

Y Tribiwnlys Eiddo Preswyl

Residential Property Tribunal Service (Wales)

Leasehold Valuation Tribunal (Wales)

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DECISION AND REASONS OF RESIDENTIAL PROPERTY TRIBUNAL

Leasehold Reform Act 1967, s.21 (1) (a)

Premises: 32 Caerphilly Road, Cardiff CF14 4AF (“the premises”)

RPT ref: LVT/0001/04/20

Hearing: 4th September 2020

Applicant: SUHAIL AHMED and AZEEM AHMED

Respondent: NIGEL ROBERT GILBERT and MARLENE RUTH GILBERT

Tribunal: Mr JE Shepherd
Mr R Baynham FRICS

ORDER

The value of the premium payable by the Applicants for the freehold of the premises as at 21st August 2019 is assessed at £91,000.

Dated this 30th day of September 2020

Judge Shepherd

Introduction

1. The Tribunal is dealing with a valuation dispute. The Applicants applied to the Tribunal pursuant to the Leasehold Reform Act 1967 s.21 (1)(a). They had bought the freehold of the premises for £100000 at auction on 16th May 2019. The Respondents are the owners of the leasehold interest pursuant to a lease dated 17th June 1922. The lease was for a term of 99 years at an annual ground rent of £9.34 without review.
2. The parties have been unable to agree the value of the freehold. A hearing took place on 4th September 2020 following an inspection of the premises and an external inspection of the comparables specified by both surveyors by Mr Baynham.

The law

3. The Act enables tenants of long leases let at low rents to enfranchise their properties – in other words to acquire the freehold on terms. One part of this procedure requires a Leasehold Valuation Tribunal to determine the purchase price, in accordance with the appropriate valuation methodology as set out in the Act. The valuation methods are set out in s.9 of the Act, which has been amended several times and now provides for valuation upon a number of different bases, depending upon which category the property and the lease fall into. In the present case the valuation is carried out in accordance with section 9(1).

The Inspection

4. The property comprises a larger than average semi-detached house which was built approximately 95 years ago. It is constructed of brick exterior walls which have been cement rendered and has a pitched timber framed roof overlaid in tiles. The property has full gas central heating and double glazed Upvc windows and door to the front elevation. The accommodation on the ground floor comprises an entrance porch, entrance hall, lounge, dining room, kitchen, w /c and a conservatory. On the first floor there is a landing, three double bedrooms, a $\frac{3}{4}$ size bedroom, and a bathroom comprising a bath, wash hand basin and a W/C together with a separate shower.
5. The property generally is in an acceptable condition but would benefit from refurbishing to the kitchen and bathroom, replacing the wooden windows to the rear and the rooves to the ground floor utility extension. The house has a relatively small front garden with hard standing for 2 vehicles to the side. The rear garden, which does not have the benefit of a rear access, is enclosed by brick boundary walls and consists of a paved area and lawn with a flower and shrub border. There is a summer house.
6. The property is located within very close proximity to the Gabalfa interchange where 2 major roads, Manor Way and Caerphilly Road, meet and is recognised as one of the busiest roads in Wales and due to the volume of traffic car parking is not allowed on this section of the road. It is within walking distance of local shops and all other amenities are available in the City centre which is 1.5 miles distant.

Representation

7. Both parties relied exclusively on the evidence and representation of their experts, Mr Ed Meyer (MRICS) for the Applicants and Mr Geraint Evans (FRICS) for the Respondents.

Issues in dispute

8. All of the key valuation issues were in dispute, namely the entirety value (Applicants: £345,000. Respondent: £265,000), standing house value (Applicants: £300,000. Respondents: £260,000) and site percentage (Applicants: 33.33%. Respondents: 25%)
9. The parties agreed on the capitalisation rate (6.5%) and the deferment rate (5%). They also agreed that there should be a deduction of 10% for Schedule 10 rights.
10. The Applicant's expert assessed the value of the freehold at £120,000. The Respondent's expert assessed the value at £75,370

The hearing

It was agreed, in consultation with all the parties, that the hearing should take place using the Welsh Tribunal's video platform with all participants taking part remotely. We were satisfied with the arrangements made and are confident that all parties were able to take part fully and fairly and we were able to deal with this dispute fairly and justly.

