



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

Case reference : **LON/00AH/OLR/2022/0818**

Property : **Lower Ground Floor Flat, 8 Walters Road, London SE25 6LF**

Applicants : **(1) Maxine Reynolds
(2) Kenaida Samson Bernard**

Representative : **Mr Stan Gallagher, counsel**

Respondent : **Primeview Developments Limited**

Representative : **Mr Saul Gerrard, MA FNAEA MRICS**

Type of application : **Application for a lease extension pursuant to the Leasehold Reform, Housing and Urban Development Act 1993**

Tribunal members : **Judge Tagliavini
Mr C Norman FRICS**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of hearing : **12 December 2023**
Date of decision : **22 January 2024**

DECISION

The tribunal's decision

- (1) The tribunal determines the premium payable for the grant of a new lease is £14,433 (fourteen thousand, four hundred and thirty three pounds).
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The application

1. This is an application made under section 48(1) of the Leasehold Reform, Housing and Urban Development Act 1993 seeking a determination of the premium payable for the grant of a new lease of the Lower Ground floor Flat, 8 Walters Road, London SE25 6LF ('the Flat') and the terms of that lease.

The issues

2. At the date of the hearing the only issues remaining for the tribunal to determine were:
 - (i) The extended lease value of the Flat,
 - (ii) The value of the freehold vacant possession
 - (iii) Capitalisation rates.
 - (iv) The premium payable.

Issues agreed

3. The following matters were agreed between the parties at the hearing:

Valuation date:	9 May 2022
Lease Term:	99 years from 1 April 2004
End date of lease:	31 March 2103
Unexpired term:	80.90 years
Rent under lease:	As per the Statement of Agreed Facts
Deferment rate:	5%
Extended leases/freehold relativity:	1%
Accommodation:	A lower ground floor flat comprising two bedrooms, a bathroom, a kitchen, a reception room and a rear garden.

The hearing

4. At the oral remote video hearing, the parties relied on a hearing bundle of 757 electronic pages which contained the parties' respective expert's report and supplemental report. The applicant relied on the written and oral expert valuation evidence of Mr Michael Tibbatts MRICS MEWI MPTS dated 20 November 2023 and supplemental report dated 27 November 2023. The respondent was represented by Mr Saul Gerrard MA FNAEA MRICS dated and relied on his valuation report dated 20 November 2023 and supplementary report dated 11 December 2023 as well as his oral evidence to the tribunal.

The tribunal's reasons

Extended Lease Value

5. At the date of the hearing, the experts' respective positions were as follows. Mr Tibbatts described the flat as a small, well-presented lower ground floor flat with rear garden. The building itself was about 120 years old and located in Walters Road being a cul-de-sac off Selhurst Road. The accommodation comprised two bedrooms, kitchen, reception room, shower room/WC and rear garden. The gross internal area was approximately 495 sq. ft. following the personal measurements taken by Mr Tibbatts
6. Mr Tibbatts' initial position was the extended lease value was £290,000 before an allowance was made for tenants' improvements which he assessed as £15,000, thereby giving an adjusted value of £275,000. Mr Tibbatts' opinion was that the improvements comprised works to stabilise the building, and provision of direct access to the rear garden from the reception room rather than the second bedroom. The works were carried out about 12 years ago.
7. In his supplemental report Mr Tibbatts adjusted his conclusions in opining that the extended lease value was £285,000 (£270,000 net of improvements) or £275,000 (£260,000 net of improvements) depending on whether the tribunal preferred the floor area Mr Tibbatts relied upon or preferred that given by Mr Gerrard's of 511 sq ft (47.5/47.4 sq m).

Vacant freehold possession value

8. Mr Tibbatts analysed Mr Gerrard's schedule of comparables and identified 3 key comparables.
 - (i) 17 Walters Rd, a ground floor flat, was sold in November 2022 for £320,000. The area was 533 sq. ft.

- (ii) Flat 1, 11 Clifton Road was sold in November 2022 for £315,000. It was larger at 580 sq. ft and a lower ground floor flat.
 - (iii) Flat 1, 141 Selhurst Rd was a lower ground floor flat sold in October 2022 for £350,000 and with a floor area of 590 sq. ft.
9. Mr Tibbatts then made an adjustment for market movement using UKHPI. He then weighted the results giving £555 per sq. foot as an average.
 10. Mr Gerrard's evidence was that the subject Flat was split level with the front having a light well and the rear of the property being at ground level. Mr Gerard utilised an area of 511 sq. ft GIA. However the market for this property was not valued on the basis of GIA and he asserted the changes to the property by the tenants did not warrant a reduction in value.
 11. In carrying out his valuation, Mr Gerrard relied on ten comparable properties, Following adjustments for time and differences with the subject property, these averaged £308,000 after rounding.

