



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

**Case reference** : **CHI/40UE/MNR/2022/0059**

**Property** : **23 Westford Grange, Westford, Wellington,  
Somerset, TA21 0EP**

**Applicant Tenant** : **R Wilson**

**Representative** : **None**

**Respondent Landlord** : **LiveWest Homes Limited**

**Representative** : **None**

**Type of application** : **Determination of a Market Rent  
Sections 13 & 14 of the Housing Act 1988**

**Tribunal member(s)** : **Mrs J Coupe FRICS (Chairman)  
Mr D Banfield FRICS Regional Surveyor  
Mr S Hoskins FRICS**

**Date of decision** : **9 August 2022**

---

**DECISION**

---

### **Covid-19 pandemic: Description of determination**

This has been a remote determination on the papers which has been consented to by the parties. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a remote determination on papers. The documents that the Tribunal were referred to are in an electronic bundle, the contents of which have been noted. The order made is described below.

### **Decision of the Tribunal**

**On 9 August 2022 the Tribunal determined a Market Rent of £600.00 per calendar month to take effect from 2 July 2022. For the avoidance of doubt this figure represents 80% equivalent open market rent.**

### **Background**

1. By way of an application dated 31 May 2022, the Applicant tenant of 23 Westford Grange, Westford, Wellington, Somerset, TA21 0EP ('the Property'), referred a Notice of Increase in Rent ('the Notice') by the Respondent landlord of the property under Section 13 of the Housing Act 1988 ('the Act') to the Tribunal.
2. The Notice, dated 24 May 2022, proposed a new rent of £530.00 per calendar month to take effect from 2 July 2022, in place of the existing rent of £480.00 per calendar month.
3. The tenant occupied the Property under an Assured Shorthold Tenancy commencing 2 June 2011.
4. On 5 July 2022 the Tribunal issued Directions advising the parties that it considered the matter suitable for determination on papers unless either party objected, in writing, within 7 days. The parties were also advised that no inspection would be undertaken. No such objections were received.
5. The Directions required the landlord and tenant to submit their completed statements by 19 July 2022 and 2 August 2022 respectively, with copies also to be sent to the other party. Submissions were filed by the landlord only.
6. The matter was determined having regard to the evidence contained in the landlord's submissions and tenant's application.

### **Law**

7. In accordance with the terms of Section 14 of the Act, the Tribunal are required to determine the rent at which it considers the subject property might reasonably be expected to let on the open market, by a willing landlord, under an assured tenancy, on the same terms as the actual tenancy.
8. In so doing, and in accordance with the Act, the Tribunal ignores any increase in value attributable to tenants' improvements and any decrease in value due to the tenants' failure to comply with any terms of the tenancy.

## **The Property**

9. As stated, and in accord with current Tribunal policy, the Tribunal did not inspect the property, instead relying on the parties' evidence, and viewing the property and comparables via online portals.
10. The property is a self-contained first floor flat within a modern purpose built residential block, which is believed to have been constructed in 2010. No photographs were provided. Online images appear to show the block with brick elevations beneath a pitched roof clad in tiles.
11. The property is located within close distance of all main amenities and public transport links. Access to the M5 motorway is within a short drive. Taunton and Tiverton both lie within fifteen miles and provide more extensive facilities.
12. The accommodation comprises a kitchen; reception room; two bedrooms; and bathroom with WC.
13. An allocated parking space, located with a communal garage, is included, as is access to communal gardens.
14. The property has gas central heating and full double glazing, both provided by the landlord.
15. White goods and carpets are provided by the landlord. Curtains and furniture are supplied by the tenant.
16. No service charges or charges for utilities are included in the rent.

## **Submissions – Tenant – (summarised)**

17. In his application the tenant relied on a letter issued by LiveWest Homes Limited, (the date of which is undisclosed) advising that any rental increase will be restricted to 4.1%. He advised that the actual proposed rent increase is 10%.
18. Within the application, the tenant avers that LiveWest Homes Limited have amended the tenancy status from social housing.
19. The tenant provided no further submissions for the Tribunal's consideration, nor any comparable rental evidence in support of a lower rent.

## **Submissions – Landlord – (summarised)**

20. The landlord advised that the, aforementioned, letter, referring to a 4.1% rental increase, was intended for their social and affordable housing tenancies only, and was inadvertently issued to the tenant.
21. The landlord states that the subject tenancy, being an assured shorthold tenancy, is not subject to any legislative restrictions on rental increase.

