



ACQ/359/2008

LANDS TRIBUNAL ACT 1949

COMPENSATION – compulsory purchase – dwellinghouse – value – comparables – whether subject property severed from surrounding area suffering from market failure – compensation awarded £93,500

IN THE MATTER OF A NOTICE OF REFERENCE

BETWEEN

JAYNE FAYLE

Claimant

and

**SEFTON METROPOLITAN
BOROUGH COUNCIL**

**Acquiring
Authority**

**Re: 99 Balliol Road
Bootle
Merseyside
L20 7EH**

Before: N J Rose FRICS

**Sitting at Liverpool Crown Court, The Queen Elizabeth II Law Courts,
Derby Square, Liverpool, L2 1XA
on 11 February 2008**

Hugh Derbyshire, instructed by Sharman and Son, solicitors of Crosby, Liverpool for the claimant
Frances Patterson QC, instructed by Eversheds LLP, solicitors of Manchester, for the acquiring
authority.

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DECISION

Introduction

1. This is a reference to determine the compensation payable by Sefton Metropolitan Borough Council (the acquiring authority) arising from the compulsory acquisition of the long leasehold interest in a dwellinghouse known as 99 Balliol Road, Bootle, Merseyside, L20 7EH from the leaseholder, Miss Jayne Fayle. The subject property was compulsorily acquired under the Sefton Metropolitan Borough Council (Queen's Road and Bedford Road, Bootle) Compulsory Purchase Order 2005, made on 29 June 2005 and confirmed by the Secretary of State for Communities and Local Government on 12 January 2007. The acquiring authority executed a general vesting declaration in respect of the property on 5 November 2007 and the valuation date is 22 January 2008, the vesting date.

2. It is agreed that the claimant is entitled to a home loss payment of 10% of the market value of the subject property plus disturbance compensation of £2,000. The only matter in issue is the market value. The claimant's valuation is £120,000 and the acquiring authority's figure is £87,500.

3. By order of the Registrar the reference was conducted in accordance with the Tribunal's simplified procedure (rule 28, Lands Tribunal Rules 1996). The Tribunal's Practice Directions dated 11 May 2006 contained the following guidance (para 17.1):

“In simple cases, permission will usually be granted for a surveyor or valuer to represent a party in order to avoid the additional costs of separate representation. In those cases allocated to the simplified procedure under LT Rule 28, such representation may well be the norm.”

4. Notwithstanding that guidance, solicitors and counsel were instructed by both parties. Mr Hugh Derbyshire appeared for the claimant. He called the claimant to give factual evidence and, as expert witness, Mr M G Hardie LLB, MRICS, a director of Dears Brack, chartered surveyors of Liverpool. Counsel for the acquiring authority, Miss Frances Patterson QC, called expert evidence from Mr A G Massie, BSc (Hons), MRICS, IRRV, MCI Arb, a partner in Messrs Keppie Massie of Liverpool. On 13 February 2009, in company with the two experts, I inspected the site of the subject property, which is now cleared, together with the surrounding area and certain other properties which had been cited as comparables.

Facts

5. From the evidence I find the following facts. Prior to demolition the subject property comprised a two storey mid-terrace property, of brick construction under a pitched tiled roof with a small single storey porch to the front, erected in late 1989. It was one of a terrace of four similar houses fronting the south side of Balliol Road, a short distance east of the junction

with Kings Road, some 0.75 miles to the south of Bootle town centre. The gross external area was 797 sq ft. Immediately to the west were two of the other houses in the terrace and a former clinic, now used for educational purposes as part of the Hugh Baird College Complex. The fourth house in the terrace – 97 Balliol Road – lay immediately to the east and beyond that was Marble Close, a small cul-de-sac running south from Balliol Road and containing four blocks of two flats, built in the 1980s in similar style to that of the subject property and rented by a registered social landlord to retired people. On the opposite side of Balliol Road to the subject property are three non-residential buildings. One is currently used for storage purposes by the Bootle and Sefton Play Council and one is another campus for Hugh Baird College. Between those two buildings is the former Bootle baths complex, which is vacant and derelict.

6. The ground floor of the subject property was of solid construction and the first floor was of suspended timber. Windows throughout were timber framed and single glazed. There was a full gas fired central heating system. On the ground floor the accommodation comprised an entrance porch, living/dining room and kitchen. There were two double bedrooms and a bathroom/wc on the first floor. There was a predominantly lawned, relatively enclosed front garden and a large rear garden with an adjacent off-site car parking space, accessed from Marble Close.

7. The claimant occupied the subject property under a 999 year lease from 25 March 1893 at a fixed rent of £20 per annum.

