



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

**Case reference** : **CAM/38UC/F77/2022/0005**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **2 Le Hall Place, Manor Road,  
Addebury, Banbury, Oxfordshire,  
OX17 3EH**

**Applicant (Tenant)** : **Mrs S J Harvey**

**Respondent (Landlord)** : **Humphris (Banbury) Limited**

**Type of application** : **Determination of a fair rent under  
section 70 of the Rent Act 1977**

**Tribunal members** : **Peter Roberts FRICS CEnv**

**Date and Venue of  
Determination** : **30 May 2022**

---

**DECISION**

---

**Description of hearing**

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 determination 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 tribunal determined a fair rent of £1,000 per calendar month**

## **Reasons**

### **Background**

1. On 30 December 2021 the landlord made an application to register the rent of the Property at £1,500 per calendar month (pcm).
2. The Rent Officer registered a Fair Rent of £985 pcm month on 18 February 2022 effective from 16 March 2022. This was in lieu of the previous registered rent of £940 pcm which was registered on 5 February 2020 and effective from 16 March 2020.
3. The Landlord objected on 9 March 2022, and the matter was referred to the First Tier Tribunal, Property Chamber.
4. The Tribunal issued directions on 23 March 2022, inviting the parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the tribunal to consider.
5. The Tribunal has been provided with:
  - a. Application For Registration of Fair Rent dated 30 December 2021 submitted by the Landlord
  - b. Letter of Objection dated 9 March 2022 from the Landlord
  - c. Reply Form dated 11 April 2022 submitted by the Landlord.

### **The Property**

6. The Tribunal inspected the property on 30 May 2022. The Tenant was present at the inspection, but the Landlord did not attend.
7. The Property comprises a maisonette within a period property estimated to date from the mid to late 17<sup>th</sup> Century located within an attractive village setting.
8. The Property is approached via a passageway which leads to a storeroom within which the Tenant has a fridge freezer and the front door of the maisonette. The front door leads into a hallway with stairs to the first floor and an entrance into the ground kitchen/dining room. A further door leads from the kitchen to two lounges which are utilised as storage and art studios.

9. The staircase from the hall leads to a first-floor passageway from which there is access to 4 bedrooms and a bathroom.
10. Heating is provided by radiators stated to belong to the Tenant. The windows are single glazed with metal frames. There does not appear to be any insulation and all fittings are very dated.
11. The Tenant advised the Tribunal that she benefits from a private garden area which is contiguous to the Property and has shared use of the main garden and allotments. In addition, she has use of one of the garages within the main block.
12. Notwithstanding the current occupation of the Property, it is apparent that significant refurbishment and modernisation work would be required to bring the maisonette up to a standard commensurate with current requirements and standards. As such, it would not be attractive to the market in its current state.
13. The Property is entered in the Council Tax List as Band D. However, it must be stressed that the repair assumptions applicable to Council Tax assessments differ from those made in setting a Fair Rent.
14. The Property does not appear to benefit from an EPC.

### **The Law**

15. The relevant law is set out in section 70 of the Rent Act 1977 (the Act) and The Rent Acts (Maximum Fair Rent) Order 1999 (the Order).
16. Section 70 (1) of The Act provides that in assessing the rent:

“regard shall be had to all the circumstances (other than personal circumstances) and in particular to—

  - i. the age, character, locality and state of repair of the dwelling-house,
  - ii. if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture and
  - iii. any premium, or sum in the nature of a premium, which has been or may be lawfully required or received on the grant, renewal, continuance or assignment of the tenancy.”
17. Section 70 (2) of the Act provides that

“...there shall be disregarded

  - i. any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his to comply with any terms thereof;

