

UPPER TRIBUNAL (LANDS CHAMBER)



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TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

*COMPENSATION – compulsory purchase – dwelling house in a Regeneration Area – valuation – methodology – comparables – Land Compensation Act 1961 section 5, rule (2) – compensation determined at £52,000*

IN THE MATTER of a NOTICE OF REFERENCE

BETWEEN ANTHONY PETER GRIFFITHS Claimant

and

SALFORD CITY COUNCIL Acquiring Authority

Re: 35 Hampshire Street, Salford M7 2AQ

Before: P R Francis FRICS

Sitting at: Manchester Civil Justice Centre, 1 Bridge Street West,  
Manchester M60 9DJ

on  
20 May 2009

The claimant in person assisted by his brother, Guy Griffiths, as litigation friend  
*John Barrett*, instructed by the City Solicitor, Salford City Council, for the acquiring authority

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## DECISION

1. This is a reference, heard under the simplified procedure (rule 28, Lands Tribunal Rules 1996), to determine the compensation payable by Salford City Council to Mr Anthony Griffiths (the claimant) in respect of the compulsory acquisition of 35 Hampshire Street, Salford (the subject property) under the City of Salford (Higher Broughton Regeneration Area No 1) Compulsory Purchase Order 2003 (the CPO). The CPO was confirmed on 4 August 2004, a General Vesting declaration was made on 21 January 2005, and the formal transfer took place on 21 February 2005, which is the valuation date for the purpose of this reference.

2. The claimant was the freehold owner of the property, and appeared in person. He produced a statement of case, valuation opinions and a bundle of appendices upon which he intended to rely in his contention that the property was worth £120,000 at the valuation date. Mr Griffiths was assisted by his brother (with permission of the Tribunal). Mr John Barrett of counsel appeared for the City Council and called Mr Dylan Vince BSc (Hons) PG Dip MCIH, Programme Manager, Housing Market Renewal, with the council, who provided a witness statement setting out the factual background to the acquisition. He also called Mr Russell Fine BSc (Hons) MRICS, a senior surveyor acting as a consultant to the council, who gave expert valuation evidence in support of his opinion of value of £36,500.

### Facts

3. A brief statement of agreed facts was produced, from which, together with the evidence and my inspection of the area in which the subject property had formerly been located, and a number of the comparable properties referred to, I find the following facts. The subject property comprised a pre-1918 flush-to-pavement two-storey inner terrace house constructed of brick under slate roofs, and contained hall, living room, lounge and kitchen on the ground floor together with three bedrooms and a bathroom at first floor. There was a small yard to the rear, and the property, which had a mixture of timber framed and UPVC windows, included partial central heating. It had a gross external area of approximately 106 sq m and was located on the north side of Hampshire Street, in a mature grid-pattern residential area of Salford, accessed from the City of Manchester via the A56 Bury New Road. At the valuation date, the property was habitable and was described by Mr Fine as “in a state of repair generally commensurate with its age and its nature of construction.” Local community facilities were located nearby including a small shopping precinct at Newbury Place on the frontage to Bury New Road to the west, and further shops on Leicester Road to the east.

4. During the 1990s the council became concerned that the oversupply of terraced housing, low ownership ratios, social deprivation, abandonment and other housing market issues was having a detrimental affect upon the area of Higher Broughton. As part of the government’s National Housing Policy Framework, and in accordance with the North West Regional Housing Strategy of promoting replacement of obsolete housing, a housing market renewal programme was developed. The subject property fell within one of the areas under review by the Manchester Salford Pathfinder (MSP) programme, and the Salford City Council Housing Strategy (2004 – 2006): “Making the Future Happen in Salford” included a regeneration initiative to address the social and economic issues of the area. Community engagement and

input had been sought from residents of the Higher Broughton area, following an initial strategic review in 1998, in developing the proposed regeneration scheme. Thus, after the failure of a number of previous attempts by the council, in partnership with others, to address the concerns over the area on a piecemeal basis over a number of years, and with the continuing decline in demand for this type of housing stock after 1998, following an independent review in 2001, the council decided to pursue clearance by making a CPO in 2003. A public inquiry was held, and the CPO was confirmed in August 2004. The council's intentions were to provide replacement housing, parks and public open spaces and other appropriate local facilities. The subject property was located in CPO area No. 1.

