



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

**Case Reference** : **MAN/00EB/OAF/2019/0020**

**Property** : **16 Friar Terrace, Hartlepool, Cleveland  
TS24 0PF**

**Applicants** : **Mr M Bradley and  
Mrs H L Bradley**

**Representative** : **Adcocks Solicitors of Lichfield**

**Type of Application** : **Determination of price payable Section 21  
Leasehold Reform Act 1967**

**Tribunal Members** : **Mr I D Jefferson TD BA BSc FRICS  
Mr I R Harris MBE BSc FRICS**

**Date of Determination** : **1 October 2019**

**Date of Decision** : **4 October 2019**

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**DECISION**

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## **DECISION**

The appropriate sum payable by the Applicant pursuant to Section 9 (1) of the Leasehold Reform Act 1967 is £1,995.00.

The matter is remitted back to the County Court for further listing in accordance with the Order of the County Court at Newcastle upon Tyne dated 22 May 2019 Claim E00MB899.

## **REASONS**

### **The Application**

1. The Application is made under Section 21(1) of the Leasehold Reform Act 1967 ('the Act') for this Tribunal to determine the appropriate sum, including premium price payable by the Applicants for the freehold in this missing freeholder matter.
2. This Tribunal have been provided with copies of various Court Orders including District Judge Read 4 February 2019 and District Judge Morgan 22 May 2019. The Court is satisfied that the Claimants being Tenants of the property 16 Friar Terrace, Hartlepool, TS24 0PF under a Lease dated 16 March 1903 between The Churchwardens of the Church of Saint Hilda in Hartlepool and Overseers to Mr John Burn have the right under Part 1 of the Act to acquire the freehold of the property and are prevented from giving Notice in accordance with the Act of their desire to have the freehold of the property because the identity of the person to be served with Notice cannot be ascertained.
3. The Court is satisfied that the Applicants have taken all reasonable steps to identify the freeholder and by way of the Court Order dated 22 May 2019 the matter was transferred to this Tribunal to determine the appropriate sum.

### **Inspection**

4. The Tribunal inspected the property on 1 October 2019.

It is a somewhat unusual 3 storey end terrace house built around 1900 of brick elevations, now rendered under a pitched roof. The accommodation is on three floors and comprises main reception room, breakfast kitchen, playroom, utility, wc, three bedrooms and bathroom on the first floor and two further bedrooms on the second floor. Approximately one half of the site currently forms a yard, drive, garage, and garden. There are presently uninterrupted first and second floor views over the gardens of 127 Durham Street adjacent.

5. Following inspection, the Tribunal convened to consider the papers before it and make its determination. The Applicants did not request a hearing.

### **Submissions**

6. Obviously, no submission or representations have been received from the freeholder. A submission has been received from Adcocks, Solicitors in Lichfield acting on behalf of the Applicants who instructed Mr G R Bates BA FRICS, a Consultant to Adcocks, to prepare an Expert valuation.

## **Date of Valuation**

7. Mr Bates undertook an initial valuation for Adcocks in August 2018, and was subsequently instructed to prepare a submission for the FTT in March 2019. A copy of an amended valuation report dated 15 March 2019 was forwarded as part of the Applicants submission. The Tribunal are unable to discern whether the valuation changed or remained the same from the original August 2018 version.
8. As a matter of law, the Tribunal determine that the valuation date is the date of application to the Court Section 27 (1) (2) (a) which is believed to be 21 November 2018. This gives an unexpired term of slightly in excess of 76.00 years. The Tribunal agreed that it is a Section 9 (1) valuation.

## **Term**

9. The Expert adopts a yield of 7% and the Tribunal are prepared to accept that figure.

## **First Reversion**

10. To arrive at a modern ground rent in the absence of suitable sale evidence of building plots in the vicinity it is common to use the methodology adopted by the Expert.
11. In so doing one must arrive at the entirety value first of all. The Expert puts forward six properties, two in Friar Terrace, one in Cliff Terrace, and three in Beaconsfield Square. The Expert appears to rely on enquiry of local estate agents and internet price comparison websites to arrive at an entirety value of £150,000.
12. The Tribunal viewed the comparables cited externally, together with other properties in Friar Terrace, Beaconsfield Square, and Cliff Terrace. The properties viewed are essentially terraced properties all built around 1900 but they do vary in size, some quite significantly. The subject house is architecturally attractive and is dissimilar from the smaller mid-terraced properties which comprise the majority of houses in the vicinity. The Expert considers the site to be fully developed in spite of the large garden and driveway which might, in the Tribunals opinion, be capable of further development. The Tribunal do not however ascribe any additional value to possible extension.
13. The Tribunal note the sale of 3 Friar Terrace in November 2018 at £127,000, and 6 Friar Terrace in August 2016 at £140,000. Both are smaller mid-terrace properties clearly of lesser value than the subject house.  
Cliff Terrace represents the highest values in the Hartlepool Headland with several sales in excess of £300,000 of 5 bedroom mid-terrace houses, but they are both larger and with extensive sea views.  
Within Beaconsfield Square a recent sale in May 2019 of a 4 bedroom terrace house at £179,000 is noted.
14. Using the Tribunals own knowledge and experience, and the comparables cited by the Expert, but also evidence of previous sales in adjoining streets the Tribunal conclude that a more accurate entirety value is £180,000.

