FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case references	**:**	CAM/38UEMNR/2023/0131
Property	**:**	Holt House Farmhouse, Holthouse Lane, Leziate, King's Lynn, Norfolk PE32 1EL
Applicants	**:**	Murree and Janet Groom
Applicants' Representative	**:**	In person
Respondents	**:**	Sibelco Limited
Respondents' Representative	**:**	Samuel Lane, Solicitor
Type of application	**:**	Assessment of market rent pursuant to ss. 13 & 14 Housing Act 1988
Tribunal members	**:**	Mr Max Thorowgood and Mr Gerard Smith MRICS
Venue	**:**	BT Meet Me
Date of Decision	**:**	22 February 2024

DECISION

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1. The application

1.1. Dr Murree Groom and his wife Janet are named as the Applicants in the application form but it is Dr Groom alone who is the tenant of Holt House Farm, Holt House Lane, Leziate ("the Property") under an Assured Agricultural Occupancy Agreement dated 7th February 2023.

1.2. Although the tenancy has only recently been formalised Dr Groom and his family have lived in the property since 1989 when he was offered a tenancy, rent free, as a benefit in kind associated with his employment by WH Knights which was the lessee of the Farm until about 2013.

1.3. The Respondent is the freehold owner and, has since 2013, been responsible for the performance of the landlord's obligations under the agreement with Dr Groom, albeit until the recent written agreement referred to above has always been oral.

1.4. There have been long-standing problems with the repair of the property which suffers badly from damp, in part at least because of its location. The recently agreed new terms formed part of a negotiation between Dr Groom and Sibelco pursuant to which Sibelco would undertake substantial works of improvement to the property in exchange for his agreement going forward to pay a market rent as determined by the Tribunal pursuant to ss. 13 & 14 Housing Act 1988 once the works of repair had been completed.

1.5. The Applicant and his family moved out whilst the works were undertaken and have now moved back in since they were completed in the Summer of 2023. Upon completion of the works Sibelco gave notice to increase the rent to £1,450.00 as from 1st October 2023 and no issue is taken regarding either the service of that notice or its validity in any other respect.

1.6. By his application dated 20th September 2023 Dr Groom seeks a determination of the market rent for the Property as at 1st October 2023. Further in that regard, Dr Groom seeks a determination that various works carried out by him over the course of his tenancy are 'relevant improvements' for the purposes of s. 14(2) & (3) Housing Act 1988 which enhance the rental value of the Property and that the enhancement attributable to those improvements should be disregarded for the purpose of our assessment.

1.7. We had the benefit of viewing the Property in company with the Applicant and the Respondent's representatives before the hearing and

our observations in the course of that visit inform the conclusions which we express herein.

2. Applicable law

2.1. Section 14 Housing Act 1988 provides as follows:

> **14 Determination of rent by tribunal**
>
> (1) Where, under subsection (4)(a) of section 13 above, a tenant refers to the appropriate tribunal a notice under subsection (2) of that section, *the appropriate tribunal shall determine the rent at which, **subject to subsections (2) and (4) below**, the appropriate 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**—*
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> (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
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> (b) which begins at the beginning of the new period specified in the notice;
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> (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
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> (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."

We consider that the simplest way (indeed the only realistic way) to approach the task which we are required to perform is to determine the amount of the market rent of the Property in its current improved condition and then to discount that figure by any amount which we consider is attributable to any works done by the Applicants to the property within the course of the last 21 years of their tenancy which they were not obliged to make pursuant to the terms of their tenancy agreement and which have the effect of enhancing the rental value of the property.

2.2. We consider that properly construed the term, 'improvement', is a development or enhancement of the amenity of the Property which has the effect of increasing the rental value. So construed, in our view, works of repair undertaken by a tenant which have or have had the effect of reducing the works of repair which the landlord has been bound to carry out and which have the effect that the rental value of the property is not diminished are not 'improvements'. Had it been the intention to make allowance for works of repair undertaken by the tenant, with the effect that costs have been saved by the landlord, that would have been made explicit. The reason why such provision is not made is, no doubt, that a tenant who has carried out works of repair which were the responsibility of his landlord, either under the tenancy agreement or the covenants to be implied by reason of s. 11 Landlord & Tenant Act 1985, has a cause of action against his landlord for the recovery of those costs.

