

EASTERN RENT ASSESSMENT PANEL

**Extended Statement Of Reasons for the decision of the Committee
which met on Thursday 11 December 2003 to determine a rent under Section 14 of the Housing
Act 1988 in respect of 60 Deepdene, Potters Bar, Herts EN6 3DE.**

Landlord:	Ms F Qureshi	
Landlord's Agent	Mr Rizvan Qureshi	
Tenant:	Mr Paul Marchant	
Rent at date of application:	£630.00 per month	
Rent proposed by Landlord:	£950.00 per month	
Rent determined by Committee:	£680.00 per month	
Members of the Committee:	Mrs M Auld LL.B	Chairman
	Miss M Krisko BSc (Est Man) FRICS	Valuer
	Mr B Tyers	Lay

1. The Appeal

On 26 September 2003 the landlord submitted a notice proposing a new rent of £950 per month with effect from 1st November 2003 in accordance with Section 13 (2) of The Housing Act 1988. The amount excludes council tax and water charges. By an application dated 6 October 2003 the tenant referred the notice to the Rent Assessment Committee.

2. The Tenancy

The Tenancy is a statutory periodic tenancy by succession which arose on the death of the former tenant in June 1995. The rent is payable monthly. The tenant is responsible for internal decorations. Section 11 of the Landlord and Tenant Act 1985 applies to the tenancy.

Under Section 11 there is an implied covenant by the Landlord to keep in repair the structure and exterior of the dwelling house (including drains, gutters and external pipes) and to keep in repair and proper working order the installations in the dwelling house for the supply of water, gas and electricity and for sanitation (including basins, sinks, baths and sanitary conveniences)

Finally the Landlord is responsible for keeping in repair and proper working order the installations in the dwelling house for space heating and heating water.

3. The Premises

The subject property is a semi-detached house built in the 1930's consisting of a through living room and dining room, kitchen, two double bedrooms, one single bedroom, bathroom and garage. There is no central heating and the property is let unfurnished.

4. The Inspection

The Committee inspected the property in the presence of the tenant and found it to be in fair to poor condition.

It was situated in a quiet residential road which was heavily parked at 10.30 on the morning of the inspection.

The garage had been erected by the tenant's father and therefore, reverts to the landlord as a result of the tenant's succession to the tenancy. The narrow access to the garage was via the hard standing of number 62, the next door house. The external decorations of the house were in only fair condition. Most windows were original and difficult to open and the french doors to the garden were badly fitted and draughty. A window in the front bedroom cannot be properly closed. The electric wiring appeared to be old. The landlord had installed two new UPVC double glazed windows on the rear elevation.

Externally the property requires maintenance including redecoration, the gutter leaks badly on the side elevation and the join between the replacement gutter and the old cast iron downpipe is faulty. The ridge tiles are uneven, there is considerable moss on the roof and the chimney pointing requires attention.

Since succeeding to the tenancy the tenant had fitted the kitchen. The previous tenant had installed the bathroom, now dated, but the present tenant had retiled the room after he succeeded the tenancy. The kitchen ceiling is stained following landlord's recent repair work on a water leak. The rear bedroom ceiling is very badly patched following following a similar leak and repair works.

The Committee also inspected the exterior of the following houses in Potters Bar referred to in the Landlord's written submissions :-

29 Cranbourne Road, 268 Mutton lane, 66 Ashwood road and 48 Southgate road. These are described more fully in the landlord's evidence and the tribunals decision.

5. The Hearing – Evidence & Submissions

Both the landlord and tenant attended the hearing.

5.1 The Tenant's Case

Mr Marchant disagreed with the rent increase and considered that the rent should remain at £630.00 per month.

He said that there was no central heating, the house was damp in winter and the white goods belonged to the tenant. The repairs were done by the family and the landlord had taken no steps to improve the property. He had installed the kitchen and retiled the bathroom after his father's death. He did not think that the property had been rewired for 25 to 30 years. His father or brother had put in new sockets as necessary.

