



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

**Case reference** : **CAM/38UF/MNR/2024/0103**

**HMCTS code** : **P:PAPERREMOTE**

**Property** : **Eastdowns Farmhouse, Old London Road, Chipping Norton, OX7 5 XE**

**Applicant (Tenant)** : **Mr Pick**

**Respondent (Landlord)** : **C D Findley, A M Sanders and N M Wood as executors to the estate of M E Allen**

**Type of application** : **Determination of a Market Rent: Sections 13 and 14 Housing Act 1988**

**Tribunal members** : **Mr P Roberts FRICS CEnv**

**Date of Determination** : **9 September 2024**

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**DECISION**

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This has been a remote determination on the papers which the parties are taken to have consented to, as explained below. The form of determination was a paper determination described above as **P:PAPERREMOTE**. The documents that the Tribunal was referred to are in bundles from the Applicant and the Respondent. The Tribunal has noted the contents and the decision is below.

## **Decision**

**The Tribunal determined a market rent of £1,750 per calendar month effective from 1 June 2024.**

## **Reasons**

### **Background**

1. On 12 April 2024 the Landlord served notice under section 13 (2) of the Housing Act 1988 to increase the passing rent from £700 per calendar month (pcm) to £1,750 per month with effect from 1 June 2024.
2. This rent is stated to be exclusive of Council Tax, Water Charges and fixed service charges.
3. The Tenant made an application to the Tribunal in reliance on section 13 (4) of the Housing Act 1988 on 21 May 2024.
4. The Tribunal issued directions on 28 May 2024, inviting the Parties to submit any further representations (including any photographs and details of rentals for similar properties) they wished the tribunal to consider.

### **The Property**

5. The Tribunal inspected the Property on 28 August 2024 accompanied by the Tenant.
6. The Property comprises a two-storey period detached farmhouse of brick and slate construction that was refurbished and modernised circa 2020.
7. The accommodation comprises a porch, kitchen, sitting room, WC and study/storage at ground floor level with three bedrooms and two bedrooms at first floor. There is a garden surrounding the Property and gravelled car parking.
8. Whilst the Property has been fitted to a high standard there is limited insulation and the central heating is defective such that heating is provided by plug-in heaters and a wood burner. There is evidence of water ingress in the chimney breasts.

### **The Tenancy**

9. The Tenant occupied the Property by virtue of an Assured Shorthold Tenancy that commenced 1 December 2015 for a term of 7 months.

10. The rent reserved under this Tenancy was £700 pcm. However, a “side letter” dated 25 November 2015 recorded the agreed rent at £200 pcm in exchange for certain defined services to be provided by the Tenant. This arrangement was terminated with effect from 1 May 2024.
11. The Tenant’s repair obligations are set out within the Tenancy. Clauses 3.4 and 3.5 states that the Tenant is:

*“To keep the Property and all Fixtures and Fittings in good condition (fair wear and tear and damage by accidental fire or other risk insured against by the Landlord only excepted unless the relevant policy of insurance shall have been rendered void or voidable or payment of the whole or part of the insurance moneys refused in consequence of some act or default on the part of or suffered by the Tenant) and immediately to replace all broken glass” and*

*“To preserve the Fixtures and Fittings and not to damage or destroy them and at the option of the Landlord either make good pay for repair or replace with articles of a similar kind and of equal value such of the Fittings as are destroyed lost broken (fair wear and tear excepted)”*
12. Clause 3.8 provides that the Tenant is:

*“To keep all gutters sewers drains sanitary apparatus water and waste pipes and ducts serving to or forming part of the Property clean and free from obstruction and to take adequate precautions to avoid damage from the freezing and bursting of pipes.”*
13. Clause 5.3 states:

*“The Landlord will use reasonable endeavours to keep the structure of the Property in good repair and all oil gas and electrical appliances in reasonable working order save insofar as damage is caused to such appliances by any act or default of the Tenant”*
14. The Tribunal also notes that clause 5.4 states:

*“If the Property or any part of it is destroyed or rendered unfit for use or habitation by fire tempest flood explosion or by reason of any defect or want of reparation in the building by the Landlord then the rent hereby reserved (or a fair proportion thereto according to the nature and extent of the damage) shall cease to be payable for so long as the Property or any part thereof shall remain unfit for use the amount in case of dispute to be settled by arbitration...”*
15. In the absence of a new Tenancy being entered into, an Assured Periodic Tenancy pursuant to Section 5 (2) of the Housing Act 1988 (the 1988 Act) has arisen such that Sections 13 and 14 of the Act now apply.

