FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AC/OCE/2023/0089**
Property	**:**	**452 Finchley Road, London NW11 8DG**
Applicant	**:**	**452 Finchley Road Freehold Limited**
Representative	**:**	**Mr Mark Loveday instructed by Wallace LLP**
Respondent	**:**	**452 Finchley Road LLP**
Representative	**:**	**Mr Henry Fordham**
Type of application	**:**	**S.24(1) Leasehold Reform, Housing and Urban Development Act 1993**
Tribunal	**:**	**Judge Siobhan McGrath** **Mr Joe Fraser FRICS**
Date of Decision	**:**	**28th July 2025**

DECISION

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1. This matter is a collective enfranchisement claim for the freehold of premises at 452 Finchley Road, London NW11 8DG (the Property) under Ch.1 Pt.1 Leasehold Reform Housing and Urban Development Act 1993 ("LRHUDA 1993"). The Applicant is the nominee purchaser, and the Respondent is the freeholder.

2. The hearing of the claim was held over three days between 16th and 18th June 2025. The Applicant was represented by Mr Mark Loveday of counsel. The Respondent was represented by Mr Henry Fordham who is connected with the Respondent as director of a

corporate director, the Respondent's former solicitors having given formal notice on 11th June 2025.

3. Expert valuation evidence was provided by Mr Bruce Maunder-Taylor FRICS, MAE on behalf of the Applicant and by Mr CH Dadd, BSc (Hons) MRICS on behalf of the Respondent. Evidence was also given on planning issues by Mr Peter Weatherhead BA, MRTPI, FRICS for the Applicant and by Mr Patrick Grincell BSc MA MRICS MRTPI for the Respondent. Additionally, evidence was given by Mr Tom Robertshaw MA Hons Cantab CEng MIStructE on structural engineering matters for the Applicant. Mr Fordham gave evidence on behalf of the Respondent.

4. 452 Finchley Road (the Property) is located at the junction of Finchley Road and Hermitage Lane. It comprises a modern mixed-use building c.2018-19. There is basement parking, two ground floor commercial units and 13 flats arranged over the 1st, 2nd and 3rd floors.

5. The freehold is subject to 15 leases as follows:

   (1) The two commercial units are let on long leases at fixed peppercorn ground rents.

   (2) Flats 8 and 10 are let on leases for 250 years from 1 January 2019 at fixed peppercorn ground rents.

   (3) The remaining flats are let on leases for 250 years from 1 January 2019 each at an initial ground rent of £500pa, each with a RPI-linked review every 10 years.

6. The Respondent has owned the freehold of the Property since March 2016 and having received planning permission in 2017 proceeded to develop the site and the sales of the leases of the flats in the building were completed between 2020 and 2022. The Respondent is clear that it had also been the intention to undertake a development of the rooftop of the building and following the sale of the flats at the Property, Mr Fordham says that he turned his attention to achieving that development. On 26th January 2023, the Applicants served their collective claim.

7. By the date of the hearing, the parties had agreed the terms of the transfer and at a meeting on 11th June 2025, the valuers finalised the extent of agreement in respect of matters concerning valuation with a valuation date of 26th January 2023, as follows:

   (1) Capitalised ground rent value at a rounded £80,000 and

   (2) Agreed reversion at £97.

8. Two issues remained outstanding for the Tribunal's determination:

   (1) Development Value

   (2) Allowance from remedial works.

Development Value

9. It is the Respondent's case that there is significant value in proposals for an airspace development. Mr Dadd's assessment is that the development value is £450,000. It is the Applicant's case that a hypothetical purchaser would not pay anything at all for development hope value.

10. In closing, Mr Loveday invited the Tribunal to approach our task by taking an overall approach to development value, made up of an assessment of the various component factors and risk. In this case there is no specifically identified scheme for the roof-top development, and so we agree that this is the best way forward.

11. We start by considering the hypothetical gross value of a development. During the course of the hearing our attention was drawn to various possible schemes of different sizes. However, the opinions prepared by Mr Maunder-Taylor and Mr Dadd are based on a scheme with a GIA of 155 ms (1668 fs). The gross value for a development of this size proposed by Mr Dadd was £1,550,000 in proceeds and that proposed by Mr Maunder Taylor was £1,000,000 (albeit it appears that the GDV of £1,000,000 proposed by Mr

Maunder Taylor was based upon a scheme of 135 ms). We base our decision on a hypothetic scheme with a GIA of 155 ms.