### **Claimant's case**

5. Mr Griffiths said that he had lived in Salford all of his life, and at the subject property since 1983. He was aware, he said, of the rules regarding the assessment of compensation, and that any effects, good or bad, resulting from the CPO scheme were to be ignored. However, he said, in order to disregard something, one must first obtain knowledge of what it is that is to be disregarded. He said that the area became sterilised from as far back as 1996 due to rumours that that it was likely to become the subject of a CPO. Despite a denial by the council in response to a written question from a local resident in 1995 that any properties in Hampshire Street were being considered for demolition, the council started buying up properties in the area by negotiation in 1996. These were then boarded up, the effect of which was to accelerate the general air of decline and lead to significant degeneration. A number of proposals for the regeneration of the area were subsequently put forward, and whilst Mr Griffiths acknowledged that local residents were consulted, he said that the council kept changing their minds as to the appropriate way forward.

6. In order to arrive at a value for the property at the vesting date, it was necessary to consider similar properties in areas that were not affected by any of the schemes, and in his view those on Gainsborough Street (on the other side of Leicester Road) and its adjoining streets (Bristol, Heaton, Symons, Norton and Kimberley Streets), were appropriate. This area was known as the Mandley Park area. Although not included in any of the various CPO schemes, they were immediately adjacent to the Top Streets CPO area (CPO Area No. 2); residents of those streets had expressed equal concerns in the past about social deprivation and the like, and the location was also considered by the council to have suffered from similar physical and social problems to those that created the need for the various schemes to be developed. Mr Griffiths said that, historically, prices for properties on either side of Leicester Road had been broadly similar, varying only to reflect condition, extent of modernisation, extensions or other specific differences, and he produced extracts from the local Home Seeker newspaper from 1994 (one year before scheme rumours began) clearly indicating parity at that time. He also produced schedules of sales in all of the relevant streets from 2000 to 2008 and these, he said, proved that Mr Fine's suggestion that the areas were not comparable was unsustainable.

7. Mr Griffiths said he had received an offer of £21,000 from the council for his property in 2001, and produced evidence to demonstrate that, at around that time, properties in the Gainsborough Street area were, if anything, somewhat less. For example, 80 Leicester Road had been on the market in 2000 at £15,000 and 19 Symons Street was sold for £12,500 in

December 2002. The Leicester Road property was resold in April 2005 for £150,000 (two months after the GVD). House prices rose by up to 700% between 2000 and 2005 and the schedules demonstrated the significant increases that had taken place. For example, 15 Gainsborough Street was sold for £5,250 in May 2000, £6,500 in March 2001, £12,000 in 2004, and £50,000 in May 2004. Similarly, 13 Gainsborough Street sold twice in 2004 (at £12,000 in February and £17,500 in April) and £88,572 in March 2005. It was inconceivable, he said, that, ignoring the effects of the scheme, the subject property could only be worth £36,500 at the valuation date, when similar, unaffected properties in the Gainsborough Street area were selling by that time at prices ranging from £75,000 to over £100,000.

8. With those parts of the regeneration scheme that had been undertaken having been singularly unsuccessful, there was no evidence whatsoever, as suggested by Mr Fine and by Mr Vince, that it was having any knock-on effect upon prices in the off-scheme streets. It was the rise in property prices generally, and the burgeoning buy-to let market that had created the rise in values, even in areas acknowledged to have been, and are continuing to be, plagued by ongoing social and physical problems. There was also a significant demand for properties in the area from the local Orthodox Jewish community, and there was again no reason to differentiate between the east and west sides of Leicester Road in terms of the effects that demand would have.

9. Mr Griffiths produced two valuations that he had obtained; one from a local estate agent, Philip W Gilbert MRICS of J B & B Leach dated 12 July 2007, and the other, dated 28 September 2007, from a Mr John Earnshaw FCIH of Lansdowne Housing and Regeneration Consultancy of Barnsley. The latter valuation followed a purported “expert witness report” from Mr Earnshaw that had been included with the claimant’s original statement of case. That report, the Tribunal advised upon receipt, was not in the form required, did not contain a statement of truth and did not comply with the RICS’ Practice Statement *Surveyors Acting as Expert Witnesses*. In any event, that report did not include a valuation but was a comment upon the compulsory purchase and compensation regime. Although the authors of each of the valuations gave their consent for them to be used in evidence, neither was called by Mr Griffiths.

10. Both of the valuations, Mr Griffiths said, assumed a no-scheme world, and ignored any affects thereof. Mr Gilbert’s valuation conclusion was:

“10.1 On the basis stated, we would expect the market value of this property, assuming a ‘No-Scheme World’ with all things being equal and in present market conditions, to be fairly reflected in the sum of £120,000 (one hundred and twenty thousand pounds).”

