



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **LON/00AD/OLR/2018/1564**

Property : **82B Woolwich Road, Belvedere, Kent DA17
5EN**

Applicant : **Pamela Mary Saywell**

Representative : **Mr Simon J Brook MSc MRICS Chartered
Surveyor instructed by South East Leasehold
Solicitors**

Respondent : **Ault Investments Limited**

Representative : **Mr Wilson Dunson FRICS Chartered Surveyor
instructed by Kennard Wells Solicitors**

Type of Application : **Application under section 48 of the Leasehold
Reform, Housing and Urban Development Act
1993**

Tribunal Members : **Tribunal Judge Dutton
Mr K Ridgeway MRICS**

**Date and venue of
Hearing** : **10 Alfred Place, London WC1E 7LR on 12th
June 2019**

Date of Decision : **3rd July 2019**

DECISION

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DECISION

The Tribunal determines that the premium payable in respect of the lease extension for the property 82B Woolwich Road, Belvedere, Kent DA17 5EN (the Property) is £47,300 as set out on the valuation attached hereto.

BACKGROUND

1. On 3rd December 2018 the Applicant, Pamela Mary Saywell, through her solicitors South East Leasehold Solicitors, issued an application in the Tribunal for the purposes of determining the price payable in respect of the lease extension for the Property. In the application the Applicants put forward a premium of £39,000 and the Respondent £67,723. These values were to be found on the notice and counter notice issued by the parties leading to the application.
2. Prior to the hearing of the matter on 12th June 2019 we were provided with a bundle of papers which included a hearing bundle, the application, notices, copies of the registered title and the existing lease plan. In addition also the agreed form of lease was included.
3. In separate bundles we received a report from Mr Simon Brook on behalf of the Applicant which is dated 30th May 2019 and contained a number of addendums.
4. For the Respondent we were provided with a report by Mr Wilson Dunson dated 28th May 2019, also with addendums. We had the opportunity of reading both before the commencement of the hearing.
5. There are a number of matters that are not in dispute. The Property is a two-bedroom first floor flat in a two-storey block of four which has gas central heating, replacement windows and a separate rear garden. It was built circa 1970 and has an agreed sized of 682 square feet. The ground rent is £50 for the term.
6. Between them the valuers have agreed the following issues:-
 - The valuation date is 10th May 2018. The lease expires on 23rd June 2061 giving an unexpired term of 44.1 years.
 - The capitalisation rate is agreed at 7%.
 - The deferment rate is agreed at 5%.
 - The uplift from long lease to freehold is agreed at 1%.

HEARING

7. As we have indicated above, we had the opportunity of reading both experts' reports before the hearing and it does not seem necessary to go into the minutiae of what they say in their reports.
8. For the Applicant Mr Brook told us that the subject Property was an remarkable two-bedroom flat with a separate rear garden but fronted a busy main road with no car parking or garage. He suggested four comparables for the purposes of assessing the long lease value. These were at 44 Raglan Road, Belvedere; 2

Mossdown Close, Belvedere; 86 Milford Close and 34 Milford Close. These gave an average long lease value of £209,000 although in his report he had a figure of £208,815. When one applied the 1% agreed uplift for freehold it led to a freehold vacant possession value of £211,090.