12. Mr Maunder Taylor undertook two forms of development appraisal in accordance with IVS410 and the *RICS Professional Standard: Valuation of Development Property* (1st edition October 2019). The two approaches are: (1) a review of comparable airspace development scheme investments and (2) a residual valuation.

13. So far as comparable development scheme investments are concerned, Mr Maunder-Taylor referred us to nine sales of properties with rooftop development potential offered within 10 miles of the Property from 6 months before the valuation date to 6 months after. Mr Maunder-Taylor identified the properties using an on-line search with Essential Information Group. He produced a copy of the summary results and placed particular reliance on nine of them. His evidence was that pre-pandemic roof space development was particularly attractive until that changed post-pandemic. In support of this view he cited the rise in interest rates in early 2022, stasis in residential value growth rates, a rise in construction costs and the strengthening of various aspects of Building Regulations. He concluded that in his opinion "there is no market evidence at or around the valuation date for the subject property which would support a claim that the subject roof space has any development value."

14. Mr Dadd did not examine the market evidence of roof development opportunities and therefore there is no rebuttal evidence.

15. The Tribunal also received planning evidence on behalf of both parties. For the Applicant evidence was provided by Mr Peter Weatherhead BA, MRTPI, FRICS and for the Respondent evidence was given by Mr Patrick Grincell BSc, MA, MRICS, MRTPI.

16. In his report, Mr Weatherhead refers to advice he has received that an additional floor to the Property would make the premises a Higher Risk Building for the purposes of section

65 of the Building Safety Act 2022 and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023. Mr Loveday submitted that as at the valuation date, this is further evidence that this particular type of rooftop development would not be an attractive proposition to a hypothetical purchaser because of the additional and onerous management issues imposed by the 2022 Act regime.

Residual Valuations

17. In Mr Maunder-Taylor's opinion, there is no direct comparable evidence to support any value for an opportunity to develop the roof space. He produced a copy of an OnTheMarket report giving the sale prices achieved of the existing flats within the Property and added a note about earlier sales of four other flats within the Property, in his report. Comparison was made with Land Registry records and Mr Maunder-Taylor noted that these were all new leases and therefore first sales. On his analysis he said the evidence indicated that the flats had been difficult to sell and although prices of over £1,000,000 each were achieved up until February 2022 after that, the last six sales were below £1,000,000. He noted that the proposed flat would have no parking space and its outlook was likely to be onto a flat roof area, probably with solar-reflecting panels.

18. In conclusion Mr Maunder-Taylor placed particular reliance on the sale of Flat 10 in the building which had sold in July 2022 for £905,000 with a slightly smaller GIA and a parking space (in contrast to the proposed flat which would not have a parking space). On that basis his view was that the GDV of the proposed flat was £1,000,000 assuming a high specification finish.

19. For the Respondent, Mr Dadd's assessment of the GDV was in the sum of £1,550,000. In reaching this conclusion, Mr Dadd relied on four comparables where the sales had taken place on dates that were not within six months before or after the valuation date. One in August 2024, one in May 2022, one in November 2021 and one in March 2021. All of the comparables relied upon were larger than the proposed flat. Of the four comparables, only the March 2021 sale was from within the Property being Flat 5, the other three were all sales from the same block at 1B Hodford Road.

20. Generally, we preferred the evidence of Mr Maunder-Taylor. Although all of the comparables relied upon were in the same building, the evidence provided was much more convincing than the evidence produced by Mr Dadd. Although Mr Dadd had conducted a search of sales during the relevant period, he failed to find or mention any of the more recent sales in respect of the flats at the Property. However, we felt that the tone of the value within the building supported a higher value than £1,000,000 and noted that, whilst the experts had agreed a scheme of 155 ms GIA, Mr Maunder Taylor's GDV appeared to be based on a smaller scheme of 135 ms GIA. Mr Loveday urged us to treat the comparable evidence with care as the proposal was for a light-weight property of different utility to the rest of the building. Nonetheless, our view is that a penthouse flat in this locality, even taking into account the lack of view and light-weight structure, and based on the comparable evidence provided to us, would be £1,100,000.

Agreed Deductions

21. From the GDV, Mr Maunder-Taylor considered that a number of deductions should be made. First, a number of sums which had been agreed with Mr Dadd: £70,000 for pre-development permissions, reports, legals and the community infrastructure levy; £23,000 for re-sale costs and £66,000 for interest and financing allowance.

Other Deductions

22. There were also a number of heads of cost that were not agreed between the parties: Mr Maunder Taylor posed a figure of £75,000 as compensation for interruption to existing lessees caused by the construction works. It goes without saying that the addition of a further storey to a building will cause inconvenience to lessees and in particular those in occupation of the top floor flats. In Mr Dadd's view however, no element of compensation should be deducted from the gross development value.

