



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

Case Reference : **BIR/41UB/OAF/2022/0013**

Property : **28 Pendle Hill
Hednesford, Cannock
Staffordshire
WS12 1LW**

Applicants : **C Yardley, T Yardley, D Gentle**

Representative : **Midland Valuations**

Respondent : **Unknown**

Representative : **N/A**

Type of Application : **Determination of the amount to be
paid into court for the freehold
interest under the Leasehold Reform
Act 1967 (as amended)**

Tribunal Members : **Mr N Wint FRICS
Judge David R Salter**

Date of Decision : **09 March 2023**

Decision

1. For the purposes of section 27(5) of the Leasehold Reform Act 1967 (the 'Act'), the Tribunal determines that, taking account of the evidence adduced and the Tribunal's own general knowledge and experience, the appropriate sum to be paid into court for the freehold interest in the property known as 28 Pendle Hill Hednesford Cannock Staffordshire WS12 1LW (the 'Property') under section 27(3) is **£10,966** being the price payable in accordance with section 9 of the Act (as amended by the Commonhold and Leasehold Reform Act 2002).

Reasons for Decision

Introduction

2. The Property is subject to a lease dated 5 November 1965 originally granted between Edge & Haines (Builders) Limited (Lessor) and Alan John Mason and Geraldine Ann Mason (Lessee).
3. The lease provides that in consideration of the sum of £2,935 paid by the Lessee to the Lessor, the Lessor shall grant a lease of the Property to the Lessee for a term of 99 years from 24 June 1964 subject to a fixed yearly rent of £20 without review.
4. The Applicants submitted a claim in the County Court at Walsall as the current legal and beneficial owners of the leasehold interest in the Property against the last known freeholders known as Tendermist Ltd (formerly known as Edge & Haines (Builders) Ltd which was dissolved by notice on 9 August 1988). In their claim, the Applicants stated that the freehold interest has not been registered and that they had not been able to ascertain who the freehold owner is or the identity of any superior landlord.
5. Further the Applicants submitted that, in accordance with the necessary criteria of a long tenancy, low rent and being a house for the purposes of the Act, they are entitled to acquire the freehold interest. However, the Applicants indicated that in this respect they have not been able to serve the required notice to exercise their right pursuant to Part 1 of the Act because the proper person to be served could not be found. Accordingly, the Applicants sought an order pursuant to section 27 of the Act vesting the freehold interest in their names on such terms as may be determined by the Court.

6. The Court directed that the Applicants' solicitors apply to the Leasehold Valuation Tribunal (the First-tier Tribunal) to certify a fair valuation of the price to be paid by the Applicants for the freehold interest under section 9 of the Act such price to include a figure for arrears of ground rent.
7. An application lodged by Midland Valuations on behalf of the Applicant was made to the Tribunal dated 15 September 2022 to determine the price payable for the Property in accordance with section 9 of the Act.
8. The Tribunal issued its Directions dated 23 September 2022 and the matter was listed for hearing on Thursday 17 November 2022.
9. The Tribunal received a Valuation prepared by Mr Moore of Midland Valuations dated 6 October 2022 valuing the freehold interest at £10,871.
10. In making its determination, the Tribunal, with the Applicants' consent, considered the written evidence submitted by the Applicants or on their behalf and the evidence adduced from its inspection of the Property. This obviated the need for an oral hearing.

The Law

11. Section 27 of the Act contains detailed provisions relating to applications to the County Court in cases such as this. Subsection (3) provides that, upon the payment in to Court of the 'appropriate sum,' a conveyance shall be executed as provided in that subsection. Subsection (5) of section 27 provides, as follows, in relation to the determination of the 'appropriate sum':
 - (a) *such amount as may be determined by (or on appeal from) a leasehold valuation tribunal [First-tier Tribunal] as to the price payable in accordance with section 9...; and*
 - (b) *the amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the conveyance which remains unpaid.*
12. In this context, it is the duty of the Tribunal to determine the value of the freehold interest under section 9 Act (as amended) in furtherance of the direction made by the County Court.

Inspection

13. The Tribunal inspected the Property on 17 November 2022 in the presence of one of the Applicants.
14. The Tribunal found the Property to comprise a two storey semi-detached house situated on an estate in an established residential area. The accommodation comprises on the ground floor a porch/ hall entrance, living room, dining room, kitchen and utility area. On the first floor, there are 3 bedrooms (2 doubles and 1 single) and a family bathroom. Externally, there is a single garage and driveway and garden areas to the front and rear. The site is on a slope and the house is set below the road frontage.
15. The Property has the benefit of double-glazed windows and central heating throughout and, generally, was in reasonable decorative order and repair.

Applicants' Submissions

16. On behalf of the Applicants, Mr Moore submitted his valuation in accordance with section 27(5) and section 9(1) of the Act to include a figure for arrears of ground rent.

Entirety Value

17. Mr Moore adopted a value of £230,000 as the entirety value based on similar semi-detached properties in the area taken from Rightmove.
18. In support of this, Mr Moore advises that 24 Pendle Hill is the most recent house to have been sold in the vicinity having been sold for £195,000 in July 2019. Although a similar 3-bedroomed semi-detached house it benefits from a loft conversion and after adjusting for the difference in valuation date (based on the Nationwide HPI) he arrives at an adjusted price of £244,732. Mr Moore concludes that this is good evidence of the price of the Property with the site developed to its fullest potential.
19. Due to a lack of sales in the immediate vicinity Mr Moore also considered sales of other similar semi-detached properties from a wider area. However, Mr Moore dismissed any sales of bungalows, 2-bedroom properties, leasehold sales and properties that are of a different style and have an integral garage. Mr Moore concludes that despite the evidence being limited it produces a guide as to the entirety value in the region of £220,000. However, after taking into account the adjusted value of 24

Pendle Hill at £244,732, Mr Moore arrives at his valuation of £230,000 for the entirety value of the Property.

