



ACQ/164/2006

LANDS TRIBUNAL ACT 1949

COMPENSATION – Compulsory Purchase – retail forecourt – valuation of freehold and leasehold interests – compensation for the value of land taken assessed at £1,000

IN THE MATTER OF A NOTICE OF REREFERENCE

BETWEEN

MUSSARAT ALI

Claimant

and

**GREATER MANCHESTER PASSENGER
TRANSPORT EXECUTIVE**

**Acquiring
Authority**

**Re: Land fronting 32 Nell Lane
And 567-569 Mauldeth Road West
Chorlton
Manchester
M21 7SH**

**Determination on the basis of written representations under Rule 27 of the
Lands Tribunal Rules 1996 (as amended)**

by

A J Trott FRICS

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DECISION

Introduction

1. This is a reference made by the acquiring authority, the Greater Manchester Passenger Transport Executive (GMPTE), to determine the amount of compensation payable in respect of the compulsory acquisition of 116 sq m of forecourt land outside three shops at 32 Nell Lane and 567-569 Mauldeth Road West, Chorlton-cum-Hardy, Manchester M21 7SH.

2. GMPTE compulsorily purchased the subject land under The Greater Manchester (Light Rapid Transit System)(Airport Extension) Order 1997. Notices to treat were served on 8 and 14 May 2002 and notices of entry were served on 21 January 2005 and 4 February 2005. The valuation date is the date of entry which was 21 May 2005.

3. The claimant is Mr Mussarat Ali, who is the freeholder of 32 Nell Lane and 569 Mauldeth Road West (which is registered in the name of City Properties Limited), and the leaseholder of 567 Mauldeth Road West, which he holds on a lease for 20 years commencing on 20 July 1994. Mr Ali claimed £30,000 in respect of 32 Nell Lane and the same amount in respect of his leasehold interest at 567 Mauldeth Road West. Mr Ali's predecessors in title to 569 Mauldeth Road West claimed a total of £62,800. Mr Ali purchased the freehold of this property in January 2005.

4. The reference is uncontested by the claimant following his debarment from taking part in the proceedings for persistently failing to respond to the Tribunal's correspondence and directions. The acquiring authority rely upon the expert valuation report of Mr James Ogborn BA(Hons) Dip LE MRICS, a Director of Lambert Smith Hampton and Head of the Land Assembly Department in the Manchester office of that firm.

5. The subject land is located at the junction of Nell Road and Mauldeth Road in Chorlton-cum-Hardy and lies approximately 3 miles south of Manchester city centre near the Princess Parkway. The surrounding area comprises a mixture of residential and commercial property. The subject land, which is a level tarmacadamed surface, adjoins three two-storey terraced shops and was used for car parking and access to the shops at the valuation date. The land was acquired to facilitate improvements to the existing road network to accommodate the Metrolink within the carriageway of Mauldeth Road West.

Evidence

6. Mr Ogborn stated in his expert report that the acquiring authority made a without prejudice offer to the claimant on 9 December 2004 in the sum of £1,000 subject to the following terms:

- i. The Defendant [acquiring authority] will transfer back any residual forecourt land upon completion of the works.
- ii. The Claimant will remain in occupation of the property by way of a contracted out lease subject to a nominal £1 consideration. This will enable continued use of the forecourt prior to the commencement of the works thereby minimising any inconvenience to the Claimant.
- iii. The Claimant will retain the right to make a future claim for compensation in relation to disturbance and injurious affection in the event that such a claim arises and can be legitimately substantiated.”

7. Mr Ali accepted the terms of this offer in an open letter to Mr Ogborn on 16 February 2005. This stated:

“... I am writing to confirm my agreement to the transfer of the land fronting my shops for the sum of £1,000.00 as specified in your correspondence.

I am agreeing to this on the firm understanding that should my business suffer any adverse effects due to the proposed works, I will be compensated accordingly and all my legal and sundry expenses will be covered.”

8. Mr Ogborn’s comparable evidence was derived from four agreements which were completed on the same terms as those described in paragraph 6 above. The forecourt to the adjoining shop at 571 Mauldeth Road West, extending to 49 sq m was acquired for £500. Two other forecourts in Mauldeth Road West, at numbers 645 (68 sq m plus additional land to the side) and 649 (40 sq m) were acquired for £1,000 and £500 respectively. Finally, the forecourt of 292 Barlow Moor Road (approximately 500m southwest of the subject land and extending only to 16 sq m) was acquired for £500. In the acquiring authority’s statement of case a further comparable was referred to at 294 Barlow Moor Road. The forecourt of 21 sq m was acquired for £500. Based upon these comparables Mr Ogborn estimated that the subject land was worth £1,000 on the terms described.

9. The claimant was debarred from giving evidence but claimed £30,000 compensation each in respect of his freehold interest in 32 Nell Lane and his leasehold interest in 567 Mauldeth Road West. Mr Ali did not analyse these amounts between land taken, severance and injurious affection and disturbance. The claim form indicated that the £30,000 covered all three heads of claim. Mr Ali’s predecessors in title of the freehold interest in 569 Mauldeth Road West, Mr and Mrs Walsh, claimed total compensation of £62,800 comprising £12,000 for the value of the land taken, £40,800 for severance and injurious affection and £10,000 for disturbance. The claim was said to be “subject to final plans” and was submitted on 29 May 2002. Neither the claimant nor Mr and Mrs Walsh provided any evidence in support of their claims.

Conclusions

10. Based upon the comparable evidence and upon the claimant's open letter of acceptance dated 16 February 2005 I find that the value of the subject land is £1,000 upon the terms described in paragraph 6 above and which formed the basis of the acquiring authority's reference. Reasonable professional fees are payable in addition.

11. For the avoidance of doubt this decision does not determine the amount of compensation, if any, payable for severance, injurious affection or disturbance. The acquiring authority's statement of case stated that "the claimant is still entitled to make a future claim for other heads if such a claim arises and can be legitimately substantiated." The claimant was only debarred from participating in this reference and is at liberty to make a separate reference to this Tribunal in respect of severance, injurious affection or disturbance.

12. This decision determines the substantive issue in this reference. A letter on costs accompanies this decision which will take effect when, but not until, the question of costs is decided. In considering the issue of costs I shall have regard not only to the claimant's behaviour which led to his debarment from these proceedings but also to the acquiring authority's failure to complete the notice of reference accurately which led to delay and the need for a supplementary expert's report.

Dated 9 February 2009

A J Trott FRICS