

**Rent Assessment Committee: Extended Reasons for Decision.
Rent Act 1977.**

Address of Premises.
Bowden Park Farmhouse
Naish Hill
Chippenham
Wiltshire SN15 2QH.

The Committee members were
Mr Roger Sansbury (Chairman)
Mr Peter Harrison FRICS
Mr Colin Thompson

1. Background.

- (a) On 27 February 2004 the landlord (the Executors of the late Lord Weinstock) applied to the Rent Officer for registration of a fair rent of £1,250 per month for the above property.
- (b) The rent payable at the time of the application was £884 per month.
- (c) The rent had been previously registered on 6 June 2000 with effect from the same date at £840 per month following a decision by the Rent Assessment Committee. The Reasons for that decision ("the Year 2000 Reasons") are dated 20 July 2000 and record a market rent of £1,200 with £360 (or 30%) then deducted for scarcity.
- (d) The rent was registered again on 10 April 2002 with effect from the same date at £884 per month following a determination by the Rent Officer.
- (e) On 14 May 2004 the Rent Officer registered a fair rent of £973 per month.
- (f) By an undated letter (received in the Panel Office on or about 1 June 2004) the tenant (Mr J G O Stewart) objected to the rent registered by the Rent Officer and the matter was referred to the Rent Assessment Committee.

2. Inspection.

- A.** The Committee inspected the property on 12 July 2004 and found it to be a substantial and attractive detached period stone built house as described more particularly in: -
 - (i) the Rent Officer's survey sheet which had been copied to the parties and
 - (ii) paragraphs 2, 3 and 6 of the Year 2000 Reasons.
- B** From its own inspection the Committee noted that the swimming pool (the property of the tenant) was no longer in use and a new fence had been erected. The Committee asked for further information as to the respects in which the cooker (a G E C Cavalcade) was alleged not to be fully operational (see paragraph 3 A (e) below). Mr & Mrs Stewart said that the door does not close properly, when both the ovens are on the temperature drops, the clock does not work and it is not possible to get either a replacement grill or replacement hinges. .

3. Evidence.

The Committee received written representations from the landlord and tenant and copies of each were supplied to the other party.

A. The tenant's representations.

These are contained in his appeal letter of June 2004 and his further letter of 26 June 2004 and the salient points are as follows:-

- (a) Rents had remained static for the last year
- (b) The property was in good repair because "we have worked hard to keep it that way"
- (c) The house was in an isolated position remote from any public services and "the approach road is steep and narrow and is very dangerous. Lackham College are now farming the land up here with the result that the road is often filled with huge tractors and their equipment"
- (d) The main chimney was a fire risk
- (e) The landlord's cooker was 38 years old and not fully operational but the landlord refused to renew it.
- (f) Part of the garden wall surrounding the swimming pool area was dangerous and could collapse.
- (g) The outside WC was not used by the tenant but by the farm and estate office staff.

By way of supporting evidence the tenant supplied:

- (h) A letter from Kavanaghs (Residential & Commercial Agents of Melksham dated 10 June 2004 the relevant part of which reads:
"You have asked us to comment on changing rental levels in respect of larger good quality residential property over the last two years.
We are of the opinion that there has been little evidence of any movement in respect of these properties for rental levels between £750 and £2,000 per calendar month.
Over this period we have seen a decline in demand for the larger property....."
- (i) A letter from F J Snook & Sons Ltd dated 28 June 2004 relating to the difficulties of letting farmhouses "as we have such property surplus to our needs". The letter refers specifically to Manor Farm House Urchfont "a quite superior 5 bedroom residence" which they had been obliged to let at a rent reduced by 5% from the rent commanded in the previous three years.

B. The landlord's representations

The landlord's agents, Messrs H W Dean & Son submitted representations on 24 June 2004 and under the heading "Market Evidence" state:-

"We have no similar substantial properties on the estate and feel that the rent officer has enough relevant information at his/her disposal to form an accurate decision on rent"

Messrs Dean further stated say that the property had been kept to a high standard of repair; £5,819.11 had been spent by the landlord since October 2002 (a breakdown is provided of that figure) on materials not labour, the cost of which would have been considerable; the estate had accepted a quote for redecorating for £3,500.

In reply to these representations the tenant commented in his letter of 30 June 2004 that none of these costs constituted improvements and (they) "should be treated as general maintenance of an old property".

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

4. The law.

When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, has regard to all the circumstances including the age, location and state of repair of the property. It also disregards the effect of (a) any relevant tenant's improvements and (b) the effect of any disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property.

