



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

Case Reference	: MAN/ooEU/OAF/2024/0022
Property	: Brantwood, 84 Cinnamon Lane, Fearnhead, Warrington, WA2 0AW
Applicants	: Stephen Robert Betts and Linda Betts
Representative	: Orme Associates Property Advisers
Respondent	: Persons Unknown
Type of Application	: Houses and Premises – Leasehold Enfranchisement: Missing Landlord S21(1)(cza), S 21(2) and S27(5) of the Leasehold Reform Act 1967
Tribunal Members	: Valuer Chair: J Fraser FRICS Regional Surveyor: N Walsh
Date of Determination	: 18th February 2025
Date of Decision	: 19th February 2025

DECISION

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The Tribunal determines that the total price to be paid, in accordance with section 27 (5)(a) of the Leasehold Reform Act 1967, for the freehold interest in Brantwood, 84 Cinnamon Lane, Fearnhead, Warrington, WA2 0AW is £185.00.

The Tribunal determines that the amount of pecuniary rent payable in accordance with section 27 (5)(b) of the Leasehold Reform Act 1967 is £78.00.

REASONS

Background

1. The Tribunal has received an application under sections 21(1)(cza), 21(2) and 27(5) of the Leasehold Reform Act 1967 (“the Act”). The application arises following an application made to the County Court for a Vesting Order in the case of a missing Freeholder. On the 26 May 2024 Deputy District Judge Del Priore sitting at the County Court at St. Helens ordered that the Applicants may apply to the First-tier Tribunal (Property Chamber) for the determination of the price payable for the Freehold interest in accordance with Section 27(5) and Section 9 of the Act. This is the sole issue for the Tribunal to determine.
2. The Tribunal is provided with a bundle of documents in support of the application including; witness statements, title registers and plans, OCEs, leases, conveyances, Court Orders, application form, various correspondence and a valuation calculation.
3. No submissions have been received for an oral hearing and the application form confirms that the applicants are content with a paper determination, accordingly the determination has been decided on the papers.
4. The Tribunal have not inspected the property.

The Law

5. Section 27(5) of the Act provides:

The appropriate sum which in accordance with Section 27(3) of the Act to be paid in to Court is the aggregate of:

- a. Such amount as may be determined by (or on appeal from) the appropriate Tribunal to be the price payable in accordance with Section 9 above; and*
- b. The amount or estimated amount (as so determined) of any pecuniary rent payable for the house and premises up to the date of the Conveyance which remains unpaid*

The Property and Lease

6. The property is Brantwood, 84 Cinnamon Lane, Fearnhead, Warrington, WA2 0AW. It is held on two long leases with title number: CH214111. The first lease (“the First Lease”) is dated 23rd June 1897 for a term of 999 years from the 1st July 1897. The ground rent is fixed at £33.00 per annum. However, the lease includes other property and the rent apportioned to the subject property is understood to be £12.00 per annum. The second lease (“the Second Lease”) is dated 17th July 1903 and is for a term of 994 years from the 23rd June 1902, at a rent of £1 per annum, it again includes other property. The original parties to both leases are (1) Edward Gandy and (2) Thomas Birtles.
7. The property is not described in the application, however the Tribunal note that a sales brochure dating to May 2023 shows a large, five bedroom detached house with garage and gardens.

The Premium

8. The Tribunal is required to determine the premium payable for the Freehold Interest, calculated in accordance with section 9 of the Act. Section 9 sets out the premium to be paid to enfranchise and the valuation basis to be adopted. The valuation date is the issue date of the application to the County Court, albeit we are not provided with a copy of that application. The Tribunal therefore adopts a valuation date of 26 May 2024 being the date of the Court Order, albeit notes that due to the long unexpired lease term remaining the valuation date adopted does not result in the premium payable differing.
9. To support the application the Tribunal is provided with a valuation calculation prepared by Mr Andrew Orme of Orme Associates Property Advisers. The cover letter to the calculation includes a statement of truth, albeit an expert witness report, including information as to Mr Orme’s experience and a declaration as required by Rule 19 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013, has not been prepared. Despite this, the Tribunal notes the contents of the calculation.
10. Mr Orme carries out a valuation under section 9 (1) of the Act and adopts a valuation date of 20th June 2019. He capitalises the ground rents separately being £12 per annum and £1 per annum at a capitalisation rate of 6%. He arrives at a total of £217.00.
11. The Tribunal have first considered the valuation basis to be adopted. To be valued under section 9 (1), the house and premises must be within the financial limits specified under s.1 (1)(a), 1(5) or 1(6) of the Act, it must be at a low rent within s.4 (1) of the Act and the rateable value of the house and premises on 31 March 1990 must be £1,000 or less in Greater London or £500 elsewhere.
12. No evidence is provided to support the valuation basis adopted of s.9(1). The Tribunal notes that given the long lease term remaining, there would be no difference in premium between the original and special valuation basis (s.9(1A)) in the circumstances.

13. The application makes reference to there being superior leases, an immediate landlord and a superior landlord. Paragraph 7(1)(b) of Schedule 1 of the Act requires that “*a separate price shall be payable in accordance with section 9 for each of the interests superior to the tenancy in possession...*”. However, it is not clear from the bundle provided that there is in fact an intermediate leaseholder. Rather, on the information provided it appears that the applicants have a leasehold interest registered with title number CH214111. That title records the short particulars of the land and of the leases under which the land is held as deriving from the First Lease and the Second Lease described above. It does not appear that there is a superior lease to the First and Second Leases. Two underleases have been granted out of title CH214111, these relate to 72 and 74 Cinnamon Lane and are not part of the property to be enfranchised under this application.
14. The Tribunal notes that the Court Order dated 26 May 2024 also describes the applicants as being tenants under the First and Second Leases, albeit does go on to make reference to “*the head landlord (if any)*”.
15. Based upon the information before it, the Tribunal carries out a premium calculation in accordance with s.9(1) of the Act and on the basis that there are no superior landlords. In this instance, due to the long unexpired lease term remaining, there is no value to the first or second reversions and the only value arises out of the diminution in value to the freeholder due to the loss of ground rent payable.
16. The valuation date is taken as 26 May 2024, giving an unexpired lease term remaining of 872.08 years for the First Lease and 872.06 years for the Second Lease. Having regard to the decision in *Nicholson v Goff [2007] 1 EGLR 83* we adopt a capitalisation rate of 7%. We arrive at £171.43 for the First Lease, say £171 and £14.29 for the Second Lease, say £14, a total of £185.00.
17. The amount of pecuniary rent payable, in accordance with s.27 (5)(b) of the Act, is deemed to be £78.00 being six years at £12 per annum and £1 per annum respectively. The Applicants have confirmed in their submission that they have not paid ground rent since acquiring the property on 17 August 2016.

Signed: J Fraser
Valuer Chair of the First-tier Tribunal
Date: 19th February 2025