11. The parties helpfully made their submissions on each of the issues in sequence

Entirety value

12. For the reasons expressed in the section relating to the Standing House Value, the Tribunal considers that the property at 60 Caerphilly Road which sold for £275,000 in August 2019 represents the most suitable comparable as this is a four bedroomed property having the fourth bedroom in the attic area and Mr. Meyer considered it to be fully developed.
13. Mr. Meyer in his report and at the hearing assessed the entirety value for 32 Caerphilly Road at £345,000 suggesting that it was not fully developed and could have a 5th bedroom in the attic space.
14. Mr. Evans considered the entirety value to be £265,000 and submitted that the subject property was entirely developed but conceded that a higher standard of fixtures and fittings could provide a higher value.
15. Mr. Evans also queried whether it would be feasible or practicable to actually build a new house on a cleared site in this location due to the lack of rear access and the problems relating to parking restrictions on the road. Reference was also made to the probable extra conditions that would probably be imposed by the Local Authority as indicated in relation to 4, Heath Park Lane and detailed in 7.12 of Mr. G. Evan's report.

16. As stated above the inspection revealed that the standard of the fittings in the kitchen and bathroom would benefit by upgrading. Although there are UPVc double glazed windows to the front, the window frames to the rear are wood and the condition of the roof to the conservatory and the utility room are in poor condition.
17. Hague on Leasehold Enfranchisement, 6th Ed at para 8.08 states:-

... It may be appropriate in certain cases, e.g. where the house is small in relation to the site or to the neighbouring properties, to assume that the house has been extended or even wholly or partially replaced by a larger house, provided that the potential is realistic and not fanciful.
18. Although the subject property is physically larger than that of 60 Caerphilly Road it was agreed by the respective surveyors that the frontage of all the houses on this side of the road was basically the same although No. 32 had a bigger rear garden.
19. The Tribunal do not consider that the house 'is small in relation to the site' and concur with Mr. Evans that with the exception of the works described previously, the property is fully developed. Consequently, taking all the relevant factors into account and doing the best it can, the Tribunal considers that the entirety value should be assessed at £300,000

Standing house value

20. The respective experts had adopted different approaches to assessing the value. Mr Evans in his report provided a schedule of 10 linear properties on the same side of Caerphilly Road within close proximity to the subject property which provided an adjusted average figure for August 2019 of £259,184 per property. The Tribunal considered that 4 of these comparables, namely Nos. 28, 42, 54, and 62 were too historic (i.e the transactions took place between July 2000 and February 2004) to be of relevance, however when these 4 properties were deleted from Mr Evans' schedule the average adjusted figure for August 2019 was still £258,895. Mr Evans stated that within the average there will be properties entirely developed, properties in good condition and properties in poor condition. He conceded that he was unaware of the actual condition of the remaining 6 properties contained in his schedule and accepted that this was an average which could either increase or decrease depending on the actual condition of each property.
21. Mr. Evans in his report (G.E. 3) and at the hearing referred the Tribunal to the air pollution and the level of nitrogen dioxide at this location and referred to the 2019 Annual Air Quality Progress Report for Cardiff Council and specifically to monitoring point 106 attached to No. 30 Caerphilly Road, which is the other half of the subject semi-detached house and to the LAQM Annual Progress Report 2019 where in the final column for monitoring point 106, it indicates that this location represents 'the worst case exposure'.

