

**FOI DOF/2025-0020**

**Request**

A hard copy of the appointed Appeal Valuer's report(s), emails and notes of meetings and telephone calls between the appointed appeal valuer, Commissioner of Valuation and colleagues in the Appeals Team, together with other related papers on the Menarys, Bangor appeal

**DoF response**

I can confirm the department holds the information requested.

Please see Annex H-Q for copies of the information requested.

Some of the Information requested above will be provided as a Subject Access Request under ref SAR 2025/0027.

Some of the information is withheld (redacted) under the following sections of the Freedom of Information Act

Section 40(2) – Personal Information

Section 41 - Information provided in confidence

The exemptions used have been highlighted in the individual Annexes.

Staff names/details are withheld as this information is exempt under Section 40(2) of the Freedom of Information Act because such disclosure would contravene the first principle of the Data Protection Act 2018, which requires that personal data must be processed lawfully, fairly and in a transparent manner. Disclosure would be unfair, because the sole trader would not expect that this information would be made available to others.

Section 40(2) exempts personal information from disclosure if that information relates to someone other than the applicant and if disclosure of that information would contravene one of the data protection principles in the General Data Protection Regulations (GDPR) (or certain other provisions of the Data Protection Act 2018).

Having considered all the information contained within the Lawfulness, Fairness and Transparency Test (which we are providing as a separate attachment – Annex G), the department has established that, on balance, there is no lawful basis for the disclosure of third-party personal data falling within the scope of the request of which the requester is not the data subject.

**From:**  
**To:**  
**Subject:** menarys  
**Date:** 04 November 2024 15:11:16

This is a summary of Menarys, hope its not too long!!!

Thanks

[REDACTED]

The hereditament currently extends over the ground, first and second floors. The ground floor is occupied by Menarys as a retail shop, whilst the second floor provide associated ancillary accommodation. The first floor previously formed part of the Menarys shop, but it has been vacant since Menarys vacated this part of the building in 2021. The Appellant wants the property to be split and the first floor assessed seperately.

During my inspection I noted the following:

- The ground floor retail shop is accessed directly from Main Street.
- An escalator linking the GF and FF is located close to the main entrance. The power supply to the escalator has been switched off and access from the ground floor has been blocked off by a table and retail display. No efforts have been made to block off access at FF.
- The first floor can be accessed directly from Main Street via an internal stairwell.
- An internal service lift links the ground and second floor, this by-passes the first floor.
- Stairs providing customer access between the ground and first floors have been boarded up at GF level.
- A second stairwell is located to the rear of the building; this serves as a fire escape.
- The FF is separately metered from the remainder of the building.
- The FF benefits from separate fire and intruder alarm systems.

usly stated that under an oral agree  
CEO of Mena /s and the landlord  
at a rent of [REDACTED]  
ate leases for the ground and second floor,  
these are dated Aug 24, which is much later than the date of the application, the  
material date and the date of the DV inspection.

Lease terms:

Ground Floor:

Landlord:

Tenant: Menarys Retail Limited

Lease term:  
[REDACTED]

Stepped rent agreement:

Landlord responsible for repairs and maintenance etc, the cost of which is to be repaid by the tenant.

Clause (14)- the Landlord covenants to 'remove in a good and workman like manner the escalator from the demised premises and seal off the lift and stairs at the rear of the demised premises no later than 31st October 2028...if the works shall not have been completed by 31st October 2028 the Tenant may on or before 31st October 2029, undertake the works and the reasonable costs therefore incurred by the Tenant in doing so shall be payable by the Landlord to the Tenant.

Second Floor:

Landlord:

Tenant: Menarys Retail Limited

Landlord responsible for repairs and maintenance etc, the cost of which is to be repaid by the tenant.

The DV considered that because the FF was inaccessible without access through the GF it could not be a separate hereditament. The FF can however be accessed via a customer staircase from Main Street and also via a lift and stairwell to the rear of the building. The previous first floor Occupant- Bob n Bert's exclusively used the direct access from Main Street, with customers never coming through the internal stairs or escalator. In my opinion, the first floor is capable of being a separate hereditament in that both parts could be separately identified on a plan, and they could be separately occupied. However, the fact that individual parts could potentially form a separate hereditament does not automatically mean that those parts are separately rateable, whether it does, will depend upon the context.

In terms of establishing the context, I had regard to the following:

- Whilst the escalator between GF and FF has been turned off, no works to remove or seal it off have been commenced.
- Escalator between GF and FF completely open and accessible at FF level.
- MRL have blocked the escalator between GF and FF at GF by placing a table and seasonal displays around it. Whilst this is likely to prevent customer access, it would take only minutes to dismantle.
- [REDACTED] have installed a new separate alarm system for the FF.
- MRL advised that the new alarm system will activate if any motion is detected on the escalator between GF and FF. (I note that MRL have placed some items on the escalator suggesting that access is at least provided when requested.)
- An internal service lift links the ground and second floor, this by-passes the first floor.
- A staircase to the rear of the premises serves as a fire escape.
- I understand [REDACTED] regularly undertake spot checks of FF to maintain the area.
- [REDACTED] made a commitment in the lease to undertake works to block off the escalator between GF and FF, suggesting [REDACTED] retain control of the lift.

Since MRL vacated the premises, only limited steps have been taken to secure and designate the first floor as a separate hereditament, most notably, works to seal off the escalator between the ground and first floors have not been commenced. Resultingly, both Occupiers have 'unrestricted' access into the other's 'part,' meaning neither 'part' is 'self-contained.' Thus, whilst both parts could potentially comprise separate hereditaments, the context points to the contrary- the first floor is not a '*a self-contained piece of property*'.<sup>11</sup> I therefore recommend that the property should continue to be

assessed as a single hereditament.

Having concluded that the property was one hereditament I considered who the rateable occupier would be, both <sup>Secti</sup><sub>on 41</sub> and MRL could demonstrate 3 Liang requirements the key consideration is <sup>Secti</sup><sub>on 41</sub> who has paramount control. The purpose of MRL's occupation is the operation of a retail shop; <sup>Secti</sup><sub>on 41</sub> have not undertaken any works to remove or seal off the escalator between the ground and first floors, meaning they have unrestricted access to the GF shop. Whilst a landlord retaining some form of access is not in itself incompatible with a Tenant enjoying paramount control, it is necessary to investigate the impact of any retained rights. In my opinion, being able to securely store and display stock along with controlling access to the shop is an important part of operating a retail store, so not removing the escalator or at least sealing it off will impact the operation of MRL's business. Resultingly, in my opinion, MRL are not in control of their part of the property, they have not been granted exclusive possession. 'Where a person already in possession has given to another possession of part of his premises, if that possession is not exclusive, he will not cease to be liable to the rate, nor does the other become so.' As the party in paramount Control, <sup>Secti</sup><sub>on 41</sub> is therefore the rateable occupier of the entire hereditament.

The Appellant also challenged the NAV, arguing that the NAV for the gf and f2 should be the same as the actual rent. After considering the current NAV as a single hereditament, I noted:

Current rent agreed in <sup>Sectio</sup><sub>n 41</sub> when Appellant was subject to <sup>Sectio</sup><sub>n 41</sub>, rent therefore not subject to market forces and some distance from AVD.  
Limited rental evidence for comparable hereditaments  
Having regard to other properties in the list, current assessment is in line with established tone for 8<sup>th</sup> and 9<sup>th</sup> list  
Current assessment also in line with LT decision.

Propose:

No change to unit of assessment  
No change to NAV  
Change Rateable Occupier from MRL to <sup>Secti</sup><sub>on 41</sub> .

[1] *Woolway v Mazars* [2015] UKSC 53

**From:** Section 40(2)  
**To:** Section 40(2)  
**Subject:** 8034799-1 Menarys  
**Date:** 13 November 2024 17:24:05

Hi Section 40(2) ,

I have cut down Menarys quite a bit and made amendments, it is 17 pages but 5 are photos!!

Could you please approve, Section 40(2) wants to appeal it to the Lands Tribunal.

Thanks

Section 40(2)

**From:** Section 40(2)  
**To:** Section 40(2)  
**Subject:** RE: Menarys: Main Street, Bangor (8034799-1)  
**Date:** 16 December 2024 15:13:34

Hi Section 40(2) ,

Section 40(2) , I have looked through the old cases etc, at the LT case 5<sup>th</sup> and 6<sup>th</sup> list the FF was 50% of the gf rate, then from the 7<sup>th</sup> list onwards the FF has been 25% of the GF rate, there is no note or case to say why this started, but there are notes saying that the process has been repeated for the 8<sup>th</sup> and 9<sup>th</sup> list, is it okay to keep it like that? There is a note for the 9<sup>th</sup> list saying the 2<sup>nd</sup> and 3<sup>rd</sup> floors have an error in the 8<sup>th</sup> list, they should have been at 50% of the floor below, resultingly the 8<sup>th</sup> list is £1,000 higher than the 9<sup>th</sup>? Is it okay to keep these?

I have made the other changes.

Hope you had a nice weekend ☺

Section 40(2)

**From:** Section 40(2) @finance-ni.gov.uk>  
**Sent:**  
**To:** Section 40(2) @finance-ni.gov.uk>  
**Subject:** RE: Menarys: Main Street, Bangor (8034799-1)

Hi Section 40(2)

Would you mind doing a bit of research to see if you can find out where the £17.50 on the FF has come from? It's a lower percentage than the ones we've applied to the FF of Asda and TK Maxx.

