

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL
ON AN APPLICATION UNDER SECTION 21 AND 21 (1) (ba) OF
THE LEASEHOLD REFORM ACT 1967**

IN THE CASE

OF

SANSOM -v- MARLOW (MONNOW) LTD

**174 YOXALL ROAD
SHIRLEY
SOLIHULL
B90 3RN**

Reference : BIR/00CT/OAF/2003/0138

Background

This is a determination under Section 9 of the Leasehold Reform Act 1967 (as amended) as to the price to be paid for the freehold interest in respect of a semi-detached house 174 Yoxall Road, Shirley, Solihull, B90 3RN. The property is held by way of an Underlease dated 11th June 1956 for a term of 99 years (less 6 days) from the 29th September 1931 at an annual rent of £5. The freehold and headleasehold interests had merged some years ago.

The lessees' Notice of Claim was dated 3rd June 2003 and made by K W and A Sansom as Personal Representatives of the late K S Sansom. As at the date of claim, there was an unexpired term of approximately 27.25 years. The Tribunal accepted therefore that the qualifying conditions for entitlement to enfranchise under the Act have been fulfilled.

Property

The Tribunal inspected the property on 5th December 2003 in the presence of one of the Personal Representatives, Mr Sansom, and both the claimants' valuer, Mr. A.W. Brunt, FRICS and the freeholders' representative, Mr Grant Dixon.

The property comprises a two storey semi detached house of brick and slate construction, with partly flat roof, built in the early 1930s in an established residential area, approximately half a mile from the main shopping centre of Shirley and a mile and a half from the centre of Solihull.

The accommodation comprises two reception rooms and a kitchen on the ground floor with three bedrooms, bathroom and separate WC on the first floor. Externally there are front and rear gardens, a side pedestrian access and a shared service road originally providing vehicular access to the rear of the property. This is no longer available however, as a result of neighbouring property owners incorporating parts of the service road area into their rear gardens.

Hearing

At the Hearing, the claimants were represented by Mr. Anthony Brunt, FRICS of Messrs. Anthony Brunt and Co., Chartered Surveyors of Birmingham. The landlords were represented by Mr. Grant Dixon of Jack Dixon & Co., Auctioneers, Estate Agents, Surveyors and Valuers of Birmingham.

The Hearing commenced with Mr. Brunt introducing his case on behalf of the claimants by submitting the following valuation:-

Ground Rent	:	£5	
Y.P. for 27.25 years @ 7%	:	<u>12.024</u>	£ 60.12
Standing House Value	:	£150,000	
Site Value @ 33.33%		£ 50,000	
Sec.15 Rent @ 7%		£ 3,500	
Y.P. in perp.def.27.25 yrs. @ 7%		<u>2.261</u>	
			<u>£ 7,913.50</u>
Price, say:			<u>£ 7,974</u>

Mr. Brunt took the Tribunal through his valuation and in support of his Entirety Value of £150,000 submitted sales particulars and advertisements relating to six properties in the vicinity, four of which were in Yoxall Road, (inspected externally by the Tribunal) and at asking prices between £134,950 (as at the date of valuation in June 2003 but with only two bedrooms) and £173,000 (as at October 2003 but with a ground floor rear extension, garage and double glazing). In all cases, the Yoxall Road houses had south facing rear gardens and were therefore likely to be regarded as on the better side of the road. He referred also to the fact that the subject property was of relatively modest proportions and appearance, and backed onto a local authority housing estate.

Mr. Brunt had used a yield of 7% throughout his valuation, which he suggested was in line with many previous decisions of the Tribunal, and from which he suggested there was no compelling reason to depart in this instance.

