

4127



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

**Case Reference** : CAM/26UK/OCE/2015/0026

**Property** : 96A & 96B Liverpool Road, Watford,  
Hertfordshire WD18 0DN

**Applicant** : Lisa Jane Porter, Flat 96A  
Matthew James Wake, Flat 96B

**Representative** : Mrs Sargent of Counsel  
Mrs Harriet Flemming, AssocRICS BA Hons  
MRICS of Rumball Sedgwick, Chartered  
Surveyors

**Respondent** : Mrs Christine Mary Bannister (missing  
landlord)

**Type of Application** : Section 26 of the Leasehold Reform, Housing  
and Urban Development Act 1993

**Tribunal Members** : Tribunal Judge Dutton  
Mr D Barnden MRICS  
Miss M Krisko BSc (Est Man) FRICS

**Date and venue of  
Hearing** : Watford Employment Tribunal, Clarendon  
Road, Watford DD17 1HP on 29 January 2016

**Date of Decision** : 12th February 2016

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**DECISION**

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## DECISION

**The Tribunal determines that the price payable for the freehold of the property shall be £21,367 as set out on the valuation prepared by the Applicant's Valuer Mrs Harriet Flemming.**

### BACKGROUND

1. This matter came before us on 29<sup>th</sup> January 2016. On 9<sup>th</sup> November 2015 the County Court at Watford in claim B00WD299 had ordered that this Tribunal should determine the terms of acquisition and the price to be paid for the freehold of the property at 96 Liverpool Road, Watford WD18 0DN (the Property). In addition, also we were to approve the form of transfer.
2. In papers lodged prior to the hearing we had a copy of the application to this Tribunal, a vesting order made in July 2015 which was superseded by the order made in November 2015 as well as copies of the Register of Title both freehold and leasehold, the properties leases and valuation reports from Rumball Sedgwick (RS) the contents of which we noted.

### INSPECTION

3. Prior to the hearing we had the opportunity of inspecting the Property in the company of Mrs Flemming from RS and Miss Porter and Mr Wake. The Property comprises a two storey, end of terrace house which has been converted into two maisonettes. To the right hand side of the property when looking at it from the road is a good sized access way leading to a rear garden which has been subdivided into two, to afford each maisonette a private garden area. A path then leads to an area of hard standing for car parking at the rear, albeit somewhat limited in size. This rear access is served by Occupation Road which does not appear to be publically maintained. Beyond Occupation Road is what is currently used, we believe, as allotments but is the subject of development plans on the part of the local authority to create a number of three storey blocks of flats.
4. The exterior of the Property is in reasonable order. It is rendered and this render particularly on the rear single storey extension has in places blown. Externally there is a mix of window frames. To the ground floor are UPVC windows and in the upper floor what appear to be the aluminium framed windows with leaded light design.
5. We made internal inspections of both maisonettes. The upper maisonette, 96B owned by Mr Wake, is accessed by stairs leading to a small landing and then a couple of steps up either way to the left to a living room through which can be found the kitchen and to the right a bedroom which also houses an en-suite bathroom created over the stairs. The Property has central heating. It is in good order. The kitchen is quite small but fully fitted. The bathroom has a full suite but no natural light other than the borrowed light into the bedroom. The loft hatch is situated immediately above the bath.
6. 96A also has its own entrance which leads directly into a kitchen area, in fact directly towards a hob. To the right of that is a sliding door which affords access to

a bathroom which has a full suite and window. In the kitchen area a worktop curves round the wall going underneath the window and provides the kitchen area. The remainder of the room is taken up as a living room although somewhat affected by the boxed in stairs leading to the upper maisonette. A door leads to a good sized bedroom with bay window. Again, this flat has full central heating and has the benefit of new UPVC doubled glazed units throughout.