Also, if you could try and tidy up the photo labels. Section 40(2) , so if you could respond to Section 40(2) email and just copy me in.

Section 40(2)

Section 40(2)

**From:** Section 40(2) @finance-ni.gov.uk>  
**Sent:** 13 December 2024 10:09  
**To:** Section 40(2) @finance-ni.gov.uk>  
**Cc:** Section 40(2) @finance-ni.gov.uk>  
**Subject:** RE: Menarys: Main Street, Bangor (8034799-1)

Good morning Section 40(2) ,

In principle I am content to approve this, I just have two questions.

Was the FF (Bob & Berts) ever valued separately?

Why is the FF taken at £17.50 – same question for F2 and F3?

I have made the following observations:

“PID 161556 represents a good comparable, the location and style are similar to the subject. In my opinion, this example supports the current basement of £70/m2.” I presume this word needs changed?

The current valuation table doesn't have the total tallied. I also suggest that we encourage all valuers to get into the habit of adding titles to tables.

Please check the labelling of the pictures on page 3. One says rear staircase boarded up but it's a picture of the top of the escalator.

However, it's a very good report by [Section 40\(2\)](#).

Thanks

[Section 40\(2\)](#)

District Valuer  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [Section 40\(2\)](#)

Mob: [Section 40\(2\)](#)

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

**From:** [Section 40\(2\)](#) [@finance-ni.gov.uk](mailto:finance-ni@finance-ni.gov.uk)>

**Sent:** 25 November 2024 16:36

**To:** [Section 40\(2\)](#) [@finance-ni.gov.uk](mailto:finance-ni@finance-ni.gov.uk)>

**Subject:** Menarys: Main Street, Bangor (8034799-1)

[Section 40\(2\)](#)

This is [Section 40\(2\)](#) finalised report for Menarys in Bangor. Would you be able to review and let me know whether you're content with it?

I also wanted to check whether you want me to share the report with Angela prior to closing – we had flagged it with her a few months ago.

Section 40(2) has told Section 40(2) that he intends to appeal to the LT.

Thanks

Section 40(2)

Section 40(2)

Senior Valuer  
Rating Appeals  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: Section 40(2)

Mob: Section 40(2)

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

[LPS Privacy Notice \(finance-ni.gov.uk\)](#)

**From:** Section 40(2)  
**To:** Section 40(2)  
**Subject:** FW: Menarys, Bangor  
**Date:** 14 January 2025 15:43:56  
**Attachments:** PID 808358.pdf

**From:** Section 40(2) @RHMCommercial.com>  
**Sent:** 09 January 2025 12:05  
**To:** Section 40(2) @finance-ni.gov.uk>  
**Subject:** Re: Menarys, Bangor

CAUTION – This email has been received from outside the NICS network. If you have any concerns, please report for investigation.

Hi Section 40(2)

Further to my email on 12th December below, I have now returned to work and attach a formal calderbank offer at £95,000 NAV which is a pragmatic attempt to finally dispose of this long-outstanding appeal because the rent agreed from not long after AVD was  
Section 41

If it becomes necessary to take this appeal to the Tribunal then my valuation will be £85,000 per annum.

In the event that a certificate is issued at above £95,000 NAV, our client requests that a hard copy of the appointed Appeal Valuer's report(s), emails and notes of meetings and telephone calls between the appointed appeal valuer, Commissioner of Valuation and your colleagues in the Appeals Team, together with other related papers on the appeal are emailed to me at Section 40(2) [rhcommercial.com](mailto:rhcommercial.com), under Freedom of Information legislation, within 7 days of a certificate being issued.

Regards

Section 40(2)

Section 40(2)

[rhcommercial.com](http://rhcommercial.com)

RHM Commercial LLP  
67/69 Church View  
Holywood, Belfast BT18 9LN

All correspondence subject to contract/contract denied/without prejudice.



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**From:** Section 40(2)  
**Sent:** 12 December 2024 09:18  
**To:** Section 40(2) @finance-ni.gov.uk>  
**Subject:** Menarys, Bangor

Hi Section 40(2)

As you will appreciate, our client is extremely frustrated by the continued delay in resolving this case (one way or another) and have instructed me to issue a calderbank on the basis that the assessment is split with no more than £95,000 NAV on the ground floor and also request copies of all relevant reports and other correspondence/emails/file notes etc under Fol.

However, I Section 40(2) so will hold-off until the end of the week in case we receive a certificate in the meantime.

Regards

Section 40(2)

Section 40(2)  
Section 40(2)

@rhmcommercial.com

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67/69 Church View  
Holywood, Belfast BT18 9LN  
[www.rhmcommercial.com](http://www.rhmcommercial.com)

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**Without Prejudice**  
**Save as to Costs**

**By Email**

**Our ref** Section 40(2)

The Commissioner of Valuation  
Land & Property Services  
Lanyon Plaza  
7 Lanyon Place  
BELFAST  
BT1 3LP

9<sup>th</sup> January 2025

Dear Madam

**Appeal to the Commissioner of Valuation**  
**Property: 110-130 Main Street, Bangor BT20 4AG**  
**LPS PID: 808358**

Following protracted negotiations on this appeal, our client Menarys Retail Limited (MRL) hereby offers to settle the appeal to split the current assessment with effect from 1<sup>st</sup> July 2022 (when MRL vacated the first floor) on the following terms:

1. The assessment remaining on the ground, second and third floors still occupied by MRL shall be **£95,000** (ninety-five thousand pounds) Net Annual Value.
2. Each party shall bear its own costs incurred up to the date of acceptance.
3. This offer is open for acceptance until **5.00 pm on Friday 31<sup>st</sup> January 2025**.
4. This offer remains open for acceptance beyond the date in (3) above on the basis that you will be responsible for all the costs associated with an appeal to the Lands Tribunal (application fee, legal costs and expert witness costs etc) incurred beyond that date, to be assessed if not agreed.
5. This offer is not available for acceptance once the Lands Tribunal has given notice that its award is available to be made.
6. This letter is written without prejudice save as to costs with the intention that it may be brought to the Lands Tribunal's attention on the issue of costs but not otherwise. It is to be privileged so far as the substantive issue of the appeal is concerned.

The intention of this letter is to bring this matter to an agreed settlement without the need to proceed with an expensive and time-consuming appeal to the Lands Tribunal and to protect our client from the substantial costs that would arise for both parties if agreement were not reached.

Yours faithfully  
Section 40(2)

## Menarys Summary

The hereditament currently extends over the ground, first and second floors. The ground floor is occupied by Menarys as a retail shop, whilst the second floor provide associated ancillary accommodation. The first floor previously formed part of the Menarys shop, but it has been vacant since Menarys vacated in 2021. The Appellant wants the first floor assessed separately.

During my inspection I noted the following:

- The ground floor retail shop is accessed directly from Main Street.
- An escalator linking the GF and FF is located close to the main entrance. The power supply to the escalator has been switched off and access from the ground floor has been blocked by a table and retail display. No efforts have been made to block off access at FF.
- The first floor can be accessed directly from Main Street via an internal stairwell.
- An internal service lift links the various floors.
- Stairs providing customer access between the ground and first floors have been boarded up at GF level, this not a fully secure sturdy job (see photo).
- A second stairwell is located to the rear of the building.



The Appellant previously stated they occupied under an oral agreement but in August they provided separate leases for each floor. However these were dated **Aug 2024**.

### Ground Floor:

Lease term: **Section 41**

Clause (14): the Landlord covenants to 'remove in a good and workman like manner the escalator from the demised premises and seal off the lift and stairs at the rear of the demised premises no later than 31st October 2028...if the works shall not have been completed by 31st October 2028 the Tenant may on or before 31st October 2029, undertake the works and the reasonable costs therefore incurred by the Tenant in doing so shall be payable by the Landlord to the Tenant.

### Second Floor:

Landlord: **Section 41**

Tenant: Menarys Retail Limited

Lease term: Section 41

The Appellant is unable to provide details regarding the relationship between Section 41, they still consider Section 41 to be their Landlord.

Since MRL vacated the premises, only limited steps have been taken to secure and designate the first floor as a separate hereditament, most notably, works to seal off the escalator between the ground and first floors have not been commenced. Resultingly, both Occupiers have 'unrestricted' access into the other's 'part,' meaning neither 'part' is 'self-contained.' Thus, whilst both parts could potentially comprise separate hereditaments, the context points to the contrary- the first floor is not a '*a self-contained piece of property*'.<sup>[1]</sup> I therefore recommend that the property should continue to be assessed as a single hereditament.

Having concluded that the property was one hereditament I considered who the rateable occupier would be, both Section 41 and MRL could demonstrate 3 Laing requirements the key consideration is who has paramount control. The purpose of MRL's occupation is the operation of a retail shop; UEL have not undertaken any works to remove or seal off the escalator between the ground and first floors, meaning they have unrestricted access to the GF shop. In my opinion, being able to securely store and display stock along with controlling access to the shop is an important part of operating a retail store. Resultingly, in my opinion, MRL are not in control of their part of the property, they have not been granted exclusive possession. 'Where a person already in possession has given to another possession of part of his premises, if that possession is not exclusive, he will not cease to be liable to the rate, nor does the other become so.' Section 41 is therefore the rateable occupier of the entire hereditament.

