



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

Case reference : **BIR/17UH/MNR/2021/0048**

Property : **Sanders Cross House, 105 Woodhead
Road, Tintwistle, Glossop, Derbyshire
SK13 1HR**

Applicants : **Mr R A Hodgetts-Haley and Miss R L
Summers**

Representative : **None**

Respondent : **Highways England Company Limited**

Representative : **Carter Jonas LLP**

Type of application : **Reference to the Property Tribunal of a
notice proposing a new rent under an
assured periodic tenancy pursuant to
section 13(4) Housing Act 1988 (as
amended)**

Tribunal member : **Judge C Goodall
Mr A Hossain
Mrs K Bentley**

**Date and place of
hearing** : **By video link on 29 October 2021**

Date of decision : **29 October 2021**

WRITTEN REASONS FOR A DECISION DATED 29 OCT 2021

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Background

1. The Applicants are the tenants of the Property described above under a tenancy agreement dated 10 September 2015, for a fixed term of 12 months ('the Tenancy'). The Tenancy is continuing as a monthly periodic tenancy under section 5 of the Housing Act 1988 ("the Act"). The initial rent was £650.00 per month.
2. On 8 July 2021 the Landlord's agent served a notice under section 13 of the Act proposing a new rent of £775.00 per month ("the Notice"), to come into effect from 1 September 2021.
3. The Applicants referred the Notice to this Tribunal on 24 August 2021.
4. The Tribunal inspected the Property on 27 October 2021. We were shown around the Property by the Applicants. Neither the Respondent nor its agent attended the inspection.
5. On 29 October 2021, at the request of the Applicants, the Tribunal held a hearing of the application by video. The Applicants attended and gave evidence. Neither the Respondent nor its agent attended. Upon telephone enquiry from the Tribunal as to whether they wished to do so, a member of staff from Carter Jonas LLP joined the hearing purely as an observer. She had no instructions to represent the Respondent, and did not seek an adjournment.
6. The Tribunal determined that the section 14 open market rent for the Property as at the 1 September 2021 was £650.00. Our reasons for so deciding are set out below.

Law

7. Section 14 of the Act requires the Tribunal to determine the rent at which the Property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy having the same periods as the Tenancy, starting on the date of the new period specified in the Notice (i.e. 1 September 2021), and on the same terms as those in the Tenancy. There is an additional assumption about service of notices under Schedule 2 of the Act which does not apply.
8. The Tribunal also has to disregard the effect of their being a sitting tenant, and improvements made by the existing tenant (unless the tenant was obliged to make them), and any failure on the part of the tenant to comply with the terms of the tenancy.

The Property

9. The Property is located on the A628 on the very eastern edge of the village of Tintwistle. It is the first building that is reached after the A628 crosses the Peak District National Park from the direction of Barnsley. It is located on the slope of a valley, with attractive views across unbuilt land, but it feels somewhat isolated and exposed. The A628 is one of the few means of crossing the Pennines from the western conurbation of Manchester to the eastern conurbations of Leeds / Barnsley, and we understand the road to be extremely busy, particularly in the summer months. It is a single carriage road carrying traffic (including lorry traffic) in both directions.
10. There is a small car parking area immediately to the east of the Property on a driveway that leads to an adjoining farm.
11. The Property is detached. Because it is built on a slope, the depth of the house is very narrow. It is of stone construction with composite tiled roof, probably built in two sections, being a western section on two floors, and a larger eastern section arranged on three floors. The eastern section is probably Victorian; the western section is much more recent (possibly around 1970). The main entrance door is in approximately the middle of the Property, off the main road. There is a rear door located directly opposite the front door which leads to a rear patio.
12. The Property has full gas central heating and double glazed upvc windows. The ground floor comprises an entrance hall, with a modern fitted kitchen off to one side and a lounge to the other. There are steep stairs leading from the entrance hall to the first floor which has two bedrooms and a bathroom in reasonable condition. Stairs then lead to the second floor which has a bedroom and a boxroom/study.
13. Internal décor is in reasonable condition, with new carpets in a number of rooms, and a new rear door in December 2020. There is some evidence of damp in the ground floor internal walls of the elevation facing the A628. The Tribunal surmises that this may be caused by poor pointing to the first five to six courses of stone-work. It is evident that the pointing has failed and is crumbling. There is also an air brick in that elevation which has been blocked up. There is some evidence of damp to the ceiling on the second floor, indicating that there may still be some rainwater coming through the roof in the centre of the Property. It was evident that there had been some reasonably serious rainwater leaking through the eastern end of the roof in the recent past, which the Respondent believes has now been resolved.
14. There is some minor cracking to the stonework where it adjoins the window frames which is probably consistent with the age of the Property.
15. The Property has a significant flooding problem caused by rainwater run off from the hills above. At the rear of the property there is an area that is laid to stone paving running along the whole length of the Property and being in the region of 3 metres wide. The paving slopes towards the back door of the

Property which is the lowest point to the paving, and which is in effect a drainage well for all the accumulating rainwater. It is evident that the drains in the area are inadequate to prevent a build-up of water in the well immediately outside the rear door, which consequently results in flooding of the downstairs entrance hall on a regular basis.

16. Apart from the rear patio area, there is a small amount of amenity space immediately to the east of the Property, adjoining the farm driveway on which the Applicants have placed a shed / garage. Immediately above that construction, there is a small additional area that could be used for parking. In fact, the Applicants have used it for storage of old cars which Mr Hodgetts-Haley repairs. Immediately to the west of the Property is a small significantly sloped grass area which has minimal amenity value.

