



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

**Case reference** : **LON/00AQ/OCE/2020/0035**

**HMCTS code (paper, video, audio)** : **P:PAPERREMOTE**

**Property** : **17 and 17A Oxford Road Harrow  
HA1 4JH**

**Applicants** : **Christopher James Perdue and  
Lauren Ngozi Adaoma Hannah  
Orhiunu-Ikeji**

**Representative** : **JE Kennedy & Co Solicitors**

**Respondent** : **Terence Cornelius McMahon**

**Representative** : **Missing Landlord**

**Type of application** : **Section 26 of the Leasehold  
Reform, Housing and Urban  
Development Act 1993**

**Tribunal members** : **Mr A Harris LLM FRICS FCI Arb**

**Date of determination and venue** : **14 December 2021 at  
10 Alfred Place, London WC1E 7LR**

**Date of decision** : **14 December 2021**

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**DECISION**

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**Covid-19 pandemic: description of determination**

This has been a determination by remote hearing on the papers. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested one, or it was not practicable, and all issues could be determined on paper. The documents that the tribunal was referred to are a bundle of 117 pages, the contents of which the tribunal has noted.

## **Summary of the tribunal's decision**

- (1) The appropriate premium payable for the collective enfranchisement is **£57,626**. (fifty seven thousand six hundred and twenty six)

## **Background**

1. This is an application made by the applicant qualifying tenants pursuant to section 26 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the premium to be paid for the collective enfranchisement of 17/17A Oxford Road Harrow HA1 4JH (the “property”) where the Landlord cannot be found.
2. By an Order of the Willesden County Court dated 12 February 2020 the requirement to serve notice under section 13 of the Act, was dispensed with.
3. On 12 February 2020 the Willesden County Court ordered that the freehold shall be vested in such person or persons as may be appointed for that purpose by the Claimants on such terms as may be determined by the tribunal.
4. On 18 February 2020, the Applicants applied to the tribunal for a determination of the premium and terms of acquisition.

## **The issues**

5. In the absence of the Landlord there are no matters agreed. The applicants have submitted a valuation report prepared by Mr JP Hennessy BSc MRICS, an RICS registered Valuer dealing with the following matters:
  - (a) The subject property is a two-storey right-handed semi-detached house converted into two self-contained flats. Number 17 is on the ground floor and 17A on the first floor. The rear garden is divided between the two flats and the pathway between 17 and 19 Oxford Road provides the only access to the first-floor flat's rear garden area.
  - (b) The valuation date is the date of the court order being 12 February 2020.
  - (c) Details of the tenants' leasehold interests:
    - (i) Dates of leases: both flats are let for 99 years commencing on 25 December 1985
    - (ii) Ground rents: the initial ground rent was £50 per annum for the first 33 years rising to £100 per annum for the next 33 years and finally £150 per annum for the residue of the lease.

(iii) Unexpired terms at valuation dates: 64.87 years;

The tribunal regards these matters as uncontroversial and are supported by documents in the bundle. The tribunal will consider the evidence on the following matters:

- (d) Capitalisation of ground rent: 6.75% per annum
- (e) Deferment rate: 5%.
- (f) Freehold value
- (g) Relativity; 83.53%
- (h) Development hope value; Nil
- (i) The premium payable. £57,649.00 (Fifty seven thousand six hundred and forty nine pounds).

### **The hearing**

- 6. The case was dealt with on the papers on 14 December 2021 with the necessary documents provided in a bundle by the Applicant's representative.
- 7. The tribunal was not asked to inspect the property and the tribunal did not consider it necessary to carry out a physical inspection to make its determination.
- 8. The applicant relied upon the expert report and valuation of Mr JP Hennessy BSc MRICS dated 18 June 2020.

### **Capitalisation rate**

- 9. Mr Hennessy considers that in recent years a generic capitalisation rate of 7% has become standard in many cases. However, he considers that this type of income stream has become more valuable and at 6.5% may be more appropriate. As ground rents can be time-consuming to collect, he proposes a rate of 6.75%.

### **The tribunal's determination**

- 10. The tribunal determines that the rate to be used is 7%.

### **Reasons for the tribunal's determination**

- 11. The tribunal notes that a rate of 7% has become standard in many cases and in the absence of any specific evidence to show that this should be varied in this case the tribunal will adopt the generic rate.

