



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

Case Reference : **CAM/26UD/OAF/2015/0001**

Property : **21 Wrights Orchard, Brookfield,
Aston Village, Stevenage,
Hertfordshire SG2 7HR**

Applicant : **Mr Timoth James Alexander and
Mrs Maureen Anne Alexander**

Representative : **Hamilton Davies Solicitors and Mr
T J Palmer BSc (Hons) MRICS of
McNeill Lowe & Palmer chartered
surveyors**

Respondent : **unknown**

Representative : **None (missing landlord)**

Type of Application : **S27 (5) Leasehold Reform Act 1967
(the Act)**

Tribunal Members : **Tribunal Judge Dutton
Mrs M Wilcox BSc MRICS
Mr R Thomas MRICS**

**Date and venue of
Determination** : **25th November 2015, at the
Holiday Inn Express, Stevenage**

Date of Decision : **1st December 2015**

DECISION

The tribunal determines that the price payable for the freehold of 21 Wrights Orchard, Brookfield, Aston Village, Stevenage, Hertfordshire SG2 7HR (the Property) shall be £7,156 as set out on the valuation in appendix A attached hereto.

REASONS

BACKGROUND

1. By an order made by District Judge Clarke dated 18th August 2015 in the County Court at Luton in claim number A01LU003 ("the Order") between the parties named on the front page of this decision the matter was remitted to this Tribunal for the price payable for the freehold of the Property to be determined pursuant to section 9(1) and 27(5) of the Leasehold Reform Act 1967("the Act").
2. The hearing took place on 25th November 2015 when Mr and Mrs Alexander attended, together with Mr Palmer, the surveyor retained by them to present their case.
3. We had before us a bundle prepared by the Applicant's solicitors which contained the Court papers, including the Order, copies of the freehold and leasehold registers of title and witness statements made by Mrs Alexander and Mr Duchenne of Hamilton Davies solicitors. In addition we were provided with a copy of the Report of Mr Palmer dated 5th January 2015, made following an inspection of the Property on 15th December 2015, the date upon which the valuation was assessed.
4. We have considered the papers before us and in particular the Report of Mr Palmer.
5. We had the opportunity of inspecting the Property on the morning of the hearing. Presently it is a detached four bedroomed house, with garage and small garden area to the rear and a larger garden area to the left hand side when looking at the Property from the road. As originally built it was a three bedroomed detached house with a garage and a small garden to the rear. It was noted that the additional larger garden area mentioned is not within the demised area under the lease and had therefore been disregarded from the valuation. It was also noted that a two storey extension to the rear of the property had been built, however this had in effect taken up the majority of the garden subject to the lease. Therefore the rear extension had in effect only been possible to build as a result of the additional larger garden area which had then become the main garden. Therefore it would not have been possible to build the two storey extension on the original demised area under the lease and the extension had therefore been disregarded.
6. Internally the ground floor comprises an entrance hall, WC with wash hand basin, two cupboards, one housing the water tank, a wrap around living room and dining area which leads into the kitchen, which can

also be accessed from the hallway. On the first floor is a main bedroom, which we understand was originally two, and a further three, essentially single bedrooms and a bathroom. The two storey extension to the rear has created the larger living room and dining area at ground floor level and at first floor level a flight of stairs, small landing and two of the three single bedrooms, with a cupboard.

7. We were told that the Property had benefit of replacement double glazed units, installed over a period of time, but was in an unmodernised but maintained condition. Externally we inspected the garden area to the side of the Property, which is held under a freehold title, the small area immediately to the rear of the Property and the garage. This structure had apparently been the subject of recent works as part of the flank wall had collapsed.

Hearing

8. Mrs Alexander told us that she and her husband had been under the mistaken belief that they had acquired a freehold property and it was only when they had redeemed the mortgage and received the deeds back from the building society that they realised the title was leasehold. This had caused distress, which we acknowledge.
9. Mr Palmer took us through his report. When asked whether this valuation should be under s9(1) of the Act he appeared somewhat perplexed.. However, we derived some help on this point from Mrs Alexander's witness statement which indicated that a similar property in Wrights Orchard appeared to have a rateable value of £318 at the relevant date. He accepted that the valuation date was before the date of his report, but only a few days and this did not affect his opinion. As to comparables he put forward houses at 23 and 12 Wrights Orchard as well as property at 48 Edmonds Drive, Stevenage. He told us that 12 Wrights Orchard had sold in June 2015 at £335,000, some £15,000 below the original asking price. Another property, not referred to in his report, was 22 Wrights Orchard which had sold in July 2015 at a price of £375,000 but this was four bedroomed and in a modernised condition. Taking these comparables into account he concluded that the market value for the Property without the rear extension and additional garden area would be £300,000.
10. Using this value he calculated that the site value, using the Standing House approach would be 30%, giving a site value of £90,000. Taking a yield rate of 6% he assessed the modern ground rent at £5,400.
11. He applied a 15% reduction as a result of the tenants' entitlement to an assured tenancy at the expiration of the term and further applied a deferment rate of 6% to the reversion. Taking these components into account he concluded that the price payable for the freehold of the Property should be £5,498.

FINDINGS.

12. There are a number of the elements of the valuation proposed by Mr Palmer that we are prepared to accept. His assessment of the site value at 30% based on an entirety value of a three bedroom detached house with a garage and small garden having regard to the comparable evidence is reasonable, as is the capitalisation rate of the modern ground rent at 6%. We are comfortable with the second reversion element of 15% following the Clarise Properties Ltd case [2012]UKUT 4 (LC).
13. Where however we differ from Mr Palmer is his assessment of the appropriate deferment rate to be applied. The guidance given by the Court of Appeal in Sportelli is clear. Whilst the rate applied primarily to Prime Central London properties to depart from the rate of 4.75% for a freehold property requires evidence to be presented to the Tribunal. Mr Palmer did not have any specific evidence and although he referred us to another Tribunal case, CAM/12UG/OAF/2013/0003 issued in 2014 and suggested that if we found anything in that decision which we could relate to this case then he would ask us to do. With respect to Mr Palmer that is not evidence. In the circumstances we feel bound to follow the authority of Sportelli and to determine the deferment rate at 4.75%.
14. We have therefore applied these elements to the value which is attached hereto and determine that the price to be paid for the freehold of the Property is £7,156. This sum needs to be paid into Court to enable the matter to proceed.

Andrew Dutton

Andrew Dutton
Tribunal Judge

1st December 2015

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 Tribunal 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 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.
4. 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.

Appendix A. Tribunal valuation

Property	21 Wrights Orchard, Aston, Hertfordshire
Date of Valuation	2 nd December 2014
Market Value	£300,000
Site value at 30%	£90,000
Lease term	500 years
From	20 October 1564
Unexpired term	49.8 years
Modern ground rent	6%
Deferment rate	4.75%

1. TERM

Ground rent payable unknown	Nil
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2. FIRST REVERSION

Site Value	£90,000	
Modern Ground Rent (Section 15) @ 6% of the site value	£5,400	
YP for 50 years @ 6% (15.762)		
PV for 49.8 years @ 6% (0.055)		£4,682

3. SECOND REVERSION

Market value less 15% adjustment	£255,000	
PV £1 @ 4.75% deferred 99.8 years	0.0097	£2,474
Total payable		£7,156