



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

Case Reference : **MAN/00CG/OAF/2022/0039**

Property : **4 The Brambles, Ecclesfield, Sheffield S35 9UU**

Applicants : **Christopher & Gillian Winspear**

Representative : **Nick Plotnek LLB**

Respondent : **Mervyn Harrison & Kathryn Harrison trustees of The
K&M Wholesale Supplies Limited 1987 Retirement
Benefit Scheme**

**Type of
Application** : **Section 21(1)(a) of the Leasehold Reform Act
1967**

Tribunal Members : **Mr J A Platt FRICS FIRPM (Chairman)
Mr P. E. Mountain**

Date of Decision : **27 June 2023**

DECISION

The price payable under section 9(1) of the Leasehold Reform Act 1967 is £2,332.

Reasons

1. On 1 November 2022 an application was made to the First-tier Tribunal (Property Chamber) under section 21(1)(a) of the Leasehold Reform Act 1967 ("the Act") for a determination of the price payable under section 9(1) of the Act.
2. The application was made by Christopher and Gillian Winspear ("the Applicants"), the registered proprietors of the leasehold interest in 4 The Brambles, Ecclesfield, Sheffield S35 9UU, under a lease dated 17 March 1992 for a term of 125 years from 17 March 1992 at a peppercorn rent, made between Sheffield City Council and Kevin Matthew Garvey and Christine Garvey.
3. The proprietor of the freehold reversion is Mervyn Harrison & Kathryn Harrison trustees of The K&M Wholesale Supplies Limited 1987 Retirement Benefit Scheme ("the Respondent").
4. The sole issue to be determined is the price payable under section 9(1) of the Act.
5. The Applicants served a Notice of Tenants' Claim to Acquire the Freehold, dated 9 August 2022 via their solicitor Nether Edge Law.
6. There is no copy of a Notice in reply before the Tribunal, however, The Respondent does not dispute the Applicants' right to purchase the freehold and responded to Nether Edge Law with an offer to sell the freehold interest to the Applicants at a price of £6,500.
7. Directions were issued on 20 December 2022 indicating that the Tribunal will determine the case on the basis of written representation and evidence, without the need for an oral hearing, unless either party requested an oral hearing. Neither party requested an oral hearing. Both parties were given permission to rely on valuation evidence of an expert valuer.
8. In response to the Directions both parties have submitted evidence. The Applicants have submitted an expert witness report and valuation evidence prepared by Nick Plotnek LLB, including a valuation under S9(1) of the Act.
9. Mr Harrison has made submissions on behalf of the Respondents. Those submissions include evidence of the sale of the freehold of No 2 The Brambles at a negotiated price of £5,000 plus legal fees and submissions, in response to Mr Plotnek's evidence, relating to the comparability of No 2 to No 4. The Respondent has not submitted any expert evidence nor a valuation undertaken in accordance with S9(1) of the Act.

10. Having had sight of the evidence the Tribunal determined that it would not be assisted by an inspection of the property and no inspection has been undertaken. The property is a four bedroom detached house.
11. The Tribunal concurs with Mr Plotnek's conclusion that the valuation is to be carried out in accordance with S9(1) of the Act. That is a three stage process comprising capitalisation of the ground rent for the term, the calculation and capitalisation for 50 years of a Modern Ground Rent and a deferment of the value of the Standing House at the end of the 50 year extension, making an appropriate allowance for tenants' rights under Schedule 10 of the Local Government and Housing Act 1989.
12. In the absence of any evidence to the contrary, the Tribunal concurs with Mr Plotnek's evidence that the valuation date is 9 August 2022.
13. The Respondent does not appear to have instructed an expert valuer to undertake a valuation under S9(1) of the Act and hence no expert negotiations have taken place and no matters have been agreed. That is unfortunate as such an instruction and negotiations would likely have reduced costs and / or time delay incurred by both parties and the Tribunal.
14. The Respondent seeks to rely on its 'book valuation' of the freehold interest, with no evidence of how that book valuation has been determined. There is no evidence that the constituent part of that valuation has been determined in accordance with S9(1) of the Act.
15. The Respondent also seeks to rely on the evidence of a freely negotiated sale of the freehold interest of 4 The Brambles at a price of £5,000 plus legal fees. There is no evidence that price was negotiated on the basis of a S9(1) valuation. It is not uncommon for tenants to negotiate a price outside the Act either because of ignorance of those rights or because of special circumstances e.g. requiring a timely purchase to facilitate an onward sale etc. Such evidence is of no assistance to the Tribunal in determining a price under S9(1).
16. The Respondent also contends for an element of marriage value to be included in the price. Marriage value is of no relevance to a valuation under S9(1). Even if it were, marriage value would be assumed to be nil where the unexpired term of the lease exceeds 80 years, as in this case.
17. Mr Plotnek has provided evidence of freehold market value based on marketing information and uncompleted sales negotiations of No 2 The Brambles. His evidence is, in effect, that the freehold value of No 2 at the valuation date was £475,000. His evidence is that No 4 (the subject property) is virtually identical to No 2 but he has discounted the value of No 4 to £460,000 to reflect the detriment of being overlooked by five properties.
18. The Respondent disagrees that the two properties are virtually identical and, in effect, avers that there is no overlooking such as to diminish the value of No 4 as against No 2. The Respondent has provided no figures of its own. The Respondent also appears to dispute Mr Plotnek's valuation of No 2 but has provided no alternative figures. Neither party has provided any additional evidence of freehold value based on any other comparable properties.

19. It is the view of the Tribunal that the two properties are comparable in age, design, size, location and market value. In the absence of evidence to the contrary, the Tribunal concurs with Mr Plotnek's assessment of the freehold value at the valuation date of £475,000. The Tribunal does not consider the 'overlooking' would significantly discount that figure and adopts a freehold entirety value of £475,000.
20. In the absence of any evidence to the contrary, the Tribunal concurs with Mr Plotnek's evidence that the site value apportionment is 33% and that the appropriate deferment rate is 4.75% in accordance with *Sportelli*. The capitalisation rate is of no consequence with a peppercorn ground rent but (for completeness) the Tribunal adopts Mr Plotnek's rate of 6.5%.
21. The site value is £156,750. The Section 15 rent is £7,445.62 and the 50 year extension figure is £579.50.
22. A valuation schedule is appended to this decision.

Decision

23. The price to be payable under section 9(1) of the Act is £2,332 calculated in accordance with the appendix attached.
24. Appeal against this decision is to the Upper Tribunal (Lands Chamber). Any party wishing to appeal has 28 days from the date that this decision is sent to the parties to deliver to this First-tier Tribunal an application for permission to appeal, stating the grounds of appeal, the particulars of appeal and the outcome that the appellant seeks to achieve.

J A Platt (Chairman)

27 June 2023

Appendix

4 The Brambles, Ecclesfield, Sheffield S35 9UU
Valuation date 9 August 2022

TERM

Ground rent	£0	
YP 94.60 years @ 6.5%	14.9896	£0

REVERSION TO SECTION 15 RENT

Entirety value	£475,000	
Site value 33%	£156,750	
Section 15 rent @ 4.75%	£7,445.62	

50 YEAR EXTENSION

Section 15 rent	£7,445.62	
YP 50 years @ 4.75%	18.9844	

PV £1 in 94.60 years @4.75%	0.0124	£1.752.74
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FINAL REVERSION

Entirety value	£475,000	
PV £1 in 144.6 years @ 4.75%	0.00122	£ 579.50

TOTAL		£2,332.24
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Say £2,332