



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

**Case Reference** : **BIR/00CU/0AF/2016/0062**

**Property** : **69 Cook Street, Darlaston, Wednesbury,  
WS10 9RW**

**Applicant** : **Beverley Bishop**

**Representative** : **Andrew Perrin MRICS of Fraser Wood**

**Respondent** : **Paul Anthony Brockhurst & Paul Martin  
Painter**

**Type of Application** : **An Application under section 21 (1) (a) of  
the Leasehold Reform Act 1967**

**Tribunal Members** : **V Ward FRICS (Chairman)  
P Hawksworth Lawyer**

**Date of Decision** : **16 January 2017**

**Date of Issue** : **3rd February 2017**

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**DECISION**

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## **Introduction**

1. The Applicant, Mrs Beverley Bishop, holds the residue of a lease in respect of 69 Cook Street, Darlaston, Wednesbury, WS10 9RW (“the Property”) granted for a term of 99 years from 24 June 1987 at an initial rent of a £50 pa and wishes to acquire the freehold interest under the provisions of the Leasehold Reform Act 1967 (“the Act”).
2. Acting on behalf of the Applicant, Mr Andrew Perrin MRICS, a Director of Fraser Wood (Midlands) Limited, on 18 July 2016 served a “Notice of Tenant’s Claim to Acquire the Freehold interest”, under the Act’, on the freeholders; Paul Anthony Brockhurst and Paul Martin Painter.
3. As after two months no response had been received from the freeholders, on 18 October 2016, Mr Perrin applied to the Tribunal to determine the price payable and the costs due to the freeholders under Section 9 (4) of the Act.
4. Directions were issued by the Tribunal on 21 October 2016. The Applicant requested an oral hearing.

## **The Law**

5. The Tribunal has considered the submitted documents and it is satisfied that the price of the freehold interest is to be determined in accordance with Section 9 (1) of the Act as the rateable value of the Property in the 1973 Rating List was £214.

## **Inspection**

6. The Tribunal inspected the Property on 16 January 2017 in the presence of the Applicant and Mr Perrin.

## **The Property**

7. The Property comprises of a semi-detached house originally constructed during the 1980s of cavity brickwork, the whole being surmounted by a pitched tiled roof and benefiting from gas fired central heating and double glazing.

The accommodation offered by the property is as follows:

### Ground Floor

Entrance Hall

Lounge  
Kitchen/Breakfast Room

Conservatory

### First Floor

Two Double Bedrooms  
Shower room with shower, pedestal wash hand basin and low flush WC.

Garage

Front and rear gardens.

8. The conservatory had been added by the Applicant. The garage was used by the Applicant as an additional bedroom, although the Tribunal was advised that no planning permission or building regulation approval had been obtained for this use.
9. The Tribunal noted that the conjoined semi-detached property, 67 Cook Street, is situated to the left of the subject Property whilst the garage relating to 67 Cook Street adjoins the garage to the subject Property to the right and appropriate ancillary rights apply. In the Tribunal's opinion, any further extension of the Property would be difficult. Therefore the site can be considered fully developed.

### **The Hearing**

10. A hearing was held following the inspection at the Tribunal Hearing Rooms, Centre City Tower, Hill Street, Birmingham.
11. Present at the hearing on behalf of the Applicant was Mr Perrin. Also present was one of the freeholders, Mr Brockhurst. Neither freeholder had made any submissions to the Tribunal in accordance with the Directions or otherwise.
12. At the commencement of the hearing, Mr Brockhurst was advised that he could not at this stage make representations to the Tribunal although he could question Mr Perrin on his evidence.

### **The Applicant's Submissions**

13. Submissions were made on behalf of the Applicant by Mr Perrin. For his valuation of the freehold interest, Mr Perrin concluded that a three stage

valuation in accordance with the principles set out in *Clarise Properties Limited (LRA/1/170/210)* ("*Clarise Properties Limited*") was appropriate. This requires a capitalisation of the ground rent, a capitalisation of the modern ground rent at the end of the fifty year extension and valuation of the landlord's reversion after the expiry of the fifty year extension on the basis that Schedule 10 to the Local Government and Housing Act 1989 applies to the tenancy.

### **The Applicant's Valuation**

14. Of the various components contained within his valuation, Mr Perrin made the following comments:

#### **Capitalisation Rate**

From previous LVT and First Tier Tribunal cases with an escalating rent Mr Perrin employed a capitalisation rate of 6%.

#### **Site Apportionment**

Due to the fact that the property has a relatively narrow frontage of approximately 7 metres and also due to the layout of the property Mr Perrin had employed a site apportionment rate of 32%.

#### **Deferment Rate**

In his submissions Mr Perrin quoted several decisions of the First-tier Tribunal and noted that with one exception they had all employed a deferment rate of 5 1/2 %. The exception had recorded 5 1/4 %.

