



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

Case reference : **LON/00AF/OCE/2021/0179**

HMCTS code (paper, video, audio) : **P:PAPERREMOTE**

Property : **36 Birkbeck Road Beckenham BR3 4SN**

Applicants : **Jenna Monique May and Leon Copes & Sara Nicole Copes**

Representative : **Tolhurst Fisher LLP Solicitors**

Respondent : **Erica Viola Cato**

Representative : **Missing Landlord**

Type of application : **Sections 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993**

Tribunal members : **Mr A Harris LLM FRICS FCI Arb**

Date of determination and venue : **14 December 2021 at 10 Alfred Place, London WC1E 7LR**

Date of decision : **14 December 2021**

DECISION

Covid-19 pandemic: description of determination

This has been a determination by remote hearing on the papers. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested one, or it was not practicable, and all issues could be determined on paper. The documents that the tribunal was referred to are a bundle of 117 pages, the contents of which the tribunal has noted.

Summary of the tribunal's decision

- (1) The appropriate premium payable for the collective enfranchisement is **£34,652**. (thirty four thousand six hundred and fifty two pounds)

Background

1. This is an application made by the applicant qualifying tenants pursuant to section 26 and 27 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid for the collective enfranchisement of 36 Birkbeck Road Beckenham BR3 4SN (the “property”) where the Landlord cannot be found.
2. On 31 August 2021 the Bromley County Court ordered that the freehold shall be vested in such person or persons as may be appointed for that purpose by the Claimants on such terms as may be determined by the tribunal.
3. On 23 September 2021, the Applicants applied to the tribunal for a determination of the premium and terms of acquisition.

The issues

4. In the absence of the Landlord there are no matters agreed. The applicants have submitted a valuation report prepared by Mr M Stapleton FRICS, dealing with the following matters:
 - (a) The subject property is a two-storey semi-detached house converted into two self-contained flats. The ground floor flat consists of two bedrooms lounge kitchen bathroom/WC and the floor area is approximately 68 m². The first and second floor flat consists of two bedrooms, lounge and bathroom WC at first floor and a kitchen/breakfast room at second floor level. The flat is double glazed and has gas central heating and a floor area of 95 m².

Mr Stapleton reports that in September 2020 when he inspected the ground floor flat was in poor order requiring a programme of repair and modernisation which he understands have subsequently been carried out.
 - (b) The valuation date is 9 March 2021
 - (c) Details of the tenants' leasehold interests:

Ground floor

 - (i) the ground floor flat is held on lease for 99 years from 24 June 1987.
 - (ii) Ground rent: the initial ground rent was £50 per annum for the first 33 years rising to £100 per annum for the next 33

years and finally £150 per annum for the residue of the lease.

(iii) Unexpired term at valuation date: 65.29 years;

First and second floors

(iv) the first and second floors are held on lease for a term of 189 years from 24 June 1978 at a peppercorn ground rent thus having an unexpired term 146.29 years. As the lease is over 80 years no marriage value will be payable.

The tribunal regards these matters as uncontroversial and they are supported by documents in the bundle. The tribunal will consider the evidence on the following matters:

- (d) Capitalisation of ground rent: 6.00% per annum
- (e) Deferment rate: 5%.
- (f) Freehold value
- (g) Relativity; 83.53%
- (h) Development hope value; Nil
- (i) The premiums payable. Ground floor £28,775 (twenty eight seven hundred and seventy five pounds. First and second floors £300 (three hundred pounds).

The hearing

- 5. The case was dealt with on the papers on 14 December 2021 with the necessary documents provided in a bundle by the Applicant's representative.
- 6. The tribunal was not asked to inspect the property and the tribunal did not consider it necessary to carry out a physical inspection to make its determination.
- 7. The applicant relied upon the expert report and valuation of Mr M Stapleton FRICS dated 28 November 2021.

Capitalisation rate

- 8. Mr Stapleton considers that capitalisation rates remain steady at 6%. Where there is higher income and good levels of growth on review rates can be lower. In this case the rent is modest and not scheduled to be reviewed until the last 33 years of the term and he sees no reason to change from that rate.

The tribunal's determination

9. The tribunal determines that the rate to be used is 6%.

Reasons for the tribunal's determination

10. The tribunal notes that a rate of 6% has been used in Mr Stapleton's experience and in the absence of any specific evidence to show that this should be varied in this case the tribunal will adopt this rate.

Deferment rate

11. Mr Stapleton speaks to the Sportelli rate of 5%.

The tribunal's determination

12. The tribunal determines that 5% is appropriate as the deferment rate .

Reasons for the tribunal's determination

13. The tribunal sees no reason to depart from the Sportelli rate.

Freehold value

14. Mr Stapleton values the freehold interest in the ground floor flat at £250,000 and the upper maisonette at £370,000.

The tribunal's determination

15. The tribunal determines that the value of the freehold interest in the ground floor flat is £300,000 and for the upper maisonette £370,000 although this figure is not required for a marriage value calculation.

Reasons for the tribunal's determination

17. Mr Stapleton has presented five comparable properties all of which have gas central heating and double glazing. His report includes sale particulars and title documents supporting their use. In his view some require some adjustment for date and he takes that into consideration.
18. The comparable properties are summarised in the table below and the tribunal considers that the evidence presented suggests a higher value for the ground floor than the value utilised by Mr Stapleton. The tribunal considers it at £250,000 is low in comparison with a one-bedroom flat in the same road even allowing for the fact that the flat lacks central heating and double glazing. Tenants improvements are

disregarded. The tribunal considers the evidence supports a figure of £300,000.