The Appellant also challenged the NAV, arguing that the NAV for the gf and f2 should be the same as the actual rent. After considering the current NAV as a single hereditament, I noted:

- Current rent agreed in 2014 when Appellant was subject to CVA, rent therefore not subject to market forces and some distance from AVD.
- Limited rental evidence for comparable hereditaments
- Having regard to other properties in the list, current assessment is in line with established tone for 8<sup>th</sup> and 9<sup>th</sup> list
- Current assessment also in line with LT decision.

#### Propose:

- No change to unit of assessment
- No change to NAV
- Change Rateable Occupier from MRL to Section 41

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<sup>[1]</sup> *Woolway v Mazars* [2015] UKSC 53

# LAWFULNESS, FAIRNESS AND TRANSPARENCY TEST

## Application of FOI exemption Section 40(2)

DOF/2024-0020

A Lawfulness, Fairness and Transparency Test must be carried out by the Department of Finance when considering disclosure of third-party personal data which falls within the scope of an FOI or EIR request.

### FOI / EIR request

A hard copy of the appointed Appeal Valuer's report(s), emails and notes of meetings and telephone calls between the appointed appeal valuer, Commissioner of Valuation and colleagues in the Appeals Team, together with other related papers on the Menarys, Bangor appeal

### Consideration of the personal data falling within the scope of the request

Guidance from the Information Commissioner's office states that personal data only includes information relating to natural persons who:

- can be identified or who are identifiable, directly from the information in question; or
- who can be indirectly identified from that information in combination with other information.

### Description of personal data/issue(s) under consideration:

LPS Staff names/details.

### Lawfulness

Do either of the two lawful basis below, which allow for the disclosure of personal data, apply? **No**

- Consent:** This applies when the data subject(s) clear consent exists, allowing the department to disclose personal data falling within the scope of this request.
- Legitimate interests:** This applies when disclosure is necessary for the department's legitimate interests or the legitimate interests of a third party that overrides the data subject(s) rights and freedoms, particularly their right to privacy.

### Conclusion

Having considered all the information contained within the Lawfulness, Fairness and Transparency Test, the department has established that, on balance, there is no lawful basis for the disclosure of third-party personal data falling within the scope of the request (of which the requester is not the data subject).

All redactions are under Section 40(2) of the  
Freedom of  
Information Act, unless otherwise stated.

From: [REDACTED]  
To: [REDACTED]  
Subject: RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799  
Date: 20 October 2023 14:37:15  
Attachments: [image001.gif](#)

---

No problem [REDACTED]

[REDACTED] would you be able to register this and allocate to [REDACTED]

Thanks  
[REDACTED]

---

From: [REDACTED]@finance-ni.gov.uk>  
Sent: Friday, October 20, 2023 12:44 PM  
To: [REDACTED]@finance-ni.gov.uk>  
Subject: Fwd: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

[REDACTED]

Could I ask you to accept [REDACTED] request as a late appeal as an issue on our side meant certs were not issued correctly resulting in a delayed appeal.

Thanks  
[REDACTED]

Sent from [Outlook for iOS](#)

---

From: [REDACTED]@RHMCommercial.com>  
Sent: Friday, October 20, 2023 11:50:19 AM  
To: [REDACTED]@finance-ni.gov.uk>  
Cc: [REDACTED]@RHMCommercial.com>; [REDACTED]@finance-ni.gov.uk>  
Subject: RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

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Thanks [REDACTED]

I have submitted the attached Notice of Appeal this morning.

Kind Regards  
[REDACTED]

[REDACTED] BSc (Hons) MRICS



Partner  
[REDACTED]@rhcommercial.com

M [REDACTED]

Unit 3, 10 Heron Road, Sydenham Business Park,  
Belfast, BT3 9LE  
[www.rhcommercial.com](http://www.rhcommercial.com)

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**From:** [REDACTED]@finance-ni.gov.uk>  
**Sent:** Thursday, October 19, 2023 3:33 PM  
**To:** [REDACTED]@RHCommercial.com>  
**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

[REDACTED]  
I just got [REDACTED] there now could you fill out an appeal case for this property and send it back to LPS.

Best regards  
[REDACTED]

[REDACTED]  
Rating & Client Services Delivery-Val Belfast  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [REDACTED]  
[REDACTED]

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

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---

**From:** [REDACTED]@RHCommercial.com>  
**Sent:** Thursday, October 19, 2023 3:02 PM

To: [REDACTED]@finance-ni.gov.uk>

Cc: [REDACTED]@finance-ni.gov.uk>; [REDACTED]  
[REDACTED]@RHMCommercial.com>

**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

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Hi [REDACTED]

Menarys has also confirmed that they did not receive the certificate at their head office or at the shop premises.

The split of the 1<sup>st</sup> floor was one issue, but the other issue was the valuation of the subject, which I refer to in my email attached. We never actually got into discussions in relation to the valuation and therefore I am surprised this case was ever closed.

Please send me proof of when and where the certificate was sent.

Kind Regards

[REDACTED]

---

**From:** [REDACTED]@finance-ni.gov.uk>

**Sent:** Thursday, October 19, 2023 1:18 PM

**To:** [REDACTED]@RHMCommercial.com>

**Cc:** [REDACTED]@finance-ni.gov.uk>; [REDACTED]  
[REDACTED]@RHMCommercial.com>

**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

Hi [REDACTED]

Registry have checked their registrar of certificates sent out and have a log of it. I can get them to check again.

I did discuss with you that the property is not capable of separate occupation and [REDACTED] followed this up with an e-mail also. There were mannequins dressed up as Santa clause to stop access to the 1<sup>st</sup> floor on the day of my inspection and I've been in since and all that has changed is that there are mannequins dressed in womans clothing which is a temporary barrier and the staircases are still in situ covered with plasterboard which could easily be removed .

I haven't got a chance to speak with [REDACTED] in connection with you not receiving a valuation certificate, when he's available I'll see what the best way is forward.

Best regards [REDACTED]

[REDACTED]

[REDACTED]

Rating & Client Services Delivery-Val Belfast  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [REDACTED]  
[REDACTED]

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

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**From:** [REDACTED] <[\[REDACTED\]@RHMCommercial.com](mailto:[REDACTED]@RHMCommercial.com)>  
**Sent:** Thursday, October 19, 2023 1:00 PM  
**To:** [REDACTED] <[\[REDACTED\]@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>  
**Cc:** [REDACTED] <[\[REDACTED\]@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>; [REDACTED] <[\[REDACTED\]@RHMCommercial.com](mailto:[REDACTED]@RHMCommercial.com)>  
**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799  
**Importance:** High

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Hi [REDACTED]

Please see email attached with certificates indicating that they were issued on 4<sup>th</sup> May 2023, but the cover letters are today's date. Does LPS have proof that the certificate was actually sent on 4<sup>th</sup> May 2023, as we did not receive a copy?

I also don't believe that we actually discussed or negotiated the valuation and therefore I am surprised that a certificate would have been issued?

Kind Regards

[REDACTED]

[REDACTED] **BSc (Hons) MRICS**  
Partner  
[REDACTED] <[\[REDACTED\]@rhcommercial.com](mailto:[REDACTED]@rhcommercial.com)>



M [REDACTED]

Unit 3, 10 Heron Road, Sydenham Business Park,  
Belfast, BT3 9LE  
[www.rhmcommercial.com](http://www.rhmcommercial.com)

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---

**From:** [REDACTED]@finance-ni.gov.uk>  
**Sent:** Wednesday, October 18, 2023 4:21 PM  
**To:** [REDACTED]@RHMCommercial.com>  
**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

Hi [REDACTED]

The valuation certificate was posted out to RHM Heron Road offices, I have requested a duplicate certificate to be sent out to you and will speak to [REDACTED] in the morning and come back to you.

The other certificate was e-mailed directly to Menarys office e-mail address.

Best regards

[REDACTED]

---

**From:** [REDACTED]@RHMCommercial.com>  
**Sent:** Wednesday, October 18, 2023 2:42 PM  
**To:** [REDACTED]@finance-ni.gov.uk>  
**Cc:** [REDACTED]@RHMCommercial.com>; [REDACTED]@finance-ni.gov.uk>  
**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799  
**Importance:** High

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[REDACTED]

[REDACTED] did not receive s certificate which is why I have continued to discuss this case with you until as

recent as 20<sup>th</sup> September. I don't recall you ever referring to a certificate being issued? Please confirm the position in relation to the certificate ASAP.

Kind Regards

[REDACTED]



[REDACTED] BSc (Hons) MRICS  
Partner  
[REDACTED]@rhmcommercial.com

M [REDACTED]

Unit 3, 10 Heron Road, Sydenham Business Park,  
Belfast, BT3 9LE  
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**From:** [REDACTED]@finance-ni.gov.uk>

**Sent:** Wednesday, October 18, 2023 2:29 PM

**To:** [REDACTED]@RHMCommercial.com>

**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

Hi [REDACTED]

A rating report was put forward for approval to senior valuer under your application 8034799 and a valuation certificate was issued to you. Did you not receive a valuation certificate? I'll chase up with admin to see where it was issued too. Menarys 8<sup>th</sup> list application was dealt with as well and a valuation certificate was issued to them. I do have an open 9<sup>th</sup> list application for this property currently.

