

123

LVT 9

Our Ref: M/EH 2257

**MIDLAND RENT ASSESSMENT PANEL**

Leasehold Reform Act 1967

Housing Act 1980

**DECISION OF LEASEHOLD VALUATION TRIBUNAL**

**ON AN APPLICATION UNDER S21 OF THE LEASEHOLD REFORM ACT 1967**

Applicant: Mrs D Tanner

Respondent: Mayfly Corrib Limited

Re: 148 Midland Road, Cotteridge, Birmingham, B30

Date of Tenants Notice: 11 April 2001

RV as at 31.3.90: £109

Application dated: 14 June 2001

Heard at: The Panel Office

On: Wednesday 27 February 2002

APPEARANCES:

For the Tenant: Mr Anthony Brunt FRICS of Messrs Anthony Brunt & Co

For the Landlord: Mr Grant Dixon of Jack Dixon & Co, Auctioneers Estate Agents

Members of the Leasehold Valuation Tribunal:

Mr N R Thompson FRICS (Chairman)  
Mr J C Ritchie  
Mrs N Jukes

Date of Tribunals decision:

01 APR 2002

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL  
ON AN APPLICATION UNDER SECTION 21 AND 21 (1) (ba) OF  
THE LEASEHOLD REFORM ACT 1967  
IN THE CASE  
OF**

**TANNER -v- MAYFLY (CORRIB) LIMITED**

**148 MIDLAND ROAD  
COTTERIDGE  
BIRMINGHAM  
B30 2EY**

**Reference : M/EH2257**

**Background**

This is a determination under Section 9 of the Leasehold Reform Act 1967 (as amended) as to the price to be paid for the freehold interest in respect of a semi-detached house 148 Midland Road, Cotteridge, Birmingham, B30 2EY. The Lessee, Mrs. D.F. Tanner, holds the property by way of a Lease dated 10<sup>th</sup> December 1958 for a term of 55 years from the 24<sup>th</sup> June 1958 at an annual rent of £6.

The lessee's Notice of Claim was dated 11<sup>th</sup> April 2001 at which time there was an unexpired term of approximately 12 years. The Tribunal accepted that the qualifying conditions for entitlement to enfranchise under the Act have been fulfilled.

**Property**

The Tribunal inspected the property on Wednesday, 27<sup>th</sup> February, 2002 in the presence of the lessee and her valuer Mr. A.W. Brunt, FRICS. The property comprises a two storey semi detached house of brick and slate construction in an established residential area, close to the centre of Cotteridge and only a small distance from open area of parkland.

The property has the benefit of gas fired central heating (installed by the tenant after the date of the Notice of Claim). The tenant has also undertaken a ground floor extension to provide a shower room (with walk-in shower) and w.c., accessed via a ventilated lobby off the kitchen. The accommodation otherwise comprises two reception rooms, kitchen and shower room/w.c. on the ground floor with three bedrooms on the first floor. Externally there is a rear garden which backs onto the park and which is accessed via a shared right of way as well as directly from the house.

## Hearing

At the Hearing, the lessee was represented by Mr. Anthony Brunt, FRICS of Messrs. Anthony Brunt and Co., Chartered Surveyors of Birmingham. The Landlords were represented by Mr. Grant Dixon of Jack Dixon & Co., Auctioneers, Estate Agents, Surveyors and Valuers of Birmingham.

The Hearing commenced with Mr. Brunt introducing his case on behalf of the lessee by submitting the following valuation:-

Ground Rent	:	£6	
Y.P. for 12 years @ 7%	:	<u>7.94</u>	
			£47.64

Standing House Value	:	£74,000	
Site Value @ 30%	:	£22,200	
Sec.15 Rent @ 6 <sup>1</sup> / <sub>2</sub> %	:	£ 1,443	
Y.P. in perp.def.12 yrs. @ 6 <sup>1</sup> / <sub>2</sub> %	:	<u>7.22</u>	
			<u>£10,418</u>
			<u>£10,466</u>

Mr. Brunt took the Tribunal through his valuation and in support of his Entirety figure of £74,000 submitted the following evidence:-

- 1 A schedule detailing evidence of 10 house sales in the immediate vicinity completed between February and August 2001 at prices varying from £67,000 to £89,000.
- 2 The results of a search of H.M. Land Registry records for the subject postcode area in respect of the period April to June 2001, which revealed that 56 terraced houses were sold during that period at an average price of £75,944.