Capitalisation rate

12. Mr Tibbatts' evidence was that the ground rents were onerous. He referred to the 'Parkhill' decision *LON/00BF/OLR/2022/0904*, where the tribunal found the rate to be 8.32%. In Saltourn Street the Tribunal adopted escalating capitalisation rates of 6.5-10.0%. In that case the ground rents were punitive. Mr Tibbatts adopted both 8.32% and an escalating approach and included both calculations, both of which gave a resultant premium of £13,000.
13. Mr Gerrard conducted an extensive research analysis of auction sales in an attempt to derive a capitalisation rate. His survey covered a large portion of the south east . He then excluded properties within defined categories such as larger blocks (7 units or more), where there were short leases and therefore marriage value, or an initial yield of 2% amongst other factors. He also excluded properties where information was insufficiently reliable. His result was to produce a spreadsheet of 32 comparables from which he sought to derive capitalisation rates.
14. His resultant analyses varied from 2.35% to 11.7%. The average was 5.73% and the median from 4.17 to 5.16%. After removal of outliers the average was 5.37% and median 4.17 to 5.16%. He also relied on factors in *Nicholson v Goff* [2007] 1 EGLR 153 . There it was held that relevant factors were the length of lease term, longer being more secure; security of recovery; the size of the ground rent (larger being better) and the provision of rent reviews and their frequency, with more frequent reviews being better.

15. In conclusion, his opinion was that the capitalisation rate lay between 4.5% and 5%. On the day of the hearing the Tribunal received a supplemental report from Mr Gerrard, in which he stated that the information as to tenancy schedules which had underpinned his analyses of capitalisation rates was in some cases incorrect.

The tribunal's decisions

Extended Lease Value.

16. The tribunal found there was significant agreement between the experts and in reality, the difference between them was small. The tribunal does not consider that GIA measurements are the basis upon which this type of property in this location is bought/sold. It also does not accept the weighted average approach to comparables is reasonable, because this does not reflect the approach a prospective purchaser would take. The tribunal finds that the property is a good example of a lower ground floor flat in view of level access to the rear garden and good lighting at the front. It also considers that Walters Road is a superior location to the Selhurst Road being a cul-de-sac and quieter.
17. Having regard to the sales evidence as a whole and in particular the properties relied upon by Mr Tibbatts, the Tribunal concludes that the extended lease value was £300,000 on the valuation date.

Vacant freehold possession value

18. In considering what, if any tenants' improvements are required to be disregarded, the Tribunal is not concerned with structural work outside of the demise. However it considers that the changed fenestration justifies an adjustment of £7000. It therefore finds that the unimproved value is £293,000.

Capitalisation Rate

19. The tribunal is not persuaded by Mr Gerrard's approach to the valuation, as it requires a great deal of analysis and relied upon a number of assumptions about a large number of variables. The tribunal is not satisfied that this is a reliable approach, as it is of the opinion that small changes in the assumptions may affect the result as was indicated by the need for and reliance on a supplemental report, served very late.
20. Although the tribunal had not given directions for the submission of a supplemental report and the respondent had not made an application to rely on one at such a late stage, the tribunal decided that on balance, it was appropriate to admit it into evidence, although with the caveat that the applicant had not been provided with a proper opportunity to consider it before the hearing.
21. In any event, the tribunal found the supplemental report of limited assistance and accepted Mr Gallagher's submission that the matters

sought to be relied upon by Mr Gerrard had already been determined in *Parkhill*.

22. The tribunal therefore prefers Mr Tibbatts' approach in relying on *Parkhill*, subject to one qualification. That is that the rent review pattern in *Parkview* doubled every 20 years. In the subject case, the rent review pattern is generally 12 yearly with a 13 and 15 year pattern towards the end of the lease.
23. Therefore, having regard to *Nicholson v Goff* [2007] 1 EGLR 153, the tribunal considers that the capitalisation rate in this matter, requires a downward adjustment of 0.5%. Although this arithmetically gives 7.82% the Tribunal does not consider that the capitalisation rate can be assessed to that level of accuracy and rounds this to 7.5%. The Tribunal does not find the *Saltoun Street* decision helpful in determining the capitalisation rate as the ground rent reviews in that case were exceptionally onerous unlike the subject property.

Conclusion

24. The tribunal therefore determines the premium payable for the grant of a new lease is £14,433 (fourteen thousand, four hundred and thirty three pounds).

Name: Judge Tagliavini

Date: 22 January 2024

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).