



**LEASEHOLD VALUATION TRIBUNAL**  
**OF THE**  
**MIDLAND RENT ASSESSMENT PANEL**

M/EH 2261

*DECISION OF THE LEASEHOLD VALUATION TRIBUNAL*

*ON AN APPLICATION UNDER SECTION 21 OF THE LEASEHOLD REFORM ACT 1967*

Applicant: Mr M J and Mrs P M Workman (leaseholders)

Respondents: Marlodge Monnow Ltd (freeholder)

Subject property: 177 Sandyhill Road  
Shirley  
Solihull  
West Midlands  
B90 2EX

Date of tenant's notice: 8 May 2001

Application to the LVT: 28 June 2001

Hearing: 30 January 2002

Appearances:

*For the applicants:* Mr A W Brunt FRICS

*For the respondent:* Mr G Dixon

Members of the LVT: Professor N P Gravells MA  
Mr S Berg FRICS  
Mrs N Jukes

Date of determination: **30 JAN 2002**

M/EH 2261

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REASONS FOR THE LEASEHOLD VALUATION TRIBUNAL  
DECISION IN REPECT OF:

177 Sandyhill Road, Shirley, Solihull, B90 2EX

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## **Introduction**

- 1 This is a decision on an application under the Leasehold Reform Act 1967 (“the 1967 Act”) made to the Leasehold Valuation Tribunal by Mr and Mrs Workman, leaseholders of the house and premises at 177 Sandyhill Road, Shirley, Solihull, West Midlands, B90 2EX (“the subject property”). The application is under section 21(1)(a) for the determination of the price payable under section 9 for the freehold interest in the subject property.
- 2 The applicant leaseholders hold the subject property under a lease, dated 27 July 1933, for a term of 99 years from 24 June 1932 at a ground rent of £5.00 per year. The lease was assigned to the applicants on 29 May 1971. The unexpired term at the date of the Notice of Tenant’s Claim to Acquire the Freehold (“the relevant date”) was approximately 30 years.
- 3 The applicants served on the respondent freeholder a tenant’s notice dated 8 May 2001, claiming to acquire the freehold interest in the subject property under the terms of the 1967 Act; and they subsequently made the present application.
- 4 The parties did not dispute and the Tribunal accepts that the qualifying conditions for enfranchisement under the 1967 Act are satisfied.

## **Subject property**

- 5 The subject property is a semi-detached house of brick and tile construction, located on a wedge-shape corner plot at the junction of Sandyhill Road and Skelcher Road in Shirley, in a predominantly residential area. The accommodation comprises, on the ground floor, entrance porch, sitting room, L-shaped dining-kitchen and (off the dining-kitchen) cloakroom/wc; and, on the first floor, two bedrooms and bathroom/wc. (The ground floor accommodation originally included a bathroom and smaller kitchen and the first floor accommodation comprised three bedrooms; but the leaseholders converted one of the bedrooms into a bathroom and created a larger dining-kitchen.) The property is fully double-glazed. Space heating is by night storage heaters. Outside there are gardens to the front, side and rear of the property. There is no garage on the property but there is car/caravan standing space to the front and side of the property. The frontage of the property to Sandyhill Road is approximately 17 metres; the frontage to Skelcher Road is approximately 37.5 metres; and the total site area is approximately 380 square metres.
- 6 The lease of the property confers (i) the right (also enjoyed by the two adjacent properties on Sandyhill Road) to drain through the sewer running under the rear garden of the property; and (ii) the right (also enjoyed by the two adjacent properties on Sandyhill Road) to use a strip of land to the rear of the properties for access (to garages). The latter right is apparently not currently exercised by the applicant leaseholders.

## **Inspection and hearing**

- 7 The Tribunal inspected the subject property on 30 January 2002 in the presence of Mr Workman, one of the applicant leaseholders, and Mr Brunt.