Mr. Brunt had valued the passing rent on a 7% basis which he suggested was in line with many previous decisions of the Tribunal, although he had thereafter used 6.5% yield because of the anticipated uplift in rent in just over 12 years time.

In the absence of any evidence regarding the sale or valuation of single building plots at the relevant time, Mr. Brunt had adopted a Standing House method of valuation, utilising 30% of the Entirety Value.

Mr. Brunt then referred to the possible application of a "Haresign Addition" in this case (so called after Haresign -v- St. John the Baptist's College, Oxford, LR/18/1079 (V.G. Wellings QC)). Mr. Brunt did not consider this to be appropriate in the present case and drew the Tribunal's attention to 11 previous cases when the question of a Haresign Addition had been considered. In all of those cases, the properties concerned had comprised small terraced dwellings with the exception of 96 Lordswood Road, which was the only instance where a Haresign Addition had been allowed. In all of the cases the unexpired terms varied between 3 months and 16 years. In addition, Mr. Brunt referred in detail to the Haresign case and in particular the fact that the property which was the subject of that appeal, 54 Southmore Road,

Oxford comprised a substantial late Victorian three storey house with the lease then having 3 years unexpired. Although the Landlord in that instance was represented by both Counsel and qualified surveyor, Mr. Haresign acted for himself. Mr. Brunt also pointed out that 54 Southmore Road, Oxford was situated within a Conservation Area (with the implications that would have for redevelopment) and was valued at £195,000 in 1995 (confirming its very substantial nature).

Accordingly Mr. Brunt felt that it was too remote to assess the value of the subject property which ..... because of its nature, might or might not be standing in over 60 years time. In cross examination it was suggested to Mr. Brunt that the houses he was using as comparable evidence may well have been on the market for six months before the appropriate date and therefore to use the date of completion as evidence for the value of the subject property as at the date of the Notice of Claim was therefore not particularly reliable. Mr. Brunt did not accept that argument, given that in view of the relatively healthy state of the residential property market at the relevant time, properties of this nature sold fairly quickly. Mr. Grant also question whether Mr. Brunt's web search should more appropriately have been directed towards the average price of semi detached houses given that 148 Midland Road is not a terraced house. Mr. Brunt conceded that whilst the subject property was physically semi detached, the class and nature of the other houses in Midland Road (virtually all terraced) as well as the very close proximity of 148 to his neighbour would mean that it would effectively be regarded as if it was terraced and any differential in value between terraced and semi detached status would be diminimus.

In presenting his case on behalf of the Landlords, Mr. Dixon submitted the following valuation:-

Term ground rent	£6.50	
Y.P. for 12 yrs. @ 5 <sup>1</sup> / <sub>2</sub> %	<u>8.619</u>	
		£56.02
Entirety Value £97,500		
Site Value @ 33.1/3%	£32,496.75	
Section 15 Rent @ 5 <sup>1</sup> / <sub>2</sub> %	£ 1,787.32	
YP for 50 yrs. Deferred 12 years @ 5 <sup>1</sup> / <sub>2</sub>	<u>8.89</u>	
		<u>£15,889.28</u>
Reversion to standing house £97,500		
P.V. of £1 deferred 62 years @ 5 <sup>1</sup> / <sub>2</sub> %	<u>0.0361</u>	
		<u>£ 3,519.75</u>
		£19,465.05

In support of his figures, Mr. Dixon cited 6 sales of properties in Midland Road, Park Avenue and Ashmore Road, Cotteridge at prices between £99,950 and £130,000. Dates for completion were given for two of those properties – 24 Park Avenue, Cotteridge completed 28<sup>th</sup> August 2001 at a sale price of £99,950 and 110 Midland Road, Cotteridge completed 27<sup>th</sup> September 2001 at a price of £105,000.

