

Rent Assessment Committee: Summary reasons for decision.

Housing Act 1988

Address of Premises

Hillside Paradise Painswick Gloucestershire GL6 6TN

The Committee members were

Mr I R Perry Bsc (Est Man) FRICS Mr J R Boddy MRICS Mr C G Thompson

1. Background

On 21 January 2005 the tenant referred to the Committee a notice of increase of rent served by the landlord under section 13 of the Housing Act 1988.

The landlord's notice, which proposed a rent of £725.00 per calendar month with effect from 1 April 2005 is dated 26 December 2004.

The original tenancy commenced in 1989 and the tenant remains in occupation as a statutory periodic tenant. The current rent is £583.00 per calendar month.

2. Inspection

The Committee inspected the property on 21 March 2005 and found it to be in generally fair condition, although there is some evidence of dampness in the ground floor room, particularly to the side of the chimney breast.

3. Evidence

The committee had received written representations from the landlord and tenant and these were copied to the parties.

A hearing was held at 11.30 am on Monday 21 March 2005 at the Municipal offices, Cheltenham at which oral representations were made by and on behalf of the tenant and on behalf of the landlord.

Miss Ruth Jackson addressed the Committee on behalf of Miss Kinloch-Jones and stated that most of the points she wished to make had already been outlined in correspondence.

She contended that Hillside comprised a unique property but of the various comparables put forward by either side, the property at Castle Godwyn was considered to be the best, the rent achieved had recently been reduced from £850.00 per calendar month to £725.00 per calendar month.

Miss Jackson maintained that the ongoing dispute over the vehicular access proved that there was no legal vehicular access to the property at the present time and that the reductions made from the open market rent by the previous Committee, ie 5% for access, 5% for dampness, 5% for poor heating and £15.00 for carpets and curtains should be applied again.

Miss Jackson also referred to Cherry Tree Cottage which had been put forward on behalf of the owners as a good comparable and she pointed out that this had two separate living rooms and had recently let at only £625.00 per calendar month.

She accepted that some repairs had been carried out to the property, but contended that these were done solely to keep it in reasonable condition and should not be regarded as improvements.

Miss S Scarle appeared on behalf of the landlords and stated that she had only brought one comparable property, ie Cherry Tree Cottage which had recently let at £625.00. When questioned she confirmed that this property was situated approximately one-third of a mile down a track but she produced no evidence as to its condition.

Miss S Scarle also produced a letter from the Rent Service suggesting that a cottage of this nature may have an open market value in the region of £650.00 per calendar

month, but again when questioned, confirmed that no inspection had been made by the rent office. She contended that Hillside, the subject property, did have a heating system by way of night storage heaters and that double glazing would not be appropriate in a property of this type.

4. The law

In accordance with the terms of section 14 Housing Act 1988 the Committee proceeded to determine the rent at which it considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy.

In so doing the Committee, as required by section 14(1), ignored the effect on the rental value of the property of any relevant tenant's improvements as defined in section 14(2) of that Act.

In coming to its decision the Committee had regard to the evidence supplied by the parties and the members' own general knowledge of market rent levels in the area of the Stroud valleys and concluded that an appropriate market rent for the property would be £750.00 per month.

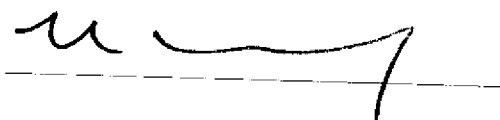
5. The decision

The Committee therefore concluded that the rent at which the property might reasonably be expected to be let on the open market would be £750.00 per month but made the following deductions:

Lack of proper heating	5%	£37.50
Lack of vehicular access	5%	£37.50
Lack of fitted carpets and curtains		£20.00 per month
Some evidence of damp penetration		£20.00 per month
Total		£115.00 per month

The Committee therefore concluded that the rent to be registered should be £635.00 per month and that this rent will take effect from 1 April 2005 being the date specified by the landlord in the notice to increase.

Chairman



Dated

24/3/05

This document contains a summary of the reasons for the Rent Assessment Committee's decision. If either party requires extended reasons to be given, they will be provided following a request to the committee clerk which must be made within 21 days from the date of issue of this document.