9. From the long lease comparables he had made deductions for the benefit of a garage, central heating, double glazing, location and in the case of 34 Milford Close a further £5,000 for a conservatory. In respect of 86 Milford Close he had deducted a slightly larger sum for the triple double glazing. There had been some adjustments for size, particularly in the case of 44 Ragland Road and also adjustments to reflect the passage of time.
10. In respect of the short lease comparable, he had utilised 57 Milford Close which was a two-bedroom flat with garage and garden sold in December 2017 at £180,000. This property had a slightly longer lease than the subject property, of 47.3 years. He concluded that adjustments would need to be made for the refurbishment of the Property, which he valued at £25,000, but then deducted for the benefit of the garage, central heating and double glazing. This gave an adjusted figure, taking into account the passage of time, of £163,816. What he did not do, however, was to deduct for the benefit of direct access to the garden as he had done with the other long lease comparables. Accordingly he had to adjust his figure which resulted in the value changing to £161,500.
11. He then made further adjustments to reflect the no act world of 12.28% taken from the Savills graphs and a further adjustment of 4.2% to reflect the differing lease length of this property and the subject property.
12. He had then 'stood back' and considered the RICS 2009 relativity graphs for Greater London and utilising six graphs, which included the Lease graph, he concluded the average was 68.8%. He then applied this to the short lease comparable which after his adjustments was 63.5% giving an average of the two of 66.15%. This on his calculation gave a premium payable for the Property of £47,300.
13. He was questioned on his methodology by Mr Dunson and asked why he had not used a comparison at 52 Tyeshurst Close. There was some suggestion that this may have had a limited market to persons aged over 60.
14. Asked about improvements to the Property he was of the view that the replacement of windows with UPVC and the installation of central heating was an improvement and not just something that the tenant would be expected to do in the passage of time since the Property was built circa 1963. He also sought to explain his allowances in respect of the garage and other deductions he had made. There was some challenge to the size of the comparables and we noted what was said.
15. We then heard from Mr Dunson who like Mr Brook, had prepared a report for the hearing, he had chosen to put forward ten comparable properties which were listed on a schedule, four of which were common to those used by Mr Brook. He had then made deductions but only in respect of the garage for which he had made an across the board allowance of £5,000 and a similar sum in respect of

location. In respect of 34 Milford Close, a property which Mr Brook had used as a comparable, he also made an allowance of £2,500 in respect of the conservatory. He then applied a square footage assessment, which on the schedule gave an average of £406.42 per square foot. He then made a further adjustment of 5% for quantum as the Property was larger than most of the comparables, which reduced the average rate to £386.10 per square foot. Applying that to the size of the subject Property, being 682 square feet, gave a value of £263,320 for the freehold and deducting down to the extended lease value by 99% he achieved a figure for that value of £260,687.

16. In respect of the short lease values, like Mr Brook he had relied on 57 Milford Close but achieved a different value after adjustment for time, location and garage of £170,402.
17. He had also used the comparable at 52 Tyeshurst Close, which Mr Brook had thought may be limited in market to over 60s, where this had sold for £175,000 in September 2018 and when adjusted for time, location and garage gave a value of £169,773. He then took the average of those two short lease comparables, which gave a figure of £283.40 per square foot but after adjusting it by 5% for quantum, as he did with the freehold values, he concluded that the existing lease value for the Property would be £183,615. This however had to be further reduced by 10.59% using the Savills 2016 graph to value the rights of the Act thus reducing it, he calculated, to £163,509.
18. Applying these values and taking into account the agreed ground rent calculations he concluded that the premium payable for the Property was £64,050.
19. He was then questioned by Mr Brook as to whether the use of the square footage valuation skewed the figures but Mr Dunson's view was that taking ten comparables should avoid this. Asked why he had not for example given an allowance for direct access to the garden he felt that the lack of security and better views from the upper floor offset any allowance that might be made for that. He was asked why one of his comparables at 37 Barnfield included both a garage and car parking yet was not granted a greater allowance. However, Mr Dunson was not prepared to accept any movements on amendments that he had made to his figures and considered that they were correct. He was again asked why he had made no improvement allowances in respect of the Property and confirmed that in his view the repairing obligations were such that no adjustments needed to be made.
20. In final submissions Mr Brook thought that Mr Dunson should have made additional and more substantial adjustments in respect of the various properties relied upon and that the use of two short lease comparables without considering the graphs was not appropriate.
21. Mr Dunson's response was that he had produced ten comparables to arrive at the extended lease value. He thought that the use of this number of comparables gave a better average and that the two short lease comparables which were relevant and subject to deductions was good evidence. He considered it was

preferable to consider short lease comparables over of graphs when one considered the various upper Tribunal cases to which we were referred.