Mr Earnshaw’s valuation, set out on a pro-forma basis, gave a figure, “in present condition...” of £118,500.

11. In response to a question from the Tribunal, and to cross-examination, Mr Griffiths said that although neither of the valuations referred to the valuation date of February 2005, and both of them quoted values “at the present time”, the valuers “meant the valuation date”. He acknowledged that even though he had been put on notice, by a letter from the council dated 29 April 2009, neither of the valuers had produced a letter to confirm that that was the case.

He said that although the valuations were printed out in 2007, they undoubtedly were intended to reflect the 2005 value, as by the time they were printed, the property had long since been demolished. As to why they were not called, Mr Griffiths said that neither of them could have added anything to what he, and his brother, already knew about the area. Mr Griffiths also accepted that Mr Earnshaw was not a qualified valuer, but said that he would not have produced it if it “were not legal.”

12. In connection with his suggestion that the area in which the subject property was located had been sterilised by the impending scheme, he accepted that local residents and the public had been consulted about the various options, but said that, nevertheless, all the uncertainty had caused stagnation, and accelerated the deterioration of the area. He accepted that there was no evidence that the demand for properties in the area from the Jewish community extended to Hampshire Street, acknowledged that their community tended to be concentrated more to the north of Wellington Street East and in the Mandley Park area, and was more likely to be seeking bay fronted properties. As to the comparables that Mr Fines had relied upon, Mr Griffiths said that the “Cliff” area was not, as had been intimated, unaffected by the schemes and, furthermore, that estate was accessed through a council estate.

### **Acquiring authority’s case**

13. After setting out in detail the background to the various regeneration schemes (summarised briefly under ‘facts’ above), Mr Vince concluded that the Higher Broughton neighbourhood had historically displayed the characteristics of an unbalanced housing market, with a low proportion of owner/occupiers, a high proportion of smaller terraced housing and above average levels of private rented stock. The proposals that had been developed for the area were in response to high levels of abandonment and dereliction, and the radical redevelopment solutions only came about following the failure of earlier attempts to bring empty properties back into economic use. The redevelopment was entirely consistent with Government policy, he said, and resulted in an improvement to the mix of housing types in the area and provided the type of accommodation and appropriate neighbourhood settings that would help to attract families to live in Salford.

14. In cross-examination, he confirmed that when the council acquired properties by agreement, prior to the CPO, they were simply boarded up and left, and accepted that there had been problems with burst pipes and vandalism.

15. Mr Fine is a chartered surveyor who, apart from a 6 year break from 1998, has some 34 years experience as a District Valuer and senior surveyor within the Valuation Office Agency, and has been involved with compulsory acquisitions and compensation negotiations in connection with the various Salford CPO schemes since 2004. He said that in considering the value of the subject property at the relevant valuation date, he looked at three broad areas of evidence. Firstly, sales outside the CPO areas in streets to the west of the scheme, on the far side of Bury New Road (known as the Cliff area); secondly settlements relating to properties within the relevant CPO areas where claimants had been professionally represented and, thirdly, sales evidence in the streets to the east of Leicester Road (known as the Mandley Park area and including Gainsborough Street).

16. The Cliff area, which included Manley Street, Douglas Street and Wellington Street West was, he had concluded, the most comparable, but adjustments to sale prices were needed to reflect the fact that the properties were generally of a more pleasing and varied style, including a mix of flush and bay fronted units, some flush to pavements and some with front gardens. The street environment was also better, being generally wider and more open. Having analysed a number of sales that took place immediately before the valuation date, excluding the highest and lowest prices, but including a number of inter-company transactions (where there could well have been circumstances to suggest that they were not at “arms length”), the prices devalued to an average of £420 per sq m. It was this evidence, Mr Fine said, that formed the basis for his negotiations with surveyors acting for claimants in the CPO area.

17. He produced breakdowns relating to 4 settlements in nearby Wiltshire Street (but none on Hampshire Street). No. 33, with a valuation date of 4 February 2005, was slightly smaller than the subject property (99 sq m) and had full central heating but was otherwise very similar. That was agreed at £35,000 (£354 per sq m). No. 17 was end-terrace and slightly larger (111 sq m), but otherwise all but identical. The value was agreed at £38,500 (£347 per sq m) with the same valuation date. No.47, again 111 sq m, had full central heating, replacement hardwood window frames and had been fully modernised. The agreed value was £40,000 (£360 per sq m).

