

UPPER TRIBUNAL (LANDS CHAMBER)



UT Neutral citation number: [2009] UKUT 160 (LC)
LT Case Number: ACQ/496/2008

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

COMPENSATION – compulsory purchase – vacant land on riverbank - acquisition of rights to undertake works and thereafter maintain – untraceable owner – valuation of freehold interest – compensation nil

IN THE MATTER of a NOTICE OF REFERENCE

BY

BOROUGH OF TELFORD & WREKIN

Acquiring
Authority

Re: Land at Lloyds Head, Jackfield, Ironbridge,
Telford TF8 7LZ

Determination on the basis of written representations under Rule 27 of the Lands Tribunal
Rules 1996 (as amended)

by

P R Francis FRICS

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DECISION

1. This is a decision to determine the compensation (if any) to be payable by the Borough of Telford and Wrekin, in respect of the compulsory acquisition of rights to enter upon land, undertake emergency stabilisation works, and thereafter forever maintain them on land at Lloyds Head, Jackfield, Ironbridge, Shropshire. The land was acquired under the Borough of Telford and Wrekin (Land at Lloyds Head, Ironbridge, Telford) Compulsory Purchase Order 2008 (approved by the Secretary of State on 25 February 2008) and, by means of a General Vesting Declaration, it vested in the council on 31 March 2008, which is the valuation date.

2. The subject land comprised a steeply sloping area of untended former scrubland situated between a public highway and the south bank of the River Severn on the outskirts of Ironbridge, and extended to 0.11 ha (0.28 acres). It was adjacent to land comprising the car park and beer garden of the Black Swan Public House and was one of five plots belonging to private landowners that were, along with council owned land, affected by major ground movement in April 2007, to the extent that considerable subsidence was caused to the public highway. The severity of the subsidence was such that it became necessary to close the road and provide temporary access for local landowners and businesses whilst a scheme of repair and strengthening was designed. In order to implement the works, which comprised sinking 151 tube piles up to 15 metres into the ground, it was necessary for the council to enter into an agreement with the affected private landowners that gave it authority to enter, carry out the stabilisation works and to re-enter, monitor and repair/renew the works post completion as necessary.

3. The four affected third parties who could be traced entered into the agreement which also prevented them from carrying out any works or development on the land that would interfere in any way with the stabilisation works. The owner of the land, the subject of this reference, could not be traced despite the council's efforts which included public meetings, statutory notices and advertisements in the local newspaper. It was therefore necessary for the CPO to be made.

4. A valuation was provided to the Tribunal by Michael J Tunnicliffe BSc FRICS FAAV of the Shrewsbury Valuation Office of the Valuation Office Agency on 19 June 2009. He set out the background to the acquisition of the rights and the scheme, and said that the works, including the reinstatement of the highway were completed on 31 October 2008. The land has been replanted with saplings, and large boulders have been placed along the edge of the river to mitigate further erosion caused by its fast flowing stream.

5. Mr Tunnicliffe said that due to the topography of the land and its location within a World Heritage Site, consent for any form of development would not be forthcoming. Whilst occasionally this type of riverside property would be of interest to purchasers for amenity use, its steeply sloping nature (thus making it unsuitable for fishing), closeness to the road and the fact that it is seriously overlooked from the pub's beer garden, affecting its privacy, would seriously militate against such interest. Although the stabilisation works were considered by the council to amount to betterment, there was no guarantee that further movement might not

take place in the future and, Mr Tunnicliffe said, it was his view that the land remained a liability rather than an asset. He concluded, therefore, that the value of the land, taking into account all the factors he had described had a nil value, both at the valuation date, and into the future.

6. I am satisfied on the evidence and from the papers that the council took all reasonable steps to trace the owner of the subject land. I also accept and agree with Mr Tunnicliffe's opinion that, for the reasons given, the land had a nil value at 31 March 2008.

7. I therefore determine that the market value of the subject land is nil, and accordingly no compensation is payable into court.

DATED 21 August 2009

P R Francis FRICS