2.3. Even if we are wrong in approaching the concept of improvements in this way, we consider that, on the facts of this case, where the Respondent has undertaken major works refurbishment which amount in effect to a complete overhaul inside and out, with a view to putting the Property into a good state of repair, it is not appropriate to attribute a proportion of the rental value thereby created to the fact that, at some time in the past the tenant installed electrical wiring or plumbing or fitted windows which were new but no longer are, which the Landlord has retained because they are perfectly serviceable. The cost of undertaking these works would have been relatively slight in the context of the work as a whole and would have been done by the Landlord had it not consider them to be unnecessary.

3. Market value of the Property

3.1. For the Applicant we received evidence in the form of a letter prepared by Lulu Agnew of Brown & Co who is a RICS Registered Valuer. It was her opinion that the Property would be let at the top end of the range of comparables which she identified, that is to say £1,000.00 pcm. It is

important note, however: a) that Ms Agnew did not attend to give her evidence and be cross examined upon it; and b) that her expression of opinion was:

> "… provided ***for negotiation purposes only***. This type of advice is specifically exempt from the RICS Valuation – Global Standards (known as the Red Book) and we will therefore not comply with that publication. This is therefore not a Red Book valuation and *it has been prepared solely for the purpose set out above, and cannot be relied upon for any other purpose.*"

Inevitably, therefore, the reliance which we can safely place upon her opinion is only slight and that is particularly so when it is contradicted by other expert evidence which is not so qualified.

3.2. The Respondent landlord relied upon the written report of Guy Warde-Aldam who produced what we consider is a carefully considered and properly detailed report. It was Mr Warde-Aldam's view that the Property could be let on the open market for £1,200.00 pcm. Mr Ward-Aldam attended to give evidence and was confident in supporting that valuation which, if anything, he considered conservative. He had originally recommended that notice be given to increase the rent to £1,450.00 but said that that has been a 'negotiating' figure. Mr Warde-Aldam's view of the Property's value was based in part upon the fact that it benefits from a small ground floor room next to the kitchen which could serve either as a fourth bedroom or as a study, the use to which it is currently being put. We agree with this assessment that this does take the Property above the range of values suggested by Ms Agnew.

3.3. It is our view, having considered the range of comparables, that £1,200.00 pcm would be comfortably achievable in the current market and have no hesitation in so concluding.

3.4. As to the extent to which that value is being enhanced by any improvements made by the Claimant, we have no hesitation at all in

rejecting his claims that the wiring and pipework are not improvements within the meaning of the relevant provisions.

3.5. We also do not consider that the windows which the Applicant built and installed are properly described as improvements, or, if they are, that they do not have the effect of enhancing the rental value of the Property. Whilst we have no wish at all to disparage the quality of the Applicant's workmanship, the timber window frames are noticeably inferior to a commercially produced frame and would not be as attractive to prospective tenants as modern upvc frames which offer considerably improved energy efficiency.

3.6. The one feature of the Applicant's works to the Property which did not receive a great deal of attention in evidence but which does in our view constitute a significant improvement which has the effect of enhancing the value of the Property is the porch. In our view this reasonably substantial covered outdoor area is an attractive feature of a country cottage and would enhance its value in the mind of a prospective tenant. It is difficult to put a precise figure on the extent of this enhancement but doing the best we can using the professional expertise of Mr Smith as a expert rural valuation surveyor, we attribute an enhancement of £25.00 pcm or £300.00 p.a. to this feature.

4. Conclusion

4.1. Our conclusion is therefore that the market rent of the Property at the date of the new term specified in the notice was £1,175.00 pcm when the enhancement to the open market value resulting from the Applicant's relevant improvement is disregarded as required by s. 14(2)(b).

APPENDIX 1- RIGHTS OF APPEAL

1. 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.

2. 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.

3. 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.

4. 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.