

Rent Assessment Committee: Full reasons for decision.

Housing Act 1988

Address of Premises

4 Priory Gardens
Friernhay Street
Exeter EX4 3AP

The Committee members were

A L Strowger (Chairman)
P J R Michelmore FRICS
P G Groves

1. Background

On 3rd September 2004 the Tenant of the above property 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 £ 675.00 per Month with effect from 4th September 2004 is dated 26th July 2004.

The tenancy commenced on 4th July 2003 for a term of 6 months. The Tenant remains in occupation as a statutory periodic tenant. The current rent is £650.00 per Month. A copy of the tenancy agreement was produced to the Committee.

Neither party requested a hearing at which oral representations could be made.

2. 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, considered the requirements of section 14(1), but found that there were no relevant tenant's improvements as defined in section 14(2) of that Act.

3. Inspection

The Committee inspected the property on 20th October 2004 in the presence of the Tenants and the Landlord's agent, Mr Ian Matthews. The Committee found the premises to be in a structural condition one would expect for type and age but below average condition internally in various areas. The soft furnishings were shabby and the carpets dirty. To re-let the property the carpets would have to be professionally cleaned and replaced in the living area if cleaning did not bring them up to standard. For the type of property, decoration is of a poor to below average standard - particularly in the sitting room where a water leak from above has been over-painted and on the stairs and in the top floor room where the powdery surface comes off on the hand when lightly rubbed. The top floor bedroom has only velux windows and the head of the doorway also follows the roofline. Consequently there is only restricted headroom passing through that doorway and within a proportion of the room.

The Committee inspected the courtyard at the rear of the property. It looked at the heat exchanger on the wall of the adjoining commercial property that operates as a club. The Committee found it to be a significant noise; it is audible not only in the courtyard but also from within the house in the rear bedroom and the attic room, with a window open for ventilation. The adjoining commercial property has a minute courtyard off the kitchen that is used as a smoking area by the staff. This courtyard also has two gas boiler outlets and another fan outlet. There is no fencing – only slatted partial screening - separating it from the subject premises. The Committee saw the small garden area to the front of the property owned by the City Council and which, according to the Tenants, was used by vagrants for camping purposes. Inspection also revealed where a tent had been removed a few days earlier from this open space and there was a pile of rubbish in plastic bags at the junction of Bartholomew Street and Carpenter Close.

It was confirmed at the inspection that the manuscript amendments made to the Inventory and Schedule of condition were those made by the tenants at the commencement of the tenancy and were accepted by or on behalf of the Landlord.

There were no known qualifying tenant's improvements that had been made to the property.

4. Evidence and findings of the Committee

The Committee received written representations from the Landlord and Tenant and these were copied to the parties.

The Tenants' written evidence referred to the adjoining function room of the club being very noisy. They referred to the noisiness of the area. They reported that members of the kitchen staff of the club come out regularly into adjoining kitchen courtyard for a smoke and they can look out into the Tenants' living room and the bedroom with windows on that side – being only about 20 feet away from the club premises. The continuous 24 hours a day noise from the heat exchanger can be heard in the bedrooms with a window open for ventilation. It may well be possible for the some more effective form of screening to be erected by the landlord to ameliorate the position with regard to the privacy and possibly the noise. The Committee found the noise to be a significant nuisance in a residential area.

The Committee examined the comparables submitted by the Landlord's agent with his letter of 12th October 2004 and the advertisements submitted by the Tenants from the Express and Echo, the local evening newspaper. Regarding the comparables submitted by the Landlord, the Committee found that the 2-bedroomed maisonette and the apartment in the large block were not directly comparable; more appropriate comparable properties were the two 3-bedroomed mid-terraced houses with rents achieved of £675 and £695 pcm respectively. In the absence of any evidence to the contrary the Committee assumed that these properties were in good decorative condition. There was no indication as their location and its amenity but the photographs appear to indicate more pleasant surroundings. The subject property is high-density back-street infill and there are the evident problems of litter and

vagrancy. Consequently the Committee found the comparables submitted by the Landlord's Agent to be superior to the subject property.

The Committee agreed with the Tenants that one of their comparables showed a house in immaculate condition with an en-suite bathroom, garage and two parking spaces was available for £665 pcm, only marginally more than their current market rent of £650 pcm. The Tenants also submitted that No. 3 Priory Gardens was in a far superior condition and decorative condition and this was reflected in the achieved rent of £695 pcm. Contrary to the views expressed in the Landlord's Agent's letter to the Tribunal of 27th September, the Committee finds that the below standard condition of the property does have a significant bearing on the current market value.

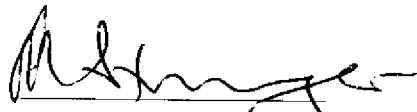
The Committee recognised from its own knowledge that there had been a small increase in rental values in the area of East Devon but, given the location factors with regard to the Landlord's comparables and the decorative condition of the subject property, the Committee found that £660 pcm to be the appropriate starting point for the current rental value of 4 Priory Gardens. However the property suffers significantly from the nuisance of the adjoining commercial property. Whilst the adjoining property, No. 3, may be affected to some extent, the courtyard outside the club kitchen directly adjoins No. 4. The loss of privacy arising from its use impacts on No. 4 and the noise of the continuous 24-hour running of the heat exchanger has the most immediate deleterious effect on the subject property. The Committee considers that its rental value is devalued by £25 per calendar month attributable to the noise and nuisance arising from this adjoining commercial property.

5. The decision

The Committee therefore concluded that the rent at which the property might reasonably be expected to let on the open market would be £635.00 per month.

This rent will take effect from 4th September 2004 being the date specified by the landlord in the notice of increase.

Chairman


A L Strowger (Chair)

Dated *9 November* 2004