22. The proposed rental increase followed an external review of the market commissioned by the landlord. However, the actual rent charged is 80% of the market rent, subject, by way of an internal policy, to a maximum increase of £50.00 per month.
23. In regard to the condition of the property, the landlord stated that no improvements had been made since construction but, where disrepair issues were reported, these had been remedied. The landlord referred to a programme of proposed refurbishment, scheduled up until the year 2040.
24. In support of the proposed rental increase, the landlord submitted six comparable lettings.
25. Flat 24 Westford Grange and Flat 27 Westford Grange are both located within the same development as the subject and each provides two bedroom accommodation. Both flats were recently let for £530.00 per calendar month, this being 80% of the open market rent.
26. Skeleton Lettings provided four additional comparable lettings, either recently let or currently on the market. These being:
  - i. South Street: 2 bedroom flat above a shop. £725.00 pcm
  - ii. Thomas Fox Rd: 2 bedroom. £750.00 pcm
  - iii. High Street: 2 bedroom flat. £775.00 pcm
  - iv. Eight Acre Lane: 2 bedroom flat. £795.00 pcm
27. The landlord advised that eight flats in Westford Grange, similar to the subject property, are each let at £530.00 pcm, that being 80% open market rental.

### **Determination**

28. The Tribunal determines a market rent for a property by reference to rental values generally and to the rental values for comparable properties in the locality in particular. It does not take into account the present rent and the period of time which that rent has been charged, nor does it take into account the percentage increase which the proposed rent represents to the existing rent. In addition, the legislation makes it clear that the Tribunal cannot take into account the personal circumstances of either the landlord or the tenant.
29. The Tribunal assesses the rent for the property as it is on the day of the determination, disregarding any improvements made by the tenant, but taking into account the impact on rental value of disrepair which is not due to a failure of the tenant to comply with the terms of the tenancy.
30. In determining the rent, the Tribunal has regard to any evidence supplied by the parties and the Tribunal's own general knowledge of market rent levels in the wider area.

31. The tenant provided no comparable evidence for consideration.
32. The landlord provided two comparables in Westford Grange; both were two bedroom flats let at £530.00, reflecting 80% of market value however the Tribunal were not advised whether these were recent lettings or properties where rent increases were unchallenged.
33. The landlord submitted four further comparables within the locality however the details of each were sparse. However, the Tribunal were able to view the online listing for two properties, those being South Street and Eight Acre Lane.
34. The Tribunal noted that the asking price of the two bedroom flat, above a shop, in South Street had been reduced to £675.00 pcm. Furthermore, and from online photographs, The Tribunal noted that the flat appeared to be in a basic unmodernised condition, with a small kitchen and night storage heating. The Tribunal considered the market for such a property differed considerably from that of a modern purpose built flat in good condition.
35. The Tribunal noted, from an online listing, that the two bedroom flat in Eight Acre Lane appeared to be a modern conversion, with no allocated parking.
36. Without further information on each of the landlord's comparables or, ideally, a copy of the letting agents' particulars, the Tribunal found the landlord's comparable evidence to be of limited use. That said, the comparables did provide a general indication of the type of two bedroom accommodation available locally, albeit not directly comparable.
37. Having consulted the National Energy Performance Register online, the Tribunal noted the property to have an energy performance certificate (EPC), which expired on 27 October 2020, Rating of B, and a recorded floor area of 66m<sup>2</sup>.
38. In determining the rent, the Tribunal has regard to whether the property meets the standard of accommodation, repair and amenity of a typical modern letting. In the absence of any evidence to the contrary, the Tribunal determined that the subject property did meet the standard required by the market. The landlord stated that repairs, where reported, were remedied; a statement unchallenged by the tenant.
39. Again, in the absence of evidence to the contrary, the Tribunal finds the white goods and carpets were provided by the landlord, whilst the curtains belong to the tenant.
40. Based on the knowledge of its members, the Tribunal finds that the market for this type of property is very sensitive to condition and inventory, and will be priced accordingly.

41. The Tribunal, acting as an expert Tribunal, and having considered the comparables provided by the landlord and its own specialist knowledge, determined the rent which the Property could be expected to achieve on the open market if it were in a condition and state of modernisation considered usual for such a letting, including an EPC rating of E or above, would be £750.00 per calendar month.
42. The Tribunal finds that the subject property is in a condition considered typical of a modern letting at a market rent. The only variance being the tenant's provision of curtains. The Tribunal makes no adjustment in this regard as it, generally, finds that tenants prefer curtains to their own tastes rather than those provided by a landlord.
43. Accordingly, the Tribunal arrived at a Market Rent of £750.00 per calendar month, equating to an 80% value of £600.00 per calendar month.
44. The Tribunal note that this is the maximum rent payable and that the landlord is not obliged to charge the full amount.
45. The Tribunal identified no hardship grounds in regard to the date of increase and, accordingly, this rent will take effect from 2 July 2022, that being the date stipulated within landlord's notice.

#### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.