18. Mr Fine then went on to analyse 13 sales between 1 January and 21 February 2005 in the Mandley Park area, east of Leicester Road, and outside but adjacent to two of the CPO areas. This was the area within which Mr Griffiths thought the properties were the most comparable. Nine of the transactions, he said, involved a company transferee or inter-company transfers. Extracting the highest value alone (which appeared to be totally unrepresentative), the average price was £639 per sq m. He said that, whilst they were mostly, like Hampshire Street, flush to pavement, they had single storey bay windows to the front elevations. Less weight was attached to these comparables because not only was the sales evidence disparate and inconclusive, but the area in general would have been positively affected by the CPO schemes. The sales proved that in early 2005 there was intense activity in the market, particularly from speculators and the buy-to-let market, and it was his view that by then the regeneration effects (both actual and anticipated) of the nearby schemes made the location very much more attractive. Furthermore, the effect of the compulsory acquisition of a large number of similar houses meant that supply had been dramatically reduced, thus adding to the value of those properties that remained. The Mandley Park area, Mr Fine said, was also in demand from the local Orthodox Jewish community, whereas the streets around the subject property most certainly were not; there was a parade of shops (fronting Leicester Road) that added to the convenience and attractiveness of the location to purchasers, and the proximity of Mandley Park itself was a further benefit.

19. Overall, he concluded that the settlements he had referred to in Wiltshire Street indicated a valuation of for the subject property of £36,500, which broke down to £344 per sq m. He said that the valuations that Mr Griffiths had produced from Mr Gilbert and Mr Earnshaw did not appear to be backed up by any comparable evidence, and neither did they appear to be relevant to the required valuation date. In his view, a broad consideration of the available evidence was required, especially having regard to the volatile nature of the market at that time, and the positive impact that the proposed regeneration was having on the area.

Questioned by Mr Griffiths, Mr Fine accepted that the shops on Leicester Road that he had referred to as a benefit to the Mandley Park area were, in fact, on the west side rather than the east, and were thus almost as easily accessible from the subject property.

20. As to the suggestion by Mr Griffiths that whilst the figure that the council offered for the subject property in 2001 (£21,000) would have purchased any one of the properties in the Mandley Park area, by 2005 his valuation of £36,500 would not, Mr Fine reiterated that by then there had been a knock on effect caused by the positive aspects of the schemes. He said that the decline in the area had occurred prior to (and was the reason for) the council's involvement and the effects of the scheme on values in the area generally had to be ignored.

## **Conclusions**

21. Firstly, in connection with the two independent valuations produced by Mr Griffiths, I find I can give them no weight. I accept the acquiring authority's arguments relating to their veracity, and the fact that not only were neither of them produced in the required format of an expert witness report, but also neither of the authors were called, serves only to support my reasons for dismissing that evidence.

22. As to Mr Fine's evidence, I agree that the Cliff area is generally more pleasing to the eye and varied in layout, being less of a rigid grid pattern. Sole access to that area is not through council estates. Although some of the properties could, in my view, be described as more or less identical to the subject property in appearance and accommodation, the overall ambience and feel of the location as a residential area is, to my mind, somewhat superior to the cramped and hemmed in environment of Hampshire and its adjacent streets. Most of the properties have front gardens (albeit very small) and that aspect alone helps to give the area a different "feel". The Cliff is also further away from the subject property than Mandley Park, and being different in a number of ways, I do not agree with Mr Fine that it produces the best comparables. Also, as will be seen below, I have some reservations regarding Mr Fine's schedule of comparables from this area.

23. Turning to Mandley Park, I do have difficulty in agreeing with Mr Fine's views that the area is, and was, so significantly better in terms of its attractiveness to the market. The houses on Gainsborough Street, Symons Street and Norton Street, as examples, are really very little different from those in the area in which the subject property was located. The only marked variance was the bay elevations, meaning the properties were set back marginally further from the pavement edge, but I do not think this is a major difference. In terms of comparison between the location of the subject property and Mandley Park, I am also mindful of the fact that, as agreed by the council, the latter suffered equally from complaints about degradation and social deprivation prior to the schemes. However, I do think the latter is somewhat better in terms of attractiveness to the market, particularly due to its proximity to Mandley Park itself, the shops in Leicester Road – even though they are on the west side, and its appeal to the local Jewish community. I also accept that the removal of a very large number of terraced properties from the market (by the compulsory acquisition of two large estates) could have had some impact upon values of the remaining properties, but do not think that the perceived benefits of the regeneration, especially bearing in mind Mr Griffiths' comments about its lack of success,

would have much, if any, impact upon values. In respect of Mr Griffiths' argument that if values in Hampshire Street in 2001 were on a par with Gainsborough Street and Mandley Park generally, and if any potential of the scheme is excluded from the equation, that should still be the case in 2005, I consider that the above differences suggest that Mandley Park area would certainly have attracted a premium at the valuation date.

