



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

<b>Case reference</b>	:	HAV/43UB/F77/2025/0614
<b>Property</b>	:	16 Molesey Park Road, West Molesey, Surrey, KT8 2LD
<b>Applicant landlords</b>	:	Mr P I Hallt, Ms M E Bundle & Ms W M Hallt
<b>Representative</b>	:	Melville & Co.
<b>Respondent tenant</b>	:	Mrs J King
<b>Representative</b>	:	None
<b>Type of application</b>	:	Determination of a Fair Rent Section 70, Rent Act 1977
<b>Tribunal members</b>	:	Mr J G G Wilson MRICS Mr N I Robinson FRICS Judge I M Arrow
<b>Date of consideration</b>	:	19 May 2025
<b>Date of decision</b>	:	19 May 2025

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**DECISION**

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## **Decision of the Tribunal**

**On 19 May 2025 the Tribunal determined a Fair Rent of £337 (Three Hundred and Thirty-Seven Pounds) Per Week to take effect from 19 May 2025.**

## **Background**

1. On 20 December 2024 the landlords' Agent (Messrs Melville & Co.) submitted an application for registration of Fair Rent ('RR1') to the Rent Officer (received by VOA Durham CSC on 21 December 2024), to register a fair rent of £323.72p per week for the property, 16 Molesey Park Road, West Molesey, Surrey, KT8 2LD ('the property').
2. This was an application to re-register the fair rent from its previous registration of rent for the property of £239.50p per week, effective from 28 May 2019.
3. A new rent of £270 per week was registered by the Rent Officer, effective from 7 February 2025. The uncapped rent was not specified.
4. In a letter dated 3 March 2025 to The Valuation Office Agency ('the VOA') (sent by email to NSO Helpdesk (VOA)) the landlords' Agent gave their objection to the new rent registered and the matter was referred to the First-Tier Tribunal Property Chamber (Residential Property), formerly a Rent Assessment Committee.
5. The Tribunal issued Directions dated 25 March 2025. The Tribunal does not consider it necessary and proportionate in cases of this nature neither to undertake an inspection, nor to hold a Tribunal hearing unless either are specifically requested by either party or a particular point arises which merits such an inspection and/or hearing.
6. The Tribunal in its Directions informed the parties that, unless either party objected, the Tribunal intended to determine the rent on the papers (written representations), paragraph 5.
7. Similarly, the parties were informed the Tribunal will not inspect the property but will seek to view it on the internet; and goes on to say if it considers it necessary, it may carry out an external inspection, paragraph 6.
8. The parties were directed to complete and return their Fair Rent Appeal Statement ('Statement') to form their statement of case, within specific time limits, paragraphs 8 – 12 inclusive. The Statement provides for photographs to be attached, to assist the Tribunal to understand the case and to help the party to present the issues.
9. Whereas the landlords' Agent submitted a Statement in accordance with the Directions, the tenant did not submit a Statement.
10. In broad terms, Melville & Co's Statement includes a description of the property, a selection of both internal and external photographs and a floor plan of a 'very similar house showing layout and room sizes' [sic].

## **The Property**

11. The property is a 1930's, two-storey, semi-detached house, on ground and first floors with rendered elevations and a pitched tiled roof.
12. West Molesey is to the south of Hampton and to the north of Esher. Molesey Park Road runs in an east/westerly direction, just to the north of Island Barn reservoir. The nearest railway station is Hampton Court.
13. In the RR1 dated 7 February 2025, the number and type of room(s) is listed as: ground floor – two rooms and one kitchen and first floor - three rooms (bedrooms) and one bathroom/WC. Outside there are front and rear gardens and a garage. The Tribunal has been provided with a floor plan of a property described as being a ‘...very similar house...’.

### **The Tenancy Agreement**

14. The Tribunal has not been provided with a copy of the tenancy agreement, although from the RR1 it is understood to have commenced in 1940.
15. The tenant is responsible for the payment of Council Tax and Water Rates. Section 11 of the Landlord and Tenant Act 1985 applies. The tenant is responsible for internal decorations.