Mr. Dixon pointed out that with the exception of 110 Midland Road (which had 3 bedrooms) and 144A Midland Road (which was a relatively modern 3 bedroom detached property) all of the premises detailed in his schedule were 2 bedroomed terraced houses. He emphasised that 148 Midland Road was both 3 bedroomed and semi detached and on that basis, he considered a figure of £97,500 to fairly reflect the Entirety Value of the property on a freehold basis.

In terms of the proportion of that value to be adopted for the site, Mr. Dixon referred to the disposal of the development site in Raddlebarn Road, Selly Oak in 1998 at a figure of £175,000 with planning permission for 5 units. He pointed out the disadvantages of that site and the fact that Raddlebarn Road is a busy "rat run", all of which in his opinion rendered Midland Road a more desirable location. The price per plot in that case devalued at £35,000 which, re-based to take into account the increase in land values during the intervening period he estimated to now be the equivalent of £32,496 per plot.

Mr. Dixon also drew the Tribunal's attention to the case of 16 Park Avenue, Cotteridge (LVT reference M/EH/2131) in which the tenant's Notice of Claim was dated the 1<sup>st</sup> March 2000; the site area was 128.37 square metres (compared with 167.12 square metres for the subject property) and in which the Tribunal determined a site value of £22,500 which represented a 30% site apportionment from the Entirety Value. Mr. Dixon pointed out that 16 Park Avenue was a terraced house which backed onto a railway embankment (part of which had collapsed) and he reminded the Tribunal that the subject property was semi detached and had the benefit of backing directly onto Cotteridge Park.

Accordingly, Mr. Dixon produced a valuation for the site value as follows:-

Mr. Dixon contended that the inclusion of a Haresign Addition was justified in this case on the basis that the subject property was likely to remain standing for at least another 60 years and beyond. In support of this, Mr. Dixon referred to letters from Barclays Bank (17<sup>th</sup> July 2001), and HSBC Bank (26<sup>th</sup> July 2001) both of which effectively confirmed that those two organisations were prepared to grant mortgages on terraced houses which were over 100 years old.

Mr. Dixon highlighted the fact that there is a considerable housing stock throughout Birmingham dating from between 1870 and 1905, much of which is in excellent condition and not showing significant signs of deterioration. According to information compiled by the DETR there are over 330,000 terraced houses in the West Midlands, which were built before the First World War, representing approximately 15% of the total housing stock in the area. Given the demands for housing in the foreseeable future, there would be an unsustainable gap in supply if this number of properties were to be removed from the available stock.

Mr. Dixon went on to produce a letter from Jeremy A.T. Goer dated 12<sup>th</sup> November 2001 explaining in detail the nature of construction of properties of this age and confirming that in his opinion there was no reason why such property should not remain standing in good order

for the next 60 – 65 years. Also produced was a letter from D.J. Coleman, MRICS of Hollier Browne, Chartered Surveyors, emphasising the strength of the market for this type of property and its resilience in the face of difficult market conditions.

In his letter, Mr. Coleman also expressed the view that 148 Midland Road should have a useful physical life of a further 75 – 100 years.

Mr. Dixon also presented photographic evidence of a number of similar properties constructed between 1830 and 1878 in various districts of Birmingham. Mr. Dixon then spoke to the question of the yield rate to be adopted for the purposes of the valuation and referred the Tribunal to extracts from various newspapers; financial journals; advertisements; and auction particulars in support of his view that 5<sup>1</sup>/<sub>2</sub>% would be an appropriate rate to adopt in the case of 148 Midland Road, taking into account the relatively short unexpired term of the lease.

Mr. Dixon highlighted the generally lower rates of return available on investments in recent years; the lower yield on Bonds; the projected rates for the cost of borrowing and also evidence of ..... rates of 3<sup>1</sup>/<sub>4</sub>% or thereabouts achieved on the sale at auction of individual ground rents.