Mr Perrin calculated his yield as follows:

Section 9(1)				
<i>Sportelli</i>	Risk Free			2.25
	Real Growth		minus	2.00
			equals	0.25
	Risk Premium	4.50		
<i>Zuckerman</i>	Poorer growth outside the PCL	0.50		
<i>Mansal</i>	Reversion to site not site and buildings	0.25	equals	5.25
<i>Deferment rate</i>				5.5%

## Comparable Evidence

Mr Perrin stated that there is very little comparable evidence within the immediate vicinity of the subject property but had noted the following:

Property Address	Type of House	Date of Sale	Price
51 Cook Street	2 bed detached	February 2014	£83,000
50 Cook Street	2 bed detached	December 2010	£124,000

In addition to those above, Mr Perrin had also considered properties that were on the market but had not been sold, with asking prices ranging from £105,000 up to £139,950 depending upon the type of house and number of bedrooms.

Weighing all these factors, Mr Perrin concluded that the appropriate valuation to adopt was £130,000.

15. Applying these inputs, Mr Perrin's valuation was as follows:

Valuation date      18 July 2016

Lease term 99 years from 24 June 1987 with a current ground rent of £50.00 per annum, rising to £75.00 per annum after 33 years and thereafter rising to £100.00 per annum for the remaining 33 years.

Approximately 69.93 years remaining on the lease.

### Term

Ground rent payable	£50.00 pa	
YP 3.93 years @ 6.0%	<u>3.4111</u>	£170.55
Ground rent	£75.000 pa	
YP 33 years deferred 3.93 years @6.0%	<u>11.317</u>	£848.78
Ground rent	£100.00 pa	
YP 33 years deferred 36.93 years @6.0%	<u>1.6544</u>	£165.44

			£1184.77
<u>First Reversion</u>			
Entirety value		£130,000	
Site Apportionment	@ 32%	41,600	
Section 15 ground rent	@ 5.5%	2,288	
YP 50 years	@ 5.5%	<u>16.9315</u>	
		38739.27	
PV of £1 after 69.93 years	@5.5%	<u>0.02365</u>	
			£ 916.18

Second Reversion

95% of entirety value as per Schedule 10 to the Local Government & Housing Act 1989  
 £123,500  
 PV in 119.93 years @5.5% 0.001626

£ 200.81

Freehold Valuation

£2301.76

**Say £2302.00**

**Costs**

16. In respect of costs, Mr Perrin argued that no valuation fees were due as no valuation had been carried out for the freeholders. In respect of legal fees he tendered £360 plus VAT.

**The Freeholder's Comments**

17. The Tribunal invited Mr Brockhurst to question Mr Perrin about his valuation. However he said that he was quite happy with it. When asked by the Tribunal as to the value of the Property adopted by Mr Perrin in the sum of £130,000, Mr Brockhurst said that he considered this figure fair.

**The Tribunal's Deliberations**

18. The Tribunal notes the valuation provided by the Applicant and can find no particular issue with the same.

## **Deferment Rate**

19. The starting point for the calculation of the deferment rate is the *Sportelli* decision (*Cadogan and Another v Sportelli and Another* (2007) EWCA Civ 104) subject in this case to the modifications in *Zuckerman* (*Zuckerman and Others v Trustees of the Calthorpe Estate* LRA/97/2008) of 0.5% (lower real growth outside Prime Central London) and *Re Mansal Securities Limited and Others* (2009) LRA/185/2007 of 0.25% (volatility of land reversion to site not site and buildings). The Tribunal therefore agrees the deferment rate at 5.5%.

## **Standing House Value and Entirety Value**

20. The Tribunal concluded, on the basis of its inspection, that there is no difference between the Standing House Value and Entirety Value as the site is already developed to its full potential.

## **Allowance for Schedule 10 to the Local Government and Housing Act 1989**

21. The Tribunal determines that it is appropriate to make an allowance for the Tenant's right to remain in possession under Schedule 10 to the Local Government and Housing Act 1989 because of the likelihood that the property will be standing at the end of the extended term. This is in line with the decision in *Clarise Properties Ltd*. Accordingly a deduction of 5% from the Standing House Value is considered reasonable to reflect this risk.

## **The Tribunal's Valuation**

22. The Tribunal's agrees Mr Perrin's valuation of the freehold interest in the sum of £2,301.78 say £2,302.00.

## **Determination**

23. The Tribunal determines that the price payable by the lessee for the acquisition of the freehold interest in the property known as 69 Cook Street, Darlaston, Wednesbury WS10 9RW in accordance with Section 9(1) of the Leasehold Reform Act 1967 as amended, is £2,302.00 (Two Thousand, Three Hundred and Two Pounds).

## **Costs**

24. In respect of costs, the Tribunal agrees that no valuation fees are due as no valuation had been carried out for the freeholders. In respect of legal fees

the Tribunal had no submission as to costs from Mr Brockhurst and considers that the amount sought by Mr Perrin is within the range of costs awarded in such cases. Therefore, legal costs are fixed at £360 plus VAT plus disbursements.

### **Appeal**

25. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal an aggrieved party must apply in writing to the First-tier Tribunal for permission to appeal within 28 days of the date specified below stating the grounds on which that party intends to rely in the appeal. Further information is contained within Part 6 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (S.I. 2013 No. 1169).

Mr V Ward  
(Chairman)