## HEARING

7. The hearing was attended by Mrs Sargent, Counsel for the Applicants as well as both Miss Porter and Mr Wake. Mrs Flemming from RS also attended and took us through the terms of her report. She told us that she had originally been informed that the valuation date was 3<sup>rd</sup> September 2015. She accepted that this was not correct and in fact the valuation date should be 20<sup>th</sup> March 2015 being the date of issue of the proceedings in the County Court at Watford. This had a minor impact on the valuation of the freehold and she had incorporated this into an updated valuation which she presented to us at the hearing. She suggested that the price to be paid for the freehold was £21,367 which she had rounded up to £21,370. This departed slightly from the valuation which she had originally lodged assuming a valuation date in September, which was £22,010.
8. She had put forward a number of comparable properties in her report but also relied on two properties in Liverpool Road. One was at 105 Liverpool Road which had a smaller garden and there may have been some discrepancy in size which we were told sold for £158,000 in January 2015 and also 138 Liverpool Road which was under offer at £170,000 but no contracts had yet been exchanged. Taking these two comparables into account and those that she referred to in her report she concluded that the long lease values should be £165,000 for 96A and £167,000 for 96B.
9. She concluded that the capitalisation rate to be applied to the ground rent should be 7% and argued for a deferment rate of 5.25% thus departing to a small degree from the Sportelli rate of 5%. On this point she sought to argue that the Property was subject to potential obsolescence particularly as a result of the likely development to the rear of the Property, the damp problems from which the Property was suffering as well as lack of maintenance, the proximity to the local football club and the potential Croxley rail link and the risk of growth that she would attribute to a property of this nature. We were also told that the development to the rear may put at risk the use of Occupation Road which appeared to be private and which did not appear from the title papers to come with any specific right of use by the Applicants. She also told us that she had incorporated into her valuation a notional sum of £250 in respect of appurtenant land which related to the side access way and the paths running through the garden to the rear as well as the front garden.
10. Finally, on the question of relativity she had taken an average of the 2009 RICS Greater London and England graphs for an unexpired term of 66.26 years and concluded that a relativity rate of 90.14% was the average of those five graphs.

## THE LAW

11. The law applicable to this matter is to be found at Section 27 of the Leasehold Reform, Housing and Urban Development Act and Schedule 6 of same. We have applied the law accordingly.

## FINDINGS

12. We will deal firstly with the transfer. Unfortunately, no draft was provided and we therefore requested that the solicitors acting for the Applicants should lodge a draft transfer with us for approval within seven days. This arrived and has been considered by us. The Transfer should be amended as follows. Box 4 should not refer to the First-tier Tribunal. If it is considered necessary to include any identification other than the landlord's name, it should refer to the District Judge of the County Court at Watford. Box 8 will need to show the consideration payable and box 9 requires amendment to provide for there to be limited title guarantee. Finally there shall be an amendment to the execution clause to provide that execution of the transfer shall be by a District Judge at the County Court at Watford, not the First-tier Tribunal.
13. Turning then to the valuation evidence put to us. We are happy to accept Mrs Flemming's views on the long lease value for the subject properties. Considering the two comparables she put forward in Liverpool Road and the other comparable set out in report for which each had copies of the Register of Title and estate agency particulars, we are satisfied that her sums of £165,000 for 96A and £167,000 for 96B are reasonable. We have no quibble with her use of the capitalisation rate of 7%. Insofar as the deferment rate is concerned, we accept that there needs to be evidence to persuade us to part from the Sportelli rate if 5%. We have considered the position and in particular recent Upper Tribunal decisions on this point. It does not seem to us that we have to have "compelling evidence" to depart from the Sportelli rate but there must be some evidence to persuade us that the rate determined by the Court of Appeal at 5% for flats is not appropriate in any case. We have taken into account the property that we are considering and in particular the potential for long term growth issues given the nature of the property and the fact that there is potential for substantial development at the rear which may well have an impact on the use and enjoyment and potentially the value of same. There is also a potential issue on obsolescence given the nature of the Property and the conversions undertaken. Taking the matter in the round, we conclude that it would not be unreasonable to allow a further 0.25% to be added giving a deferment rate of 5.25% in respect of this Property.
14. In those circumstances we find that the price to be paid for the freehold of 96 Liverpool Road is indeed the amount set out on Mrs Flemming's latest valuation of £21.367, which we have not rounded up.

Judge: *Andrew Dutton*  
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A A Dutton

Date: 12th February 2016

## **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 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 to 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 (ie 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.