

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

Flat 9 Netley Hill House
Netley Hill Estate
Southampton
SO19 6AN

The Committee members were

Mr. J H S Preston JP FRICS
Mr. P D Turner-Powell FRICS
Mr. H D Lederman

1. Background

On 12 September 2006 Miss Amanda Gee and Mr. Richard Trebilcock, the tenants of the above property, referred to the Committee a notice of increase of rent served by the landlord, Mr. Simon O'Callaghan, under section 13 of the Housing Act 1988.

The landlord's notice, dated 24 August 2006, was served by his solicitors Blake Laphorn Linnell. In it he proposed a rent of £800.00 per month (inclusive of water charges of £368.32 per annum) with effect from 1 October 2006.

The tenancy commenced in March 1995. The tenants remain in occupation as statutory periodic tenants. The passing rent is £625.00 per month payable on the last day of each month. The tenancy Agreement was not provided for the Committee.

Notice Requiring Possession on 31 December 2005 was served by the landlord's solicitors on the tenants on 21 October 2005. No action had been taken on this. The Committee have not seen that Notice, only the covering letter which indicates that the Notice was served under Section 21(4)(a) of the Housing Act 1988, appropriate for an Assured Shorthold tenancy. All the evidence and representations heard by the Committee was on the basis that the tenancy was an Assured tenancy and not an Assured Shorthold tenancy.

2. Inspection

The appointed Committee inspected the property on 1 November 2006 and found it to be in fair condition. It is a self-contained second-floor converted flat within a large Victorian house. The accommodation, which is accessed via two communal staircases, comprises: -

Corridor hall, Sitting Room, Study / Office, Kitchen, Bathroom, Toilet, two Bedrooms

Heating to one radiator in the hall is from a boiler, which also provides hot water. Gas fires are installed in the principal rooms. All mains services are connected.

The principal defects are: -

- External woodwork overdue for painting and rotted window cills.
- Floor covering to common parts in need of replacement.

The tenants' improvements comprise: -

- Retiled bathroom
- Supply and installation of shower fittings
- Supply and installation of WC
- Partial refurbishment of kitchen

The tenants have provided the following: -

- Some of the carpets
- Supply and installation of blinds, curtain rails and curtains
- Replacement light fittings
- Installation of fitted shelving
- Supply and installation of white goods and contribution of 40% of the cost of the gas cooker in the kitchen

The tenants have redecorated the flat throughout and they accept liability for internal repairs and decorations.

The cost of services provided for the tenants is included in the rent. There is an annual charge of £368.32 for water included in the rent.

The tenancy includes a garage in a nearby block and use of the communal gardens.

The tenants use the roof-space over the flat for storage, in common with other tenants. The Committee made no finding as to whether this was included as a term of the tenancy, and assume that it was not for the purpose of the rental valuation.

The Committee also inspected the vacant Flats 4 and 5 as evidence of market comparables

3. Evidence

The tenants provided written representations in their statement dated 18 September 2006 and in comments dated 3 October 2006. They felt the increase from £625 to £800 was unreasonable and to be in excess of market rents for similar properties. They provided background information on the history of the tenancy. They believed that the best market evidence was that of other flats in Netley Hill House. They cited Flat 5 marketed at £600 and Flat 1 at £700 per month. The latter was understood to have been let at about £675.

Previous rent reviews had been dealt with informally by correspondence.

The landlord submitted written representations through Mrs Mulholland with her letter of 27 September 2006. She detailed an overview of the history of the tenancy and the relationship between the parties. She provided market evidence both of flats in Netley Hill House and of other properties and compared these with the subject property. She responded to points raised by the tenants and sought to justify the proposed rent of £800 per month. She provided marketing advice for Flat 9 by David Evans Estate Agents and Clarke Mews Lettings both in the sum of £800 per month

Both parties requested a hearing at which oral representations could be made.

4. The Hearing

This was held at Wells Place Centre, Eastleigh after the inspection. It was attended by:

Miss A Gee and Mr R Trebilcock (Tenants)

Mrs J Mulholland Director of JCM Property Management Ltd (Agents for the Landlord)

Mr Trebilcock spoke for the tenants. He felt that a rent of £650, as proposed by the landlord in December 2005, was reasonable. He felt that the best market comparables were those in Netley Hill House, as this was a unique property. In discussion including Mrs Mulholland the parties agreed the following: -

Flat 1. Ground floor. Let for £725 per month from July 2006
Included one less room than No.9. Central Heating.

Flat 4. Ground floor. To let at rent of £750.
Ground floor flat with separate entrance, being modernised throughout to good standard. To be carpeted. No garage.

Flat 5. First floor. To let at £625. Proving difficult to let.
One less room. N/S Heaters. No garage. Poor carpets.

Flat 7. First floor. Recently let at £725.
One less room and inferior layout to No. 9. Central heating. Carpeted.

Mrs Mulholland described the market at Hedge End for purpose-built modern flats and agreed that lettings at Netley Hill House were best evidence. Garages were worth about £10 per week. Ample car parking was available. Allocation of one parking space per person named on the tenancy Agreement plus space for visitors.

5. Decision

In determining the rent the Committee acted in accordance with the provisions of Section 14 of the Housing Act 1988. This states that the Committee shall determine the rent at which they consider the property might reasonably be expected to be let in the open market under an assured tenancy on terms similar to those of the tenancy to which the notice relates. The Committee is to disregard:

- any increase in value attributable to a relevant improvement carried out by the tenant, provided that such improvement was not carried out as an obligation to the landlord
- any reduction in value attributable to a failure by the tenant to comply with the terms of the tenancy

In the present case the Committee had regard to the evidence submitted by both parties and to their own knowledge of market rent levels in the area of Southampton.

The Committee's principal findings were as follows: -

- A). Best evidence is that at Netley Hill House.
- B). Flat 9 is spacious, but suffers from 2nd. Floor location; poor thermal insulation to roof and ceiling, absence of central heating, dated bathroom (without tenant's improvements). Good points were the modern double-glazed windows, the kitchen.
- C). Analysing the comparables, Flat 1 is the best. Flats 4 and 5 are smaller and the rent indicated is the asking rent only. Flat 7 is smaller and has a poorer layout.

Taking account of these findings, the Committee concluded that the rent at which this property, if it was in good modern letting condition, might reasonably be expected to be let on the open market would be **£850.00** per month. This includes any charges for water and services.

To take account of the following deficiencies:

- Lack of central heating
- Lack of full good quality carpeting and some white goods
- Poor bathroom and WC
- Tenants repair and decorating liabilities

an allowance of **£200.00** per month should be made. The Committee thus determined, in accordance with Section 14 of the Housing Act 1988, a rent of **£650 per month**.

This rent will take effect from **1 October 2006** being the date specified by the landlord in the notice of increase, on the assumption that the rent is payable on the first day of the month.

(signed)
Signed _____ J H S Preston (Chairman)

Dated 1 November 2006