23. One element of the deduction relates to structural alterations to the subsisting top-floor flats in consequence of the additional floor. Mr Maunder-Taylor placed reliance on the evidence of Mr Robertshaw to the effect that if strengthening to 6 structural columns in the three flats below was required, it would involve significant disturbance to the residents. Mr Robertshaw acknowledged that the risk for the lower parts of the building

was low and for the upper columns it was a low to medium risk but that it was a risk and at the least would have required investigation.

24. Additionally, it was his view that in order to construct a new access core (for example a staircase and lift) the existing roof slab would need to be removed locally using saw tooth drilling which would involve noise disturbance to existing tenants.

25. The Respondent did not call evidence from a structural engineer but sought to rely on a structural feasibility study report prepared a Artiom Cybulko and compiled by Eckersley O'Callaghan in August 2024. The recommendation for the proposed extension was for a steel framed option which could span on the existing column grid with the least self-weight on the existing structure. The analysis in respect of top level columns was, it is said expected to increase by approximately 10% and on that basis the view was that there is sufficient extra capacity and column strengthening was unlikely to be required.

26. On behalf of the Applicant, Mr Loveday submitted that the Tribunal should attach little or no weight to untested evidence. The Tribunal also noted that the Respondent's report was not produced until August 2024 and accordingly could not have been available to a hypothetical purchaser at the valuation date.

27. At the hearing Mr Maunder Taylor also referred to evidence given by Mr Weatherhead, a planning expert on behalf of the Applicant (whose evidence we deal with below). He had stated, in our view correctly, that the addition of a further storey to the building would result in it becoming a "Higher Risk Building" for the purposes of Part 4 of the Building Safety Act 2022 and that as a result, additional structural works or the provision of sprinklers to all flats might be required. This would inevitably cause further disruption to the lessees and may require their consent which might not be easily forthcoming. Although Mr Fordham suggested that the requirements of Building Regulations and the 2002 Act could be fulfilled in an alternative manner, there is no question that not insignificant fire safety measures would have to be taken.

28. In our view, at the valuation date, a hypothetical purchaser would have considered these elements to be a risk. We consider that a deduction of £75,000 for compensation could readily be justified. There are three flats on the top floor so that equates to £25,000 each. By any measure the works will cause particular disruption to the top floor lessees and there is a risk that the disruption would include works affecting the interior of their flats.

29. The third element of deduction relates to the costs associated with the proposed build. There is a significant difference between the parties in this respect. Mr Dadd proposed a global deduction of £548,130 (we return to the calculation of this sum later). Mr Maunder-Taylor proposed deductions of itemised heads of cost totalling £825,000.

30. Mr Maunder-Taylor's build costs include full-scaffolding and top-hat at £100,000. His view is that it will be necessary to have full scaffolding with a temporary cover to provide replacement protection to the existing flats when the roof is either opened up or altered. We consider those costs to be justified and the figure to be reasonable.

31. His second item is a cost for a staircase and/or a lift at £150,000. As Mr Maunder-Taylor explained, there will need to be a new lift and lift gear for the extra floor, the lift shaft will need to be extended and provided with new rails or apparatus within the shaft. A staircase extension will need to be built to the new floor level and affected common parts will need to be made good. We consider those costs to be justified and the figure to be reasonable.

32. The third item is for roof works at £250,000. Mr Maunder-Taylor's view is that a hypothetical purchaser would allow for a complete re-covering of the existing top roof level, new lightening conductors, secure railings, a diversion of vent openings and the installation of solar reflecting panels. In our view, the hypothetical costs are on the high side. To a large extent the recovering of the roof relates to maintenance and repair which fall under the landlord's obligations (and possibly the service charge regime) rather than redevelopment. Furthermore we have no firm expert evidence which demonstrates that replacement rather than repair is required. However, the costs will not be nominal and doing the best we can with the evidence we would make an allowance of £100,000.

33. The next item is for services at £50,000. Mr Maunder-Taylor suggests that a hypothetical purchaser would allow a contingency figure in connection with services, their adequacy and connections and further drilling etc. if the services were to rise through existing parts of the structure. We consider the figure of £50,000 to be too high. In our view work entailing the extension of existing services is more likely to be in the region of £25,000.

34. So far as build and professional fees are concerned, Mr Maunder-Taylor assessed these at £275,000. This is to include the cost of construction, fitting out, internal services and decorations for the proposed flat and the new top-floor area of the common parts with roof access, dry riser extensions for Fire Brigade purposes and a total gross external area in the order of 170 ms. We consider those costs to be justified and the figure to be reasonable.