22. Mr Meyer relied upon the schedule contained within his report which listed 9 comparable properties. He conceded that although 33 St. Helens Road, 16 Rhydhelig Avenue and 2 St. Georges Road and to a certain extent 8 Lon y Groes were relatively close to the subject premises, they were situated in a more desirable area.
23. Having externally inspected the remaining 6 properties on Mr Evans schedule, and also the properties specified by Mr Meyer, the Tribunal agree with Mr Evans' analysis that as soon as you go behind the Caerphilly Road properties on Gabalfa Interchange you enter the "St.'s" roads which have a totally different character and have totally different prices. During the hearing Mr Meyer said that he was aware of a recent transaction (although he did not present any documentary evidence), at 45 Caerphilly Road which had recently been sold subject to contract for £300,000 plus. From the plan attached to Mr Meyer's report it was established that this property was on the other side of the road, had a rear access and was further away from the intersection, consequently in a slightly better location.
24. Mr. Meyer in his report and at the hearing also referred in some detail to 20 Caerphilly Road which was originally a 4 bedroomed property and marketed in 2013 for £260,000 although it was withdrawn from sale before attracting a purchaser. Planning permission was subsequently granted for alterations to the existing house which became a 3 bedroomed property (20 Caerphilly Road) and for the construction in the rear garden for a 2 bedroomed property, named Ty Hapus. Mr. Meyer stated that 20 Caerphilly Road sold for £253,000 in April 2017 – equivalent to £263,818 at August 2019 prices and Ty Hapus sold for £175,000 in June 2016.
25. The original property at 20 Caerphilly Road had basically the same internal footprint as No.32 but had the advantage of abutting St. George's Road which is basically a cul de sac where it abuts Caerphilly Road. Consequently, parking is available in that road and the access to Ty Hapus is from St. George's Road. The previous owner of the original 20 Caerphilly Road maximised and fully developed that site but this type of redevelopment is not possible for 32 Caerphilly Road as it does not abut another road or have a rear access.
26. The Tribunal, during its inspection noted that No. 19 Caerphilly Road which is almost opposite the subject property, had been sold. Upon making enquiries we were informed that it was a 3 bedroomed terraced property which was sold subject to contract for £197,000.
27. Having inspected all the comparables mentioned by both parties, the Tribunal considered that the transaction in relation to 60, Caerphilly Road was the most helpful as it was a 4 bedroomed house albeit that the fourth bedroom was an attic type conversion and the transaction took place in August 2019 which is the same month as the date of the valuation. Although No. 60 is in a better location being further away from the busy intersection, it is a smaller property and consequently has a smaller internal area. Taking all the relevant facts into account and doing the best it can the Tribunal considers that the Standing House Value should be £285000

Site percentage

28. Both Parties agreed that as a starting point for the calculation of a Section 15 rent for a semi-detached house in Cardiff the figure of 33.33 % is appropriate. Mr. Meyer maintained this percentage. Mr. Evans however contended that due to the location of the house on an extremely busy road with no residents parking, the level of air pollution, and the constraints that would restrict any potential purchaser or builder in developing a plot in this location, a reduction in the percentage figure from 33.33 % to 25.00 % was appropriate
29. The Tribunal queried with Mr. Evans whether he was double discounting in seeking a lower entirety value due to its location and perceived traffic, site management and pollution problems and at the same time seeking a lower percentage to obtain the site value. This was denied and he reiterated that in his view the entirety value was £265,000.
30. Mr. Meyer submitted that the problems that a hypothetical developer would have in relation to planning, site management and air pollution were irrelevant. The Tribunal accepts that the site restrictions would have a profound effect and would justify a deduction in the percentage but not to the degree suggested by Mr. Evans.
31. Hague, chapter 8 -10 reveals that the site value proportion can vary considerably depending on the locality. *The problem (and the inherent weakness) of the standing house approach is the selection of the appropriate percentage of the entirety value attributable to the site.* Nonetheless, Hague also makes clear that the percentage adopted depends on the evidence and the individual circumstances of each case and the Tribunal are not bound to follow previous decisions. Taking all matters into account and doing the best it can, the site percentage that best reflects the restrictions identified in the subject property is 27.50 %.

Schedule 10 Rights

32. The Tribunal are mindful of the decision of *Midland Freeholds Limited v Speedwell Estates Limited* [2017] UKUT 463 (LC) but consider that as there are only 1.45 years remaining there is a slight risk of the Lessee remaining in possession at the end of the lease as an Assured Tenant. The Tribunal in the case of 58 Pontneathvaughan Road, Glynneath (LVT/0037/10/18 and also 13 Hill Street, Swansea (LVT/0055/03/20) considered that where there were 6.4 and 6.7 years respectively remaining, that a discount of 5.00 % was applicable. In the present case there is only 1.45 years remaining however in light of the fact that both surveyors have suggested a discount of 10 % the tribunal are comfortable with that figure.

The calculation

The amended calculations are attached.

Dated this 30th day of September 2020

Judge Shepherd

32 Caerphilly Road, Cardiff

Stage 1

Ground Rent	9.34		
Y. P. for 1.45 years at 6.50 %	<u>1.3435</u>		12.55

Stage 2

Entirety Value		300,000	
Plot value at 27.50 %		82,500	
Modern Ground Rent at 5.00 %		4,125.00	
Y. P. for 50 years at 5.00 %	18.2559		
P. V. of £1 for 1.45 years at 5.00 %	<u>0.9317</u>	<u>17.009</u>	70,162.13

Stage 3

Standing House Value	285,000		
Less Schedule 10 rights at 10.00 %	<u>28,500</u>	256,500	
P. V. of £1 in 51.45 years at 5.00 %		<u>0.0812</u>	<u>20827.80</u>

Total **91,002.48**

Say **91,000.00**