



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

Case Reference : BIR/OOGL/OAF/2016/0057

Property : 12 Pittshill Bank, Tunstall, Stoke-on-Trent, ST6 6LT

Applicant : Mr Daniel Donovan Bird

Representative : Mr S.W.E. Boot B.Sc., MRICS

Respondent : Persons Unknown, the Heirs and Assigns of Mr.R. Sneyd

Representative : None

Type of Application : To determine the price of the Freehold interest pursuant to sections 9(1) and 27 of the Leasehold Reform Act 1967.

Tribunal Members : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS
Mr P.J. Hawksworth

Date and Venue of Hearing : 3rd November 2016 at the offices of the First-tier Tribunal (Property Chamber), Centre City Tower, 5-7 Hill Street, Birmingham, B5 4UU.

Date of Decision : 10th November 2016

DECISION

Introduction

- 1 This is an application to determine the purchase price of the Freehold interest in a house pursuant to sections 9(1) and 27 of the Leasehold Reform Act 1967 ("the Act").
- 2 The Applicant, Mr Bird, holds the long leasehold interest in a property which he bought in July 2013. He wished to buy the Freehold but had been unable to trace the Freeholder and applied to the Stoke-on-Trent County Court for it to be transferred to him under section 27 of the Act which sets out the procedure to be followed where a landlord is missing. The application was dated 12th May 2016.
- 3 The Order was granted by Deputy District Judge Thomson on 20th June 2016 by Claim reference number Co0SQ362 which required the price of the Freehold to be determined by the First-tier Tribunal (Property Chamber). Mr Bird then applied to the Tribunal on 8th August 2016.
- 4 The Tribunal inspected the property on the morning of 3rd November 2016 and held a Hearing in Birmingham later on the same day, attended by Mr S.W.E. Boot B.Sc. MRICS representing Mr Bird.

The Law

- 5 Mr Bird holds a Lease granted for a term of 200 years from 25th March 1834 expiring 24th March 2034. At the valuation date, which was the date of application to the County Court 12th May 2016, there were 17.86 years unexpired. There were five cottages included in the demise of which this was one, held for a total ground rent of 1 shilling per annum and the apportioned ground rent of the subject house is therefore 1p per annum.
- 6 Section 27 of the Act sets out procedural formalities. Section 9 sets out the valuation criteria to be adopted which are the same for missing landlord cases as cases where a landlord's identity is known.

Facts Found

- 7 The property is located in a residential area of Tunstall, about 4 miles north of Hanley which is regarded as the centre of the city of Stoke-on-Trent. The area was developed in the early 19th century with numerous factories and areas of terraced housing and although many of the factories have been demolished or redeveloped, there are still large areas of terraced housing in the area. In the immediate vicinity of Pittshill Bank there are terraced houses built in the early 1800s, a disused chapel, some modern bungalows and a car repair garage.
- 8 The property is a two storey brick and tile end terraced house with single storey wing. There are five properties in the terrace accessed from a footpath leading from the nearest public highway, 'Pittshill Bank', and number 12 is at the far end of the terrace. It has no direct road frontage and the only means of access is via a narrow footpath past the four other houses. The terrace is on a ridge with a steep bank downhill past the subject house that appears to be public open space with little prospect of being redeveloped for the foreseeable future.
- 9 The house is interesting and full of character. It has been well restored by Mr Bird and now has a through lounge and kitchen on the ground floor with landing, two bedrooms and bathroom on the first floor. It has central heating and double glazing and could be regarded as 'fully developed' for the purposes of the Act.

- 10 Outside there is a small yard to the side of the kitchen and passage at ground floor level leading to a small but pleasant back garden.
- 11 There is no allocated parking space or garage but there is an area of unmade land on Pittshill Bank used by the residents for parking which is close to the house.

Basis of Valuation

- 12 Section 9 of the Act requires the Valuer to assess the value of the Freeholder's interest for the duration of the present lease, followed by a notional 50 year lease extension at a modern ground rent, and finally to the reversionary value of the existing house or its site value if the house is assumed to have been demolished by that date. The valuation inputs are set out below.