FINDINGS

22. We have set out on an attached schedule those items that were agreed between the parties and in tabular form our findings in respect of the long and short lease values that we attribute to the Property.
23. On a separate schedule we set out the valuation that we consider correct for the premium to be payable for the Property which as can be seen is £46,928. However, this is slightly below any value put to us by the parties. Accordingly it seems appropriate to adopt the value put forward by Mr Brook of £47,300 as being the premium payable for the Property, which is very close to the figure we considered.
24. Putting some flesh on the bones we make the following findings and comments.
25. Mr Dunson produced a schedule of some ten comparable properties which he asked us to consider. A couple of them, 64 Milford Close and 69 Milford Close, seemed to be some way, time wise, from the valuation date of the Property which is the 10th May 2018. In addition, and not something that we found favour with, he has taken an averaging to achieve a rate per square foot which he then reduced by 5% because it was said that the subject Property was larger than most of the comparables. In this regard the estate agents particulars are not always that clear and of course one of the comparables that he used, with Mr Brook, is Mossgate Close which is over 700 square feet in size. We do not consider that for flats of this nature the appropriate method for reaching a value is to consider the square footage rate. Also we do not consider it necessary to mix into the pot ten comparables. We have four comparables which both valuers have utilised. We find, therefore, that it is sufficient to make use of these four comparables and that is the basis upon which we have done so, as set out on the attached spreadsheet.
26. These comparables require adjustment. We accept the evidence of both valuers that the subject property is in a poor location comparative to the others put to us. It is on a busy main road where car parking is difficult, compared to the others which are in quieter side streets or cul de sacs. Mr Brook made an allowance of 5% for this difference and Mr Dunson a figure of £5,000. We find that the more appropriate way of making the adjustment for the location is to take a percentage figure as against the sale price of the comparable to reflect the difference between the comparables location and the Property. Accordingly against all four comparables we have made this adjustment of 5%.
27. Mr Dunson did not consider that the installation of double glazing and gas central heating in the Property constituted an improvement. We disagree with him. The installation of these two items goes beyond the usual tenant obligation to maintain in a reasonable fashion and in accordance with the terms of the lease. Accordingly we consider that there should be allowances made to bring the Property back to its condition when originally let, subject to the tenant complying with the repairing obligations under the lease. In those circumstances, therefore, we do accept that there should be a deduction in respect of central heating and

double glazed windows. Across the board we have allowed £5,000 for central heating and £3,000 for the windows. We think that £5,000 in respect of the double glazed windows is perhaps on the high side although neither valuer gave us any evidence to show what it might cost to carry out these works. We therefore used our own knowledge and experience to come to the figures mentioned above.

28. One other large element that required adjustment was whether or not the Property had a garage. Mr Brook's view appeared to be that based on sales of separate garages, he thought a deduction of £20,000 was correct. Mr Dunson had allowed only £5,000. We think that one is too high and one is too low. We have little doubt that the existence of a garage included within the lease of a property would have some benefits. However, the subject flat was built in the 1960s, it is unclear as to the size of the garage and whether it would accommodate a motor vehicle comfortably but would none-the-less provide storage that would not be available in a flat. Our view is that a figure of £10,000 is sufficient to justify the difference between the Property's lack of garage and indeed car parking and the comparables that have garages.
29. There were also adjustments made by Mr Brook in connection with direct garden access. Mr Dunson had made no allowance for this. We do think that there is a benefit of being able to access the garden directly from your Property. Those properties which had direct garden access, which according to Mr Brooks' report, would appear to be 86 and 34 Milford Close, we make an allowance of £5,000 considering that to be reasonable. A further adjustment had to be made in connection with the property at 34 Milford Close which had a conservatory. Mr Brook had allowed £5,000 and Mr Dunson £2,500. Exercising the judgement of Solomon we consider that a figure of £3,750 would be reasonable to allow for the existence of a conservatory.
30. We have made no adjustments for time in connection with our assessment of the comparables. The reason for this is that when one looks at the Land Registry data which Mr Brook had produced in his report, one sees that at the date of sale of Raglan Road which was April 2018 and the sales of 2 Mossgate Close and the properties at Milford Close, the first of which being September 2018 the spread is fairly minimal. In April 2018 the average price for a flat in the Bexley area was £241,392. By the time 86 Milford Close sold on 7th September 2018 the average price shown is £243,844. We do not consider that the difference of just over £2,000 is anything other than a valuing assessment that we do not need to incorporate into the adjustments we make in respect of the comparable properties. The amounts involved are really quite small.
31. Taking those matters into account, therefore, we have as can be seen from the attached schedule averaged the long lease value to be £220,300. We have applied the 1% uplift, which the valuers agreed, giving a freehold vacant possession value of £222,503.
32. We then turn to the short lease value. Two comparables were put to us, one was 57 Milford Close which Mr Brook and Mr Dunson had utilised and the other was 52 Tyeshurst Close which only Mr Dunson had used. Mr Brook had indicated that he was not certain that this was a comparable that we should utilise as he

had obtained some sales particulars from Rightmove which appeared to indicate that this property could have some homewise lifetime lease plan which over 60s only could apply for. However, that contrasted with the estate agents' particulars produced by Mr Dunson which showed no such limitation. Mr Brook appeared not to have made any enquiries with the estate agents to establish that this property was the subject of a potentially special purchaser and in those circumstances, we propose to accept Mr Dunson's evidence.