- 8 The subsequent hearing was attended by Mr Workman, Mr Brunt (representing the applicant leaseholders) and by Mr Dixon of Jack Dixon & Company, managing agents for the respondent freeholder, Marlodge Monnow Ltd. Mr Dixon also has a 20 per cent shareholding in Marlodge Monnow Ltd.

### **Representations of the parties**

- 9 Mr Brunt, on behalf of the applicant leaseholders, adopted as the basis of valuation under the 1967 Act the generally recognised three-stage approach normally attributed to *Farr v Millerson Investments Ltd* (1971) 22 P & CR 1055. That approach involves (i) the capitalisation of the ground rent payable under the existing lease for the remainder of the unexpired term; (ii) the identification of a modern ground rent (by decapitalising the site value); and (iii) the capitalisation of the modern ground rent as if in perpetuity, deferred for the remainder of the unexpired term. The price payable on this basis is the sum of the capitalisations at stages (i) and (iii).
- 10 Mr Brunt acknowledged that the determination of the standing house value of the subject property at the relevant date was not straightforward. The subject property has been converted from a three-bedroom property to a two-bedroom property, in order to create a first floor bathroom. The property stands on a large corner plot and its "footprint" occupies only 10 per cent of the total site area. However, Mr Brunt submitted that those figures are deceptive in that planning restrictions and the shape of the plot severely restrict significant development of the site; and Mr Workman gave evidence that a provisional enquiry to the local planning authority in respect of a proposed two-storey extension to the subject property had met with a wholly negative response. Thus, while Mr Brunt acknowledged the principle in the Lands Tribunal case of *Cadogan Estates Limited v Hows and Hock* [1989] 2 EGLR 216, that the standing house value (or entirety value) is "... the value of the property in good condition and fully developing the potential of its site", he stressed the qualification to that principle - "provided always that the potential identified is realistic and not fanciful". In summary, Mr Brunt submitted that, although the size of the plot offered advantages to the occupier, those advantages did not include significant development.
- 11 Mr Brunt put in evidence the sales particulars of a number of three-bedroom semi-detached properties in the locality of the subject property on the market in June 2001. On the basis of that evidence and his general experience, and taking account of differences between the "comparable" properties and the subject property, Mr Brunt submitted that the standing house value of the subject property at the relevant date was £100,000.
- 12 Mr Brunt further submitted that, applying a 33.3 per cent figure in calculating the site value on the standing house basis, the site value was £33,300; and that, consistent with the figure applied in the overwhelming majority of decisions of Leasehold Valuation Tribunals in the Midland region and of the Lands Tribunal in appeals from the region, the appropriate percentage yield rate to be applied in capitalising the ground rent at stage (i) of the valuation calculation and decapitalising and recapitalising the site value at stages (ii) and (iii) is 7 per cent.

13 On the basis of those figures, he submitted the following valuation:

(i) *Capitalisation of existing ground rent to termination of lease*

Ground rent payable: £5.00 per year  
Years Purchase: 30 years @ 7%: 12.4  
Capitalised ground rent: £5.00 x 12.4 = £62.00  
(ii) *Modern ground rent*

Standing house value of subject property: £100,000  
Percentage attributable to site: 33.3%: £33,300  
Annual equivalent @ 7%: £2331

(iii) *Capitalisation of modern ground rent*

Modern ground rent (above): £2331  
Years Purchase at 7% in perpetuity deferred 30 years: 1.876  
Capitalised modern ground rent: £2331 x 1.876 = £4377

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say) £4,440.

14 Mr Dixon, on behalf of the respondent freeholder, also adopted the three-stage approach in *Farr v Millerson Investments Ltd* as the basis of valuation. However, Mr Dixon differed from Mr Brunt in two principal respects:

- at the second stage of the calculation, Mr Dixon adopted the "site value basis" (rather than the "standing house basis") and relied upon a report on calculation of land value prepared by Ian G Humphrey MRICS on the instructions of Jack Dixon & Company;
- Mr Dixon argued that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 6 per cent.