The landlord's plumber had recently changed the element in the immersion causing water to overflow and damage the kitchen ceiling. The tenant had notified the landlord who had refused to make good the damage. Several window frames were very rotten and some, for instance in the living room and front bedroom, were difficult to close. The landlord had never replied to any of his requests and had harassed him and threatened to evict him.

In answer to the Committee, he stated that the comparables referred to by the landlord in his written submissions were in a better state of repair than his property. He knew that some of the ex-council properties had been completely re-fitted before re-letting.

5.2 The Landlord's Case

Mr Qureshi referred to his written submissions. He said the condition of the property had not changed since November 2002 when the Committee last determined the rent.

He disagreed with the open market rent relied on by the previous Committee. In his opinion, their decision was flawed in relying upon the open market rent of £900 per month for an unmodernised 3 bedroom house which was not an ex-local authority house.

He said he was not local to Potters Bar and had contacted Century 21 Estate Agents in July 2003 requesting them to provide evidence of properties that they had let which had no modernised bathrooms or kitchens, no white goods and were not in good condition so as to offer a more accurate comparison to the subject property. He had also asked the Agents what the maximum rent would be for a three bedroom semi-detached house in Potters Bar and the effect on the minimum rent if there as no central heating in the property.

He referred to the letter of Mr Birchell of Century 21 Estates dated 4 August 2003 which stated that "three bedroom properties let out at a minimum of £850 00 per month and can achieve as much as £1,400 per month depending on condition and location". He said it was the Agents opinion that the absence of a central heating system, modern bathroom and kitchen did "not significantly affect the rental realised" although they had added that it might affect the marketability of a property.

He referred to five properties let by these agents. They were in Potters Bar and were ex-local authority properties two of which were flats. 18 Cranbourne Road was a one bedroom flat with unmodernised kitchen and bathroom let at £625.00 per month. 20 Heathfields Close was a two bedroom flat again with unmodernised kitchen and bathroom let at £700.00 per month.

A three bedroom semi-detached house at 29 Cranbourne Road, an ex- local authority house, was let at £850.00 per month. It had central heating but the bathroom and kitchen, according to Mr Qureshi, were unmodernised like the subject property. It had no white goods, old carpets and floor coverings, no curtains and was let unfurnished. It was, he said, "in poorer condition than our property".

66 Ashwood Road was a terraced ex-local authority house which had three bedrooms and was let at £900.00 per month. It had central heating but no modernised bathroom or kitchen, no white goods and no curtains. It had old carpets and floor coverings and was unfurnished. It had no garage and was in a less desirable location than the subject property.

268 Mutton Lane which was semi-detached also had three bedrooms and according to Mr Qureshi was let at £1,100.00 per month. It was furnished with central heating, curtains and a refrigerator but the bathroom and kitchen were unmodernised. He said that the floorings were old and there was no cooker or washing machine listed. It was located on a busy main road.

From these examples Mr Qureshi concluded that the open market rent for a modernised three bedroom house similar to the subject house (that is, not an ex-local authority house) would be more than £1,100.00 per month.

He then referred to 48 Southgate Road a three bedroom house which he had relied upon as a comparable in the previous Rent Assessment case in November 2002. It had been advertised at £325.00 per week or £1,408.00 per month. However, when he had contacted the letting agent in January 2003 he was informed it had let in December 2002 for £1,300.00 per month. It was, he said, in "excellent condition, it had a modern bathroom and kitchen, with new white goods, curtains/blinds, new flooring and central heating". Unlike the subject property it was on the main road.

Mr Qureshi was of the opinion that this last property was the best comparable and together with the letter from Century 21 it was his view that if the subject property was modernised it was likely to fetch a comparable rent and possibly more because of its quieter location.

He concluded that in his opinion based on the above the open market rent for a modernised three bedroom house similar to 60 Deepdene was between £1,300.00 per month - £1,400.00 per month.

He then referred to the 30% discount made by the previous Committee. As there had been no change in the condition of the property since that determination, the same discount should apply. This would result in an open market rental for the property of £910.00- £980.00 per month in its present condition.