Best regards

[REDACTED]

[REDACTED]  
Rating & Client Services Delivery-Val Belfast  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [REDACTED]  
[REDACTED]

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

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**From:** [REDACTED] [RHMCommercial.com](mailto:[REDACTED]@RHMCommercial.com)>  
**Sent:** Wednesday, October 18, 2023 2:18 PM  
**To:** [REDACTED] [@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>  
**Cc:** [REDACTED] [@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>  
**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

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Hi [REDACTED]

This can't be right as we have been discussing this case up until as recent as 20<sup>th</sup> September 2023.

Can you please confirm what has happened here?

Kind Regards

[REDACTED]

 [REDACTED] **BSc (Hons) MRICS**  
Partner  
[REDACTED] [@rhcommercial.com](mailto:[REDACTED]@rhcommercial.com)

M [REDACTED]

Unit 3, 10 Heron Road, Sydenham Business Park,  
Belfast, BT3 9LE  
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**From:** [REDACTED] <[REDACTED]@finance-ni.gov.uk>  
**Sent:** Wednesday, October 18, 2023 2:13 PM  
**To:** [REDACTED] <[REDACTED]@RHMCommercial.com>  
**Cc:** [REDACTED] <[REDACTED]@finance-ni.gov.uk>  
**Subject:** RE: 110-130 Main Street, Bangor (Menarys) - Case Number 8034799

Hi [REDACTED]

The valuation certificate was issued on the 4<sup>th</sup> May 2023.

Kind Regards

[REDACTED]

[REDACTED]

Valuation Belfast  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [REDACTED]  
[REDACTED]

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

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**From:** [REDACTED] <[REDACTED]@RHMCommercial.com>  
**Sent:** Wednesday, October 18, 2023 2:04 PM  
**To:** [REDACTED] <[REDACTED]@finance-ni.gov.uk>; [REDACTED]  
[REDACTED] <[REDACTED]@finance-ni.gov.uk>  
**Subject:** RE: 110-130 Main Street, Bangor (Menarys)

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Thanks [REDACTED] – when was the certificate issued?

[REDACTED] BSc (Hons) MRICS  
Partner



██████████@rhcommercial.com

M ██████████

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**From:** ██████████@finance-ni.gov.uk>

**Sent:** Wednesday, October 18, 2023 2:03 PM

**To:** ██████████@finance-ni.gov.uk>

**Cc:** ██████████@RHCommercial.com>

**Subject:** RE: 110-130 Main Street, Bangor (Menarys)

██████████  
Could you re-issue valuation certificate for case 8034799 to ██████████ via e-mail.

Thanks  
██████████

██████████  
Just getting back to you now I was in meetings yesterday.

Best regards  
██████████

██████████  
Rating & Client Services Delivery-Val Belfast  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: ██████████  
██████████

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

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**From:** [REDACTED] <[\[REDACTED\]@RHMCommercial.com](mailto:[REDACTED]@RHMCommercial.com)>

**Sent:** Monday, October 16, 2023 1:39 PM

**To:** [REDACTED] <[\[REDACTED\]@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>; [REDACTED] <[\[REDACTED\]@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>

**Subject:** 110-130 Main Street, Bangor (Menarys)

**Importance:** High

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[REDACTED]

This case has dragged on for a long time. Our client needs this matter addressed ASAP. If you cannot agree to split the assessment, please issue a certificate and we can then move forward to submitting a Notice of Appeal and if need be, an appeal to the Lands Tribunal.

I set out the background below:

1. Menarys Retail Limited (MRL) leased the property (including the now vacant 1<sup>st</sup> floor) from [Section 41](#) [REDACTED] until **11<sup>th</sup> July 2014** when the lease terminated.
2. Post **11<sup>th</sup> July 2014** MRL continued to occupy the property (including 1<sup>st</sup> floor) from [Section 41](#) [REDACTED] by agreement.
3. From **15<sup>th</sup> April 2021** MRL and [Section 41](#) [REDACTED] agreed that MRL would vacate and no longer trade the 1<sup>st</sup> floor.
4. MRL removed all equipment that was stored on the 1F and finally left the premises unfurnished on **1<sup>st</sup> July 2022**. This is the date that MRL were no longer entitled to occupation.
5. MRL now occupy the ground floor and the 2<sup>nd</sup> floor only. The ground floor and second floor remain linked by a rear staircase and goods lift.
6. There remains an unused / blocked off customer staircase linking with 1<sup>st</sup> floor along with a decommissioned escalator and passenger lift however MRL do not occupy the 1<sup>st</sup> floor or use it for storage or any other purpose.

Our client's case for the 1<sup>st</sup> floor to be separately assessed is as follows:

- Menarys are no longer in occupation and nor are they entitled to occupation of the 1<sup>st</sup> floor.
- The 1st floor is capable of separate occupation – i.e. capable of being independently

accessed from the ground floor. I refer to sentence 7 of your own inspection notes "There is a separate access to the 1st floor from Main Street, Bangor".

- Menarys do not meet the 4 tests of rateable occupation: 1. Beneficial occupation 2. Exclusive occupation 3. Actual occupation 4. Not too transient.

Kind Regards

██████████



██████████ **BSc (Hons) MRICS**  
Partner  
██████████ [@rhmcommercial.com](mailto:██████████@rhmcommercial.com)

M ██████████

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## VALUATION APPEAL REPORT TO THE COMMISSIONER OF VALUATION

<b>PROPERTY ID</b>	808358
<b>CASE REGISTRATION NUMBER</b>	8034799-1
<b>APPELLANT</b>	[REDACTED]
<b>OCCUPIER</b>	Menarys Retail Limited (MRL)
<b>POINTER ADDRESS</b>	Menarys Shopping Centre 110-130 Main Street Bangor BT20 4AG
<b>LIST DESCRIPTION</b>	Shop Stores
<b>NAV</b>	£163,500 (OT)
<b>ACTION AT CR</b>	No change. Property not split. Tone maintained.
<b>DV COMMENT</b>	Valuation, as assessed, is considered fair and reasonable in comparison to similar properties.
<b>DATE OF RATING ALTERATION</b>	N/A
<b>DATE PROPERTY INSPECTED</b>	17/11/2024
<b>PERSON INTERVIEWED</b>	[REDACTED]
<b>SURVEY CHECKED</b>	No
<b>TENURE</b>	Leasehold

## LEASE DETAILS

Oral agreement at time of application. On appeal, the agent has provided leases for both floors dated 6 August 2024. Details can be found in the appeal container.

## SUBJECT PROPERTY DESCRIPTION

The hereditament comprises a four storey building fronting Main Street in Bangor city centre. Main Street is one of the primary commercial streets in Bangor and runs from the railway station in the south to the marina in the north. The property is located at the northern end of Main Street and neighbouring occupiers include: Asda, DV8, Sostrene Grene, The Ava Winebar and Bistro, the Post Office and o2. The ground floor of the subject is occupied by Menarys as a retail shop, whilst the second floor provides associated ancillary accommodation. The first floor previously provided additional retail space, but it has not been in use for this purpose since 2021. There is also a small third floor store.

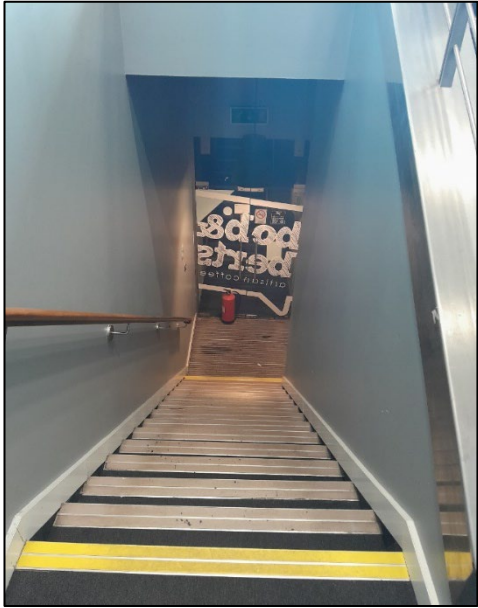
During my inspection I noted the following:

- The ground floor retail shop is accessed directly from Main Street.
- An escalator linking the GF and FF is located close to the main entrance. The escalator power is off and access from the ground floor has been blocked by a table display. No efforts have been made to block off access to the FF level from the GF.
- The FF is accessible directly from Main Street via an internal staircase. This is a designated fire exit.
- An internal service lift connects the ground and second floor, however it has currently been programmed to by-pass the first floor. This could easily be reversed and is not permanent.
- Customer staircase between ground and first floors has been partially boarded up at GF level, however this appears to be temporary in nature and could easily be removed
- At the rear of the building, there is a second staircase that serves as a fire escape for all floors.
- The FF is separately metered from the remainder of the building according to the agent.
- The FF benefits from separate fire and intruder alarm systems according to the agent.
- No evidence of any attempt to separately let the FF area since 2021.