33. Accordingly we will take into account the comparable at 52 Tyeshurst Close. As we did with the long lease comparable assessment, we have set out in tabular form our findings in respect of the short lease. Again we have made an allowance of 5% in respect of the location. We accept Mr Brook's assessment that the cost to refurbish these properties would require something in the regional of £25,000. One would then need to make adjustments in respect of the garages and other improvements including double glazing, central heating and in the case of Tyeshurst Close it seems direct access to the garden. It does not seem necessary to make any adjustment for time as the average sale price in December 2017 was £242,809 and in September 2018 £243,844.
34. However, we consider because these properties were already in poor condition the allowance that we should make in respect of these further adjustments for double glazing heating etc., is appropriately considered by Mr Dunson in his report where he has halved the adjustments that he made for the garage and the location. He of course did not allow anything for the double glazing, central heating or access to the garden. We consider that the Property, already being in poor condition and not maintained to the standards required under the terms of the lease, but making an allowance for the items such as double glazing, central heating and access, should all be dealt with on the basis of allowing half the value of adjustments that we made in respect of the long lease comparables.
35. That gives the figures shown in the right hand column of the schedule in respect of the short lease values. Against that we accept Mr Brook's view that an adjustment of 12.28% should be made in both cases to reflect the No Act World and an adjustment of 4.2% to reflect the longer lease in the case of 57 Milford Close. We were not sure where Mr Dunsin achieved his No Act World adjustment of 10.95%, as both valuers appeared to have used the Savills graph for June 2016. Mr Dunsin did not appear to make any adjustment for lease length. The lease of 52 Tyeshurst Close is of a similar term to the subject Property and accordingly we make no adjustment for that element.
36. This gives the relativities shown of 69.68% and 70.87%.
37. As a 'standing back' exercise we have also considered the graph evidence put to us by Mr Brook. This was set out in his report and utilised the RICS graphs produced some time ago. He had assessed the average of the graphs to be 68.8% relativity. However, he included within the assessment the Lease graph, which is based as we understand it, on Tribunal decisions which the Upper Tribunal has found unconvincing. We therefore omit that graph but take the averages of the five graphs by Beckett and Kay, South East London, Nesbitt & Co, Austin Gray and Pridell. These give an average figure of 67.8%. If we then take the average of the two short lease relativities and the graph evidence, we get an average of

69.54%, which we find is the appropriate relativity applicable to the assessment of the premium payable in this case.

38. As can be seen from the attached schedule we have incorporated these figures into the valuation and this has given a premium of £46,928. However, this is below any valuation given by Mr Brook or Mr Dunsin. We think it appropriate therefore to proceed on the basis of the value attributed by Mr Brook, which is £47,300 which we find is the appropriate sum to be paid for the lease extension in this case.

Andrew Dutton

Judge:

 A A Dutton

Date: 3rd July 2019

ANNEX – RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-Tier at the Regional Office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request to an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (ie give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

Agreed and Tribunal determined facts

| | | | |
|---------------------|---|----------------------|-------------------|
| Address | 82B Woolwich Road, Belvedere, Kent, DA17 5EN | | |
| Valuation Date | 10/05/2018 | | Agreed |
| Lease Commencement | 24/06/1963 | Expiry Date | 23/06/2062 Agreed |
| Lease Term | 99.00 | years | Agreed |
| Unexpired Term | 44.10 | years | Agreed |
| Long Lease value | £220,300 | | Tribunal |
| Freehold VP value | £222,503 | +1% long lease value | Tribunal |
| Ground rent | £50.00 | | Agreed |
| Reversion years | 44.10 | | Agreed |
| Capitalisation rate | 7% | | Agreed |
| Deferment rate | 5% | | Agreed |
| Relativity | 69.45% | | Tribunal |

Determined Long and Short Lease Values

Adjustments

| | | | | |
|------------|---------|--|-----------------|--------|
| Garage | £10,000 | | Central Heating | £5,000 |
| Location | 5% | | Garden Access | £5,000 |
| DG Windows | £3,000 | | Conservatory | £3,750 |
| Refurb | £25,000 | | | |