In the absence of any evidence regarding the sale or valuation of single building plots in the vicinity of the subject property at the relevant time, Mr. Brunt had adopted a Standing House method of valuation, utilising 33.33% of the Entirety Value. He cited the adoption of 35% by the Tribunal in a case involving a nearby property at 18 Radbourne Road (which the Tribunal had inspected externally after visiting 174 Yoxall Road). In that case, the date of valuation had been February 2003 and an Entirety Value of £195,000 had been adopted by the Tribunal. This was a larger property occupying a substantial corner plot with a significantly greater site area than the subject premises. It was also pointed out that the Tribunal had only ever adopted a Site Value of more than 35% in two cases – both involving “premium” sites in Sutton Coldfield and Dorridge respectively. On that basis, Mr Brunt considered that 33.33% was reasonable and appropriate on the basis of the evidence.

In presenting his case on behalf of the landlords, Mr. Dixon declared a personal interest of 20% and a family interest of 50% in the landlord company.

His valuation was :-

Term ground rent	£5.00	
Y.P. for 27 yrs. @ 6%	<u>3.45</u>	
		£ 17.25
Entirety Value £160,000		
Site Value @ 37.5%	£60,000	
Section 15 Rent @ 6%	£ 3,600	
YP in perpetuity deferred 27 years @ 6%	<u>3.45</u>	
		<u>£12,420.00</u>
		<u>£12,437.25</u>

In support of this, Mr. Dixon submitted sale particulars of five properties in Yoxall Road, ranging in price from £160,000 to £215,000. (Two of the properties had also been cited in evidence by Mr Brunt and all of them had been inspected externally by the Tribunal). Mr Dixon indicated that four of the properties had actually been sold:

- **107 Yoxall Road** sold for £156,000 in October 2003. This property had double glazing and a side garage but was otherwise in poor condition and described in the particulars as requiring "modernisation and improvement",
- **128 Yoxall Road** sold for £170,000 in September 2003. This property had been extended, and offered central heating, double glazing and a side garage,
- **30 Yoxall Road** sold for £186,000 in August 2003. This property too had been extended, and offered central heating, double glazing and a side garage.
- **139 Yoxall Road** sold for £174,000 in October 2003. This property too had been extended and offered mostly double glazed accommodation and a side garage.

Based on this evidence, Mr Dixon concluded that a realistic Entirety Value for the subject property was £160,000 as at the date of the Notice of Claim in June 2003.

In terms of the proportion of that value to be adopted for the site value, Mr. Dixon:

- Quoted figures comparing the increase in building costs over the previous three and a half years of 14.5%, with an increase in house prices over the same period of 67.77%. From this he concluded that the disparity had pushed up the value of land substantially, which in turn had enabled developers to reduce their profit margins but still achieve a greater overall profit margin.
- Cited the case of 11 Park Avenue, Cotteridge, Birmingham (M/EH2271) before this Tribunal in which a site value of 33% of the Entirety Value had been adopted for a plot having a frontage of 3.89 metres – a figure subsequently endorsed by the Lands Tribunal. Mr Dixon considered this supported the adoption of an increase in the site

value to 37.5% in the present case, taking into account the differential increases in building costs and house prices alluded to earlier in his evidence.

- Referred, in support of that contention, to the sale of four sites between 2000 and 2003:
 - **Whitecrest, Great Barr, Birmingham** having a site area of 633 sq. metres and sold in September 2000 for £120,000, with outline planning permission for two houses.
 - **The Crescent, Queslett Road, Great Barr, Birmingham** having a frontage of 15.5 metres and sold in December 2001 for £100,000, with planning permission for one house.
 - **Site of 98-100 Highfield Road, Saltley, Birmingham** having a site area of 588sq. metres and sold for £82,000 in July 2002 without planning permission, but with an informal indication from the local planning authority (also the vendors) that residential development would be acceptable in principle.
 - **Land adjoining 10 Mendip Avenue, Saltley, Birmingham** having a site area of 332 sq. metres and sold in February 2003 for £129,000, again, without planning permission but with an informal indication from the local planning authority (also the vendors) that residential development would be acceptable in principle.