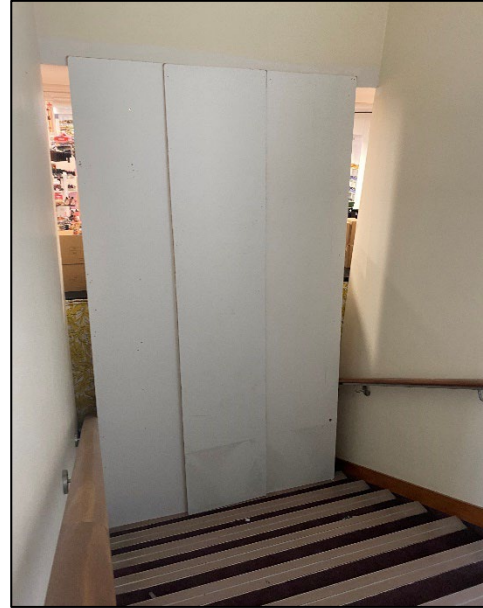
Whilst the location is close to the road and public transport links, it does not have dedicated customer car parking.



Front elevation (left) FF Access from Main Street (right)



**Staircase between Main Street & First Floor**



**Rear staircase boarded up at GF**



**Rear staircase boarded up at GF**



**Escalator between GF and FF at FF level**



**Escalator between GF and FF at GF level**

## OUTLINE OF APPELLANTS GROUNDS OF APPEAL

The appellant's grounds for appeal as stated in the Notice of Appeal to the Commissioner dated 12 December 2023:

THE ASSESSMENT IS EXCESSIVE AND BAD IN LAW AND SHOULD BE REDUCED.

THE FIRST FLOOR IS NO LONGER OCCUPIED WITH THE GROUND AND SECOND FLOORS AND SHOULD BE REMOVED FROM THE ASSESSMENT.

## CASE HISTORY

**2524729-1:** Appeal to COV. NAV amended from £300,000 (OT) to £292,000 (OT). Agent argued that the property should be on an overall basis rather than zoned, Valuer confirmed zoning approach and increased end allowance from 10% to 15%. Date closed 31/01/2011.

**2524729-2:** Appeal to Lands Tribunal. Assessed on an overall basis, based on a comparison with the Asda unit on the opposite side of the road, with a 10% reduction to reflect the lack of car parking. A further 5% allowance was applied to reflect the configuration of the unit i.e ground floor size compared to the upper floors. NAV reduced from £292,000 (OT) to £248,000 (OT). Date closed 05/03/2013.

**8083243:** A3 Change Sought. Two issues raised: 1) the applicant wished for the first floor to be assessed separately, and 2) the Applicant contested the tone. Valuer concluded property valued in tone, and the first floor is not capable of separate occupation. No change to NAV. Date closed 06/04/2023.

## APPELLANT'S OPINION

On 18 December the Appellant provided [REDACTED] with further details regarding his grounds for appeal:

*'As promised, I set out below my case which applies equally to the appeals on both the 2020 and 2023 Lists:*

### **Summary of Facts**

- 1. Menarys Retail Limited (MRL) have been in occupation of the ground, first, second and third floor store since the block was built.*
- 2. MRL went into administration in 2014 and the leases were terminated - see administrator's report attached.*
- 3. However, MRL remained in occupation under an oral agreement reached between [REDACTED] (CEO of MRL) and the landlord [REDACTED] at a rent of [REDACTED] pa for the whole store. Clearly Mr Gilpin, who had decades of experience as a local property developer/investor, would not have allowed MRL to remain in occupation had he been able to secure a higher rent from another tenant.*
- 4. This remained the case until 2021 when MRL and [REDACTED] agreed that the first floor would cease to be used for retail purposes and vacated but the rent would remain at [REDACTED] pa. MRL agreed the same rent as a gesture of goodwill in the expectation that [REDACTED] would become*

liable for vacant rates on the first floor. However, MRL confirms that it was not until 1 July 2022 that the first floor was finally emptied and vacated.

5. There is no written lease in place but, if necessary for the purposes of a Tribunal hearing, **Section 41** can produce an affidavit to confirm this chain of events and also provide written evidence of the rent being paid from 2014 onwards.

### **Fundamental Principles**

Rates is, of course, a tax on the occupation of property although politicians have extended this fundamental principle by charging landlords (or those entitled to possession) vacant rates to encourage vacant properties to be brought back into use.

MRL is not now in actual occupation of the first floor and is not entitled to possession. As such, the company cannot be liable for rates, even vacant rates.

### **Physical Separation**

The first floor is accessible by a customer staircase from Main Street and lifts/staircases at the rear and by an escalator from the ground floor.

From the email exchanges I have read on the 2020 List application, there seems to be some suggestion from LPS that the first floor cannot be separately assessed because it is not physically sealed-off or is only sealed-off with demountable partitioning.

A hereditament should be capable of separate occupation but this does not necessarily mean that it must be securely enclosed.

Examples are the assessments on single spaces within a car-park or, an example which is well known to me personally, the football pitch that sits within the dog racing track at Drumbo Park stadium (PID: 738397).

In this context, I would also point to the wording of Article 14 which simply refers to an unoccupied part being capable of separate occupation i.e. having its own access; which the first floor of the subject store has, from both the front and rear.

### **Proposed Settlement**

I propose the appeals for both the 2020 and 2023 List assessments are settled as follows:

1. The 2020 List assessment is split between the A) Ground, second & third floors and B) First Floor with effect from 1 July 2022.
2. The 2023 List assessment is split between the A) Ground, second & third floors and B) First Floor with effect from 1 April 2023
3. In both cases, the NAV of A) should be £85,000 which is the rent agreed between the landlord and tenant in 2014 and again in 2021 and represents the best evidence of value for both the 2020 and 2023 Lists.
4. The appropriate NAV for B) on both Lists is a matter for LPS and the landlord who is entitled to possession of the first floor and responsible for any vacant rates that might apply.'

On 25 June 2024, I requested the following information from the Agent. He responded on 14 August as detailed below:

1. **Is the first floor separately metered from the remainder of the building?** *Yes, the meters and fire alarm for the first floor are just inside the separate entrance from Main Street up to the first floor-this was verified during the last LPS inspection which I attended.*
2. **What steps have been taken by the Landlord to demonstrate occupation of the first floor? e.g. has the first floor been marketed to let as a standalone hereditament? Has the Landlord undertaken any alterations?** *The Landlord Des Gilpin of Section 41 died in late 2021 and it has taken some time for his family to sort out their affairs. They have decided to sell the building rather than try and let the premises given that, as you will be aware, it is extremely challenging to let ground floor premises in Bangor town centre let alone first floor premises. A copy of the sales brochure is attached. In any case and as you know, actively letting premises is not a requirement for them to be separately assessed or for vacant rates to be granted.*
3. **Can you confirm if Building Control have granted approval or consent for use of the access from Main Street as separate first floor entrance?** *With respect, I think this question is a red herring because building control approval would not be required to separately occupy the first floor because the necessary escape routes from the front and rear of the building already exist. Are you suggesting that a lack of building control approval makes premises incapable of separate or beneficial occupation-that would be very useful to know for other cases we deal with.*

The Agent provided a Lambert Smith Hampton brochure, marketing the entire building for sale as an investment this is attached at Appendix 2.

The Agent has also provided leases for the ground and first floor dated Section 41, the details of which I have summarised above. Copies of the leases have also been attached to the case viewer.

## MY OPINION

Currently, the ground, first, second and third floors are assessed as one hereditament; the Appellant has argued that the first floor should be assessed separately as it is no longer occupied by MRL. *Switzer & Co v COV*<sup>1</sup>; is the leading case on the aggregation and disaggregation of hereditaments. *Switzer* establishes that premises must be entered and valued having regard to the leases upon which they are held, meaning, any part held under a separate title should be treated as a separate hereditament.

The Appellant initially advised that MRL occupies the premises under an oral agreement with Section 41 however, he subsequently provided a separate lease for each floor dated Section 41 but effective from Section 41. Whilst these suggest the potential existence of multiple hereditaments, it is important to note the COV generally only splits a hereditament when each part is separately occupied, and those parts are capable of separate occupation; making necessary to investigate whether the first floor is capable of separate occupation.

For rating purposes, the general rule is occupation of part is occupation of the whole and an occupier cannot be permitted to carve up a property into multiple hereditaments by simply emptying a part of furniture and locking the door.<sup>2</sup> This means that someone who has previously occupied

<sup>1</sup> *Switzer & Co v The Commissioner of Valuation* [1902] 2 IR 275

<sup>2</sup> *Carmel Teague v Commission of Valuation* [1989] VR/29/1988

the whole building, but part is now empty, will be treated as occupying the whole area, unless that part is capable of separate occupation.<sup>3</sup>

In *Woolway v Mazars*<sup>4</sup> Lord Neuberger described a hereditament as: ‘a self-contained piece of property (i.e. property all parts of which are physically accessible from all other parts, without having to go onto other property.’ The DV concluded the FF was incapable of separate occupation because it could not be accessed without going through the GF. Against this, the Appellant has argued, the FF can be accessed either via a staircase from Main Street or a lift and stairwell to the rear of the building. The previous FF Occupant- Bob n Bert’s exclusively used the direct access from Main Street, allowing them to operate different opening hours to Menarys. Thus, although the access from Main Street would not be considered an attractive ‘retail’ entrance, it cannot be denied that there is a separate first floor entrance.

