



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

Case reference : **CAM/00MD/OCE/2022/0005**

HMCTS code : **P:PAPERREMOTE**

Property : **86 Salisbury Avenue, Slough, SL2
1AH**

Applicant (Tenant) : **Ehsan Ullah, Saima Ehsan and
Uchechukwu Ahamafuna Enekwa**

Respondent (Landlord) : **Mark William Lee**

Type of application : **Missing Landlord – Application
pursuant to Section 26 of the
Leasehold Reform, Housing and
Urban Development Act 1993**

Tribunal members : **Mr P Roberts FRICS CEnv
Mrs M Hardman FRICS IRRV
(Hons)**

Date of Determination : **15 October 2022**

DECISION

This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper hearing described above as P:PAPERREMOTE. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

Decision

The price to be paid by the Applicants further to the Court Order dated 29 June 2022 by the County Court at Central London is **£60,626.83**.

The Tribunal makes no order in respect of the Applicant's costs.

Reasons

Background

1. The Applicants submitted a claim dated 21 July 2020 to the County Court at Central London in respect of the properties known as 86A Salisbury Road and 86B Salisbury Road together comprising 86 Salisbury Road, Slough, SL2 1AH.
2. By order of Deputy District Judge Palmer dated 29 June 2022, the freehold title of 86 Salisbury Road was vested with Mr Uchechukwu Ahamefuna Enekwa pursuant to Section 26 (1) of the Leasehold Reform, Housing and Urban Development Act 1993 (the "Act") upon such terms and at such price as may be determined by this Tribunal to be appropriate and in a form approved by the Tribunal in accordance with Section 27 of the Act.
3. The Tribunal's directions provided for determination of the appropriate sum on the papers submitted by the Applicants without a hearing.
4. The bundle submitted to the Tribunal extends to 128 pages and includes copies of the sealed Part 8 Claim Form, Witness Statement of Uchechukwu Enekwa dated 10 October 2020, Order of the County Court at Central London, Valuation Report prepared by Ms Jacqueline Alpert MRICS dated August 2022, the proposed draft TR1 and a claim for costs.

The Statutory Basis

5. Section 27 (5) of the Act provides that:

"The appropriate sum which in accordance with subsection (3) is to be paid into court in respect of any interest is the aggregate of—

(a) such amount as may be determined by the appropriate tribunal to be the price which would be payable in respect of that interest in accordance with Schedule 6 if the interest were being acquired in pursuance of such a notice as is mentioned in subsection (1)(b); and

(b) any amounts or estimated amounts determined by such a tribunal as being, at the time of execution of the conveyance, due to the transferor from any tenants of his of premises comprised in the premises in which that interest subsists (whether due under or in respect of their leases or under or in respect of agreements collateral thereto).”

6. Schedule 6 of the Act provides, in brief, that the price paid by the nominee purchaser for the freehold interest shall be the aggregate of the value of the freehold interest as it exists on the relevant date, the freeholder’s share of the marriage value and any compensation payable to the freeholder in respect of loss or damage.
7. The relevant date, in this instance, is the Vesting Date, i.e., 29 June 2022.

Valuation Considerations

8. The Tribunal has had regard to the following matters as set out in the bundles provided by the Applicants.

Valuation Date

9. Ms Alpert has assumed a valuation date of 28 July 2022 being the date of her inspection.
10. The Tribunal notes that the date of vesting is 29 June 2022.

Description of the Property

11. Ms Alpert explained that the Property comprises a detached two-storey house of rendered brick and tile construction with UPVC double glazing and gas fired central heating. It has been split into two-self contained flats located on the ground and first floor.
12. The ground floor flat extends to 50.88 sqm GIA and provides an entrance hallway, two bedrooms, a reception room, kitchen and bathroom. In addition, it benefits from a garden and two private parking spaces.
13. The first floor flat extends to 53.49 sqm GIA and provides an entrance hall, three bedrooms, reception room, kitchen and bathroom. Ms Alpert stated that this flat also benefits from a hard-standing yard with several outbuildings. However, as is explained below, the Tribunal noted that this yard is not included within the registered demise.
14. The occupier of the first floor flat also occupies the loft space which is accessed by means of a drop-down ladder. This space has been fitted out with storage units, carpeting and a velux window. The Tribunal understands from Ms Alpert that the loft is excluded from both lease demises.