Our findings about the Property

17. From our inspection, and from Mr Hodgetts-Haley's evidence at the hearing, our findings about the Property are:
 - a. The Property is a three / four bedroom, stone built property in attractive countryside on the edge of Tintwistle;
 - b. The fourth bedroom is very small and should be regarded as only suitable for use by a child, or for a study or boxroom;
 - c. The Property layout is significantly restrictive of full use of the Property, due to the steep stairs and restricted front to back layout, and the site layout is very tight;
 - d. There is water ingress into the Property, and frequently into the kitchen, due to the poor drainage arrangements at the rear of the Property and the location of the rear door at the point where undrained rain water accumulates. The evidence was that this occurs at least twice a month and possibly more frequently (which we accept);
 - e. Proximity to the busy A628 road is a significant issue when considering the attractiveness of the Property to the rental market, as the road is busy and noisy, and it is frequently impossible to turn right out of the Property. The exposure to car fumes is likely to be greater than in a residential area;
 - f. Being right on the edge of the village, there is at least one mile to travel to any amenities, and significantly further for food shopping and leisure venues; these are not easily accessible on foot. The Applicants evidence was that the nearest grocer was in Hadfield, some three miles from the Property. The doctor and pharmacy were likewise in Hadfield. The nearest bus stop was at least a mile away;

- g. There are still issues with damp despite some remedial work having been undertaken recently, particularly with regard to the pointing of the front elevation where there is evidence of crumbling mortar;
- h. The Applicants own all the white goods and the garage / shed is their improvement which should therefore be disregarded.

Comparables

18. The parties suggested comparable properties on the rental market from which the Tribunal could determine the open market rental value.

19. The Applicants suggested the following comparables:

- a. A detached property at 20 Towngate, Thurlstone, which is approximately 15 miles from the Property, also on the A628 and within the Peak District National Park. It is a 2 bedroom property, though it is said to have a larger floor footprint than the Property. In around June / July 2021, it was on the market for rental for a rent of £600pcm. It had been renovated recently with a brand new kitchen and new carpets throughout and was said to be within walking distance of the town centre;
- b. A 3 bedroom end terrace property at 39 Sheffield Road, Glossop. Again, this was said to have a larger footprint than the Property, though fewer bedrooms. It was said to be in close proximity to local shops, with upvc double glazing and FGCH. The asking rent on Facebook Market place in June 2021 was £575.00 pcm;
- c. We were also shown details of eight more 3 bedroom properties for rent in Glossop (which is around 3 – 4 miles from Tintwistle). Seven of these were terraced or mews properties offering 3 bedrooms at an average rent of c£680pcm (lowest price £625, highest £725); the eighth offered 4 bedrooms at £700pcm.

20. The Respondent offered as comparables:

- a. 57 Castle Lane in Stalybridge, which is a 3 bedroom property, close to local amenities with modern fitted bathroom and kitchen and an en suite master bedroom, on the market for £925pcm;
- b. A 3 bedroom detached property in Lime Field, Hyde, with two bathrooms. Little further detail is given, but the photograph seems to indicate this property is on an estate, on level ground, and it appears to be recently constructed. The rental asking price is £1,100pcm;
- c. A 3 bedroom, two reception, terraced property on High Street East in Glossop said to be in the town centre, with modern interior, and with an asking price of £800pcm;

- d. Another 3 bedroom terraced property in Duke Street, Glossop, again within walking distance of central Glossop, on the market for £775pcm;
- e. Three more 3 bed terraced properties in Hadfield, Glossop on the market at an average rent of £775pcm.

Discussion

- 21. We agreed with both parties that for comparison purposes it was appropriate to look at 3 bedroom properties, to reflect the restrictive layout of Sanders Cross House and the small dimensions of the fourth bedroom.
- 22. It is apparent that a 3 bedroom terraced property, close to local amenities, and with a conventional layout, can be rented fairly easily in Hadfield or Glossop. It is unlikely that such properties would have significant repair or flooding problems. We found it difficult to use the 12 or so comparable properties falling within this description that were brought to our attention as particularly useful comparables for determination of the market rent of the Property, due to the distinctions of proximity to local amenities, layout, condition, and distance from the Property. Of all that were suggested as comparables, we noted that the Respondent had chosen those with the highest rental value, and the Applicants those with the lowest (though in fairness they had also included some at a higher rent). Our view was that there is a range of rental values for 3 bedroom terraced properties in Hadfield / Glossop (no doubt being affected to an extent by features of those properties) in the range of £650 to £750pcm.
- 23. The property in Hyde seemed to us to be wholly different from the Property; it was probably new build, in an estate and some distance from the Property. We disregarded it.
- 24. The Sheffield Road property in Glossop seemed to have a market rent somewhat out of kilter with other Glossop comparables. As it was an outlier in value terms, we were cautious in using it as comparable evidence.
- 25. The property which appeared to be closest to the Property as an appropriate comparable was the Thurlstone property, with an asking rent of £600pcm. The similarities were its location on the A628, and the accommodation offered. However, we were cautious about simply adopting its rental asking price as indicative of the open market value of the Property as its location is some 15 miles from the Property, on the eastern as opposed to the western side of the Pennines. Neither party had explored that market with any additional comparables and we took the view that proximity to the Manchester conurbation may have some impact on rental value.
- 26. The Property has significant issues, as we have identified. These will, in our view, undoubtedly have a depressing effect upon the rent that a willing tenant would pay, being fully appraised of those issues. The market is fairly limited in the light of the issues identified.

27. The Property commands a rent now of £650pcm, and in our view, doing the best we can and using the experience we have, it is properly rented at that level. For that reason, we fixed the open market rental value as £650pcm.

Appeal

28. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
Chair
First-tier Tribunal (Property Chamber)