15 The valuation of the site by Mr Humphrey assumed the existence of the site of the subject property but without the current semi-detached house. Mr Humphrey proceeded to ascertain "the most advantageous building development" that could be undertaken on the particular site, which he identified as a "new 4 or 5 bedroom 2-storey detached house with a gross internal floor area of approximately 130 square metres". Guided by the sales particulars of comparable houses from local estate agents, he suggested a sale price for the suggested development of £200,000. Deducting development costs and the developer's profit, he calculated the residual value of the site to be £60,000.

16 In the alternative Mr Dixon suggested that the site could be developed by the construction of a pair of modern semi-detached houses; and, again guided by the sales particulars of comparable houses from local estate agents, he suggested the same total sale price of £200,000 and the same site value of £60,000.

17 In respect of the percentage yield to be applied in the valuation calculation, Mr Dixon submitted that, while the traditional percentage yield rate of 7 per cent may have been appropriate at a time of high base interest rates, the current low base interest rate and other relevant indicators in the financial markets demand a reduction in the percentage yield rate to be applied; and he submitted that the appropriate rate is 6 per cent. In support of that figure he referred to two decisions of the Lands Tribunal in 1997 and 1998, which upheld a figure of 6.5 per cent. He also referred to evidence of the sale price of freehold ground rents and to evidence of the continuing demand from investors for freehold ground rents.

18 On the basis of those figures, he submitted the following valuation:

(i) *Capitalisation of existing ground rent to termination of lease*

Ground rent payable: £5.00 per year

Years Purchase: 30 years @ 6%: 13.765

Capitalised ground rent: £5.00 x 13.765 = (say) £68.00

(ii) *Modern ground rent*

Site value of subject property: £60,000

Annual equivalent @ 6%: £3600

(iii) *Capitalisation of modern ground rent*

Modern ground rent (above): £3600

Years Purchase at 6% in perpetuity deferred 30 years: 2.9

Capitalised modern ground rent: £3600 x 2.9 = £10,440

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of (say) £10,500.

### **Determination of the Tribunal**

19 The Tribunal holds that the basis of valuation adopted by the parties properly reflects the principles of the 1967 Act.

20 The Tribunal gave full consideration to the arguments and evidence of the parties in relation to the principal issues in dispute, namely (1) the site value of the subject property at the relevant date; and (2) the appropriate percentage yield rate to be applied at all stages of the valuation calculation. On both issues the Tribunal finds the arguments of Mr Brunt to be more persuasive.

21 On the issue of the site value, the Tribunal is, of course, mindful of the principle in *Cadogan Estates Limited v Hows and Hock* [1989] 2 EGLR 216, that the standing house value (or entirety value) is "... the value of the property in good condition and fully developing the potential of its site *provided always that the potential identified is realistic and not fanciful*" (emphasis added). For a number of reasons, the Tribunal is

not persuaded that the development of the site suggested by Mr Humphrey in his report (nor the alternative suggested by Mr Dixon) clears the hurdle of that proviso:

- Mr Humphrey simply referred to a “new 4 or 5 bedroom 2-storey detached house with a gross internal floor area of approximately 130 square metres”. He provided no further details of the proposed accommodation. In particular, he provided no plans for the suggested development nor any indication as to its position on the site;
- Mr Humphrey provided no evidence that the proposed development could be constructed so as to fit the shape of the site and comply with the existing local planning restrictions such as building lines and character;
- Mr Humphrey provided no evidence that the suggested development had been discussed at any level with the local planning authority;
- the development postulates the absence of the current building, although that forms part of a pair of semi-detached houses.

22 The Tribunal therefore prefers the submission of Mr Brunt that there is no potential for significant development that should be included in the calculation of the standing house value of the subject property.