15. It is unclear as to whether any improvement works have been carried out pursuant to Section 3 (1) (c) of Schedule 6 of the Act but the Tribunal notes that Ms Alpert has had full regard to the premises as they actually exist and has not made any disregards. The Tribunal has therefore not made any deductions in this regard.
16. There is a communal area to the front of the Property with space for the storage of bins.

Title Matters

17. The freehold interest is registered at HM Land Registry under Title Number BK287572.
18. Whilst various charges and restrictive covenants are recorded on the title, these are not considered to be material for the purposes of this hearing.
19. The ground floor flat is occupied pursuant to a lease dated 30 November 1990 for a term of 99 years from 25 December 1989 at an initial ground rent of £150 per annum (excluding insurance rent) increasing by £150 per annum every 33 years.
20. The lease is registered at HM Land Registry under Title Number BK292366.
21. The first floor flat is occupied pursuant to a lease dated 30 November 1990 for a term of 99 years from 25 December 1989 at an initial ground rent of £150 per annum (excluding insurance rent) increasing by £150 per annum every 33 years.
22. The lease is registered at HM Land Registry under Title Number BK297964.

Unexpired Term

23. Ms Alpert assumed unexpired residues of 66 years and 150 days (66.41 years). The Tribunal calculates residues of 66.5 years.

Capitalisation Rate

24. Ms Alpert has capitalised the ground rents at 7% but no market evidence of ground rent investment sale yields has been provided in support of this assumption.
25. The Tribunal is aware that long term ground rents achieve yields well below 7%. However, as there are only 66.5 years remaining on the current leases, the Tribunal concurs with Ms Alpert on this occasion.

Deferment Rate

26. Ms Alpert has adopted a deferment rate of 5% citing the Sportelli case. This case determined deferment rates of 4.75% for houses and 5% for flats.
27. The Tribunal concurs with Ms Alpert.

Relativity

28. The Tribunal notes that Ms Alpert has not considered or provided details of any market transactional evidence but has relied solely upon relativity graphs.
29. In the absence of such evidence being made available for the testing of, and comparison with, the relativity graphs in this locality the Tribunal has accepted Ms Alpert's approach on this occasion but, having accounted for the correct valuation date, has calculated a relativity of 82.55%.

Development Potential

30. Ms Alpert dismissed the development potential of the loft space on the basis that it is too shallow to enable conversion to living space. However, she does not provide any floor plans, dimensions (i.e., height, width and length) nor any photographs to assist the Tribunal.
31. There is no current planning application or consent for conversion of the loft. This does not prevent such application being submitted in the future nor the grant of consent. It may even be the case that planning permission is not required.
32. However, regardless as to the question of whether planning permission would be required or granted, the ability to convert the loft would only have value if the market intended to implement such development. In this context, there appears to be a noticeable lack of loft conversions in the general locality.
33. In the circumstances, the Tribunal considers that any conversion potential of the loft is unlikely to encourage a prospective purchaser to significantly inflate their bid and accepts Ms Alpert's conclusions in this regard.
34. Ms Alpert does not consider the development potential of the yard on the side of the Property facing Cumberland Avenue.
35. In this regard, the Tribunal notes that, whilst Ms Alpert advises that the yard is occupied and used in conjunction with the first floor flat, the Land Registry Title Plan does not show this plot as being demised to either the ground floor or first floor tenants. It is therefore the case that, notwithstanding any ability on the part of either tenant to

demonstrate the acquisition of an interest in this land through the effluxion of time, this land does not appear to belong to either tenant.