However, just because individual parts could potentially form separate hereditaments whether they actually do will depend upon the context. To establish the context, I noted the following on inspection:

- FF benefits from a separate access from Main Street.
- The escalator between GF and FF has been turned off, but no works to remove or seal it off have been commenced.
- Escalator between GF and FF is fully open and accessible at FF level.
- MRL has blocked the escalator between GF and FF at GF level via a table display. While this prevents customer access, it would only take a few minutes to dismantle.
- **Section n 41** has installed a new separate alarm system for the FF.
- MRL advised that the new alarm system is activated when movement is detected on the escalator between GF and FF. (I note that MRL has placed some items on the escalator indicating that some access is available to MRL.)
- As for utilities the FF is separately metered from the rest of the building.
- There is a separate fire alarm system on the FF.
- An internal service lift connects the ground and second floor, this by-passes the first floor.
- **Section n 41** undertake spot checks of FF to maintain the area.
- Lease commitment from **Section 41** to block of the escalator between GF and FF.

Since MRL vacated the FF only very limited steps have been taken to secure and designate this part as a separate hereditament, in particular, works to seal off the escalator have not been commenced. As a result, there is no restriction on access between both parts, meaning neither ‘part’ can be described as ‘self-contained.’ The context therefore suggests the building should remain a single hereditament.

Having established the extent of the hereditament, I now turn to the question of rateable occupation. It is a generally accepted starting point that an owner is the rateable occupier unless it can be shown

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<sup>3</sup> *R v Aberystwyth* (1808) 10 ESAT 353

<sup>4</sup> *Woolway v Mazars* [2015] UKSC 53

that the occupation is in someone else; so, can MRL demonstrate the four ingredients of rateable occupation?<sup>5</sup>

In my opinion, MRL can, they are physically present on the property and have been for over twenty years, they are operating a business (the purpose of their occupation) freely and without interruption. No works have been undertaken to prevent access to the FF, MRL have simply chosen not to use it. In my opinion this case is similar to *Teague v COV*<sup>6</sup> -there the Appellant had blocked access to the second floor with a cabinet, the LT held this was only a temporary measure that could be removed at any time-the Tenant was still the Rateable Occupier of the whole property. In my opinion, MRL is the Rateable Occupier of a single hereditament.

The second aspect of the Appellant's argument is that NAV of a hereditament which comprises the ground and second floor should be reduced to £85,000. Although this relates to only part of the property, I have reviewed the current assessment. The 5<sup>th</sup> list entry was considered by the LT (case ref: VR/5/2011). The LT concluded that the property should be assessed on an overall basis, in line with other larger properties but adjusted to reflect the hereditament's unique characteristics, the LT considered the following to be relevant:

- Lack of car parking facilities (-10%).
- The hereditaments' 'upside down' configuration; FF much larger than GF (-5%).

The LT concluded the hereditament should be assessed in line with Asda, but with a 15% allowance.

The DV made the following comments concerning the NAV and the LT decision: *'Asda on the opposite side of the Road has an overall pricing of Section 41 applied which reduced from Section 41 in the 7th list. This is the comparison that was reduced to in the lands tribunal case carried out in at this property previously. If the decision that was applied as of Lands tribunal case 2524729-2 then the rate applied taking into consideration Asda's rate being reduced from Section 41 and applying the same allowance the rate applied to Menary's property would be Section 41'*

Asda's NAV did not change between the 8<sup>th</sup> and 9<sup>th</sup> lists, which means that both list entries are in line with the LT decision. Despite this, the NAV is still significantly higher than the Appellant's valuation. The Appellant's assessment is based on the rationale that the actual rent is the best evidence of rental value. The DV rejected this argument *'Although there is a CVA in place for this property, this isn't an open market rent and has not been subjected to market forces.'* It is therefore necessary to consider what the correct approach is.

The argument that the actual rent is the best evidence was rejected in *Garton v Hunter*.<sup>7</sup> The actual rent should only be the starting point of any investigation; its correctness should then be assessed having regard to factors such as how closely the circumstances match the statutory definition and the rents of similar properties. In considering the weight to be attached to the actual rent, I have taken the following into account:

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<sup>5</sup> *Laing (J) & Son Ltd v Kingswood Assessment AC* [1949] 1 KB

<sup>6</sup> *Carmel Teague v Commission of Valuation* [1989] VR/29/1988

<sup>7</sup> *Garton v Hunter (VO)* [1969] 2 QB 37

- Rent initially agreed 2014- four years before the 8<sup>th</sup> and seven years before the 9<sup>th</sup> list AVD. It is generally accepted that the reliability of evidence decreases the further away the date of the transaction is from the AVD.<sup>8</sup>
- The rent was originally agreed when MRL was subject to a CVA, so was not subject to market forces.
- At the material date, MRL occupied under an oral agreement only.
- The Appellant provided no explanation for the relationship between Section 41 who are recorded as the 2nd floor Landlord in the 2024 lease.
- A lease document was first produced in August 2024, over two years after the application was made, and at no point before the document was received was there any mention of it.

In my view the actual rent is of limited value, it was first agreed many years prior to the AVDs when MRL were subject to a CVA. The new leases appeared almost 2 years post application.

Turning to the 2<sup>nd</sup> Lotus proposition- other rental evidence:

Property Address	Lease Terms	Net Effective Rent (ITZA)	Weight Applied
130 Main Street	<span style="background-color: black; color: red;">Section 41</span>	<span style="background-color: black;">[REDACTED]</span>	GF within the same building as the subject.
79-83 Main Street	<span style="background-color: black;">[REDACTED]</span>	<span style="background-color: black;">[REDACTED]</span>	Renewal agreed 2 years prior to AVD, lease term unknown. Reduced weight applied to this example.

In my opinion, although on the larger end, the rental evidence refers to hereditaments which are not particularly comparable with the subject, so I do not derive much assistance from them in ascertaining rental value.

The next Lotus<sup>9</sup> proposition is the NAVs of comparable hereditaments:

**PID 910738 2 Market Lane Bangor**

Block No	Use	Zone	Qual.	Year	Rep.	Floor	Access	Area	Rate 8 <sup>th</sup> list	Total 8 <sup>th</sup> list	Rate 9 <sup>th</sup> list	Total 9 <sup>th</sup> list	Dist
1 & 2	Shop	Primary	SQ	2000	AV	GF	NA	3,803.00	<span style="background-color: black; color: red;">Section 41</span>	<span style="background-color: black;">[REDACTED]</span>	<span style="background-color: black;">[REDACTED]</span>	<span style="background-color: black;">[REDACTED]</span>	OT
3	Store	Primary	SQ	2000	AV	GF	NA	1,030.00	<span style="background-color: black; color: red;">Section 41</span>	<span style="background-color: black;">[REDACTED]</span>	<span style="background-color: black;">[REDACTED]</span>	<span style="background-color: black;">[REDACTED]</span>	OT

<sup>8</sup> *Carpetright plc v Ray (Valuation Officer)* [2014] UKUT 0145 (LC)

<sup>9</sup> *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* (1976) 239 EG 287

This is the Asda supermarket on the opposite side of the road from the subject. As noted, the GF area is much larger than the subject and the property benefits from many more amenities.

**PID 161556 48 Main Street Bangor**

Block No	Use	Zone	Qual.	Year	Rep.	Floor	Access	Area	Rate 8 <sup>th</sup> list	Total 8 <sup>th</sup> list	Rate 9 <sup>th</sup> list	Total 9 <sup>th</sup> list	Dist
1 & 2	Shop	Primary	SQ	2000	AV	GF	NA	1,022.86	Section 41				OT
3	Store	Primary	SQ	2000	AV	GF	NA	6.00	Section 41				OT
4-9	Shop	Primary	SQ	2000	AV	FF	GS	1,198.00	Section 41				OT

This is the former TK Maxx store; like the subject it does not benefit from car parking facilities. Whilst the GF area is a similar size to the subject, the FF is much smaller, meaning it does not have the 'upside down' configuration that the LT considered undesirable.

**PID 761627 Unit 1 Flagship Centre Main Street Bangor**

Block No	Use	Zone	Qual.	Year	Rep.	Floor	Access	Area	Rate 8 <sup>th</sup> list	Total 8 <sup>th</sup> list	Rate 9 <sup>th</sup> list	Total 9 <sup>th</sup> list	Dist
1-10 & 15	Shop	Primary	SQ	0	AV	GF	NA	800.70	Section 41				OT

This is a large unit within the Flagship Shopping Centre, the unit can be accessed from Main Street. The Flagship Centre fronts onto Main Street and is currently entirely vacant awaiting redevelopment, In my opinion, this is significantly less desirable than the subject.

**PID 707241 Unit 38 Flagship Centre Main Street Bangor**

Block No	Use	Zone	Qual.	Year	Rep.	Floor	Access	Area	Rate 8 <sup>th</sup> list	Total 8 <sup>th</sup> list	Rate 9 <sup>th</sup> list	Total 9 <sup>th</sup> list	Dist
1-7	Shop	Primary	SQ	0	AV	GF	NA	2,168.52	Section 41				OT
Over 13 & 8-12	Office	Primary	SQ	0	AV	GM	GS	157.80	Section 41				OT
8-13	Office	Primary	SQ	0	AV	GM	GS	412.23	Section 41				OT

Again, this unit is situated within the Flagship Shopping Centre, making it very undesirable.