- ii. any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his
  - iii. if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him, or any sub-tenant of his.”
18. In addition, section 70 (2) of The Act requires the Tribunal to assume:
- “that the number of persons seeking to become tenants of similar dwelling-houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling-houses in the locality which are available for letting on such terms.”
19. This latter provision requires the Tribunal to assume that the demand for similar rented properties in the locality does not significantly exceed the supply of such properties for rent; in effect, if such scarcity exists, the Tribunal is to adjust the rental figure so that the fair rent is not affected by it.
20. Relevant case law comprises *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, in which the Court of Appeal confirmed that for the purposes of determining the market rent (before making any necessary adjustments), open market assured tenancy rents are usually appropriate comparables.
21. Section 72 of The Act provides that, where the rent is determined by the Tribunal, the registration of that rent takes effect from the date the Tribunal makes their decision.
22. The Order provides that the registered rent may not exceed the capped rent. The formula for the calculation of the capped rent is set out at section 2 of the Order

**Representations – Tenant**

23. The Tenant has not made any representations.

**Representations – Landlord**

24. The Landlord’s representations are set out within the letter dated 9 March 2022. The main points of the objection to the proposed rent are:
- a. “It is an increase from the previous rent of only 5% equating to 2.5% per annum

- b. Whilst we accepted the reduction over the last years, we cannot continue to absorb the costs involved in keeping a property of this kind, at this level of rent. A £45 rent increase over the next 2 years is simply not feasible and the rent is less than the market rent for this property. The property itself is part of a 17<sup>th</sup> Century listed building, of which you can appreciate comes with substantial upkeep...”

25. The Tribunal notes that the Landlord has confirmed within the Application that the Tenant has not carried out any improvements or replaced fixtures, fittings or furniture for which she is not responsible under the terms of the lease and there is no disrepair or other defects to the Property, fixtures or fittings or furniture which are due to the Tenant failing to comply with the terms of the tenancy.

### **Determination**

26. The first step is to determine the rent which a landlord could reasonably expect to obtain for the Property in the open market if it were let today in the condition and on the terms now usual for open market lettings.
27. Neither of the Parties have provided any evidence of asking or achieved rents. It is therefore necessary for the Tribunal to make its own enquires and exercise its judgement.
28. In this regard, the Tribunal considered that, if the Property had been refurbished and was in full repair and decoration with modern fittings, full heating and insulation, it would be attractive due to its location, setting, facilities and “charm”.
29. Example of asking rents of converted/older houses in the general vicinity include The Tchure, Deddington which comprises a 1-bedroom flat in a recently refurbished and decorated former terraced house at £825 pcm, a 1-bedroom terraced cottage in Water Land, Addebury at £795 pcm, a 1-bedroom flat in Cotefield House, Bodicote at £695 pcm, a two-bedroom flat in Halestrap Way, Kings Sutton at £1,100 pcm, and a three-bedroom listed terraced cottage in Oxford Road, Banbury at £895 pcm.
30. There is also semi-detached 3-bedroom house available at Neithrop Avenue, Banbury for £1,350 pcm, a 2-bedroom barn conversion at Steane Brackley for £850 pcm, a three-bedroom Victorian terraced house at North Street Banbury for £1,100 pcm and a two-bedroom apartment within The Courts, Warwick Road for £1,100 pcm.
31. None of these properties are directly comparable to the Property but they do give an indication of current market levels of value in this locality for a wide range of properties from rural to more urban settings.

32. In this regard, on the assumption that the Property was fully refurbished and fitted to modern standards/requirements, the rental value could, depending on the extent of fit out, be in the region of £1,400 pcm.
33. However, the condition of the Property, lack of carpets, curtains, modern fittings, insulation, white goods, bathroom and kitchen fittings and general lack of modern facilities is such that the Property would only appeal to a very limited number of prospective occupiers such that a significant discount in rent would be required to secure a tenant in the absence of a complete refurbishment.
34. In light of this, the Tribunal has assessed an adjusted rent of £1,000 per calendar month.
35. The Tribunal has then considered whether there should be an adjustment for “scarcity” and decided that there was none.
36. The “uncapped” Fair Rent is therefore £1,000 pcm.
37. The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped Fair Rent, details of which are attached to the decision notice, or the Fair Rent decided by the Tribunal whichever is the lower.
38. The capped rent is £1,123.50 per month. This is higher than the Fair Rent assessed by the Tribunal.
39. Therefore, the Fair Rent assessed by the tribunal of **£1,000 per month** is to be registered.

**Name:** Peter Roberts FRICS CEnv

**Date:** 18 June 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).