Mr. Dixon then spoke to the question of the yield rate to be adopted for the purposes of the valuation and referred to the low level of interest and investment rates over the previous ten years. He suggested that against that background, 6% yield rate would be a reasonable figure to adopt, given that it would actually be difficult to obtain an investment providing a secure return of that amount, with guaranteed growth. He also referred to a Leasehold Valuation tribunal case and three Lands Tribunal cases in which yields of 6% (in one case) and 6.5% (in the other three cases) had been accepted.

Mr. Dixon highlighted also the evidence of two individual ground rent sales at auctions in 2000 and 2001 when the prices achieved had reflected yields of 4.5% and 3.5% respectively.

In cross examination, Mr. Dixon was asked whether he was aware of what had happened at the four sites quoted as having been sold. In response, he indicated he was not aware of what had happened at Queslett Road or Whitecrest, but he understood Highfield Road was being developed with a pair of semi-detached houses. He believed Mendip Avenue was being developed, but was not sure what form that development was taking. Mr Brunt indicated for the information of the Tribunal that some time ago, he had been advised by the developers of Whitecrest that they were building two five bedroomed houses on the site at asking prices of £250,000 each.

Mr Brunt also pointed out that of the four Leasehold Valuation and Lands Tribunal decisions quoted by Mr Dixon, two had not been contested before the Lands Tribunal, and another one of them had been over ten years ago and had concerned a property in Wales.

Decision

The main areas of difference between the parties concerned the Entirety Value of the subject property; the proportion of that value to be adopted for the site value; and the yield (or yields) to be adopted in the valuation.

Both parties presented a considerable body of evidence in support of their respective cases and the Tribunal gave careful consideration to all of this before reaching its conclusions:

- On the subject of the Entirety Value, the Tribunal concluded that the figure adopted by Mr Dixon of £160,000 was appropriate.
- In relation to the proportion of the Entirety Value which should be adopted for the value of the site, the sale of building plots is useful evidence, but must be considered in the context not just of a price per square yard or metre, but more particularly in relation to the form of development capable of being carried out on the particular site. In the present case, the known development referred to in evidence, was the construction of:
 - a pair of semi-detached houses at 98-100 Highfield Road, Saltley on a site purchased nearly twelve months before the relevant valuation date for £82,000 – or £42,000 per plot. The sale price of the completed units was not known.
 - two, five bedroomed detached houses at Whitecrest, Great Barr on a site purchased nearly three years before the relevant valuation date for £120,000 – or £60,000 per plot. The asking price of the completed units was £250,000 each, and
 - a single detached house at The Crescent, Queslett Road, Great Barr on a site with a fifty foot frontage (15.5 metres), purchased two and a half years before the relevant valuation date for £100,000. Obviously, such a site would be capable of accommodating a substantial detached house or perhaps a pair of semi-detached houses (subject to the grant of appropriate planning permission).

Clearly, these sales need adjustment to reflect the passage of time since they took place, as do the possible sale prices/values of the completed units. Nevertheless, the Tribunal did not consider that this evidence contained anything which would warrant a departure from the broad approach adopted previously in similar cases. Consequently, the Tribunal considered that, in the present case, the correct proportion of the Entirety Value to adopt as the value of the site was 33.33% as proposed by Mr Brunt.

- So far as the yield rates are concerned, the Tribunal concluded that the submission by Mr Brunt was to be preferred, bearing in mind the stance adopted by the courts in expressly doubting whether the money market provides a safe guide to land valuations (*Gallagher Estates Limited v Walker* (1973) 28 P&CR 113, 117 per Lord Denning MR). It also has to be appreciated that in the hypothetical market contemplated by the 1967 Act, it is questionable whether an investor would be particularly influenced by low base rates when the reversion is relatively distant.

So far as the Tribunal cases quoted by Mr Dixon are concerned, two of them were uncontested, and therefore must be regarded with a degree of caution, and a third one dates from eleven years prior to the date of valuation in the current case, and concerned a property in Wales. Again, this suggested that it should be considered with caution.