24. However, the real difficulty lies in judging just what values actually were in February 2005 in Mandley Park, due to the huge variations in prices achieved and the fact that so many of the transactions may not have been entirely at arms length. In my view the transactions listed in Mr Fine's schedules as inter-company transfers or company purchases must be viewed with considerable suspicion as indicators of arms length open market values. I note that, if those are ignored, 31 Symons Street and 12 Gainsborough Street (both smaller than 35 Hampshire Street), sold in February and January 2005 at £40,000 and £43,000 respectively, but 23 and 48 Heaton Street (also slightly smaller) were both respectively sold in January 2005 at £89,500 and £85,000. The spread is so wide that, without further evidence as to the reasons for the disparity, it is hard to reach a conclusion, from those limited numbers of transactions, as to what the correct market value might be. If one takes just those 4 transactions, the average becomes £64,375, or £607 per sq m based upon the area of the subject property.

25. Certainly, as far as the Mandley Park comparables are concerned, it is clear that Mr Fine has been selective to a considerable degree. Mr Griffiths produced a much more extensive schedule of sales in that area, and it is abundantly clear from it that there were indeed many more sales in Symons Street, Heaton Street, Gainsborough Street, Norton Street and Bristol Street than Mr Fine's schedule would suggest. However, there is no indication as to which were inter-company or "off-market" transactions (although there are some back-to-back sales of the same property which suggest that might be the case in some circumstances), and there are again very large disparities, but it is clear that by the valuation date many more properties were selling in the range £60,000 to £70,000 than there were at much lower prices – that supporting the average price referred to above. The schedules also show that values continued to rise during the rest of 2005 and 2006 at a considerable rate and that confirms Mr Fine's view that the market was extremely strong at and around the valuation date. In my judgment, if demand was strong in that area, it would have also been so in the Hampshire Street area if it were not for the CPO.

26. Turning to Mr Fine's Cliff area comparables – again ignoring the company purchases (5 of which are clearly artificially low) – the same comparison exercise as undertaken for Mandley Park produces from the remaining four an average value of £55,487 or £523 per sq m. However, prices for those transactions varied between £38,000 and £76,000. If the highest value unit (10 Wellington Street) is excluded because it is somewhat larger than the other 3 at 120 sq m, the average price becomes £48,650 or £458 per sq m, somewhat more than the £420 per sq m calculated by Mr Fine. That result is logical, of course, because the 5 low value transactions have been excluded. However, it is again difficult for me to gain much assistance from only 3 or 4 sales, and although Mr Griffiths' production of a more comprehensive schedule for Mandley Park served to support Mr Fine's figures for that area, I am of the view that if as comprehensive a schedule had been produced for the Cliff area, the resulting averages might have been higher. Without that support, it means the strength of Mr Fine's conclusions must be in question. This also means that I am not satisfied that the settlements that Mr Fine



referred to in Wiltshire Street, based as they were upon a limited number of Cliff area comparables, and with an arbitrary reduction, provide grounds for agreeing with his appraisal.

27. In conclusion therefore, doing the best that I can on the information produced, and for the reasons I have given, I take the view that prevailing values in Mandley Park, in the real world at the valuation date, would have been about 20% more than in Hampshire Street. It is a more appropriate area, in my judgment, to compare values than The Cliff and, as I have said, I do not see either CPO area No2 where the subject property was located, or CPO area No.1, having any material effect upon values in the Mandley Park area. It was, as Mr Griffiths rightly stated, in my view, market activity generally and the burgeoning buy-to-let market that was creating rapid rises in values in all areas. I have concluded from Mr Fine's comparables, and Mr Griffiths' more extensive schedule that an average value in Mandley Park at the valuation date for properties virtually identical to the subject property (excluding sales that appear to be off-market or inter-company transfers) was in the region of £65,000 at the valuation date. This breaks down to £613 per sq m based upon the 106 sq m for the subject property, which, less 20%, is £490 per sq m. This produces £51,940 say £52,000 for the subject property.

28. I therefore determine compensation for the compulsory acquisition of 35 Hampshire Street, Salford in the sum of £52,000. This determines the issue in dispute and, having been heard under the Simplified Procedure the question of costs does not arise except in exceptional circumstances. In my view, no such circumstances exist, and I therefore make no award as to costs.

DATED 5 August 2009

P R Francis FRICS