The LT considered Asda to be most comparable with the subject, however, various factors including the carpark at Asda would make it more desirable than the subject, resultingly they valued the property at a rate 15% less than Asda. In my opinion, this is equally applicable today. I note the current valuation rate is more than 15% less than Asda.

In my opinion, the Flagship Centre units are not comparable, the Flagship is now entirely vacant meaning any a potential tenant would be the only occupier, reducing rental value significantly.

To my mind, PID 161556 represents a good comparable, the location and style are similar to the subject. In my opinion, this example supports the current ground floor assessment of [REDACTED]

The first floor is currently assessed at [REDACTED] or 25% of the ground floor rate; this is significantly lower than the comparables which are all assessed at 50% of the ground floor rate. Looking at previous entries it appears the FF was assessed at 50% of the ground floor rate until the 7<sup>th</sup> list when the reduced rate was applied. There is no explanation why the lower rate was adopted, and it is not in line with the LT decision. However, on this occasion, I propose retaining the current assessment and flagging the matter with the DV for further consideration as part of Reval 2026.

Considering the above, I believe the valuation rates currently applied are a fair reflection of market value at both the 8<sup>th</sup> and 9<sup>th</sup> list AVD. The DV was correct to conclude that the current assessment is in line with the established tone for this location.

**CURRENT VALUATION**

Block No	Use	Zone	Qual.	Year	Rep.	Floor	Access	Area	Rate 8 <sup>th</sup> list	Total 8 <sup>th</sup> list	Rate 9 <sup>th</sup> list	Total 9 <sup>th</sup> list	Dist
1	Shop	Primary	SQ	0	AV	GF	NA	1,595.86	Section 41 [REDACTED]				OT
1	Shop	Primary	SQ	0	AV	GF	NA	66.60	[REDACTED]				OT
2-5	Shop	Primary	SQ	0	AV	FF	LF	2,333.68	[REDACTED]				OT
12-28	Store	Primary	SQ	0	AV	F2	LF	723.60	[REDACTED]				OT
34	Store	Primary	SQ	0	AV	F3	LF	97.60	[REDACTED]				OT
<b>Total</b>									[REDACTED]				OT
<b>Say,</b>									[REDACTED]				OT

**PROPOSED VALUATION**

**MAKE NO CHANGE TO NAV**

**Appellant not satisfied with this outcome.**

**RECOMMENDATION**

- **No change to NAV.**
- **Continue to assess property as one hereditament.**

**CERTIFICATE COMMENTS**

**“VALUATION, AS ASSESSED, IS CONSIDERED FAIR AND REASONABLE IN COMPARISON TO SIMILAR PROPERTIES.”**

**VALUER**

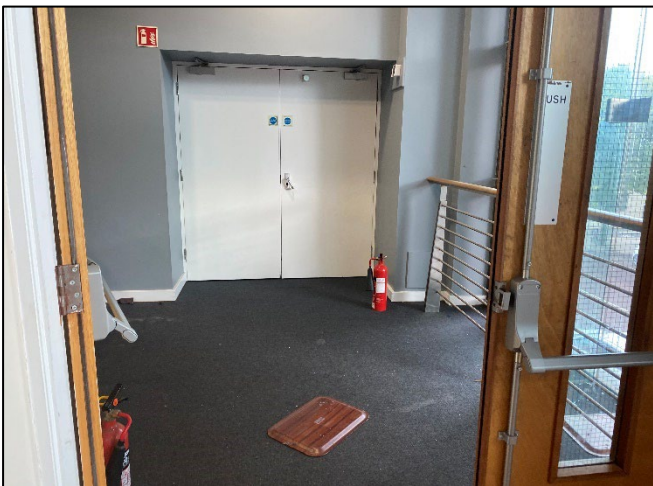
██████████ MRICS

I confirm I have no conflict of interest in dealing with this appeal.

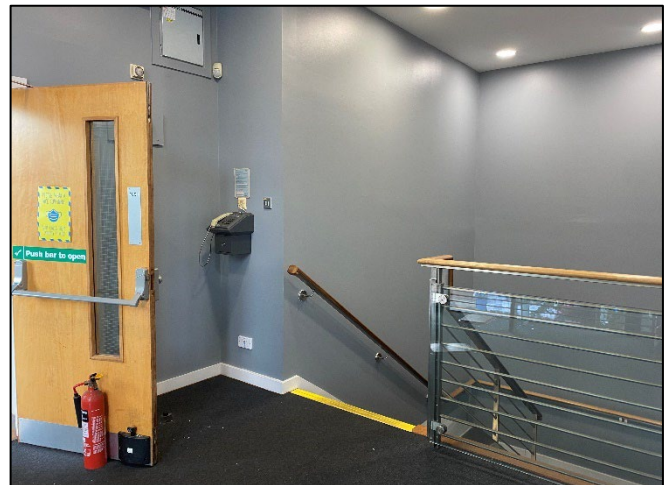
**DATE**

13/11/2024

**Appendix 1**



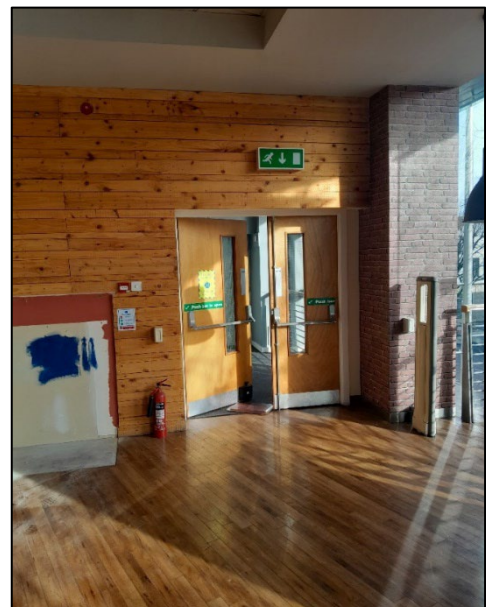
First floor Entrance Lobby



First floor Entrance Lobby



First floor



First floor



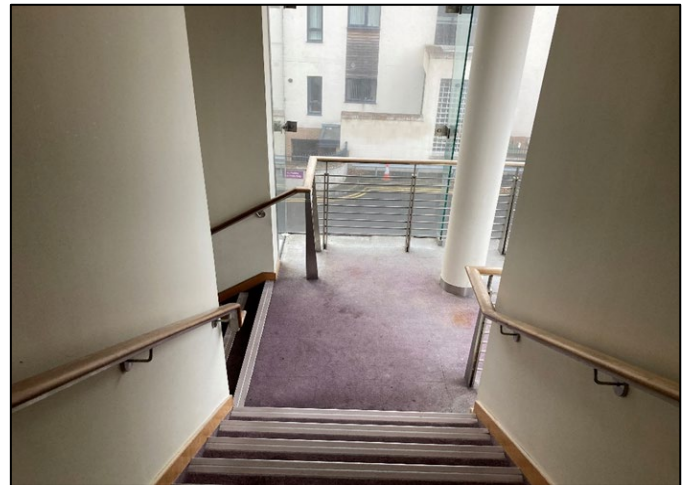
First floor



First floor



First floor



Rear Staircase



Ground Floor store



Rear yard



Separate Meter box for FF



Rear Fire Escape



Rear Fire exit Stairs



Goods Lift



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**From:** [REDACTED]  
**To:** [REDACTED] (LPS)  
**Subject:** ND Appeal - 110-130 Menarys Shopping Centre, Main Street, Bangor, Co Down, BT20 4AG  
**Date:** 23 October 2023 11:17:00  
**Attachments:** [Rating & Valuation Services - Rating Assessments - Non Domestic Appeal Cases 2023 - PID 808358 - 110-130 Menarys Shopping Centre, Main Street, Bangor, Co Down, BT20 4AG \(DA\).tr5](#)

---

[REDACTED]

Please find attached the new container for the appeal on the above address.

[REDACTED]

Rating Appeals  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [REDACTED]

[REDACTED] [finance-ni.gov.uk/LPS](#)

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**From:** [REDACTED]  
**To:** [REDACTED] [@rhcommercial.com](mailto:[REDACTED]@rhcommercial.com)  
**Subject:** Appeal Correspondence - 110-130 Menarays Shoppig Centre, Main Street, Bangor, Co Down, BT20 4AG  
**Date:** 23 October 2023 11:24:00  
**Attachments:** [Non Domestic Appeal Ack ~ 130 Menarays Shopping Centre, Main Street, Bangor, Co Down, BT20 4AG.pdf](#)

---

Dear Sir/Madam,

Please find attached correspondence from LPS in relation to the application on the above property.