Finally he referred to "Article 6 Human Rights Act/ High Court Pre-Action Protocol" contained in his submission. Under Section 14 of the Housing Act 1988 the Committee should, he said, base its decision solely on market evidence "and the Committee's panel has a valuer with experience of rent in the area. Therefore, the Committee should clearly state which properties they considered relevant "as he was entitled to know under Article 6 of the Human Rights Act in detail how a Committee arrived at its decision. He stated that "if this Committee is greatly at odds with the figure of £1,300.00 - £1,400.00 per month as the open market rent for a modernised three bedroom house similar to the subject property then I would ask the Committee to provide market evidence to back up their figure with reference to specific properties as subject comparators giving addresses and letting details".

5.3 Evidence of current advertised lettings discussed at the Hearing

At the hearing the Committee produced letting details for discussion purposes. These related to comparable properties currently on the market which they had obtained from local estate agents that morning prior to inspecting the subject property. In the interests of natural justice these details were shown to both the landlord and tenant and comments were invited upon them, the parties having been given time to read the details. The properties were as follows :-

- (i) Mutton Lane – Century 21 advertised a three bedroom semi-detached house with central heating and double glazing in Mutton Lane close to the shops and station. The asking rent was £975.00 per month. Mr Qureshi's comment was that he felt it was unmodernised and its internal condition was not known.
- (ii) Strafford Gate - Century 21 advertised another semi-detached house in Strafford Gate, off Mutton Lane. It had central heating and a fitted kitchen and the asking rent was £900.00 per month. Mr Qureshi's view was that this was not an open market rent for a modernised property.
- (iii) Adverts in local newspaper "The Press" on 4 December 2003 – Alan Landle & Co advertised a three bedroom furnished semi-detached house in a central location in Potters Bar with two reception rooms, fitted kitchen, gas central heating and a large garden. The asking rent was £900.00 per month. They had also advertised an unfurnished terrace house close to the High Street shops and transport with kitchen/breakfast room, through lounge/diner, gas central heating, double glazing, off street parking for two cars and south facing rear garden. The asking rent was £950.00 per month
- (iv) 15 Ramsey Close Brookmans Park- Finally, the Committee referred to a letting advertised by Andrew Ward, Estate Agents at an asking rent of £1,300.00 per month. This was described as a four bedroom detached family home situated in a rural setting. It was described as having a luxury limed oak kitchen, new luxury bathroom, double glazed windows and gas central heating. In addition it had ground floor cloakroom, double width drive/garage and a garden backing onto open farmyard. It was in a small privately owned cul-de-sac off Sherpherds Way, Brookmans Park .

In answer to the Committee the tenant stated that Brookmans Park was a superior location to Potters bar. Mr Qureshi took the view that the above properties were not comparable for an open market rent for a modernised property but he felt that 15 Ramsey Close was the best comparable for a modernised property. He noted that the range of comparables offered at the hearing ranged from £910.00 to £980.00 per month for three bedroom properties but was still of the opinion that the open market rent should be £1,300.00 per month with 30% discount.

The applicant had very little by way of comment on these properties apart from saying that the house in Mutton Lane had double glazing and sounded as if it were modernised. He said that Ramsey Close was a totally different type of property, being detached and modernised and was in a far better location.

6. Decision

6.1 Under the provisions of Section 14 of the Housing Act 1988 the Committee is bound to determine a rent which the Committee considers that the subject property might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy -

- (a) which is a periodic tenancy having the same periods as those of the tenancy to which the notice relates;
- (b) which begins at the beginning of the new period specified in the notice;
- (c) the terms of which (other than those relating to the amount of the rent) are the same as those of the tenancy to which the notice refers

In making a determination under this section the Committee must disregard any increase in the value of the property attributable to relevant improvements carried out by a person who at the time it was carried out was the tenant if the improvement was carried out otherwise than in pursuance of an obligation to the landlord (Section 14 (2) of the Housing Act 1988).

The Committee must also disregard any reduction in the value of the property attributable to failure by the tenant to comply with any terms of the tenancy.

6.2 Turning to the evidence, the Committee noted the points made by the tenant in relation to the condition of the subject house. They disregarded the increase in the value of the property attributable to the kitchen installed by the present tenant and the tiling to the bathroom also carried out since the death of the previous tenant (as these were relevant improvements under Section 14 (2) of the Act).

