



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

Case Reference : **CHI/24UB/MNR/2023/0229**

Property : **1 Ewhurst Park Cottages
Ewhurst Park
Tadley
Hampshire
RG26 5RG**

Applicant Tenant : **Mr M Beale and Mr A Daggett**

Representative : **None**

Respondent Landlord : **Ms M Lieu**

Representative : **None**

Type of Application : **Determination of a Market Rent sections
13 & 14 of the Housing Act 1988**

Tribunal Members : **Mr I R Perry FRICS
Ms C D Barton MRICS
Mr M J F Donaldson FRICS**

Date of Inspection : **None. Paper determination**

Date of Decision : **29th November 2023**

DECISION

Summary of Decision

1. On 29th November 2023 the Tribunal determined a market rent of £2,750 per month to take effect from 1st October 2023.

Background

2. The case concerned the determination of a market rent for the subject property following a referral of the Landlord's notice of increase of rent by the Tenant pursuant to sections 13 and 14 Housing Act 1988.
3. On 18th July 2023 the Landlord served a notice under Section 13(2) of the Housing Act 1988 which proposed a new rent of £2,900 per month in place of the existing rent of £2,640 per month to take effect from 1st October 2023. The notice complied with the legal requirements.
4. On 4th September the Tenants applied to the Tribunal under Section 13(4) (a) of the Housing Act 1988.
5. The Tribunal does not consider it necessary and proportionate in cases of this nature to undertake inspections or hold Tribunal hearings unless either are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal issued Directions on 20th October 2023 informing the parties that, unless either party objected, the Tribunal intended to determine the rent based on written representations. The parties were invited to make submissions which could include photographs or videos.
7. Both parties submitted papers by the specified dates setting out their respective cases. The papers were also copied to the other party.
8. Neither party objected to the matter being determined without an oral hearing, so the Tribunal determined the case on 29th November 2023 based on the written representations received.

The Property

9. From the information given in the papers and available on the internet, the property comprises a detached house built about 7 years ago with brick elevations beneath a pitched tiled roof.
10. The house detached and is situated about 6 miles northeast of Basingstoke where there is a wide range of facilities. The nearest shops are 2 to 3 miles away. A photograph provided to the Tribunal shows the house to be one of 4 properties opposite a farm but enjoying views to the southeast over open farmland.
11. The accommodation includes a Living Room, Kitchen/Diner, Utility, WC, 4 Bedrooms, Bathroom, en-suite Shower Room and has large Gardens, double Garage, additional parking and Dog Kennels outside.

12. The Energy Performance Rating is 'B' and the certificate says that the property has double glazed windows and gas-fired central heating.

Submissions

13. The initial tenancy began in June 2019 but the agreement provided to the Tribunal is dated as beginning on 1st May 2021, at a rent of £2,400 per month.
14. In their submission the Tenants state that the heating is supplied with liquid propane gas with, due to the remote location, a telephone connection which allows the supplier to read the amount of gas remaining and resupply as necessary, for which they reimburse the Landlord. They say that the LPG is more expensive than natural gas, that the Bath is small, and that the property was built as an estate worker's house with economy/basic carpets and fittings. They state that the property is showing signs of wear and tear.
15. The Tenants refer to a period around Christmas 2022 when the heating failed and complain that the estate is not being well maintained.
16. The Tenants provide details of comparable properties with asking rents ranging from £1,875 per month to £3,000 per month, stating that these are all new or refurbished houses within the general area.
17. The Tenants also state that planning permission has been obtained to build 8 holiday homes to sited in front of their property, with planning permission pending for a further 9 units and ask that the rent should be reduced accordingly to account for nuisance during construction and loss of amenity.

The Law

S14 Determination of Rent by First-tier Tribunal

- (1) Where, under subsection (4) (a) of section 13 above, a tenant refers to a First-tier Tribunal a notice under subsection (2) of that section, the Tribunal shall determine the rent at which, subject to subsections (2) and (4) below, the Tribunal consider that the dwelling-house concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy-
 - (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
 - (b) which begins at the beginning of the new period specified in the notice;
 - (c) the terms of which (other than relating to the amount of the rent) are the same as those of the tenancy to which the notice relates; and
 - (d) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 2 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded-

- (a) any effect on the rent attributable to the granting of a tenancy to a sitting tenant;
 - (b) any increase in the value of the dwelling-house attributable to a relevant improvement carried out by a person who at the time it was carried out was the tenant, if the improvement-
 - (i) was carried out otherwise than in pursuance of an obligation to his immediate landlord, or
 - (ii) was carried out pursuant to an obligation to his immediate landlord being an obligation which did not relate to the specific improvement concerned but arose by reference to consent given to the carrying out of that improvement; and
 - (c) any reduction in the value of the dwelling-house attributable to a failure by the tenant to comply with any terms of the tenancy.
- (3) For the purposes of subsection (2)(b) above, in relation to a notice which is referred by a tenant as mentioned in subsection (1) above, an improvement is a relevant improvement if either it was carried out during the tenancy to which the notice relates, or the following conditions are satisfied, namely-
- (a) that it was carried out not more than twenty-one years before the date of service of the notice; and
 - (b) that, at all times during the period beginning when the improvement was carried out and ending on the date of service of the notice, the dwelling-house has been let under an assured tenancy; and
 - (c) that, on the coming to an end of an assured tenancy at any time during that period, the tenant (or, in the case of joint tenants, at least one of them) did not quit.
- (4) In this section "rent" does not include any service charge, within the meaning of section 18 of the Landlord and Tenant Act 1985, but, subject to that, includes any sums payable by the tenant to the landlord on account of the use of furniture, in respect of council tax or for any of the matters referred to in subsection (1) (a) of that section, whether or not those sums are separate from the sums payable for the occupation.

Consideration and Valuation

- 18. The Tribunal first considered whether it felt able to reasonably and fairly decide this case based on the papers submitted only with no oral hearing. Having read and considered the papers it decided that it could do so.
- 19. The Tribunal is required to determine the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy as at the date of its decision. The personal circumstances of the Parties are not relevant to this issue and the Tribunal cannot penalise either party over historic issues.
- 20. In addition the Tribunal cannot make a deduction for possible loss of amenity or views or nuisance for factors that have not yet occurred.

21. Having carefully considered the representations from the parties and associated correspondence and using its own judgement and knowledge of rental values in Basingstoke and surrounding areas the Tribunal decided that the market rent for the subject property if let today in a condition that was usual for such an open market letting would be £2,750 per month.
22. The Tenant made no representation that the starting date for the new rent specified in the Landlord's notice would cause the Tenant undue hardship.

Determination

23. The Tribunal therefore decided that the rent at which the subject property might reasonably be expected to be let in the open market by a willing Landlord under the terms of this assured tenancy was £2,750 per month.
24. The Tribunal directed that the new rent of £2,750 per month should take effect from 1st October 2023, this being the date specified in the 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 to the First-tier Tribunal at the Regional office which has been dealing with the case. Where possible you should send your application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal Regional office to deal with it more efficiently.
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.