Lessee's Submissions and Tribunal Determination of Valuation Inputs

Term 1

- 13 The value of the Freeholder's interest for the duration of the existing lease depends on the ground rent and capitalisation rate applied.
- 14 As described above, the ground rent is only 1p per annum and its value academic but for completeness, Mr Boot applied a capitalisation rate of 7% to reflect the limited fixed income to 2034.

Determination

- 15 The Tribunal agrees that 7.00% is appropriate in this case where the ground rent is nominal.

Term 2

- 16 The Act requires the Valuer to capitalise the value of a notional new ground rent for 50 years from 2034 as a capital sum, and assess the present value of that sum to be received in 2034 discounted to 2016, i.e. in 18 years' time at an appropriate deferment rate.
- 17 The starting point is to assess the new ground rent, usually referred to as the 'modern ground rent', in accordance with section 15 of the Act, and as no evidence was found of open market ground rents in the area on the assumed lease terms, Mr Boot relied on the 'standing house approach' which is the method usually adopted by Valuers in enfranchisement cases. The principle is to assess the sale value of a house that could reasonably be built on the site ('Entirety Value'), assess how much of that price a developer might pay for the site and from that figure, calculate the annual equivalent in rental terms as a 'modern ground rent'.

Entirety Value

Mr Boot submitted that the sale value of a house that could be built on the plot would be £55,000 based on the following evidence:

Address	Price £	Date	Comment
9 Pittshill Bank	62,000	20.12.13	Another house in the terrace, reported to have been sold leasehold although Mr Boot suggested it may have been Freehold.
45 St.Michael's Rd.	43,500	24.3.16	Two bedroom inner terraced house.
2 Naylor St.	50,000	29.3.16	Two bedroom end terraced house.

96 St.Michael's Rd.	42,000	15.7.16	Three bedroom inner terrace.
17 Rosebery St.	74,950	12.2.16	Three bedroom post War semi-detached.
17 Stross Avenue	85,000	16.10.15	Three bedroom 1930s semi-detached.
Pittshill Bank	169,950	3.11.16	Asking price for two bedroom detached house close to the subject house of similar age.
Benson St.	60,995	3.11.16	Asking price for two bedroom inner terraced house close to subject property.
Francis St.	60,000	3.11.16	Asking price for two bedroom inner terraced house close to subject property.
St.Michael's Rd.	70,000	3.11.16	Asking price for three bedroom terraced house.
Barnett Grove	99,950	3.11.16	Asking price for three bedroom 1930s semi-detached house.

Determination

- 19 The Tribunal considered all the evidence put forward but bearing in mind the property's character and location at the end of the terrace, finds the value of a hypothetical Freehold house that could potentially be built on this plot to be £65,000 at the valuation date.

Site Percentage

- 20 Mr Boot submitted for a plot ratio of 20%, i.e. that a hypothetical developer might pay 20% of the entirety value for the plot. In support, he referred to other properties where plot ratios had been determined by the Tribunal:

<u>Address</u>	<u>Tribunal Ref.</u>	<u>Ratio</u>
68 Golden Hillock Rd.	BIR/00CN/OAF/2013/0042	27%
135 Chipperfield Rd.	BIR/00CN/OAF/2014/0034	30%
39 Kingshurst Rd.	BIR/00CN/OAF/2013/0040	30%
47 Millington Rd.	BIR/00CXN/OAF/2016/0015	30%
56 Benedon Rd.	BIR/00CN/OAF/2016/0009	30%
9 Pittshill Bank	BIR/00GL/OAF/2012/0076	15%

Determination

- 21 The Tribunal is aware that a differently constituted Tribunal had found the plot value of another house in the terrace to be 15% of its entirety value in 2012 (No.9), but that was an inner terraced property in poorer position and the Tribunal agrees with Mr Boot that the appropriate site percentage in this case is 20%.