### **Submissions – Fair Rent Appeal Statement**

16. It is not the Tribunal's intention to give an analysis of all the evidence in the papers, but to outline the overall valuation approach given by the landlords' Agent, to show that all aspects have been considered.
17. Following what the Tribunal says in paragraph 6 above, the papers comprise 88 pages. The Tribunal has considered the case *de novo* (from anew) and has limited its considerations to reach its decision to those points in the landlords' Agent's Statement and the papers relevant to the determination of the fair rent.
18. In their letter to the VOA dated 3 March 2025, Melville & Co submitted their appeal (to object) to the Rent Officer's re-registration of the fair rent at the property. The Grounds for Appeal are set out with Supporting Evidence.
19. Confirmation of the landlords' objection to the fair rent registered by the Rent Officer was sent to the parties in the VOA's letters dated 10 March 2025, including reference to the matter to be reconsidered by the First-tier Tribunal (Property Chamber).
20. In their Statement, the landlords' Agent gives a brief description of the property and the accommodation. A selection of both external and internal photographs is included too.
21. Under 'Features' and 'Improvements', it is confirmed the central heating was installed by the tenant, but since such time, the landlords replaced the boiler in May 2022.
22. In their letter dated 3 March 2025 to object the Rent Officer's registration, Melville & Co. say the landlords are arranging the replacement of all the windows in the house with new double glazing. From the copy of The Elite Glazing Company Limited's invoice provided, the Tribunal understands

these works have been carried out.

23. Carpets (floor coverings) and Curtains and White Goods have been provided by the tenant.
24. In addition to the double-glazing works outlined above, under 'Improvements', various electrical works, re-wiring of the garage and the fitting of a new side gate are listed. The evidence to support that these works have been carried out is in Attachments 1 & 2 to the Statement.
25. Under 'Condition...', the Agent says '...The property is in good repair...The roof was also replaced in the last rent review period...Everything else is understood to be perfectly functioning.'
26. Under 'Your assessment of the rental value of the property:', Melville & Co say an identical semi-detached house at 15 Molesey Park Road let in October 2024 for £2,000 per calendar month. And go on to refer to their Attachment 1 to the Statement which includes the comparable rental value evidence given to the VOA in their letter dated 3 March 2025.
27. The rental evidence is a 'Best Price Guide' prepared by Martin Flashman & Co, Walton Lettings, which includes the outline details of four, three-bedroom, semi-detached houses, marketed to let in the range of £2,000 per calendar month to £2,500 per calendar month. The fifth comparable is an end of terrace house marketed to let at £2,375 per calendar month.
28. The Best Guide Price is for the period from 28 November 2023 to 28 February 2025. A map shows the proximity of each property in relation to the subject.
29. The Agent does not go on to provide their assessment of the rental value of the property, other than to say, "The Fair Rent set for this property is substantially lower than the current market rent for comparable properties in the area."
30. Under 'Whether the Maximum Fair Rent Order should not apply (give reasons)', the Agent says that since the last registration (May 2019) the rental market has gone up by 35.5%. Following paragraph 25, under 'Condition...', the Agent in reference to the various works carried out says, "The above could be considered to have raised the rental value of the property by > 15%."
31. Under 'Whether the demand for such properties exceeds supply', the Agent does not address the issue in relation to scarcity directly but says that since October 2024 the average asking price has risen in line with demand for family houses in this area.

## **The Law**

When determining a fair rent, the Tribunal, 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 any other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.

In *Spath Holme Ltd v Chairman of the Greater Manchester & Lancashire Rent Assessment Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasised:

- (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 comparable lettings. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparable lettings and the subject property).
32. The Tribunal is also to have regard to the Rent Acts (Maximum Fair Rent) Order 1999 ('the Order'), where applicable. Most objections and determinations of registered rents are now subject to the Order, which limits the amount of rent that can be charged by linking increases to the Retail Price Index ('RPI'). It is the duty of the Property Tribunal to arrive at a fair rent under section 70 of the Act, but in addition to calculate the maximum fair rent which can be registered according to the rules of the Order.
33. If that maximum rent is below the fair rent calculated as above, then that (maximum) sum must be registered as the fair rent for the subject property.
34. Section 2(7) of the Order is as follows, 'This article does not apply in respect of a dwelling-house if because of a change in the condition of the dwelling-house or the common parts as a result of repairs or improvements (including the replacement of any fixture or fitting) carried out by the landlord or a superior landlord, the rent that is determined in response to an application for registration of a new rent under Part IV exceeds by at least 15% the previous rent registered or confirmed.'
35. The tenancy is a statutory (protected) periodic tenancy and as such (not being for a fixed tenancy of 7 years or more) is subject to section 11 of the Landlord and Tenant Act 1985, which sets out the landlord's statutory repairing obligations; the tenant is responsible for internal decorations.

### **Considerations and Valuation**

36. Having reviewed the papers, the Tribunal first considered whether it felt able to decide this case reasonably and fairly based on the papers submitted only, with neither an inspection, nor an oral hearing. Having read and considered the papers the Tribunal decided it could do so.
37. In the first instance the Tribunal determined the market rent per week the landlords could reasonably expect to receive on the valuation date, 19 May

2025, on the assumptions the property was in good condition, with carpets (flooring coverings), curtains and white goods provided by the landlords.