Long Lease Value

| Address | Sale £ | Date | Adj. location | Adjusted Sale | Other Adj. | Adjusted Value £ |
|-------------------|---------|---------|---------------|---------------|--|------------------|
| 44 Ragland Road | 230000 | 24/4/18 | 5% | £218500 | DG Windows Garage | 205,500 |
| D2 Mossdown Close | 262,500 | 26/6/18 | 5% | £249375 | Garage DG Windows Central Heating | 231,375 |
| 86 Millford Close | 260,000 | 07/9/18 | 5% | £247,000 | Garage DG Windows Central Heating Garden Access | 224,000 |
| 34 Millford Close | 260,000 | 18/5/18 | 5% | £247,000 | Garage DG Windows Central Heating Garden Access Conservatory | 220,250 |

Average £220,281

Say Long lease **£220,300**

£222,503

F/H Value
+1%

Short Lease

Value Short lease value adjustments other than refurb @ 50%

| | | | | | | |
|-------------------|----------|---------|----|---------|--------------------------------|----------|
| 57 Millford Close | £180,000 | 4/12/17 | 5% | £171000 | Refurb Garage DG Windows | £184,500 |
|-------------------|----------|---------|----|---------|--------------------------------|----------|

| | | | | | | |
|--------------|--|--|-------------------|--|-----------------|----------|
| | | | | | Central Heating | |
| Per Mr Brook | | | Adj. No Act World | | Less 12.28% | £161,843 |
| | | | Adj. Lease Length | | Less 4.20% | £155,045 |
| | | | | | Freehold Value | £222,503 |
| | | | | | Relativity | 69.68% |

| | | | | | | |
|--------------------|---------|--------|-------------------|---------|---|----------|
| 52 Tycehurst Close | £175000 | 4/9/18 | 5% | £166250 | Refurb Garage - less DG Windows Central Heating Gdn. Access | £179,750 |
| Per Mr Brook | | | Adj. No Act World | | Less 12.28% | £157,677 |
| | | | Adj. Lease Length | | Less 0.00% | £157,677 |
| | | | | | Freehold Value | £222,503 |
| | | | | | Relativity | 70.68% |

Valuation for Lease Extension

82B Woolwich Road, Belvedere, Kent, DA17 5EN

| | | |
|---------------------|------------|----------------------|
| Valuation Date | 10/05/2018 | |
| Lease Commencement | 24/06/1963 | |
| Lease Term | 99.00 | years |
| Unexpired Term | 44.10 | years |
| Long Lease value | £220,300 | |
| Freehold VP value | £222,503 | +1% long lease value |
| | Term 1 | |
| Ground rent | £50.00 | |
| Reversion years | 44.10 | |
| Capitalisation rate | 7% | |
| Deferment rate | 5% | |
| Compensation | 0 | |
| Relativity | 69.45% | |

Diminution of Landlord's interest

| | | | | | |
|---|--------|-------|-------|--------------------|-----------------------|
| Ground rent | | | | £50 | |
| YP | 44.10 | yrs @ | 7.00% | <u>13.56281572</u> | £678 |
| Reversion to VP value | | | | £222,503 | |
| PV | 44.10 | yrs @ | 5.00% | <u>0.11629255</u> | £25,875 |
| L/lord's interest on reversion of new lease | | | | | |
| FH VP | | | | £222,503 | |
| PV | 134.10 | yrs @ | 5.00% | <u>0.00144051</u> | -£321 |
| | | | | | <u>£26,233</u> |

Landlord's share of Marriage Value

| | | | | | |
|---|------------|--------|--|----------------|----------------|
| Val. Tenant's interest new long lease | | | | £220,300 | |
| Val. l/lord's interest after reversion of new lease | | | | <u>£321</u> | |
| | | | | £220,621 | |
| Less | | | | | |
| Val. tenant's interest existing lease | Relativity | 69.45% | | £152,998 | |
| Val. l/lord's interest existing lease | | | | <u>£26,233</u> | |
| | | | | £179,231 | |
| | | | | <u>£41,389</u> | |
| Marriage Value at 50% | | | | | £20.695 |
| Compensation | | | | | <u>£0</u> |
| | | | | | £46,928 |

PREMIUM But say

£47,300