## The Law

16. Section 5 (3) of the Act provides that the periodic tenancy arising on expiry of the Assured Shorthold Tenancy is one:

*“(a) taking effect in possession immediately on the coming to an end of the fixed term tenancy;*

*(b) deemed to have been granted by the person who was the landlord under the fixed term tenancy immediately before it came to an end to the person who was then the tenant under that tenancy;*

*(c) under which the premises which are let are the same dwelling-house as was let under the fixed term tenancy;*

*(d) under which the periods of the tenancy are the same as those for which rent was last payable under the fixed term tenancy; and*

*(e) under which, subject to the following provisions of this Part of this Act, the other terms are the same as those of the fixed term tenancy immediately before it came to an end, except that any term which makes provision for determination by the landlord or the tenant shall not have effect while the tenancy remains an assured tenancy”*

17. Section 14 (1) of the 1988 Act provides that the Tribunal is required to determine the rent at which the Property might reasonably be expected to let in the open market by a willing landlord under an assured tenancy:

*a. “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 rent) are the same as those of the existing tenancy.”*

18. Section 14 (2) of the 1988 Act requires the Tribunal to disregard:

*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 (as defined by section 14 (3) of the Act) otherwise than as an obligation;*

*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.”*

19. Section 11 of the Landlord and Tenant Act 1985 (the 1985 Act), provides that the Tribunal is to imply a covenant by the Landlord:
- a. *“to keep in repair the structure and exterior of the dwelling-house (including drains, gutters and external pipes),*
  - b. *to keep in repair and proper working order the installations in the dwelling-house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences, but not other fixtures, fittings and appliances for making use of the supply of water, gas or electricity), and*
  - c. *to keep in repair and proper working order the installations in the dwelling-house for space heating and heating water.”*
20. Section 14 (7) of the 1988 Act states:

*“Where a notice under section 13(2) above has been referred to the appropriate tribunal, then, unless the landlord and the tenant otherwise agree, the rent determined by the appropriate tribunal (subject, in a case where subsection (5) above applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the new period specified in the notice or, if it appears to the appropriate tribunal that that would cause undue hardship to the tenant, with effect from such later date (not being later than the date the rent is determined) as the appropriate tribunal may direct.”*

### **Representations – The Tenant**

21. The Tenant raised a number of concerns in respect of the extent to which the Property could be considered to be fit for occupation having particular regard to the lack of insulation and heating.
22. In addition, the Tenant drew the Tribunal’s attention to rubble within the garden area that had reportedly been left by the Landlord.

### **Representations – The Landlord**

23. The Landlord submitted a completed Reply Form dated 6 June 2024.
24. The Landlord submitted Witness Statements and Exhibits prepared by Mr Findley of Forsters LLP and Mr Champion of Savills UK Limited.
25. These Statements set out the historical context of the Tenant’s occupation of the Property and the various issues that had arisen with that Property.
26. Mr Champion also provided a schedule of lettings which he considered to be comparable from which it appeared that he considered the undiscounted rent for the Property to be £2,000 pcm (albeit the

Schedule detailed a rent of £2,350 pcm) but, in view of the lack of insulation and adequate heating the proposed rent was £1,750 pcm.