38. To determine the market rent the Tribunal has considered the evidence provided by the landlords' Agent, coupled with its own general knowledge of market rent values in north-west Surrey.
39. In their Statement the landlords' Agent has provided the Tribunal with a Best Guide Price prepared by Martin Flashman & Co, which includes one property in the subject road and a map to show the proximity of each of the listings to the subject property.
40. The landlords' Agent does not go on to give their assessment of the rental value of the property.
41. Taking the above into consideration and of its own general knowledge of market rent values in the area, at the valuation date, the Tribunal determined the market rent of the property to be £1,750 per calendar month, before any adjustment(s) which it deemed applicable were to be applied.
42. At this juncture the Tribunal notes there is not an energy performance certificate ('an EPC') listed for the property on the Government's website.
43. From the evidence in the landlords' Agent's Statement, which includes a selection of photographs and its associated correspondence, the Tribunal has determined adjustments are required to be applied to reflect the tenant's: (1) installation of the central heating, (2) provision of carpets (floor coverings) and curtains, (3) provision of the White Goods, and (4) internal decorations responsibility. In addition, the Tribunal has determined adjustments are required to be applied to reflect the dated wall and base units in the kitchen and the dated bathroom and WC equipment.
44. The Tribunal concluded a deduction in aggregate of £290 per calendar month be applied to the market rent, made up of as follows:

Installation of the Central Heating	£50
Carpets (floor coverings) and Curtains	£50
White Goods	£30
Internal decorations	£60
Dated kitchen equipment	£50
Dated bathroom/WC equipment	<u>£50</u>
£ Per Calendar Month	£290

45. £1,750 per calendar month minus £290 per calendar month to equal £1,460 per calendar month (£336.92 per week), rounded up to £337.00 per week.
46. Turning to the question of scarcity, that is whether the demand for such properties exceeds supply, the landlords' Agent does not address the point directly. Applying its general knowledge of the lettings market in the area, the Tribunal has concluded there is no adjustment required for scarcity in

this registration of fair rent.

47. Finally, as one of the landlords' Agent's Grounds for Appeal in their application is 'Increase in RPI' and under 'Condition...' in their Statement says, "The above could be considered to have raised the rental value of the property by > 15%." the Tribunal is required to address the question whether section 2(7) of the Maximum Fair Rent Order applies.
48. The landlords' Agent submits that the capping legislation does not apply to this registration and to support their argument they rely on the works carried and listed in their letter dated 3 March 2025 to the VOA and restated in their Statement under 'Improvements'.
49. As outlined in paragraphs 21, 24 and 25 above, the works to which the Tribunal is to refer are, in outline, replacement of all the windows with new double-glazing, various electrical works, re-wiring of the garage, the fitting of a new side gate and the replacement of the roof.
50. For section 2(7) to apply the works to which the Tribunal has been referred are to have added at least 15% to the previously registered fair rent. The previous registration of fair rent was in May 2019 at £239.50 per week (15% of £239.50 to equal £36.00 when rounded up). The corresponding uncapped rent was £240 per week (15% of £240 to equal £36.00 also).
51. Whereas the landlords' Agent submits that these works could be considered to have raised the rental value of the property more than 15%, the Tribunal has been provided with neither valuation evidence nor corresponding analyses to support their claim.
52. There is no evidence before the Tribunal that the property was uninhabitable, prior to the old roof covering having been replaced. To replace a roof is a part of the continuing cycle of works required to maintain a dwelling. To carry out some electrical works and to replace a side gate are also parts of its day-to-day external and internal maintenance. The rental value of the property is substantially derived from the accommodation it provides and the location in which it is situated, not the replacement of its roof and a side gate, coupled with some electrical works.
53. In aggregate, the works to which the landlords refer, the Tribunal determine add no more than 5% to the rental value. Accordingly, the '...at least 15%' threshold requirement of the Order has not been met.

### Decision

54. Accordingly, having made the adjustments listed above, The Tribunal determined the Fair Rent of the property be re-registered at **£337 (Three Hundred and Thirty-Seven Pounds) Per Week, to take effect from 19 May 2025.**
55. The capping provisions of the Rent Acts (Maximum Fair Rent) Order 1999 do not apply because the rent determined is less than the maximum prescribed, which the

Tribunal calculated to be £339.50p (Three Hundred and Thirty-Nine Pounds and Fifty Pence) Per Week.

### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making a written application by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 days' time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 days' time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal and state the result the party making the application is seeking.