23 Using its general knowledge and experience (but no special knowledge) the Tribunal finds that the evidence submitted by Mr Brunt reflected the general level of property values in the area of the subject property at the relevant date; and, bearing in mind the differences between the “comparable” properties and the subject property, the Tribunal finds that the standing house value of the subject property at the relevant date was £100,000.

24 Consistent with previous practice, and in the absence of any circumstances suggesting a departure from that practice, the Tribunal holds that the appropriate percentage to be applied to the standing house value in calculating the site value is 33 1/3 per cent.

25 On the issue of the appropriate percentage yield rate to be applied at all stages of the valuation calculation, the Tribunal also concludes that the submissions of Mr Brunt are to be preferred to those of Mr Dixon for the following reasons:

- As a matter of principle the courts have expressly doubted whether the money market provides a safe guide in making land valuations: see *Gallagher Estates Limited v Walker* (1973) 28 P & CR 113, 117 per Lord Denning MR. The statement of Lord Denning MR in that case was cited with apparent approval by the Lands Tribunal in 1999 in its decision relating to the property at 25 Ferndale Road, Streetly, Sutton Coldfield (LRA/25/1999).
- In any event the Tribunal remains to be persuaded that the investor in the hypothetical market postulated by the 1967 Act would be much influenced by the current low base interest rates when the reversion is still distant. Under the hypothetical terms of the 1967 Act purchasers of ground rents would be looking at a long-term return on the purchase over the unexpired term and the assumed fifty-year extension; accordingly, any short-term or medium-term variations in the

underlying level of base interest rates within that long-term would not have a significant effect on the yield rate required by the hypothetical purchaser.

- The Tribunal is of the view that the evidence of Mr Dixon in support of the lower rate of 6 per cent is potentially misleading. The decisions of the Lands Tribunal in 1997 and 1998, which upheld a figure of 6.5 per cent, were uncontested appeals by the freeholder. Evidence of demand from investors for freehold ground rents provides no evidence of the price that those investors may be willing to pay; and, in any event, the sale price of freehold ground rents may reflect surrounding circumstances different from the terms postulated by the 1967 Act.
- In summary, although the Tribunal accepts that previous decisions of the Leasehold Valuation Tribunal and the Lands Tribunal should not be taken as authority for the adoption of any particular yield rate in subsequent cases, the Tribunal is not persuaded by the arguments of Mr Dixon in the present case that it should depart from the yield rate that has been adopted for many years in volatile markets.

26 Accordingly the Tribunal determines that the appropriate percentage yield rate to be applied at all stages of the valuation calculation is 7 per cent.

27 Adopting those figures, and applying figures of Years Purchase from Parry's Valuation Tables, the Tribunal calculates the price payable as follows:

*(i) Capitalisation of existing ground rent to termination of lease*

Ground rent payable: £5.00 per year  
Years Purchase: 30 @ 7%: 12.409  
Capitalised ground rent: £5.00 x 12.409 = £62.05

*(ii) Modern ground rent*

Standing house value of subject property: £100,000  
Percentage attributable to site: 33 1/3 %: £33,333  
Annual equivalent @ 7%: £2333.31

*(iii) Capitalisation of modern ground rent*

Modern ground rent (above): £2333.31  
Years Purchase at 7% in perpetuity deferred 30 years: 1.87667  
Capitalised modern ground rent: £2333.31 x 1.87667 = £4378.85

The addition of the capitalised existing ground rent and the capitalised modern ground rent produces a figure of £4440.90.

28 Accordingly, the Tribunal determines the price payable under section 9 of the 1967 Act for the freehold interest in the subject property at £4440.



## Summary

- 29 The Tribunal determines the price payable by the tenants for the freehold interest in the subject property at £4440 plus the freeholder's reasonable costs calculated in accordance with section 9(4) of the 1967 Act and paragraph 5 of Schedule 22 to the Housing Act 1980.

*Nigel Gravells*

**NIGEL P GRAVELLS**  
CHAIRMAN

**05 FEB 2002**