

**Rent Assessment Committee: Summary reasons for decision.  
Rent Act 1977****Address of Premises**

5 Old Blundells  
Tiverton  
Devon EX16 4LD

**The Committee members were**

Mrs T C Clark (Chairman)  
Mr M J Wright FRICS FAAV  
Mr M J Sharples FRICS

**1. Background**

On 1 April 2004 the landlord applied to the rent officer for registration of a fair rent of £4,800 per annum for the above property.

The rent payable at the time of the application was £4,000 per annum. The rent was previously registered on 19 January 2000 with effect from 24 February 2000 at £4,000 per annum following a determination by the rent officer.

On 28 May 2004 the rent officer registered a fair rent of £4,632.50 per annum with effect from that date.

By a letter dated 21 June 2004 the tenant objected to the rent determined by the Rent Officer and the matter was referred to the Rent Assessment Committee.

**2. Inspection**

The Committee inspected the property on 8th September 2004 and found it to be in good condition as described more particularly in the Rent Officer's survey sheet which had been copied to the parties.

The following tenant's improvements had been made to the property.

Extensive Tenants improvements were noted, as detailed by the tenant during the inspection.

### **3. Evidence**

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

A hearing was held on 8th September 2004 in Tiverton at which oral representations were made by and on behalf of the landlord and tenant.

### **4. The law**

When determining a fair rent the Committee, in accordance with the Rent Act 1977, section 70, had regard to all the circumstances including the age, location and state of repair of the property. It also disregarded 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 92 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. Valuation**

Thus in the first instance the Committee 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. It did this by having regard to the evidence supplied by the parties and the Committee's own general knowledge of market rent levels in the area of East and Mid Devon. Having done so it concluded that such a likely market rent would be £11400.00 per annum.

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 £11400.00 per annum 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 (disregarding the effect of any disrepair or other defect attributable to the tenant or any predecessor in title). The Committee considered that this required a deduction of £600.00 per annum.

Furthermore, to allow for the tenant's improvements (listed above) it was necessary to make a further deduction of £5500.00 per annum.

The Committee did not consider that there was any substantial scarcity element and accordingly no further deduction was made for scarcity .

This leaves a net market rent for the subject property of £5300.00 per annum.

## **6. Decision**

The fair rent initially determined by the Committee, for the purposes of section 70, was accordingly £5300.00 per annum.

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 £4685.00 per annum (Details are provided on the back of the decision form).

**Accordingly the sum of £4685.00 per annum will be registered as the fair rent with effect from 8<sup>th</sup> September 2004 being the date of the Committee's decision.**

Chairman      (Signed) Mrs T Clark (Chair)

Dated            8th September 2004

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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 at the Panel Office which must be made within 21 days from the date of issue of this document.

**Rent Assessment Committee: Full reasons for decision.**  
**Rent Act 1977****Address of Premises**

5 Old Blundells  
Tiverton  
Devon EX16 4LD

**The Committee members were**

Mrs T C Clark (Chairman)  
Mr M J Wright FRICS FAAV  
Mr M J Sharples FRICS

**A. Background**

1. This matter came before the Committee as a result of the tenant's objection to the rent of £4,632.50 per annum registered by the rent officer with effect from 28<sup>th</sup> May 2004.
2. The original 9 year lease expired in 1994, giving rise to a protected tenancy.
3. The previous rent of £4,000 was last registered by the rent officer with effect from 24<sup>th</sup> February 2000.
4. The landlords were now applying for an increase in rent to £4,800 per annum.
5. The terms of the original lease, and of the tenancy following on there from, impose unusually onerous obligations upon the tenant.

**B. Description**

1. On 8<sup>th</sup> September 2004, the Committee inspected the property in the presence of Mr. and Mrs. Partridge and of Ms. Roach and Mr. Morris for the National Trust.
2. The property is an unusual and attractive wing of an historic house, which has been beautifully and painstakingly restored by the tenants, who have carried out enormously extensive works over a considerable period of time. The rent officer's survey-sheets set out details of most of the repairs, renewals and refurbishments which have been undertaken, but upon inspection and at the hearing further information and detail was added.
3. The accommodation consists of 3 reception rooms (one of which is now a kitchen-dining room), hall, inner kitchen, utility room, cloakroom and conservatory on the ground floor, with 5 bedrooms, an extra kitchen and two bathrooms upstairs on the first floor, and attic bedroom(s) on the second floor. There is a large garden, created by the tenants, and a car port.