In *Spath Holme Ltd v Chairman of the Greater Manchester etc Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* (1999) QB the Court of Appeal emphasised

- (a) that ordinarily a fair rent is the market rent for the property discounted for 'scarcity' (i.e. that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms - other than as to rent - to that of the regulated tenancy) and
- (b) that for the purposes of determining the market rent, assured tenancy (market) rents are usually appropriate comparables. (These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property)

5 The findings of fact.

The Committee had regard to the written representations of both parties and the results of its own inspection and made the following findings of fact:-

A The Committee agreed with the view of the previous Committee as set out in the Year 2000 Reasons as follows:-

"6 a) The property was a substantial and attractive detached house enjoying excellent views and offering well proportioned accommodation on two main levels, with the benefit of an oil-fired central heating system" (which the Committee found to be sited in the cellar) "and very good size gardens mostly to the front of the property".

The Committee also found the property overall to be in fair condition for its age and character.

B. However the Committee found that the property suffers from the following disadvantages:-

- a) Its isolated location, the nearest shop being in Lacock some 2 miles away and some distance also from public transport

- b) Access to the property is over a shared vehicular access carrying considerable farm traffic.
- c) The adjoining barn and the shared access are currently in good condition, the verge being mown by the tenant as is the grassed area between the drive and the barn. However the future state of these is not within the tenant's control and the property could be seriously affected if these were to deteriorate.
- d) There is noise, dust and lack of privacy from the adjoining farm buildings, particularly in harvest time.
- e) The garden is very big and maintenance of it necessarily time-consuming and/or expensive.
- f) Similar comments apply to the decoration and maintenance of the interior of the house itself.
- g) The outside WC is only approximately 10 yards from the front door of the house and is frequently used by Lackham College students and other people working at the adjoining farm buildings
- h) The kitchen is dated and unimproved.
- i) The cooker is faulty; the Committee accepted the evidence of Mr & Mrs Stewart about that.
- j) There are no carpets curtains or white goods supplied by the landlord
- k) A number of the sashcords to the windows need replacement.

The Committee did not have sufficient evidence to make any findings of facts as to -

- l) the wall alleged to be dangerous or
- m) the chimney alleged to be a fire risk.

C Improvements.

All tenant's improvements prior to October 1992 had been discounted (see paragraph 6 (d) of the Year 2000 Reasons) and the Committee had no evidence of any further tenant's improvements of sufficient substance to affect the level of rent.

The expenditure by the landlord since October 2002, though substantial, was by way of maintenance rather than improvement.

6 Valuation.

- (a) The Committee accepted the evidence produced by the tenant, notably the letters from Messrs Kavanaghs and F J Snook & Sons Ltd (see paragraph 3 A (h) & (i) above) concerning some decline in demand for this type of property over the last year or more. This coincided with the experience of Committee members themselves that for this type of property the market continued to rise after the year 2000 but since about the beginning of 2003 there have been difficulties in finding tenants and there has consequently been a small but significant fall in rental levels. .
- (b) With those considerations in mind the Committee in the first instance determined what rent the landlord could reasonably be expected to obtain for the property in the open market if it were let today in the condition that is considered

usual for such an open market letting. Having regard to the evidence supplied by the tenant and the Committee's own general knowledge of market rent levels in North Wiltshire it concluded that a likely market rent would be £1,400 per month.

- (c) However the actual property is not in the condition considered usual for a modern letting at a market rent. Therefore it was first necessary to adjust that hypothetical rent of £1,400 per month to allow for the differences between the condition considered usual for such a letting and the condition of the actual property as observed by the Committee (see paragraph 2 above) and as recorded in the findings of fact set out in paragraph 5 above. The Committee considered that this required a deduction of £400 per month.

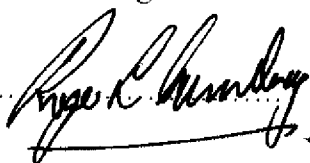
(d) It follows from the Committee's findings as set out in sub-paragraph (a) of this paragraph that the Committee did not consider that there was any substantial scarcity in the area of North Wiltshire. Therefore (notwithstanding the findings of substantial scarcity at the time of the registration on 6 June 2000 by the Rent Assessment Committee and on 10 April 2002 by the Rent Officer) there should be no deduction for scarcity on this occasion.

- (e) This leaves a net market rent for the subject property of (£1,400 - 400 =) £1,000 per month.
- (f) However, by virtue of the Rent Acts (Maximum Fair Rent) Order 1999 the maximum fair rent that can be registered in the present case is the lower sum of £983 per month. (Details are provided on the back of the decision form).

7 The decision..

Accordingly the sum of £983 per month will be registered as the fair rent with effect from 12 July 2004 being the date of the Committee's decision.

Chairman



Dated