36. This land benefits from its own dedicated access drive from Cumberland Avenue such that it could be occupied separately from the main property. However, any planning determination would take into account the extent of overlooking of any development and the potential impact on the amenity space of the residents.
37. The market would therefore consider that there was potential for the release of development value but would also take into account the potential difficulties of securing planning permission for significant development.
38. However, the market would take into account that this land could potentially be sold in isolation from the flats for use as, for example, car parking or separate storage.
39. On this basis, in the absence of any evidence being presented on these points, the Tribunal considers that a value for the land of £5,000 is appropriate.

Freehold Vacant Possession Value

40. Ms Alpert has attached a schedule of comparable evidence to her report. It appears from her valuation that she concludes that the freehold vacant possession values of the flats are:
 - Ground Floor - £242,400
 - First Floor - £252,500
41. She has calculated Long Lease Values by taking 99% of the freehold vacant possession values as follows:
 - Ground Floor - £240,000
 - First Floor - £250,000

Conclusions

42. Ms Alpert has assessed a total amount, including marriage value, of £54,802.25 to which she has added £1,000 in respect of hope value in relation to the potential for attic conversion and £100 to account for the value of “un-demised appurtenant land”.
43. The Tribunal has calculated £54,626.83 prior to any additions to which is added £5,000 in respect of the “yard space” and £1,000 for the attic space.

44. The Tribunal considers that the “un-demised appurtenant land” as referred to by Ms Alpert, has already been reflected in the valuation of the flats.
45. The Tribunal’s valuation is therefore:
- Capitalisation of Ground Rents - £8,732.54
 - Reversionary Value - £19,061.07
 - Marriage Value - £26,833.22
 - Attic Hope Value - £1,000
 - Yard Hope Value - £5,000
 - **Total - £60,626.83**
46. A breakdown of the calculations is set out at Annex 1.

Application for Costs

47. An application for costs has been made in the sum of £18,445 (inclusive of VAT) which is pursued on the basis that this should be deducted from the money to be paid into court.
48. The application does not make reference to any statutory basis upon which the claim rests or ability by the Tribunal to make such an order.
49. There are no provisions within the Act for the deduction of legal costs from the appropriate sum to be paid into court and the Tribunal makes no order in this regard.

TR1

50. The Tribunal has reviewed the proposed TR1 and hereby provides its consent subject to the insertion of the sum of £60,626.83 at paragraph 8.

Name: Peter Roberts FRICS CEnv

Date: 15 October 2022

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).

Annex 1

VALUATION

Valuation as at	29-Jun-22		
Lease from	25-Dec-89		
Years	99		
Expiry Date	25-Dec-88		
Number of Years Unexpired	66.50		
Number of Years Unexpired with extention	156.50		
Ground Rent			
to 24 Dec 2022	300		
to 24 Dece 2055	600		
to 24 Dec 2088	900		
Market Value with full lease term(as existing)	£490,000		
Feehold Value (extended lease +1%)	£494,900		
Intial Yield	7%		
Reversionary Yield	5%		
Relativity	82.55%		
Capitalisation Ground Rents			
Ground Rent	300		
YP 0.5 years @ 7%	0.4673	£140.19	
Ground Rent	600		
YP33 years@ 7%	12.7538		
PV 0.5 years @ 7%	0.966736	£7,397.73	
Ground Rent	900		
YP 33 years @ 7%	12.8039		
PV 33.5 years @ 7%	0.103668	£1,194.62	
Capital Value			£8,732.54
Reversionary Value			
Freehold Value	£494,900.00		
PV 66.5 years @ 5%	0.038998		
Reversion		£19,300.11	
Less New Reversion with extended lease	£494,900.00		
PV 156.5 years @ 5%	0.000483		
New Reversion		£239.04	
Total Capital Value			£19,061.07
Marriage Value			

Market Value	£490,000.00		
LESS			
Value with Current Lease	£408,539.95		
Less			
Value of Ground rents and Reversion	£27,793.62		
Marriage Value		£53,666.43	
50% Share			£26,833.22
SUBTOTAL			£54,626.83
Loft Value			£1,000.00
Yard Value			£5,000.00
TOTAL VALUE			£60,626.83