Address	date	Description	lease	price	Comment
First Floor 93 Birkbeck Road	Mar-21	First floor converted flat 2 beds reception kitchen	989 yrs unexpired	£ 395,000	Same road dates close no adjustment needed
FF 151 Blandford Rd	Mar-21	First floor converted 2 bed flat	967.5 years unexpired	£ 350,000	dates close no adjustment needed
FF 117 Blandford Rd	Oct-20	ground floor converted 1 bed flat garden	156 yrs unexpired	£ 350,500	adjusted for date to £339,599
First Floor 121 Birkbeck Road	Jan-21	3 bed FF flat similar size to upper flat	125.75 yrs unexpired	£ 380,000	no adjustment for date
Ground Floor flat 46 Birkbeck Road	Sep-20	ground floor converted 1 bed flat	130 yrs unexpired	£ 270,000	adjusted for date to £298,250

Relativity

19. The tribunal determines that 81.81% is appropriate as the relativity rate.
20. Relativity is only relevant to the ground floor flat. There is no evidence of comparable short lease sales.
21. Mr Stapleton reports that the lower flat sold for £130,000 in July 2020 but through a family connection and this is not an arm's length transaction. He places little weight on the sale in consequence.
22. The tribunal agrees with that assessment.
23. Mr Stapleton refers to the case of Trustees of the Barry and Peggy High Foundation v Zucconi/Zantre (2019 UKUT 0242 (LC) which stated that the First-tier Tribunal should have taken into account the Savills 2015 enfranchisable graph, the Savills 2016 unenfranchisable graph and the Gerald Eve 2016 unenfranchisable graph. Mr Stapleton has included in his report the graphs of relativity and adopts the Zucconi rate of 81.81%.
24. This figure is derived from use of standard tables considered by an expert witness. The tribunal considers it is supported and therefore adopts this figure.

Development hope value

25. The tribunal determines that there is no development hope value to be included in the calculation.

Reasons for the tribunal's decision

26. This is a semi-detached property which is fully utilised by the subject flat and there is no development potential.

The premium

- (2) The tribunal determines the appropriate premium to be **£34,652**.
(Thirty four thousand six hundred and fifty two pounds)
27. A copy of its valuation calculation is annexed to this decision.

Name: Mr A Harris
Valuer Chair

Date: 14 December 2021

Appendix: Valuation setting out the tribunal's calculations

Address	GF 36 Birkbeck Road						
Basic Information							
Valuation Date	09 March 2021						
Existing lease Expiry Date	23 June 2086						
Years unexpired	65.29						
Existing Ground Rent	£100						
Basis of review	fixed						
Date of 1st review	24 June 2053						
Years to 1st review	32.29						
Length of period	33						
Rent at 1st review	£150						
Capitalisation Rate	6.00%						
Deferment Rate	5.00%						
Long Lease Figure	£297,000						
F/H to Long lease change	99%						
Freehold figure	£300,000						
Real World Short Lease Value	No Act Discount						
Relativity Rate	81.81%						
Current Lease Value	£245,430						
EXISTING FREEHOLD TERM VALUE							
TERM VALUE	Rent	Years	Yield	Years Purchase	P/V	Multiplier	Term Value
Term 1	£100	32.29	6.00%	14.1278	1	14.1278	£1,413
1st Review	£150	33	6.00%	14.2302	0.1523	2.1678	£325.16
							£1,738
REVERSION VALUE							
	Capital Value	Years to Reversion	Deferment Rate	P/V	Reversion Value		
	£300,000	65.29	5.00%	0.0414	£12,407		
TOTAL EXISTING FREEHOLD VALUE							£14,145
MARRIAGE VALUE CALCULATION							
Value of Freeholders Current Interest							£14,145
Value of Leaseholders Current Interest							£245,430
Value of Leaseholders New Interest							£300,000
	Difference						£40,425
	50% of Difference						£20,212
	Leaseholder Payment						£34,358

Address	First floor 36 Birkbeck Road						
Basic Information							
Valuation Date	09 March 2021						
Existing lease Expiry Date	23 June 2167						
Years unexpired	146.29						
Existing Ground Rent	£0						
Basis of review	fixed						
Date of 1st review							
Years to 1st review	0.00						
Length of period	0						
Rent at 1st review	£0						
Capitalisation Rate	6.00%						
Deferment Rate	5.00%						
Long Lease Figure	£366,300						
F/H to Long lease change	99%						
Freehold figure	£370,000						
Real World Short Lease Value							
No Act Discount							
Relativity Rate	0.00%						
Current Lease Value	£0						
EXISTING FREEHOLD TERM VALUE							
TERM VALUE							
	Rent	Years	Yield	Years purchase	P/V	Multiplier	Term Value
Term 1	£0		6.00%	0.0000	1	0.0000	£0
1st Review	£0	0	6.00%	0.0000	0.0000	0.0000	£0.00
							£0
REVERSION VALUE							
	Capital Value	Years to Reversion	Deferment Rate	P/V	Reversion Value		
	£370,000	146.29	5.00%	0.0008	£294		
TOTAL EXISTING FREEHOLD VALUE							
							£294
MARRIAGE VALUE CALCULATION							
Value of Freeholders Current Interest						£294	
Value of Leaseholders Current Interest						£0	£294
Value of Leaseholders New Interest							£370,000
					Difference		£369,706
Freeholder share of marriage value					0%		£0
					Leaseholder Payment		£294
Total Premium							
							£34,652

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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 Tribunal at the regional office which has been dealing with the case.

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.

If the application is not made within the 28 day time limit, such application must include a request for 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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).