



FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)

Case Reference : CAM/11 UB/F77/2023/0049

Property : 6 Lines Hill  
Aston Abbots  
Aylesbury Bucks  
HP22 4NG

Applicant : Dorrington Housing Ltd  
(Landlord)

Representative : Savills (Agent)

Respondent : Mr K Fletcher (Tenant)

Representative : None

Type of Application : S.70 Rent Act 1977 – Determination  
of a new fair rent

Tribunal Members : Mr N. Martindale FRICS

Date and venue of Meeting : 18 December 2023  
First Tier Tribunal (Eastern)  
HMCTS Cambridge CB1 1BA

Date of Decision : 18 December 2023

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REASONS FOR DECISION

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Background

- 1 By an application 8 August 2023, the landlord applied to the Rent Officer for registration of a fair rent of £862.50 pcm. The rent payable at the time of the application was £750 pcm from 15 September 2021.
- 2 On 22 September 2023, the Rent Officer registered a fair rent of £785 pcm with effect from 22 September 2023. By an email dated 11 October

2023 to Rent Officer, the landlord objected to the new fair rent. The First Tier Tribunal was notified of this objection and a request for a fresh determination of the rent.

### Directions

- 3 Directions dated 18 October 2023 were issued for case progression. Neither party requested a hearing. There was no inspection.

### Tenant's Representations

- 4 The tenant helpfully completed the standard Reply Form. They confirmed the accommodation as 1 living room to the ground floor, with a kitchen. The first floor had 3 bedrooms, two small doubles and a single. There was double glazing and central heating. The landlord had provided carpets and curtains and white goods. However the tenancy ran from 1986. White goods had been included. There was a garden and garage and off street parking.
- 5 The tenant confirmed that the house was not on mains sewerage and shared the cost of twice yearly sewer tank emptying. Wooden cladding to parts of the exterior was said not to have been painted in ten years. In support of this two monochrome photographs were provided.
- 6 The tenant stated that *"The property was built in 1971 with an agricultural tie on it which still remains."* If a condition on the user in planning terms still applied and had also been incorporated into the tenancy agreement, then that might be a relevant factor in determining the rent, however no copy of the tenancy was provided.

### Landlord's Representations

- 7 Aside from the appeal, the Tribunal received no substantive representations from the landlord.

### Inspection

- 8 The Tribunal did not inspect the Property. The Tribunal attempted to externally view the Property from Google Streetview (@ September 2021). The two storey house appears to date from the 1970's on residential road on the outskirts of the village in an otherwise rural location. The Property has a double pitched tiled roof and front elevation of brick and timber cladding. There appeared to be plastic framed double glazed windows. Externally the Property appears to be in fair condition. There was no off street parking garage and garden. There were no obvious parking restrictions in the road.

## Law

- 9 When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.
- 10 In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasized
  - (a) that ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms - other than as to rent - to that of the regulated tenancy) and
  - (b) that for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property).
- 11 Where the condition of a property is poorer than that of comparable properties, so that the rents of those comparables are towards twice that proposed rent for the subject property, it calls into question whether or not those transactions are truly comparable. Would prospective tenants of modernized properties in good order consider taking a tenancy of an un-modernised house in poor repair and with only basic facilities or are they in entirely separate lettings markets? The problem for the Tribunal is that the only evidence of value levels available to us is of modernised properties. We therefore have to use this but make appropriate discounts for the differences, rather than ignore it and determine a rent entirely based on our own knowledge and experience, whenever we can.
- 12 On the evidence of the comparable lettings and our own general knowledge of market rent levels in rural settlements around Aylesbury, we accept that the subject property would let on normal Assured Shorthold Tenancy (AST) terms, for £1300 pcm. This then, is the appropriate starting point from which to determine the rent of the property as it falls to be valued.
- 13 A normal open market letting would include carpets, curtains and "white goods", albeit the age and condition of these was not apparent. Here or that the tenant now provided these. The Tribunal assumes that

the kitchen and bathroom whilst functional are basic. These deductions total £200, leaving the adjusted market rent at £1100 pcm.

- 14 Although the existence of an agricultural tie (regarding occupation) is mentioned in the tenant's representations, neither party provided a copy of the planning consent for the property, nor a copy of the tenancy the terms of which might have been expected to reflect its existence and occupancy restriction. The Tribunal could take this no further therefore.
- 15 The Tribunal also has to consider the element of scarcity and whether demand exceeded supply. The Tribunal found that there was no scarcity in the locality for this type of property and therefore makes no further deduction from the adjusted market rent.
- 16 The fair rent to be registered on this basis alone would be £1100 pcm but, the new rent is limited by the statutory Maximum Fair Rent Cap calculation. This limits any increase to the change in RPI between the date of the last registration of a fair rent and the current, plus 5%. The calculations are shown in the MFR form and this caps the new rent at £965 pcm. The fair rent from and including the date of determination, is therefore £965 pcm. The Rent Act makes no allowance for the Tribunal to take account of hardship arising from the new rent payable compared with the existing rent.
- 17 The landlord is entitled but, not compelled, to charge the fair rent at the registered figure from the effective date. However the landlord may not charge more than the fair rent.

Chairman N Martindale FRICS

Dated 18 December 2023

#### 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 either party is dissatisfied with this decision, they may apply for permission to appeal to the Upper Tribunal (Lands Chamber) on any point of law arising from this Decision.

Prior to making such an appeal, an application must be made, in writing, to this Tribunal for permission to appeal. Any such application must be made within 28 days of the issue of this decision to the person making the application (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013).

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).