



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

**Case Reference** : **FR/LON/00AD/F77/2019/0198**

**Property** : **11 Annandale Road Sidcup  
Kent DA15 8EX**

**Applicant** : **BPT (Bradford Property Trust) Ltd**

**Representative** : **Grainger plc**

**Respondent** : **Mr Peter Barkway (Tenant)**

**Representative** : **None**

**Type of Application** : **S.70 Rent Act 1977 –  
Determination of a new fair rent**

**Tribunal Members** : **Mr N. Martindale FRICS  
Mr J. Francis QPM**

**Date of Inspection** : **16 December 2019**

**Date of Decision** : **16 December 2019**

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**REASONS FOR DECISION**

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**Background**

- 1 By an application dated 11 August 2019 the landlord applied to the Rent Officer for registration of a fair rent of £183 per week (pw)) for the Property. There landlord stated that the existing rent was £691.16 per calendar month (pcm). (The last entry was actually £159.50 pw).
- 2 On 24 September 2019, the Rent Officer registered a fair rent of £164 pw effective from 9 November 2019. There were no amounts for services recorded.

- 3 By a letter dated 3 October 2019 to the Rent Officer but redirected to the Tribunal, the landlord appealed the new registered rent. The matter was referred to the Tribunal for a fresh determination.
- 4 Standard directions dated 28 October 2019 for the progression of the case were issued. Neither party requested a hearing.
- 5 Both made brief written representations in response to the directions principally relating to comparable properties let or available in the locality. The landlord set out their 'CASE' in the form 'WRITTEN REPRESENTATIONS'. They described the Property as a *'Beautiful 3 Bed Terrace House. The property offer spacious accommodation, and is convenient to local shops and transport.'* Starting with an open market rent for the modernized equivalent property of £346 pw and making deductions for the kitchen, bathroom, windows absence of landlord's white goods and carpets bringing it down to £297.70 pw.

### **Inspection**

- 6 The Tribunal inspected the property on 16 December 2018. The building is a 1930's mid terrace house with front and rear gardens in a quiet residential road. Double pitched single lap tiled roof, traditional construction in block or brick rendered. Access to the Property is off a small front driveway. There, is also on-street parking.
- 7 Although the Property has three bedrooms on the first floor, the Tribunal found the house to be one of the smallest such houses it had ever seen. It cannot be, as the landlord states, 'spacious'. The Tribunal found that it was necessary to step back to the top of the staircase to access either of the two, rear single bedrooms at all. This was because the doors opened outwards on to an already tiny landing. In effect the space available on the first floor is only sufficient for two double bedrooms. When valuing the Property the Tribunal therefore also took into account two, as well as three, bedroom houses.
- 8 The ground floor single living room was also the access to the rear of the house and garden (there being no hallway). There is a kitchen/dining room. Access from any bedroom to the bathroom required passage through both ground floor rooms. Again, in no way was the Property 'spacious'. The kitchen and bathroom were to a very basic standard. The electrical distribution system was limited and restrictive for the user. There were no landlord's white goods, carpets or curtains. There was no central heating or other fixed heating system. Hot water was provided by a gas fired Main water heater in the bathroom. The windows are double glazed in plastic frames.
- 9 The render to the front bay at loft, first and ground floor levels was in a discoloured, cracked, fissured, and crumbling condition. It was unattractive and more importantly also appeared to allow water inside the house causing dampness and damage to the first-floor ceiling and walls to the double bedroom and living room.

## **Law**

- 10 When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
- 11 In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasized
  - (a) that ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms - other than as to rent - to that of the regulated tenancy) and
  - (b) that for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).

## **Decision**

- 12 Where the condition of a property is so much poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an unmodernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 13 On the evidence of the comparable market lettings from the parties and our own general knowledge of market rent levels in Sidcup, we accept that the subject property if modernized and in good order would let on normal Assured Shorthold Tenancy (AST) terms, for £275 pw. This then, is the appropriate starting point from which to determine the rent of the property as it falls to be valued.

- 14 The Tribunal makes deductions for the basic bathroom, basic kitchen, basic electrical distribution, absence of central heating, lack of white goods, carpets and curtains, and disrepair to the front walls. These deductions total £80 pw.
- 15 From a starting market rent of £275 pw, we therefore make total deductions of £80 pw, leaving the adjusted market rent at £195 pw.
- 16 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was a substantial scarcity in the locality of Greater London and therefore makes a further deduction of 20% from the adjusted market rent to reflect this element. This leaves £156 pw. The uncapped fair rent to be registered would therefore be £156 pw.
- 17 However the Tribunal is also required to calculate the Maximum Fair Rent Cap. This is determined by a formula under statutory regulation, which whilst allowing for an element of inflation may serve to prevent excessive increases. The Cap as the date of the Tribunal's determination is £176 pw.
- 18 As this Cap is higher than the uncapped rent, the fair rent determined by the Tribunal for the purposes of S.70, remains at £156 pw. This new rent will take effect from and including the date of determination.

**Name: Neil Martindale                      Date: 16 December 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).