

Rent Assessment Committee: Summary reasons for decision.**Housing Act 1988****Address of Premises**

Fox Farm House
Andover Down
Andover
Hants SP11 6LN

The Committee members were

S Griffin LLB (Chairman)
P D Turner-Powell FRICS
J Mills

1. Background

On 5 September 2005 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 £1,200 per month with effect from 20 September 2005 is dated 18 August 2005.

The tenancy commenced on 20 September 1997 for a term of one year. The tenant remains in occupation as a statutory periodic tenant. The current rent is £560 per month.

2. Inspection

The Committee inspected the property on 10 November 2005 and found it to be in good condition.

3. Evidence

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

A hearing was held at Test Valley Borough Council Offices on 10 November 2005 in Conference Room 2 at which oral representations were made on behalf of the landlord and tenant.

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 Andover.

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 £950.00 per calendar month.

This rent will take effect from 20 September 2005 being the date specified by the landlord in the notice of increase.

Chairman *(signed)*

STEPHEN GRIFFIN LLB

Dated 10 November 2005

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.

Rent Assessment Committee: Extended reasons for decision

Housing Act 1988

Address of Premises

Fox Farm House
Andover Down
Hants SP11 6LN

The Committee members were

S Griffin LLB (Chairman)
P D Turner-Powell FRICS
J Mills

1 Background

On 5th September 2005 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 £1,200 per calendar month with effect from 20 September 2005 is dated 18 August 2005.

The tenancy commenced on 20 September 1997 for a term of one year. The tenant remains in occupation as a statutory periodic tenant. The current rent is £560 per calendar month.

2 Inspection

The committee inspected the property on 10 November 2005 and found it to be in good condition.

In her written representations previously submitted to the committee, the tenant had put forward a schedule of improvements carried out to Fox Farm House, by herself and her former partner Mr D Holmes. However, the committee considered that the items set forth therein were of a nature that any tenant might usefully incorporate into a demised property with the intention of making same more comfortable for their own occupation throughout the term, and were not of a nature so as to materially enhance the letting value of the property. The tenant in her own representation particularly highlighted the installation by her of a "Rayburn" boiler. However, the committee again considered this to be a matter of individual choice of the tenant so to do. The property has the benefit of gas fired central heating and the installation of the Rayburn does not and presumably was not intended to substitute for that system.

3 Evidence

The committee, as previously stated, received written representations from the tenant and also from the landlord and these were copied to the parties.

A hearing was held at Test Valley Borough Council offices on 10 November 2005 in conference room number 2, at which oral representations were made on behalf of the Landlord and the Tenant.

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 Andover. Both parties in their written representation to the committee put forward evidence of alleged comparable properties which were available to rent at rentals between £1,000 per calendar month to £1,500 per calendar month. At the hearing, Mr Alistair Wilson on behalf of the landlord suggested to the committee that in the light of the comparables produced by him that the relevant rental for the subject property should be £1,200 per calendar month. He contended that the subject property lies in a sought after area, with good schooling facilities. (Mr Wilson also attempted to put in evidence a new build 5 bedroomed property for which a rental was being demanded of £2,900 per calendar month. However, the committee apprehended that it would be inappropriate to give any material consideration to this additional property, by virtue of it having been brought into the forum for consideration at too late a date to enable the same to be considered either by the tenant or the committee itself.)

Mr Jason Lewis FRICS speaking on behalf of the tenant said that in the light of the adduced comparables a more reasonable level of rental would be somewhere between £800.00 to £1,000.00 per calendar month. He pointed out that many of the comparable properties referred to had the benefit of a gardening service, which the subject property did not.

Mr Lewis then went on to outline what he considered to be further reasons for discounting the open market rental for the property. In summary these were:

4.1 The central heating system provided by the landlord for the property was deficient, in that it was not possible to operate the central heating without also heating the water, thus making it impossible to program the central heating independently from the hot water. The committee apprehended however, that in a gravity fed system such deficiency was not unusual and whilst it was accepted that the system supplying the subject property was not intended to be gravity feed, its present “deficiency” was in the circumstances de minimis.

4.2 The subject property had a private water supply which had recently failed its test of potability, resulting in an instruction by the Landlord to boil all water before drinking the same. However, the committee noted on its’ inspection that a filter unit had recently been installed at the subject property. Furthermore in the hearing it was confirmed by the Landlord’s

representative Mr C R Hewitt, that the problem in supply had in fact now been resolved.

- 4.3 The subject property shared a private drainage system with the adjoining farm buildings. Mr Hewitt confirmed that this was indeed the case, but stated that should there be any shared user then the cost of the drainage system would be apportioned accordingly between the co users thereof.
- 4.4 The Landlord had applied for light industrial user planning consent (B1 user) for the adjoining farm buildings. This fact was confirmed by the Landlord's representative. The committee apprehended, that this was, in view the close proximity of such farm building, a significant consideration in assessing the open market rental for the subject property. The committee apprehended that Class B1 planning use could embrace a multitude of noisy activities, and this coupled with the present uncertainty as to just what B1 user would arise at the end of the day would and should have a significant effect on the open market rent at which the subject property might reasonably be expected to be let.
- 4.5 That the scheduled list of "tenant's improvements" as previously referred to herein, were indicative that on the original let of the subject property its specification was poor. However, as previously intimated the committee took the view that the specified list of improvements was not such as to suggest that is was in fact the case.

4.6 Finally Mr Lewis sought to argue that Mrs Philpot's assured agricultural occupancy in turn gave rise to an agricultural occupancy restriction in relation to the subject property which would reduce the market rental by a suggested figure of between 20% and 30%. However, the committee did not subscribe to this interpretation of Sections 14 and 24 of the Housing Act 1988. Section 24 (4) provides that Section 14 shall apply in relation to an assured agricultural occupancy as if in sub section (1) of that section the reference to an assured tenancy were a reference to an assured agricultural occupancy. Section 14 (1) of the eponymous Act provides in Sub Section (1) where..... "a tenant refers to a rent assessment committee a notice under sub section (2) of that section the committee shall determine the rent at which, subject to sub sections (2) and (4) below the committee consider that the dwelling house concerned might reasonably be expected to be let in the open market by a willing Landlord under an assured tenancy etc etc.....

Mr Lewis argued that paragraph (c) of Section 14 (1) could be interpreted as meaning that the agricultural occupancy should result in a reduction of the open market rental to reflect this fact. Mr Wilson disputed this interpretation and confirmed that there was no planning restriction affecting the subject property which tied it to purely agricultural user. Likewise the committee did not share Mr Lewis' interpretation of the interaction of the two sections.

5 The Decision

The Committee therefore concluded that the rental at which the property might reasonably be expected to be let on the open market should not be the £1,200.00 per calendar month as contended for by the landlord, but more realistically the £1,000.00 per calendar month which appeared to be broadly in line with the requested rentals shown for the comparable properties supplied by both parties. However, this figure of £1,000.00 per calendar month to be discounted by £50.00 per calendar month to the lesser figure of £950.00 per calendar month to reflect what the committee considered to be a valid consideration in the mind of any intending tenant - namely the proposed Class B1 user, for the immediately adjacent farm buildings. Such rent to take effect from the 20th September 2005, being the date specified by the Landlord in the notice of increase.

Chairman.....



Dated.....

10.11.2005

10th November 2005

These are the extended reasons for the Rent Assessment Committee's decision