UPPER TRIBUNAL (LANDS CHAMBER)

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TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

COMPENSATION – compulsory purchase – dwelling house – absent and untraceable owners – valuation of freehold reversion and long leasehold interests – compensation assessed at £11 and £25,000 respectively

IN THE MATTER of a NOTICE OF REFERENCE

BETWEEN	**UNKNOWN OWNER (1)** **BRYAN BARKER (2)**	**Claimants**
	and	
	BURNLEY BOROUGH COUNCIL	**Acquiring Authority**

Re: 36 Dall Street, Burnley, Lancs

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

DECISION

Introduction

1. This is a reference to determine the amount of compensation payable in respect of the compulsory purchase of the freehold and long leasehold interests in 36 Dall Street, Burnley, Lancs (the subject property). The interests were acquired under the Burnley (36 Dall Street, Burnley) Compulsory Purchase Order 2008 (the CPO), which was confirmed on 15 July 2008, by means of a General Vesting Declaration dated 2 October 2008. The property vested in the acquiring authority on 3 November 2008 which is the valuation date for the purposes of this determination.

2. The acquiring authority tried but failed to establish the owner of the freehold reversion, or make contact the owner of the long leasehold interest (Bryan Barker). Consequently, no representations have been submitted by the claimants. I have read the affidavit of John Stephen Killion, a project officer in the council's Housing Unit, dated 27 April 2009, setting out the actions taken to trace the owners, and I am satisfied that all reasonable steps were taken in that regard.

Evidence

3. Mr Robin Forshaw MRICS, a chartered surveyor employed by the council as a valuer engaged principally in acquiring residential properties under Burnley's Housing Market Renewal Projects, produced expert reports, dated 26 June 2009, on the two interests. He had inspected the subject property on 3 November 2008.

4. 36 Dall Street is a flush-fronted two storey house with a single storey outrigger to the rear in the middle of a terrace of 22 similar properties, in a high density residential area approximately half a mile from Burnley town centre. The house, which has a gross external area of 75.19 sq m, is constructed of brick and stone under slated roofs and contained two rooms, store and a kitchen at ground floor, and two bedrooms and a bathroom on the first floor, and had a small rear garden that contained a disused air-raid shelter. The property had been unoccupied for some 9 years prior to the vesting date and was in very poor condition. It required extensive repair, refurbishment and modernisation, and in this regard the council had prepared a schedule of repair, costed at £36,000, which was submitted to the Secretary of State as part of the CPO.

5. The property was acquired under the council's Vacant Property Initiative, administered by the Housing Department, with the intention of bringing it back into use by undertaking the required repairs and refurbishment prior to offering for sale in the market.

6. As to the freehold reversionary value, Mr Forshaw said that whilst the full details of that interest were unknown, a Land Registry search had confirmed that the lease was for a term of 999 years from 1 November 1879 at a rent payable believed to be in the region of £1.50 per annum. He referred to a number of similar properties in Burnley where acquisitions had been

agreed at sums that reflected a years purchase of between 6 and 8, together with auction results of blocks of ground rents (which were significantly higher) in Liverpool, Lancashire, Derbyshire and Newcastle upon Tyne that reflect years purchase multipliers of between 9.5 and 14.4. In his view, although they were settlements rather than open market transactions, the local comparables were more appropriate as the blocks would have been more attractive to the market, having higher rents and being easier to manage than individual units. Mr Forshaw therefore adopted a YP of 7 which, applied to the rent of £1.50 pa, produced a reversionary value of £11.

7. Regarding the long leasehold interest, Mr Forshaw considered, and set out details of, a large number of local comparables, both modernised and unmodernised, that were either on the market or sold at and around the valuation date. From these, he concluded that if it had been fully refurbished and modernised the subject property would have had a value of approximately £60,000. Mindful of the fact that it would cost in the region of £36,000 to effect the necessary works, he concluded that the value of the long leasehold interest was, say, £25,000. This figure was, he said, supported by the large number of unmodernised properties that had been available at the appropriate date.

Conclusions

8. I am satisfied that Mr Forshaw's assessment of the freehold reversionary value, at £11 is correct for the reasons that he has given. As to the long leasehold value, he produced comprehensive support for his opinion by way of comparables, and I accept it.

9. I therefore determine the open market value of the long leasehold interest at £25,000 and the freehold reversionary interest at £11 and award compensation accordingly.

DATED: 28 September 2009

P R Francis FRICS