



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

Case reference : **LON/00AY/OCE/2024/0024**

Property : **164 Wellfield Road, London, SW16 2BU**

Applicants : **Charles Alexander Eldon Garai (1)
Annabel Dorothy Rose Eldon Garai (2)
Mountview Estates PLC (3)**

Representative : **Comptons Solicitors, London NW1**

Respondent : **Moira Hanley
(Missing Landlord)**

Type of application : **Section 26 and 27 of the Leasehold
Reform, Housing and Urban
Development Act 1993 (as amended)
("the Act") for a determination of the
valuation of the freehold**

Tribunal member : **Mr Charles Norman FRICS
Valuer Chairman**

Date of decision : **29 March 2024**

Determination based on Written Representations

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that the price for the freehold of the property known as 164 Wellfield Road, London, SW16 2BU pursuant to Schedule 6 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”), is **£10,444**. This is before adjustment for court costs (see below).
- (2) The Tribunal approves the draft transfer at pages D200-D204 of the hearing bundle.

Reasons

Introduction

1. This matter relates to an application made under sections 26 and 27 of the Leasehold Reform, Housing and Urban Development Act (as amended) (“the Act”) for a determination of the price payable for the freehold of the property known as 164 Wellfield Road, London, SW16 2BU (“the property”).
2. By proceedings brought under CPR Part 8 and issued on 10 July 2023 (“the valuation date”), the Applicants applied for a vesting order. By an Order made by Deputy District Judge Millard sitting in the County Court at Croydon dated 22 November 2023, the matter was transferred to the Tribunal for the terms of acquisition to be determined.
3. The Court Order included the following:

Upon the First Tier (Residential Property) Tribunal determining the terms of acquisition James Stephen Compton of Compton's Solicitors LLP, 90-92 Parkway, London NW1 7AN shall be authorised to execute the Transfer on behalf of the Defendant by way of completion upon the claimants paying into Counts Funds Office the appropriate sum determined less the claimants’ costs summarily assessed at paragraph 5 below.

The Defendants shall contribute to the claimants’ costs in the sum of £10,774.75 inclusive of VAT and disbursements such costs to be deducted from the appropriate sum determined by the First Tier (Residential Property) Tribunal.

4. The Tribunal issued directions on 24 January 2024. The Applicants were given an opportunity to request a remote video hearing, but have not done so and the matter has therefore come before me for determination based on written representations, in accordance with

rule 31 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 (“the rules”). I did not consider that an inspection was necessary or proportionate in this case.

Expert Evidence

4. An experts’ valuation report dated 8 March 2024 was provided by Mr James Hayes MRICS, of Cooper Hayes Chartered Surveyors. He has considerable experience of leasehold enfranchisement valuation although his date of qualification is not clearly stated. His report contains the declarations required from expert witnesses by the RICS. His report does not contain the specific wording required by rule 19(5)(b) of the Tribunal Rules “I believe that the facts stated in this report are true and that the opinions expressed are correct” but the declarations given are substantially to the same effect. I am satisfied that Mr Hayes is suitably qualified to give expert evidence and understands his duties to the Tribunal.
5. The substantive valuation sections of the report may be summarised as follows. Mr Hayes inspected the property on 12 September 2023. The property comprises a small Victorian [mid]-terraced house, converted into two flats. The property is of brick under pitched tiled roofs. The flats are double glazed and have gas central heating. There is a small front garden and larger rear garden. The property is situated in Streatham.
6. The ground floor flat is non-self-contained with the living room alone accessed via the communal entrance hall with a separate door leading to a hallway which in turn leads to the bedroom, rear room, kitchen bathroom, and back door. The third room is not capable of being used as a bedroom as it has to be entered to access the kitchen bathroom and garden. The condition is dated. The gross internal area is 553 sq. ft.
5. The first floor comprises a living room, double bedroom, box room and kitchen with the bathroom accessed from the kitchen. The condition is fairly good. The gross internal area is 544 sq ft.
7. The lease for the ground floor flat is dated 10 August 2004 for a term of 125 years from 24 June 2004. The initial ground rent is £200 p.a. rising to £400 after 33 years, £800 after 66 years, and £1600 after 99 years.
8. The lease for the first floor flat is dated 24 March 1999 for a term of 125 years from 29 September 1998. The initial ground rent is £150 p.a. rising to £300 after 33 years, £600 after 66 years, and 1200 after 99 years.
8. Mr Hayes adopted 9.32% for the capitalisation rate. He referred to the 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. He then referred to the *Parkhill* decision (LON/00BF/OLR/2022/0904) where the tribunal accepted a market analysis approach and determined a capitalisation rate of 8.32%. This was based on a starting point of 8.82% less 0.5% to reflect the 20 year doubling of ground rent as against the 25 year pattern in the comparables. Mr Hayes considered a 1% uplift on *Parkhill* was appropriate for a 33 year rent review pattern.

9. Mr Hayes adopted 5% for the deferment rate relying on *Sportelli*. He treated extended lease values as being worth 99% of freehold value.
10. As to extended lease value Mr Hayes referred to comparables, details of which were provided.
11. His best comparable upon which he relied most was the sale of the FF flat at 140 Wellfield Road, as sold for £325,000 in January 2024. In relation to the first floor subject flat he considered that the box room added £15,000 giving £340,000. From this he deducted £5000 for improvements relating to straightening an internal wall.
12. In relation to the ground floor he contemplated a figure of £350,000 arrived at £325,000, which reflected as a benefit the garden and as a disbenefit the non-self-contained arrangement, which cancelled each other out. There were no relevant improvements.

Findings

13. I agree with the deferment rate. I agree with the 1% virtual freehold/extended lease adjustment, although this is a theoretical concept as flats are not sold on a freehold basis. I agree that there is no development value. I do not accept that any addition is required for appurtenant land.
14. In relation to capitalisation rate I do not consider it appropriate to go behind *Parkhill* and do not accept alternative analyses put forward, as these are dependent on and sensitive to specific information about transactions which may not be accurate. I do accept that the 33-year rent review pattern justifies a modest uplift from *Parkhill*, which was based on a 25-year rent review pattern (see above). However I do not consider that the analysis is sufficiently scientific to arrive at a capitalisation rate to 2 decimal places. Therefore I adopt 9% as the capitalisation rate.
15. As to long leasehold values, I have placed most weight on 140 Wellfield Road and consider that the starting point for both flats in an unimproved condition should be £340,000, as both flats are of almost equal size. In relation to the first floor flat, I accept that an allowance for wall works should be made, but in the absence of detailed evidence as to cost allow £3000. This therefore gives a valuation of £337,000. In relation to the ground floor, I agree that significant adjustments are required for (i) the non self-contained arrangement being a

disadvantage and (ii) the garden being an advantage. I also agree that these balance each other out. I therefore arrive at a valuation of £340,000.

16. I arrive at a premium of **£ 10,444**. My calculation is attached in the Appendix.

17. In light of this determination and the court order (see above), as the claimants' costs to be deducted from the premium of £10,774.75 exceed the amount of the premium, no payment into court is required before the transfer may be executed.

18. I approve the form of draft transfer as set out at pages 221 and 222 of the Tribunal hearing bundle.

Name: Mr Charles Norman FRICS **Date:** 29 March 2023

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.