskirts of town in an isolated retail location.

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

8.1 Mr Devlin took the Tribunal through his Key Rental Transactions 1-4 and through his 6 NAV Comparisons. These are set out at **Appendix 2** to this Determination and have been considered by the Tribunal. The Tribunal found the Key Rental Transactions from Bagenalstown less helpful than those from Tullow itself. Mr Devlin argued that his collection of Net Effective Rents (NERs) supported the NAV of the subject property being €170/ sq. m.

8.2 In relation to the comparison properties, Mr Devlin laid some emphasis on his Comparison No 1, which was a retail unit on Abbey Street, Tullow, which he argued was at an equidistance from the centre of town. It is valued at €170/ sq. m. It does not benefit from parking in the way the subject property does. Mr Halpin pointed to Comparisons 2 and 5 which are close to the Subject Property. He highlighted that these properties are valued at €170/ sq. m. Mr Devlin contended that there are 57 retail properties valued at the level of €170/ sq. m. (Retail Zone A) in the Carlow rural area.

8.3 In response to a question from the Tribunal about the Appellant's Comparisons 1 and 2, the Appellant argued that these were far down Mill Street, at the residential end, and therefore properly peripheral, whereas the subject property could not be so described.

8.4 Under cross-examination from Mr Halpin, Mr Devlin was asked why the level of €15,000, which he said emerged from the lease evidence, was not used as a starting point. Mr Devlin replied that the passing rent on its own was insufficient, did not represent all rents, and that the subject property fits within the Zone A level of €170/ sq. m.; 28 properties were valued at this level in Tullow of which 3 were appealed. Of these, 2 were affirmed. Mr Devlin was asked about his Comparison No 1 on Abbey Street and it was put to him that it was on the main road, i.e. the N81 and that there were some shops surrounding it. Mr Devlin replied that there were some shops surrounding the subject property also, and that his Comparison No 1 did not benefit from parking. Mr Halpin put it to Mr Devlin that Comparisons No 2 and 5 could be seen from the Main Road, unlike the subject property. Mr Devlin agreed with this proposition, but stated that one could not pull up outside these properties, as evidenced by double yellow lines on the road. Mr Halpin highlighted that Comparison 5 was vacant at the time of the making of the list, and he argued that this fact was revealing about this part of Tullow town.

## **9. SUBMISSIONS**

9.1 There were no legal submissions. However, the Appellant included previous Tribunal determinations relating to Tullow properties (VA17/5/154 & VA17/5/692) in his Précis.

## **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 Carlow County Council.

10.2 In relation to the lease evidence of €15,000 per annum, this certainly provides some evidence of what the hypothetical tenant would pay. While helpful, it is not determinative, and the Tribunal has had regard to the tone adopted by the Respondent for similarly circumstanced properties.

10.3 The Tribunal was not satisfied that the subject property was as isolated as the Appellant claims. The Tribunal was persuaded that the subject property is not far from the centre of town, and that it is closer than, and not really comparable to, the Appellant's Comparisons 1 and 2, on which considerable weight was placed. The Tribunal is satisfied that the Zone A rate applied by the Respondent is appropriate relative to that applied to retail in the heart of Tullow. and was persuaded of its proximity to the centre of Tullow. The valuation of €170/ sq. m. is in line with the Respondent's Comparisons Nos 1, 2 and 5, which constituted particularly persuasive evidence of equity and uniformity in light of their locations.

**DETERMINATION:**

Accordingly, for the above reasons, the Tribunal disallows the appeal and confirms the decision of the Respondent.

And the Tribunal so determines.