### **Deferment rate**

12. Mr Hennessy speaks to the Sportelli rate of 5%.

### **The tribunal's determination**

13. The tribunal determines that 5% is appropriate as the deferment rate .

### **Reasons for the tribunal's determination**

14. The tribunal sees no reason to depart from the Sportelli rate.

### **Freehold value**

15. Mr Hennessy values the freehold interest in flat 17 at £267,500 and 17A at £275,000

### **The tribunal's determination**

16. The tribunal determines that the value of the freehold interest in flat 17 is £267,500 and 17A is £275,000

### **Reasons for the tribunal's determination**

17. Mr Hennessey has presented five comparable properties all of which have gas central heating and double glazing. His report includes sale particulars and title documents supporting their use. In his view all require some adjustment and possibly a slight reduction to reflect a drop in values in the period running up to February 2020 and he takes that into consideration. At the valuation date the impact of Covid 19 had not impacted the market although sales agreed around the valuation date may have subsequently been adjusted.
18. The comparable properties are summarised in the table below and the tribunal considers that the evidence presented supports the values utilised by Mr Hennessy.

Address	date	Description	size sq ft	lease	price	Comment
1B Rutland Road	Jun-19	First floor converted flat 2 beds reception kitchen bathroom in good condition	602	155 yrs unexpired	£ 300,000	Larger than 17A
16B Oxford Road	Jan-19	Ground floor converted 1 bed flat	559	96 yrs unexpired	£ 292,000	agents say exceptional condition and premium price
65 Beresford Road	Jul-19	ground floor converted 1 bed flat garden	556	92 yrs unexpired	£ 265,000	further form tube but quieter and more desirable area
113 Blenheim Road	Jul-19	ground floor converted 1 bed flat garden	473	995 yrs unexpired	£ 265,000	virtual freehold
25A Rutland Road	Jul-19	First floor converted 1 bed flat	473	share of freehold	£ 270,000	parallel to Oxford Rd

## Relativity

19. The tribunal determines that 83.525% is appropriate as the relativity rate.
20. Both flats have an unexpired term of 64.87 years. Mr Hennessy states he has been unable to find any comparable sales of similar length leases.
21. Flat 17A was sold to the current lessee on the open market in October 2018 with an unexpired term of 66.18 years for a price of £250,000. The flat was purchased with the benefit of an assigned section 42 notice from the previous leaseholder offering a premium of £10,200 for a statutory lease extension. Mr Hennessy considers that an inflated figure was paid for the short lease and that valuation advice had not been taken on the likely level of premium which he assessed at that date has been £26,895. He places little weight on the sale in consequence.
22. The tribunal agrees with that assessment.
23. Mr Hennessy quotes the case of Trustees of the Barry and Peggy High Foundation v Zucconi/Zantre (2019 UKUT 0242 (LC) which stated that the First-tier Tribunal should have taken into account the Savills 2015 enfranchisable graph, the Savills 2016 unenfranchisable graph and the Gerald Eve 2016 unenfranchisable graph. Mr Hennessy then gives details of a number of transactions which he has agreed in the market. He concludes that while accepting the general principles set out in Zucconi there does seem to be a wide variation in relativity is set by tribunals. The decision does not rule out reference to non-prime central London graphs. In Mr Hennessy's view an average of Savills at 81.44% and Gerald Eve at 81.61% is appropriate with an addition of 2% to fully reflect all the issues. He therefore adopts 83.525%.

24. This figure is derived from use of standard tables adjusted by reference to the experience of an expert witness. The tribunal considers it is properly supported and therefore adopts this figure.

### **Development hope value**

25. The tribunal determines that there is no development hope value to be included in the calculation.

### **Reasons for the tribunal's decision**

26. Mr Hennessy sets out that during his inspection he noted that there was a single-storey conservatory at the rear of the ground floor flat. While this is of indeterminate age, it post-dates the grant of the lease and is likely to be a tenants improvement which he disregards.
27. Mr Hennessy also noted that the upper flat had been extended into the roof space which is included in the demise but that consent would have been required for the works which was not to be unreasonably withheld. As the landlord could not be found there is no consent.
28. The tribunal is of the view that this should be disregarded as a tenants improvement as the works are not such that a landlord could reasonably withhold consent.

### **The premium**

29. The tribunal determines the appropriate premium to be **£57,626**. (fifty seven thousand six hundred and twenty six pounds A copy of its valuation calculation is annexed to this decision.

**Name:** Mr A Harris  
Valuer Chair

**Date:** 14 December 2021

**Appendix:** Valuation setting out the tribunal's calculations



## **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).