



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

Case reference : **LON/00BB/OCE/2019/0158**

Property : **29b Shrewsbury Road, London E7
8AJ**

Applicant : **Natalie Susan Gray**

Representative : **Streathers Solicitors LLP**

Respondent : **Faruk Uddin**

Representative : **Missing landlord**

Type of application : **Section 50(1) and 51 of the
Leasehold Reform, Housing and
Urban Development Act 1993**

Tribunal members : **Tribunal Judge Dutton
Mr W R Shaw FRICS**

**Date of determination
and venue** : **27th September 2019 at
10 Alfred Place, London WC1E 7LR**

DECISION

Summary of the tribunal's decision

- (1) **The appropriate premium payable for the new lease is £10,600 as set out in the valuation appended to the report of Warren C Penfold BSc MRICS dated 5th September 2019.**

Background

1. By an application to the County Court at Clerkenwell and Shoreditch in claim number F01EC750 under s50(1) of the Leasehold Reform,

Housing and Urban Development Act 1993 (the Act) issued on 9th May 2019 the applicant leaseholder sought a determination of the premium to be paid for the grant of a new lease of the first floor flat and ground floor staircase leading thereto at 29b Shrewsbury Road, London E7 8AJ (the “property”).

2. The respondent freeholder is missing. Our jurisdiction arises from the Order of the Court dated 24th July 2019 which requires us to determine under section 51 of the Act the premium to be paid and the terms of the extended lease.
3. The applicant relies upon the expert report of Mr Warren Penfold BSc MRICS of Matthews & Co, chartered surveyors dated 5th September 2019 (the Report).
4. In addition there was included within the bundle before us a copy of the proposed draft lease, which we shall return to in due course.
5. The Report suggests a valuation date of 7th May 2019. Infact it should be 9th May 2019, being the date the proceedings were issued. However, it matters nothing in the context of the assessment of the premium.
6. The report describes the location, the description of the Property, it being a two bedroomed flat within a converted mid terraced house and the size, 60 sq metres. The rising ground rent is recorded as are some improvements made over the years. An overview of the market is provided as are 5 comparable properties. These comparables led Mr Penfold to conclude that a square metre rate for the property would be £4,916, giving an extended lease value of £295,020. To this he had applied a 1% uplift to freehold value of £298,000. These figures are taken from the valuation schedule at appendix IV of the Report and do not mirror exactly the narrative of the report which speaks of an extended lease value of £295,000, which is itself a slight uplift on the £4,916 /sqm figure if applied to the size of the flat at 60 sqm.
7. There is no marriage value as the remaining term of the lease is 80.635 years.
8. The deferment rate at 5% and the capitalisation rate at 7% are noted. These figures, fed into the valuation schedule, give a premium for the extended lease of £10,600

The tribunal’s determination

9. The tribunal determines that the premium payable for the extended lease under the provisions of the Act is £10,600.

Reasons for the tribunal’s determination

10. We found the Report from Mr Penfold to be compelling. The comparables he had utilised were helpful in giving a view as to the

extended lease value for the Property. The 1% uplift for the freehold is uncontentious. The two days difference in the valuation date has no impact and corrects the previous report dated 6th March 2019, which had used that date as the valuation starting point. The capitalisation rate and the deferment rate are perfectly acceptable to us, the latter, of course, following the Court of Appeal decision in the case colloquially known as “Sportelli”.

11. There are some minor amendments we would have made to the calculation of the ground rent as the first element should have been for 6.635 years, not 6.5. However, if anything this very slightly favours the respondent, but not by any degree to encourage us to depart from the valuation in the Report.
12. Accordingly, we find that the premium to be paid for the extended lease for the property is £10,600, which should be paid into Court.

The Lease

13. We have considered the proposed draft lease included in the bundle behind tab 3c. We do not consider that the changes as set out in the schedule should be allowed. Our reasons are as follows.
14. In the Lease dated 3rd November 2003 made between North London Freeholds Limited and the Respondent, showing the demised premises as being 29 Shrewsbury Road Forest Gate London E7, is perfectly satisfactory and clear. The definition of the “Upper Maisonette” at (2)(a) includes the staircases and halls giving access to the upper storey from the front of the property and requires no further clarification. The lease plan is clear. In addition, under the rights at clause 1(3) the use of the passage way coloured yellow is clear and reserves the necessary rights of access and egress for the applicant.
15. In so far as the second amendment is concerned, seeking to remove the wording “*as and for a private flat in the occupation of a single family only*” is concerned we do not consider that this falls to be altered. We are obliged to consider any amendment in accordance with s57 of the Act. At subsection (6) it says as follows -

(6)Subsections (1) to (5) shall have effect subject to any agreement between the landlord and tenant as to the terms of the new lease or any agreement collateral thereto; and either of them may require that for the purposes of the new lease any term of the existing lease shall be excluded or modified in so far as—

a)it is necessary to do so in order to remedy a defect in the existing lease; or

(b)it would be unreasonable in the circumstances to include, or include without modification, the term in question in view of changes occurring since the date of commencement of the existing lease which affect the suitability on the relevant date of the provisions of that lease.

16. We do not consider that the proposed wording falls with the provisions of this sub-section. The lease is only some 16 years old with over 80 years left to run. There is no 'defect' nor are there any changes since the commencement of the lease which would affect the suitability of the existing wording. We assume that the lower maisonette has this restrictive wording included.
17. The remainder of the draft lease is acceptable.

Name: Tribunal Judge Dutton **Date:** 27th September 2019

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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 Tribunal at the regional office which has been dealing with the case.

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.

If the application is not made within the 28 day time limit, such application must include a request for 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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

CASE REFERENCE LON/00AC/OLR/2014/0106

**First-tier Tribunal
Property Chamber (Residential Property)**

**Valuation under Schedule 13 of the Leasehold Reform Housing and
Urban Development Act 1993**

Premium payable for an extended leasehold Interest in [Property]

Valuation date: [Date]