Standing House Value

20. Mr Moore submits that, as the Property has only 3 bedrooms, has not been extended into the loft and requires some modernisation and redecoration, its standing house value should be £210,000.

Site Value Apportionment

21. Mr Moore utilises a site value of 33.33% which is based on settlements he has made, previously, in respect of properties that are similar to the Property. He suggests this is reflective of normal practice and of the apportionment that is evident in many pertinent Tribunal decisions.

Capitalisation Rate

22. Following the decision *Nicholson v Goff* [LRA/29/2006 (2007)] in which the ground rent was also £20 per annum and not subject to review, Mr Moore utilises a rate of 6.5%. He also suggests the adoption of this rate is consistent with other agreed settlements he has made and pertinent Tribunal decisions.

Deferment Rate

23. Following the decision in *Sportelli* as adjusted by *Zuckerman* to reflect the anticipated lower long term growth rates of properties in the Midlands, Mr Moore utilises a rate of 5.25%.
24. Mr Moore also advises that this rate is entirely consistent with pertinent decisions made by the Tribunal.

Schedule 10 Allowance

25. Mr Moore considers the risk to the freeholder of the leaseholder remaining in occupation at the end of the assumed 50 year extension, but following the decision in *Lomas Drive* [2017] UKUT 0463 (LC) he suggests this is only to be reflected by way of a deduction to the standing house value at the second reversion for very short leases. Therefore, as the term remaining for the subject Property is 41.16 years he does not consider such a deduction is warranted.

Payment of Outstanding Rent

26. In accordance with the Court's direction the price payable is to include the amount for arrears in ground rent. Mr Moore suggests this should be nil as no demand for ground rent has been issued in accordance with section 166 of the Commonhold & Leasehold Reform Act 2002. He concludes that as no demand has been issued or made no rent is lawfully due and, therefore, the amount of ground rent owed is nil.

Valuation

27. Applying those figures to the valuation formula Mr Moore arrives at a price of £10,871 for the freehold interest in the Property.

The Tribunal's Deliberations

28. The Tribunal considered all the evidence submitted as summarised in the above paragraphs.

Enfranchisement Price

29. The valuation exercise under section 9(1) of the Act is usually in three stages:

Stage (1) the valuation of the remainder of the existing term by capitalising the ground rent;

Stage (2) Valuing an assumed extension to the lease of 50 years; and

Stage (3) Valuing the property with assumed vacant possession after the end of the existing term plus 50 years (subject to tenant's rights under Schedule 10 of the Local Government and Housing Act 1989 Act).

30. The Tribunal, having considered the evidence of Mr Moore and based on its own expert knowledge and investigations, is satisfied that the methodology adopted by Mr Moore is the proper approach to arrive at the enfranchisement price.
31. The Tribunal accepts and agrees with Mr Moore's notional entirety value of £230,000 however it considers the standing house value to be £220,000 given the evidence to hand and having regard to the extent of the accommodation, location, and current condition of the Property.

32. The Tribunal also considers the site value apportionment, having regard to the construction, location, and site constraints as well as market conditions and recent Tribunal decisions in the Midlands region, to be 33.33%.
33. The Tribunal accepts the capitalisation rate of 6.5% given the ground rent is a fixed amount for the duration of the lease.
34. The Tribunal adopts a Deferment Rate of 5.25% following recent Upper Tribunal decisions and other decisions of the First-tier Tribunal in the Midlands region.
35. Following the decision in *Clarise Properties Limited* [2012] UKUT 4 (LC), the Tribunal acknowledges a Schedule 10 allowance would be appropriate. However, it accepts Mr Moore's contention that no adjustment is needed as the lease on the Property is not a short lease.
36. The Tribunal has considered Mr Moore's comments concerning the non-payment of the ground rent. It accepts that as no demand for ground rent has been made agrees it is not lawfully due. Consequently, in this respect, the Tribunal makes a nil provision in the price payable for the freehold interest.
37. Applying those determinations, the Tribunal's valuation is set out in the Appendix.

Appeal

38. If the Applicants are dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

Nicholas J P Wint FRICS

Appendix

Valuation

28 Pendle Hill, Hednesford, Cannock, Staffordshire WS12 1LW

Applying those determinations to the above matters, the Tribunal's valuation is as follows:

1. Term

Ground Rent	£20	
YP 41.16 year @ 6.5%	<u>14.2328</u>	£284.66

2. Reversion – 50 year lease

Entirety Value	£230,000	
Site Apportionment @ 33.33%	£76,659	
S15 MGR @ 5.25%	£4,024.60	
YP 50 years @ 5.25%	<u>17.5728</u>	
	£70,723.45	
PV 41.16 years @ 5.25%	<u>0.1217</u>	£8,607.76

3. Reversion – Standing House

Entirety Value	£230,000	
<u>Less Schedule 10 @ 0%</u>	<u>£0.00</u>	
Standing House Value	£220,000	
PV 91.16 years @ 5.25%	<u>0.009424</u>	<u>£2,073.28</u>
TOTAL		£10,965.70
PRICE, SAY		£10,966