### **Determination**

27. In determining the market rent, the Tribunal has regard to prevailing levels of rent in the general locality and achieved rental values in respect of other properties of comparable accommodation and provision that would be likely to be considered by a prospective tenant. The current rent, and the period that has passed since that rent was agreed or determined is not relevant.
28. Previous changes in rent are not, therefore, relevant as the Tribunal is required to assess the rent that would be offered by a prospective tenant who has no knowledge of the existing or previous rents.
29. The legislation requires the Tribunal to have regard to market demand assuming that the landlord is willing. The Tribunal is therefore unable to have any regard to the personal circumstances or identities of the actual landlord and tenant in assessing the level of rent.
30. In that regard, it is irrelevant whether or not the Landlord requires the rent to be at a certain level to fund its repair obligations under the lease or whether the Tenant feels that the services provided by the Landlord are “value for money”. As such, the cost of property maintenance to the Landlord does not affect the rent that would be offered by a prospective tenant in the market and must be disregarded.
31. However, as set out above, the Tribunal is required to have regard to the obligations of the Landlord and Tenant in respect of the repair, maintenance and upkeep of the Property and take into account the extent to which these obligations have been complied with.
32. As set out above, section 14 (2) (c) of the 1988 Act requires the Tribunal to disregard any failure by the Tenant to comply with their lease obligations. However, the Tribunal is to have regard to matters that do not arise as a direct consequence of the Tenants’ failure to comply with any of their obligations.
33. In this regard, the Heaton Design & Engineering Heating Assessment dated April 2021 concluded, inter alia that “...*the radiator provision is insufficient to overcome the heat loss of the building and therefore either fabric upgrades will be required or additional heat emitters provided*”. Following this, a quotation was obtained from Piper Heating Limited for an upgrade to the heating system in the sum of £14,914,.22 plus VAT but this work has yet to be carried out.
34. It would therefore appear to be common ground that heating and insulation, taken together, is less than optimal such that any occupier would be reliant on free standing heaters. This would be of concern to an incoming tenant and should therefore be reflected in the rent achievable in the market.

35. In this context, the legality, or otherwise, of occupation in the absence of a fully functioning central heating system is not a matter that can be taken into account as part of these proceedings. It is therefore assumed that such occupation is lawful and the only matter of relevance comprises the impact of the lack of fully functioning central heating on the rent that the market would be prepared to offer.
36. In this regard, the Tribunal has reviewed the schedule of rental information provided by Mr Campion and, in the absence of any direct evidence in respect of properties with inadequate heating and/or insulation, relied upon its own knowledge and experience in such matters.
37. The Tribunal therefore determines the market rental of the Property to be **£1,750 pcm**. The rent payable may not, therefore, exceed this figure. However, this does not prevent the Landlord from charging a lower figure.
38. The Tribunal appreciates that is a large increase when compared to the current passing rent of £700 pcm. However, the Parties should bear in mind that the rent has not been increased since 1 December 2015 since when rents have increased significantly across the UK.
39. The fact that the rent has not been increased in the meantime is not relevant to these proceedings but hopefully this explanation is helpful in setting out the context.
40. This rent is to be effective from 1 **June 2024**.

**Name:** Peter Roberts FRICS CEnv

**Date:** 10 September 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).



**Notice of the Tribunal Decision and Register of Rents under Assured Periodic Tenancies (Section 14 Determination)**

Housing Act 1988 Section 14

**Address of Premises**

Eastdowns Farmhouse, Old London Road, Chipping Norton, OX7 5 XE

**The Tribunal members were**

Mr P Roberts FRICS CEnv

**Landlord**

C D Findley, A M Sanders and N M Wood as executors to the estate of M E Allen

**Address**

C/O Knights Professional Services Limited  
Midland House  
West Way  
Botley  
Oxfordshire  
OX2 0PH

**Tenant**

Mr Pick

1. The rent is:£

1,750

Per

month

(excluding water rates and council tax but including any amounts in paras 3)

2. The date the decision takes effect is:

1 June 2024

3. The amount included for services is

not applicable

Per

4. Date assured tenancy commenced

1 December 2015

5. Length of the term or rental period

7 months

6. Allocation of liability for repairs

Tenant liable for internal repairs. LL to comply with s11 LTA 1985

8. Furniture provided by landlord or superior landlord

N/A

**9. Description of premises**

The Property comprises a two-storey period detached farmhouse of brick and slate construction that was refurbished and modernised circa 2020. The accommodation comprises a porch, kitchen, sitting room, WC and study/storage at ground floor level with three bedrooms and two bedrooms at first floor. There is a garden surrounding the Property and gravelled car parking. Whilst the Property has been fitted to a high standard there is limited insulation and the central heating is defective such that heating is provided by plug-in heaters and a wood burner. There is evidence of water ingress in the chimney breasts

**Chairman**

**P Roberts**

**Date of Decision**

**9 September  
2024**