SOUTHERN RENT ASSESSMENT PANEL

In the matter of Sections 65 and Schedules 10 and 11 of the Rent Act 1977

Rent Assessment Committee: I R Perry FRICS Chairman

J R Boddy ARICS

Mr C G Thomson

REASONS FOR THE DECISION OF THE COMMITTEE

Re: Hillside, Paradise, Painswick, Gloucestershire, GL6 6TN

Caroline Kinloch-Jones (Tenant) Peter Burdett and Sylvia Read (Landlord)

Note: Reference is made in this document to the summary reasons for the decision dated 24 March 2005 (the Summary Reasons).

- 1 At the hearing, the tenant, Caroline Kinloch-Jones attended in person assisted by a friend, Ruth Jackson. The landlords were not present but were represented by Miss S Searle of Messrs Hardcastles of Cirencester, Glos. The Committee's papers had included a letter of 4 March 2005 from Miss Kinloch-Jones referring to a number of comparable properties which had been downloaded from the internet. Her letter also made reference to Castle Godwin Cottage which had been relied upon by a Rent Assessment Committee in 2002. Miss Kinloch-Jones informed the Committee that this property had recently been let at £725.00 per month and she also pointed out significant differences between Castle Godwin Cottage and Hillside.
- 2 Miss Kinloch-Jones also reiterated the comments of the 2002 Committee that there is no legal vehicular access over the access track from the A46 to the property and she submitted that other defects noted in 2002 including poor heating and damp remained the same.

- 3 Papers submitted to the Committee included copy correspondence from local solicitors, Davey Franklin & Jones indicating that they were in the process of applying for the registration of a prescriptive right of way over the access way to the property.
- 4 A letter from Messrs Hardcastles dated 14 March 2005 had also been submitted including a letter from the Rent Service indicating that Cotswold stone properties in the Painswick area with two or three bedrooms might be let at any figure between £500.00 and £1000.00 and suggesting that the market rent of the subject property would be in the region of £650.00 to £700.00 per calendar month.
- 5 The letter from Hardcastles also referred to Cherry Hill Cottage on Painswick Beacon which had been let at £625.00 per month and of Sunny Bank, Pitchcombe, let at £995.00 per month.
- 6 Further extensive documents had been submitted with regard to the right of way to the property and in particular a detailed letter dated 16 March 2005 from Messrs Davey Franklin & Jones. This letter indicated that there may be a right of way to the property acquired by prescription, but that this issue was still in some dispute.
- 7 Miss Jackson put forward the tenant's case as already detailed in the Summary Reasons.
- 8 Miss Searle addressed the panel on behalf of the landlord and her evidence has already been detailed in the Summary Reasons. She also contended that the invoices submitted for the provision of a new flue liner, replacement window, redecoration of windows and provision of new bathroom suite were evidence that the landlord had spent money on the property.
- 9 In relation to the points raised by the parties, the Committee made the following findings of fact:

- i) There is no legal vehicular access over the access track from the A46 to the property. It would appear from correspondence that the landlords are now in the process of registering a prescriptive right of access.
 - ii) The fitted carpets and curtains are below the standard normally required to achieve a market rent for an assured shorthold tenancy.
 - iii) The property does not have a full central heating system.
 - iv) The large attic room is suitable for various purposes including sleeping although its use is limited as the staircase is open to the landing below.
 - v) Some repairs have been carried out to the property, but there is still some evidence of damp penetration at ground floor level.
- 10 The Committee considered all of the comparables produced by the parties and noted that a lower rent had recently been achieved for Castle Godwin Cottage which had been referred to by the Committee in 2002. The Committee found that there was no single comparable which could be relied upon to give an accurate and appropriate measure for market rent.
- 11 The Committee as an expert tribunal assessed the market rent of the property at £750.00 per calendar month in good order. However deductions from this figure were to be made to reflect the lack of a full heating system, the lack of a formal vehicular access, the lack of fitted carpets and curtains and the evidence of some damp penetration.
- 12 These deductions have been detailed in the Summary Reasons and have an aggregate value of £115.00 per month.

- 13 The Committee decided on these findings that the rent at which the property might reasonably be expected to be let on the open market by a willing landlord and an assured tenancy was £635.00 per calendar month.

Dated the day of: 12th May 2005 Chairman