8. The property was situated close to the north-western corner of the CPO area. The order land comprised mainly residential properties with some commercial properties, laid out in a regular gridiron network of streets. In total there were more than 200 properties within the order lands, containing a total of 400 separate dwellings. Most of the buildings dated from the Victorian period. They were extremely large and generally arranged on three storeys, with two or three storey outriggers to the rear. In addition there were a number of more modern properties within the CPO area, including those in the terrace containing the subject property. The CPO was promoted in order to bring about the improvement of the economic, social and environmental conditions in one of the most deprived areas of Merseyside.

Evidence

9. In arriving at his valuation of £120,000, Mr Hardie relied generally upon his considerable local valuation experience and in particular on three properties in Bootle which were sold in the period leading up to the valuation date, located within 500 metres of the subject property. Nos.7 and 11 Clareville Close were both sold in March 2007. They were two-storey, end terrace or semi-detached houses, of similar age and style to the subject property, approximately 60 sq ft smaller and without central heating but with a parking space within the curtilage. Mr Hardie said that No.7 had been sold for £85,000, which reflected the fact that it had been repossessed by mortgagees and required significant re-plastering, upgrading of electrical circuitry, provision of central heating, renewal of windows, refitting of the kitchen and bathroom which had been vandalised, external repairs and landscaping. Mr Hardie considered that the property would have been worth in the region of £120/£125,000 once it was fully

repaired and refurbished. 11 Clareville Close had sold for £105,000, which reflected the fact that it had the original kitchen and bathroom fittings.

10. The third property to which Mr Hardie referred was 181A Gloucester Road, which he said had sold for £125,000 in 2007. Mr Massie responded that the Land Registry records did not refer to such a transaction and Mr Hardie informed me during the site inspection that he no longer wished to rely on this comparable.

11. Mr Hardie said that the acquiring authority had been purchasing houses to the south of the subject property for several years before the valuation date. Once acquired, the buildings remained vacant and the owners of the remaining houses in the area were unwilling to upgrade them. The declining physical and social fabric behind the subject property was therefore the result of the scheme underlying the acquisition and should be ignored. Moreover, while Balliol Road was a main road, the fact that it was busy and well lit improved the security of the adjacent properties by comparison with those in the remainder of the CPO area further to the south.

12. Mr Massie emphasised that the subject property comprised an infill development within an area of predominantly pre-1919 properties. The area suffered from a variety of social problems and was characterised by many vacant properties, numerous buildings in poor repair or derelict and a significant transient population. It suffered from high levels of crime, vandalism and anti-social behaviour. Furthermore, the subject property had direct frontage to Balliol Road, which was one of the busiest freight traffic routes in the area.

13. Mr Massie said that historically prices in the CPO area – which he referred to as Queens Bedford since it surrounded Bedford Road and Queens Road – had been significantly lower than those in the rest of Bootle. This reflected the unpopularity of the area and its poor environmental and social quality. There was very little demand for houses, many of which lay empty and derelict whilst others, although occupied, were in very poor repair. Many of the larger Victorian properties had been converted into flats or bedsits.

14. Because of the significant difference in house prices in Queens Bedford compared to the rest of Bootle, it was difficult to draw direct comparisons with properties outside the immediate area without having to make large adjustments to the transactional evidence. Mr Massie considered that the best evidence available was to be drawn from Queens Bedford, and in particular similar modern infill developments within the existing Victorian housing stock. The number of such properties was very limited and consequently only a few transactions were available as evidence, particularly close to the valuation date.

15. Mr Massie produced details of a number of transactions in Queens Bedford. He considered, however, that the acquisition of 22 Keble Road provided the most compelling evidence available. Keble Road runs parallel to and three streets to the south of Balliol Road. No.22 was within a modern infill development in a quieter part of the area away from Balliol Road. It was a mid-terraced house with three bedrooms and in excellent condition. It had

UPVC double glazing and central heating. It was privately owned and, after negotiations with a local firm of estate agents acting on behalf of the owner, it was acquired for £85,000 on 19 September 2007.

16. Although the property did not have on-site parking, in this part of Keble Road the carriageway had been widened to provide an on-street parking area for residents. The property was in significantly better condition than the subject property, it was larger and was also well away from the busy main road. The appearance of the house, however, was perhaps not as attractive as the subject property and it had a smaller garden. Mr Massie felt that the balancing effect of these factors meant that there was no need to adjust the sale price to reflect the different circumstances of the two properties. He did not think there had been any material change in market conditions between the date of the transaction and the valuation date. This evidence, therefore, fully justified his valuation of the subject property at £87,500.

17. Outside Queens Bedford, Mr Massie considered that the most comparable properties in locational terms were to be found within the adjoining residential area immediately to the south. These were similar in terms of age, although generally larger. Two transactions in particular were relevant, namely 32 Macbeth Street and 38 Oriel Crescent. Having adjusted these transactions to accord with the characteristics of the subject property, they showed figures in the range of £72,250 to £81,500.