Regards

[REDACTED]  
Rating Appeals  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [REDACTED]

Web: [www.finance-ni.gov.uk/LPS](http://www.finance-ni.gov.uk/LPS)

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[REDACTED]  
RHM Commercial LLP  
Unit 3  
10 Heron Road  
Sydenham Business Park  
Belfast  
BT3 9LE

Appeals Section  
Land & Property Services  
7 Lanyon Place  
Town Parks  
Belfast  
BT1 3LP  
Tel: 028 90 336 589

Date: 23/10/2023  
Case ref: 8034799-1  
PID: 808358

### ACKNOWLEDGEMENT

Dear Sir/Madam

**ADDRESS: 110-130 Menarys Shopping Centre, Main Street, Bangor, Co Down, BT20 4AG**

Your appeal to the Commissioner of Valuation, in respect of the above property (ies) was received in this office on 20/10/2023 and is being processed. A member of our staff will contact you in due course.

The valuer dealing with your case is [REDACTED] who can be contacted Monday to Friday between 9.00am and 5.00pm on [REDACTED] or email [REDACTED]@finance-ni.gov.uk.

In the meantime if you have any difficulty please do not hesitate to contact me on the above number.

Yours faithfully

[REDACTED]  
Appeals Section

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**From:** [REDACTED]  
**To:** [REDACTED] (LPS)  
**Subject:** RE: Appeal Correspondence - 110-130 Menarys Shoppig Centre, Main Street, Bangor, Co Down, BT20 4AG  
**Date:** 06 November 2023 11:12:11  
**Attachments:** [image001.gif](#)  
[110-130 Main Street Bangor \(Menarys\).msg](#)  
**Importance:** High

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Hi [REDACTED]

Just to confirm, we are dealing with an 8<sup>th</sup> list appeal?

There are two issues with this case; the valuation of £164,500 and the removal of the first floor from the valuation.

Please find our case attached in relation to the removal of the first floor. This needs to be dealt with as a matter of urgency. Can you please look at this ASAP?

Kind Regards

[REDACTED]



[REDACTED] BSc (Hons) MRICS  
Partner  
[REDACTED] [@rhcommercial.com](mailto:[REDACTED]@rhcommercial.com)

M [REDACTED]

Unit 3, 10 Heron Road, Sydenham Business Park,  
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**From:** [REDACTED]@finance-ni.gov.uk>  
**Sent:** Tuesday, October 24, 2023 3:36 PM  
**To:** [REDACTED]@RHCommercial.com>  
**Subject:** RE: Appeal Correspondence - 110-130 Menarys Shoppig Centre, Main Street, Bangor, Co Down, BT20 4AG

Hi [REDACTED]

Thanks for your email.

I'll be [REDACTED] and won't be able to look at this until my return due to prioritising older cases but please send through your proposed valuation along with comparable evidence and any other information you consider relevant to the appeal and I'll be able to review this in due course.

Kind Regards,

[REDACTED]

[REDACTED] **MRICS**

Rating & Client Services Delivery-Val Belfast  
Valuation Services Directorate  
Land & Property Services  
Department of Finance  
Lanyon Plaza  
7 Lanyon Place  
Belfast, BT1 3LP

Tel: [REDACTED]

Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

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**From:** [REDACTED] <[\[REDACTED\]@RHMCommercial.com](mailto:[REDACTED]@RHMCommercial.com)>

**Sent:** Tuesday, October 24, 2023 2:41 PM

**To:** [REDACTED] <[\[REDACTED\]@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>

**Subject:** FW: Appeal Correspondence - 110-130 Menarys Shoppig Centre, Main Street, Bangor, Co Down, BT20 4AG

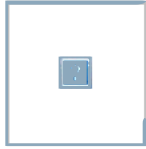
**Importance:** High

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Hi [REDACTED]

I believe you are the appeal valuer assigned to this case. Our client is keen to settle this case ASAP and therefore I look forward to hearing from you soon.

Kind Regards



[REDACTED] **BSc (Hons) MRICS**  
**Partner**  
[REDACTED] [@rhcommercial.com](mailto:[REDACTED]@rhcommercial.com)

**M** [REDACTED]

Unit 3, 10 Heron Road, Sydenham Business Park,  
Belfast, BT3 9LE  
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---

**From:** [REDACTED] [@finance-ni.gov.uk](mailto:[REDACTED]@finance-ni.gov.uk)>

**Sent:** Monday, October 23, 2023 11:24 AM

**To:** [REDACTED] [@RHCommercial.com](mailto:[REDACTED]@RHCommercial.com)>

**Subject:** Appeal Correspondence - 110-130 Menarys Shoppig Centre, Main Street, Bangor, Co Down, BT20 4AG

Dear Sir/Madam,

Please find attached correspondence from LPS in relation to the application on the above property.

Regards

[REDACTED]  
**Rating Appeals**  
**Valuation Services Directorate**  
**Land & Property Services**  
**Department of Finance**  
**Lanyon Plaza**  
**7 Lanyon Place**  
**Belfast, BT1 3LP**

Tel: [REDACTED]

Web: [www.finance-ni.gov.uk/LPS](http://www.finance-ni.gov.uk/LPS)

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**From:** [REDACTED]  
**To:** [REDACTED]; [REDACTED]  
**Subject:** 110-130 Main Street, Bangor (Menarys)  
**Attachments:** [image001.gif](#)  
**Importance:** High

---

[REDACTED]

This case has dragged on for a long time. Our client needs this matter addressed ASAP. If you cannot agree to split the assessment, please issue a certificate and we can then move forward to submitting a Notice of Appeal and if need be, an appeal to the Lands Tribunal.

I set out the background below:


1. Menarys Retail Limited (MRL) leased the property (including the now vacant 1<sup>st</sup> floor) from [REDACTED] until **11<sup>th</sup> July 2014** when the lease terminated.
2. Post **11<sup>th</sup> July 2014** MRL continued to occupy the property (including 1<sup>st</sup> floor) from [REDACTED] by agreement.
3. From **15<sup>th</sup> April 2021** MRL and [REDACTED] agreed that MRL would vacate and no longer trade the 1<sup>st</sup> floor.
4. MRL removed all equipment that was stored on the 1F and finally left the premises unfurnished on **1<sup>st</sup> July 2022**. This is the date that MRL were no longer entitled to occupation.
5. MRL now occupy the ground floor and the 2<sup>nd</sup> floor only. The ground floor and second floor remain linked by a rear staircase and goods lift.
6. There remains an unused / blocked off customer staircase linking with 1<sup>st</sup> floor along with a decommissioned escalator and passenger lift however MRL do not occupy the 1<sup>st</sup> floor or use it for storage or any other purpose.

Our client's case for the 1<sup>st</sup> floor to be separately assessed is as follows:

- Menarys are no longer in occupation and nor are they entitled to occupation of the 1<sup>st</sup> floor.
- The 1st floor is capable of separate occupation – i.e. capable of being independently accessed from the ground floor. I refer to sentence 7 of your own inspection notes “There is a separate access to the 1st floor from Main Street, Bangor”.
- Menarys do not meet the 4 tests of rateable occupation: 1. Beneficial occupation 2. Exclusive occupation 3. Actual occupation 4. Not too transient.

Kind Regards

[REDACTED]

 [REDACTED] **BSc (Hons) MRICS**  
Partner  
[REDACTED] [@rhcommercial.com](#)

M [REDACTED]

APPENDIX 1:

<b>Manual List Creation:</b> <b>Case number 8034799-1</b>
--

<b>Val List</b>	8
<b>Description in Val List</b>	shop stores
<b>Total NAV</b>	164,500
<b>Total Non-Exempt NAV</b>	164,500
<b>IN NAV</b>	0
<b>SR NAV</b>	0
<b>DO NAV</b>	0
<b>FT NAV</b>	0
<b>EX NAV</b>	164,500
<b>OT NAV</b>	0
<b>Occupier</b>	Menarys Retail Limited
<b>CV Exempt</b>	0
<b>CV Non Exempt</b>	0
<b>Register 9th list update case (circle one)</b>	Yes <input checked="" type="radio"/> No -

All redactions are under Section 40(2) of the Freedom of Information Act, unless otherwise stated.

**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** RE: CM: Case 8034799-1  
**Date:** 14 January 2025 12:54:45  
**Attachments:** [image001.png](#)

---

That looks fine, thanks [REDACTED].

[REDACTED]

---

**From:** [REDACTED]@finance-ni.gov.uk>  
**Sent:** 14 January 2025 12:49  
**To:** [REDACTED]@finance-ni.gov.uk>  
**Cc:** [REDACTED]@finance-ni.gov.uk>  
**Subject:** RE: CM: Case 8034799-1

[REDACTED]

Can you approve the attached cert for issuing.

Thanks

[REDACTED]

[REDACTED]  
Rating Appeals  
Valuation Division  
Land & Property Services

[REDACTED]  
Lanyon Plaza | 7 Lanyon Place | Belfast, BT1 3LP  
Email: [REDACTED]@finance-ni.gov.uk | Web: [www.finance-ni.gov.uk/lps](http://www.finance-ni.gov.uk/lps)

*My working pattern: Full time, hybrid working*

A logo with a black background Description automatically generated



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**From:** [REDACTED]@finance-ni.gov.uk>  
**Sent:** 14 January 2025 12:17  
**To:** [REDACTED]@finance-ni.gov.uk>  
**Subject:** CM: Case 8034799-1

Hi [REDACTED]

Could you please close the above case?

Many thanks



Inspection Photos – 07.02.2024