35. It has not been possible to make a comparison between the parties' cases on the basis of itemised costs as Mr Dadd chose instead to adopt a global approach to the calculation of build cost. For this purpose he used the Building Cost Information Service (BCIS) reinstatement calculator which produced a figure of £453,000, he added 10% for contingency, £45,300, to give a total build cost of £498,300. To that figure he added a further 10% for professional fees giving £548,130 as his total for build costs and professional fees.

36. The difficulty with this approach is that the figures from the BCIS reinstatement calculator are used for re-instatement calculations instead of new build costs. As such they are not the same as new build costs and fail to include a number of important elements that relate specifically to the costs of the proposed scheme, yet include other non-relevant costs such as demolition. Although alternative BCIS costs are available, Mr Dadd did not use them in this case. When asked why he did not set out heads of cost like Mr Maunder-Taylor, Mr Dadd in effect said that he consideedr the figures put forward by Mr Maunder-Taylor to be too high and that the inclusion of other costs within the reinstatement calculation offset for costs he had not explicitly considered.

37. In our view Mr Maunder-Taylor's assessment of costs is preferable to that of Mr Dadd, subject to the adjustments made above.

38. The final input in the residual calculation is the profit element. Mr Maunder Taylor proposes 20% of GDV, Mr Dadd 15% of GDV. Given the complexity of the scheme and the associated risks we prefer Mr Maunder Taylor's opinion and adopt 20% of GDV to reflect developer's profit.

Planning Risk

39. The Respondent acquired the Property on 14th March 2016 and in 2017 received planning permission for the redevelopment of the site to provide a four storey building. Following approval the Respondent sought permission to erect a roof extension to the scheme comprising one two-bedroom unit providing 155 sqm of habitable space. Planning officers for the local authority, the London Borough of Barnett, confirmed that proposal was acceptable but the planning committee turned down the application on the basis that the proposed additional storey would be visually dominating and obstructive and detrimental to the locality and town refusal was not appealed.

40. When asked why no appeal was lodged, Mr Fordham explained that an appeal would have come to the attention of purchasers and a penthouse flat would not have been attractive to them so it was decided to leave the application until all sales in the building had been completed.

41. In 2018, following the completion of the construction, the Respondent initiated pre-application discussions with Barnet to explore the potential to add two further storeys to the block. The advice was that this would be unacceptable but that one additional floor as previously proposed would be acceptable but that since the scheme had been refused, any new scheme should not be identical otherwise it would be likely to be refused again.

42. In 2023 a further planning application was made, this time for a unit of a reduced since being 135 sqm. Again, the officer's recommendation was for approval but again, the planning committee refused the application both for similar reasons as articulated in the refusal of the 2018 application and also because it would prohibit the installation of solar panels. That decision was appealed but had to be resubmitted as it had not previously included a fire strategy.

43. For the Respondent, it is Mr Grincell's view that the planning committee's refusal of the application for the 2018 scheme was unfounded and that had that decision been appealed, there would have been a high chance of success. In his view the proposal was in accordance with planning policy for making the best use of land to optimise the capacity of sites. He also said that the principle of residential development in the location was well established through the existing building and nearby recent residential developments. Furthermore he provided examples of members making decisions to refuse applications for residential developments in the borough, against officer advice. He said such decisions had been overturned on appeal. Finally, he considered that the 2023 appeal would have a high chance of success. In his opinion there was a prospect of at least 75% in favour of an appeal being allowed and planning permission being granted.

44. For the Applicant, Mr Weatherhead takes a different view. Firstly, he says that at the valuation date, planning permission had been refused for an additional storey at the Property and that there was clearly a background of concern over the impact of a further development. Also a second proposal for an additional storey was also refused permission, albeit after the date of the initial notice. In his opinion any future application would have to be considerably amended to comply with London plan policy and that the application would have a 50% chance that the subjective matters such as impact on the character and appearance of the area may be viewed more favourably.

45. The Tribunal preferred the view of Mr Grincell. We found his evidence to be more compelling than that of Mr Weatherhead and in particular were satisfied that his assessment of the various factors at play in the planning process was accurate and his conclusion that there would have been a 75% chance that an appeal against the refusal of planning permission would succeed to be the more likely.

Conclusion

46. Adopting a GDV of £1,100,000 and making the deductions for heads of cost as set out above we arrive at a negative value of -£4,000, but say £0.