15. As to site value the Expert puts forward a figure of 30%. The Tribunal are prepared to accept that percentage.
16. Turning to the question of deferment rates the Tribunal note that the Expert has put forward 5.25% relying wholly on *J G S Properties Ltd v King, Sedro and Nunnington* [2017 UKUT 0233 (LC)], a West Midlands case. The Expert then very briefly refers to Land Registry statistics for growth and house prices between the North, the Midlands, and London over a 22 year period from 1996.
17. The Tribunal acknowledge the case cited, which is an Upper Tribunal case, but note that it is in the West Midlands where there have been previous cases which, in that region alone, depart from the more generic deferment rate derived from *Sportelli*.
18. This Tribunal note that the *JGS* case was both a review and a re-hearing of the FTT's decision. Both Parties were represented before the FTT. Mr Davis FRICS for the freeholder argued for a deferment rate of 5.25%, and Mr Waller for the leaseholders 5.5%. It is often the case that a Tribunal will not decide outwith the parameters argued by the Parties. The UT determined 5.25%. In choosing not to go beyond the parameters put forward by the Parties' surveyors, this Tribunal do not find that that is good evidence to overturn *Sportelli*.  
Further, the parties in *JGS* put forward greater evidence and detailed reasoning in support of their case than Mr Bates whose evidence on this point is extremely brief.
19. *Sportelli* at para 121 states:  

“The prospect of varying conclusions on the deferment rate in different cases reached on evidence that was less comprehensive than that before us can therefore be avoided by LVTs adopting the practice of following guidance of this decision unless compelling evidence to the contrary is adduced.”
20. This Tribunal consider that the detailed reasoning of *Sportelli* means that a different deferment rate to *Sportelli* should therefore only be adopted if the FTT is satisfied on compelling evidence that it is justified.
21. An additional 0.25% uplift as per *Zuckerman and City & Country Properties Ltd v Alexander Christopher Charles Yates* [2012] UKUT227(LC) states:  

“If there exists clear evidence that the purchase of the freehold reversion would realise, upon the facts of the particular case, that it was extremely improbable that, as a freeholder it would ever become burdened with any responsibility of management, then this evidence may well be sufficient to displace this additional 0.25%.”
22. This Tribunal do not consider that the burden of management in respect of the subject property justifies any such addition.
23. In the *Kelton Court* cases (*Zuckerman & Others v Trustees of Calthorpe Estate LRA/97/2008*), N J Rose FRICS concluded that a very significant amount of statistical information would be required in evidence to depart from the *Sportelli* figure.
24. Further, the *Zuckerman* case was in respect of a 1970s block of flats where the evidence pointed to the greater risk of deterioration when compared to the repair cost of high

value properties in prime central London. Again, such issues are not relevant in the case of a single house.

25. In *Clarise Properties Limited re 167 Kingshurst Road Northfield Birmingham* [2012] UKUT 4 (LC) the Lands Tribunal affirmed that the starting point for determining the deferment rate is the Sportelli generic rate of 4.75% for houses.
26. In summary this Tribunal determine that the Expert has not put forward any compelling evidence to substantiate a departure from the generic Sportelli rate of 4.75% in respect of the subject house.

### **Second Reversion**

27. The Tribunal concur that the three-stage valuation set out in *Clarise* should be followed.
28. *Clarise* takes the Tribunal neatly to the second reversion where the Expert has applied a percentage reduction to the entirety value at adds with *Clarise*. The Expert has adopted a very low reduction (2.5%) following *JGS Properties*. This Tribunal prefer to follow the Lands Tribunal in *Clarise Properties* which is a leading case in respect of the second reversion, and adopt a reduction of 20% from entirety value.

### **Determination of the Appropriate Sum**

29. The Applicants contend for a premium, equivalent to the appropriate sum, of £1,200.
30. Applying its findings this Tribunal finds that the premium payable is £1,950.00, see Valuation Appendix. To determine the appropriate sum, which may be different, the Tribunal have also considered the matter of outstanding ground rent.
31. Mr Bradley in the main witness statement at Paragraph 8 deals with ground rent. He states that he has never paid ground rent to anyone during his ownership of the property, ... and purchased the property in 2011. This Tribunal determine that an additional payment of the annual ground rent arrears be made in addition to the premium sum, restricted to a total of 6 years arrears, giving a total ground rent of £45.00.
32. This Tribunal therefore determine that the appropriate sum in respect of this Application is £1,995.00
33. The matter may now be transferred back to the County Court.

**Tribunal Judge Jefferson**  
**4 October 2019**

**APPENDIX**

**TRIBUNAL VALUATION**

**MAN/OOEB/OAF/2019/0020**

**16 Friar Terrace, Hartlepool TS24 0PF**

Valuation Date 21 November 2018

Lease Details:

Commencement Date:	13 August 1894
Term:	200.00 years
Expiry Date:	12 August 2094
Unexpired Term:	76.00 years
Ground Rent per annum (fixed)	£7.50

**Term**

Ground Rent Reserved	£7.50	
YP for 76.00 years @ 7%	14.20	£107

**First Reversion To Section 15 Modern Ground Rent**

Entirety Value	£180,000	
Amount Attributable to Site	30%	
Site Value	<u>£54,000</u>	
S.15 modern ground rent @ 4.75%	£2,565	
YP for 50 years @ 4.75%	18.9844	
	<u>£48,695</u>	
PV of £1 in 76.00 years @ 4.75%	0.0294	
		<u>£1,432</u>

**Second Reversion**

Adjusted Freehold Value	£144,000	
PV of £1 in 126.00 years @ 4.75%	0.00289	
Total Value of Landlord's Proposed Interest		<u>£415</u>
<b>Total = Premium Payable (excluding costs)</b>		£1,954
<b>Say</b>		<b>£1,950</b>