In concluding his evidence, Mr. Dixon drew the Tribunal's attention to the Lands Tribunal Decision in the case of Windsor Life Assurance and David and Daphne Austin (LRA4/1994) as well as a previous Decision of this Tribunal, Mrs. A. Wager and Hanlo Holdings Limited (WM/EH1899).

In cross examination, Mr. Dixon was asked whether he was advocating the use of a 5<sup>1</sup>/<sub>2</sub>% yield throughout the valuation or whether that rate should be varied at all. Mr. Dixon felt there was no need to vary the rate because of the totally secure nature of the ground rent, and did not agree with subsequent suggestion from Mr. Brunt that if a Haresign Addition was appropriate in this case, then a much higher yield would be warranted.

Mr. Brunt asked whether the fact that the rear garden area was effectively split by the right of way to adjoining properties would affect the percentage of the Entirety Value which should be adopted for the site. This had been the view taken in the case of 95 Katherine Road – an LVT Decision dating from February 2001 in which only 28% of the Entirety Value had been taken as being attributable to the site. The frontage and area in that case was very similar to that of Midland Road. Mr. Dixon did not agree with this, on the basis that Katherine Road was not as attractive a location as that occupied by the subject property which also had the advantage of back onto Cotteridge Park. He felt this more than compensated for any diminution in value which might be caused by the existence of the right of way.

## **Decision**

The main areas of difference between the parties concerned, the Entirety Value of the subject property; the proportion of that value to be adopted for the site value; the yield (or yields) to be adopted in the valuation and whether or not a Haresign Addition was appropriate.

Both parties presented a considerable body of evidence in support of their respective cases and the Tribunal gave careful consideration to all of this before reaching its conclusions.

On the subject of the Entirety Value, the Tribunal concluded that a figure of £80,000 was appropriate.

In relation to the proportion of the Entirety Value which should be adopted for the site, the Tribunal considered that the presence of the shared right of way to the rear of the house was significant in this context and therefore decided that the correct apportionment was 30%.

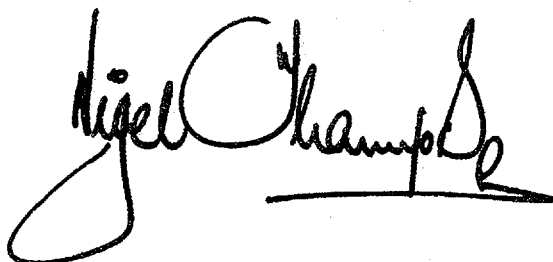
So far as the yield rates were concerned, the Tribunal considered different rates to be appropriate as between the term and reversionary elements of the valuation and concluded that these should be 7% and 6<sup>1</sup>/<sub>2</sub>% respectively.

In considering the question of whether or not a Haresign Addition should be included in the valuation, the Tribunal was mindful of the fact that in those cases where this had felt to be appropriate, the subject properties had been very substantial in nature when compared with houses such as those found in Midland Road and as such, considered that such an addition would not be appropriate in this instance.

Taking all of these matters in account, the Tribunal's valuation was as follows:-

Ground Rent	:	£6.50	
Y.P. for 12 years @ 7%	:	<u>7.94</u>	
			£48
Reversion to Entirety Value		£80,000	
Site Value @ 30%		£24,000	
Sec.15 Rent @ 6 <sup>1</sup> / <sub>2</sub> %		£ 1,560	
Y.P. in perp.def. 12 yrs.@ 6 <sup>1</sup> / <sub>2</sub> %		<u>7.22</u>	
			<u>£11,263</u>
			<u>£11,311</u>

Accordingly the Tribunal determined the price to be paid for the freehold interest at £11,311 plus the Landlord's reasonable costs calculated in accordance with Section 9 (4) of the Leasehold Reform Act 1967 and Schedule 22 Rule 1 (5) of the Housing Act 1980.



**NIGEL R. THOMPSON**  
CHAIRMAN

**11 APR 2002**