47. Although we are satisfied that the residual calculation shows no residual value, we do not consider that to be the end of the matter. In our view, planning evidence from Mr Grincell is strong enough to support the additional of a modest premium to the calculation. He states that

    "6.9 …. There are a number of five to ten storey buildings in the immediate vicinity of the site. Good design principles dictate that the massing should increase at interchanges like the crossroad, reinforcing the partial hierarchy of the local and wider context.

    6.10 There are no other factors which would make the site particularly sensitive in design terms; it is not in a conservation area or in close proximity to any designated heritage assets.

    6.11 Given the immediate context, the principle of an additional storey on the existing four-storey building would not appear out of place within the street scheme and would continue to 'preserve' the scale, mass and height of the site's surroundings in line with local policy requirements. This opinion has been shared by the Council planning officers through two pre-applications requests and two planning applications."

48. We think that there is sufficient "hope value" that would justify the addition of £20,000 to a premium which would represent the amount that a hypothetical purchaser would pay in respect of the potential of the site for future development either for the proposed or a differently designed scheme possibly on the basis of future change in planning policy or building costs.

The Heating System

49. The final matter for the Tribunal's determination was whether there ought to be any deduction to reflect a liability for the repair of the heating system. On behalf of the Applicant, Mr Maunder Taylor said that he had been informed by the leaseholders that

there were numerous problems with the Daikin heat pump system which provides heating and hot water to the Property. It is said that the problems include that the condensers were not properly installed so that they are not properly connected with the draining system resulted in condensed water passing on to the floor into which water channels have had to be cut for drainage purposes.

50. Reliance is placed by the Applicants on a report produced by Lion Corp Limited dated in January 2023 (the Daikin Report) at the request of the leaseholders. This is annexed to Mr Maunder-Taylor's report from October 2024. There are a number of difficulties with the Daikin Report. Firstly, it was not (and could have been) tendered as an expert report. Secondly, the author of the report was not called to give evidence. Thirdly, the report does not include a summary of instructions so the Tribunal cannot ascertain its scope. All of these matters impact on the weight that the Tribunal attributes to the evidence value of the report.

51. In his report Mr Maunder-Taylor says that "I am instructed that there are outstanding complaints from some or all of the leaseholders about the defects in the heating system…" but no details have been provided. None of the leaseholders gave evidence. It is therefore difficult to assess what costs, if any, would be associated with remediation. Additionally, Mr Fordham appended a report from a company called Oceanheat which services the heating system. Albeit that it is dated November 2024, all aspects of the installation examined either passed or were serviced and no problems were reported.

52. There is also the question of whether any costs would be recoverable under the terms of the lease. On behalf of the Applicant Mr Loveday submitted, by reference to a sample lease, that all parts of the system, including those located within the flats themselves remained the responsibility of the landlord. Mr Fordham submitted that this was not the case. Having examined the lease, the Tribunal is inclined to the view that Mr Loveday is correct. However we do not decide the issue.

53. Mr Loveday submitted that the deduction proposed by Mr Maunder-Taylor was modest and recognised that a hypothetical purchaser might well anticipate the lessees could be required to meet some of the costs through the service charges. Mr Maunder-Taylor gave evidence that even if that were the case, some service charge costs might be difficult to recover.

54. In our view, no deduction should be made in respect of the heating system. We are not satisfied that the evidence provided is of sufficient weight to have influenced a hypothetical purchaser in January 2023. It does seem that complaints about the system had been made but there is insufficient evidence to show that the problems could not be resolved. Also, there is no reason to speculate that services charge contributions, if payable, would not have been paid. Accordingly we make no allowance under this head of claim.

Decision

55. The price payable for the acquisition is £100,097, say £100,000

Enfranchisement Costs

56. The Tribunal was not asked to consider this aspect of the matter. If the parties are unable to reach agreement on the measure of the statutory costs, they should notify the Tribunal within 28 days of this decision and directions will be given for their determination.

Judge Siobhan McGrath

Mr Jo Fraser FRICS

28th July 2025

RESIDUAL VALUATION

GDV		£1,100,000
Costs		
Pre-development permissions, reports, legals and CIL	£70,000	
Compensation for interruption to existing lessees	£75,000	
Full scaffolding and top hat	£100,000	
Lift and staircase	£150,000	
Roof works	£100,000	
Services	£25,000	
Build and professional fees	£275,000	
Re-sale costs	£23,000	
Interest and financing allowance	£66,000	
Profit at 20% of GDV	£220,000	
Costs sub-total	£1,104,000	
Residual value		(£4,000)
But say		£0