De-Capitalisation Rate of Site Value and Re-Capitalisation of modern Ground Rent

- 22 Mr Boot applied a rate of 5.75% to both these elements. He submitted that the same rate should be applied to de-capitalise the site value as to re-capitalise the modern ground rent for the 50 year extension to avoid an adverse differential, and assessed it at the same as the deferment rate applied to the reversion (see below).

23 Mr Boot submitted that the modern ground rent would not be received for 18 years, i.e. it is deferred income that would need to be discounted to 2016 values. Following the principles of *Zuckerman*¹, he assessed the deferment rate as follows:

Risk free rate	2.25%
less real growth rate	2.00%
plus risk premium	4.50%
plus 'Mansal' addition	0.25%
plus Zuckerman risk	1.00%
less Sportelli sub 20 year lease risk	<u>0.25%</u>
Deferment Rate	5.75%

24 In his opinion, the house would have been demolished by expiry of the 50 year extension in 2084 and the reversion at that date would be to site value. Accordingly he added 0.25% for the additional risk of reversion to plot value in line with *Mansal Securities*².

25 Furthermore, in respect of the Zuckerman addition (i.e. an addition to reflect lower house price increases in the West Midlands than in prime central London), Mr Boot produced evidence showing that the rate of house price increases in Stoke-on-Trent was significantly less than the West Midlands and increased the allowance to 1% to reflect it.

Determination

26 The Tribunal agrees that the same rate should be applied to de-capitalise the plot value and re-capitalise the ground rent of the 50 year lease extension. However, while we agree 7% is appropriate for the first term, we are not convinced that 5.75% should be applied to the second term as there is no logic that the capitalisation rate should be the same as the deferment rate. We find the modern ground rent to be inherently more attractive than the existing ground rent and value it at a lower rate which in this case we find to be 6%.

27 In respect of the Mansal addition, the Tribunal disagrees with Mr Boot's view and finds there is no reason to assume the house will not be standing in 68 years' time. We therefore make no allowance for the Mansal addition.

28 We accept Mr Boot's submission in respect of the Zuckerman addition and disregarding the Mansal addition, assess the deferment rate at 5.50%.

Reversion

29 Mr Boot submitted that the value of the existing house, the 'standing house value', was £55,000.

30 For the reasons given above, the Tribunal disagrees and finds it to be £65,000.

31 However, while we disagree with Mr Boot's view that the house will not be standing in 2084, we find that there is a risk of a tenant remaining in occupation at lease expiry under Schedule 10 of the Local Government & Housing Act 1989 and for consistency with the decision in *Clarise*³, make a deduction from the reversionary value which we assess at 10%.

¹ *Zuckerman v Trustees of the Calthorpe Estates* [2009] UKUT 235 (LC)

² *Mansal Securities and Others* [2009] EW Lands LRA/185/2007

³ *Clarise Properties Limited* [2012] UKUT 4 (LC), [2012] 1 EGLR 83

Valuation

32 The Tribunal therefore values the Freehold interest under the Act as follows:

Term 1

Ground Rent	£	0.01	
Years Purchase 18 years 7%		<u>10.0591</u>	
	£		0.10

Term 2

Entirety value	£	65,000	
Plot value @ 20%		13,000	
devalued at 6.0%		<u>0.06</u>	
s.15 modern ground rent		780	
Years purchase 50 yrs 6.0%		15.7619	
Present Value £1 20 yrs 5.5%		<u>0.3427290</u>	
	£		4,213.00

Reversion

Standing House value	£	65,000	
Less Sch.10 rights 10%		<u>6,500</u>	
Net		58,500	
Present Value £1 68 yrs 5.5%		<u>0.0262321</u>	
	£		1,534.57

£ 5,747.67

Price under the Act rounded to £ 5,750.00

33 The Tribunal determines the value of the Freehold interest in accordance with the provisions of the Leasehold Reform Act 1967 at £5,750 (Five Thousand Seven Hundred and Fifty Pounds).

I.D. Humphries B.Sc.(Est.Man.) FRICS
Chairman

Appeal to Upper Tribunal

Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal and the result sought by the party making the application.