18. Elsewhere in Bootle there had been a number of transactions which Mr Massie considered to be helpful. They were, however, all in better locations than the subject property. Making appropriate adjustments to reflect differences they showed a range of values between £75,000 and £85,500.

19. Overall, Mr Massie thought the comparables indicated a value range between £72,250 and £85,500. The acquisition of 22 Keble Road for £85,000, however, was the most relevant and compelling evidence. With this in mind he felt that a valuation at the top of the range suggested by the comparables could be justified. In his opinion the market value of the subject property at the valuation date was £87,500.

Conclusions

20. I consider firstly the comparable evidence relied upon by Mr Hardie. By the end of the site inspection this had boiled down to the sales of two properties in Clareville Close. Subsequent to the hearing Mr Hardie produced a copy of a valuation of No.7, prepared in 2008. This did not, as he had thought to be the case, value the house at £125,000 in refurbished condition. Assuming in the claimant's favour, however, that the Clareville Close transactions did indeed support a value in the region of £120,000 or £125,000 when refurbished, it would be necessary to reduce such figure significantly to reflect the fact that the location of Clareville Close, in a more attractive setting immediately to the south of the Strand Shopping centre and close to Bootle Oriel Road railway station, is significantly better than that of the subject property. In any event, I do not think it is appropriate to value the latter on the basis of prices

obtained or values attributed to newly refurbished properties. Although the subject property had been well maintained, its windows were single glazed. It also had the original kitchen and bathroom fittings and it is likely that a new owner would have wished to replace these.

21. The subject property was about ten per cent larger than the Clareville Close houses and, unlike them, it had an orthodox staircase leading to the first floor. Nevertheless, the only reliable conclusion that I feel can be drawn from the evidence in Clareville Close is that the subject property was worth significantly less than £120,000.

22. Mr Massie produced details of various transactions in Queens Bedford and elsewhere in Bootle. He fairly recognised the difficulty of making accurate adjustments to reflect the many differences between the subject property and buildings outside Queens Bedford. Having considered all the evidence, I agree with him that the most helpful is that provided by the price paid for 22 Keble Road. Mr Derbyshire urged me to treat prices agreed under the shadow of compulsory acquisition with caution. Mr Massie disagreed. He pointed out that, in the case of 22 Keble Road and many others, the owners had been professionally represented and he said that the prices had been agreed in accordance with the statutory compensation code.

23. The fact that the compensation payable for a property pursuant to a CPO or under the shadow of compulsory acquisition is agreed between surveyors does not mean that it provides evidence of the same quality as an unblighted sale in the open market. Nevertheless, having carefully considered all the available comparable evidence outside Queens Bedford I am satisfied that the price paid for 22 Keble Road was not less than the price it would have realised in the no scheme world. It suggests to me that, if the subject property and its off-site parking space had been situated in Keble Road, it, too, would have been worth £85,000.

24. Mr Hardie expressed the view that the prices paid for properties within Queens Bedford did not provide helpful evidence, because the terrace containing the subject property was severed from the surrounding poor housing stock. I think it is going too far to refer to severance. There was no clear physical barrier separating the properties in the north-western corner of Queens Bedford from the remainder of the CPO area. I am satisfied, however, that those properties, including Nos. 97-103 Balliol Road and those fronting Marble Close, were in a more desirable location than the remainder of the CPO properties. They were much more modern than most, of more attractive appearance and contained accommodation which was much smaller, and therefore in much greater demand, than the majority of the other houses. Moreover, their principal outlook was away from the troubled CPO area, in contrast to 22 Keble Road and other modern infill houses in the neighbouring streets to the south.

25. In a written statement the claimant said that, before the acquiring authority started purchasing properties in the area, only one of the four houses in her terrace had become available on the open market and it was then sold immediately. This statement was not challenged. It painted a picture in striking contrast to the general position in Queens Bedford, where 26% of the properties were vacant when the acquiring authority first embarked on its programme of voluntary acquisition in 2002.

26. I bear in mind that the subject property fronted on to a busy road. I find that it was worth ten per cent more than if it been located on the site of 22 Keble Road. I determine that the compensation payable by the acquiring authority for the long leasehold interest in 99 Balliol Road, Bootle, is £93,500, to which is to be added a home loss payment of £9,350 and disturbance compensation of £2,000, making a total of £104,850. In addition the acquiring authority will pay a surveyor's fee, which it is agreed is to be based on the old Ryde's scale, and reasonable legal costs of transfer, if any.

27. Both parties said that they wished to make representations on costs. A letter on that subject accompanies this decision, which will become final when the question of costs has been determined.

Dated 3 March 2009

N J Rose FRICS