6.3 At their inspection of the property the Committee had seen that the external decorations were only in fair condition, some of the windows were difficult to open, the french doors were badly fitted, there was a leaking gutter and the electric wiring was old and in need of rewiring. The property was unmodernised and had no central heating. The garage (now owned by the landlord) was in very poor condition and virtually unusable. There is no established driveway or hardstanding for a vehicle at the front of the property. The Committee had noted at the time of inspection that the road was heavily parked.

The lack of maintenance was also evident in the poor condition of the roof and pointing required to the chimney. The Committee was particularly concerned about the dated electrical wiring where evidence had been given that the property had not been rewired for 25 to 30 years.

6.4 The Committee carefully considered the landlord's evidence. They inspected the exterior of the three bedroom semi-detached houses referred to in his written submissions. They did not consider the evidence relating to flats was helpful in determining a market rent for the subject semi-detached house.

6.5 They noted that the landlord referred to properties in his written submissions but there was no actual evidence to substantiate the levels of rent stated to have been achieved in each case and to support his argument that the open market rent for a modernised three bedroom house should be £1300.00-£1400.00 per month. It was clear that the houses referred to at 29 Cranbourne Road, 268 Mutton Lane, 66 Ashwood Road and 48 Southgate Road all had central heating. This also applied to the particulars produced by the Committee and shown to the parties at the hearing.

In the case of 268 Mutton Lane the house had double glazing, a garage, plus a paved off- street parking area and was let furnished. Moreover, the photograph on the front page of the particulars showed a well fitted kitchen.

The committee took 29 Cranbourne Road as the bottom of the market as it was an ex-local authority house in a slightly poorer area, albeit within 500 metres of the subject property.

The Committee accept the tenant's view that 15 Ramsey Close, Brookmans Park was a fully modernised detached house in a more expensive location for letting purposes.

6.6 Otherwise the Committee considered that the market trend for a house modernised to a letting standard appeared to be in the range of £950.00 - £1000.00 per month with properties letting over £1000.00 being better located and fully modernised.

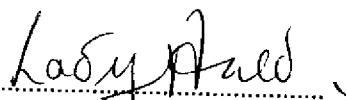
They offer extra facilities such as complete double glazing, downstairs cloakroom, proper garaging and on site parking.

6.7 Most assured shorthold lettings have modernised kitchens and bathrooms with some white goods, carpets, curtains, decorations and central heating. The subject property was let unfurnished with none of these amenities and the tenant was responsible for internal decorations. The garage is virtually unusable with no established driveway, the window (apart from those which were double glazed) were in very poor repair as were the gutters chimney and roof and wiring.

- 6.8 In proceeding to determine the rent at which they considered that the subject property might reasonably be expected to be let on the open market by a willing landlord under an assured tenancy, the Committee had regard to the evidence supplied by the parties and other comparables introduced at the hearing together with the member's own general knowledge of market rent levels in the area of Potters Bar.
- 6.9 The Committee determine that in the light of the above, the open market rent for the subject property in good condition is £975.00 per month. This is based upon a semi-detached house in that location with an inadequate garage with no on-site parking.
- 6.10 Deductions amounting to 30% were then made by the Committee to allow for the poor state of repair, lack of central heating, old wiring, unfitted kitchen and the tenants decorating responsibility. This resulted in a market rent of £680.00 per month for the subject property.
- 6.11 It should be noted that none of these figures can be simple arithmetical calculations but are the Committee's estimate of the amount by which the rent would have to be reduced to attract a tenant.

7. Summary

The rent determined is £680.00 per month exclusive of Council tax and water rates. The rental increase takes effect from 1st November 2003 being the date specified by the landlord in the Notice of Increase.


Lady Auld L.L.B
Chairman

Caution:

For the purpose of reaching a decision the Committee inspected the subject properties. Such inspection is not a structural survey and only takes a few minutes. Any comments about the condition of the properties in this Statement of Reasons are made as a result of casual observation rather than a detailed inspection. Please do not rely upon such comments as a guide to the structural condition of the properties.