The subject property is attached to other apartments on the whole “old Blundells” site, and is situated within walking distance of the town centre and local amenities.

### **C. Hearing**

Following the Committee’s inspection on 8<sup>th</sup> September 2004, a hearing was held which was attended by all parties. The submissions are summarized as follows:-

#### **Tenant’s case**

1. Mr. Partridge speaking for himself and his wife objected to the increase in rent for a number of reasons, and challenged the basis for increasing the rent by 20% over the 4 year period from February 2000.
2. It was said that the increase was greater than that applied to other comparable properties on the site, and that no.5 was difficult to heat, increasingly surrounded by new development, and had recently suffered from severe flooding. (with all the implications for insurance thereafter)
3. The tenants also drew the Committee’s attention to the fact that the building was uninhabitable when they took it on, and that they had completed restoration works over and above their responsibilities under the terms of the tenancy.
4. As to previous registrations of rent, the tenants took the view that the registration in February 2000 was premature, coming (as it did) only 2 years after the preceding registration in February 1998, rather than in accordance with the tri-annual review provided for under the original lease.
5. Mr. Partridge expressed the view that there was some scarcity in the Tiverton area, and that Tiverton was not a particularly desirable area in terms of property values.
6. Finally, the tenants gave evidence that apartment no/s 2 and 4 at Old Blundells were let, fully modernised , at £7,200 per annum market rents, on assured shorthold tenancies.

### Landlord's case

1. Mr. Morris MRICS, representing the National Trust, stated that in general he agreed with the rent officer's calculations, although he considered that the £700 per month estimated market rental value was on the low side.
2. It was pointed out that the subject property is in council tax band E; and Mr. Morris considered that it could have a market rental value of between £825 and £1100 per calendar month, possibly closer to £1,000.
3. Mr. Morris accepted that the terms of the tenancy imposed unusually onerous obligations upon the tenant, and agreed that in the particular circumstances of the case, the rent officer's 37.5 % deduction for obligations was appropriate.
4. On the question of scarcity, Mr. Morris initially seemed to be of the opinion that there was some scarcity in the market for family town houses, but then told us that at present there are only 1 or 2 interested parties for each property, where previously there had been 3 or 4, which suggested the contrary.
5. As to comparable properties, Mr. Morris gave the Committee details of three properties in Tiverton, ranging from £1100 per calendar month open market rent to £825 per month, and with different levels of accommodation and modernisation. The annual rentals, for comparison, therefore range from £12000 per annum to £9900 per annum.
6. The Landlords conceded that the system of calculating rent increases at 5% per annum was an arbitrary one, based on the observation of rent officer's seeming increases of 10% every two years, but without any other mathematical justification.
7. Finally, Mr. Morris expressed the opinion that properties of this type could be let quite easily on an assured tenancy with repairing obligations.

#### **D. Relevant Law**

1. The Committee considered the case in accordance with the terms of Section 70 of the Rent Act 1977, and with the rulings in the Spath-Holme and Curtis cases, as set out in the summary “reasons for decision”.

2. **Rent Capping**

Under the Rent Acts (Maximum Fair Rent) order of 1999, fair rent increases are limited according to a prescribed formula, which is intended to determine the percentage change in the RPI index since the last registration and not the arithmetical difference.

The formula is expressed as:-

Maximum fair rent = Existing fair rent  $(1 + (x - y) + p)$  divided by  $y$ .  
Where X is the RPI in the month immediately preceding the determination, Y is the RPI for the month in which the rent was last registered, and P is 0.075 for the first application and 0.05 for every subsequent application.

#### **E. Conclusions and Determination**

1. **Market rental value.** The Committee considered that the estimated market rental value of the subject property lay somewhere between the minimum of £600 per month and £ 1100 per month maximum. The property at Cowley Lodge, with 5 bedrooms and 3 reception rooms, seemed broadly comparable to 5 Old Blundells, but the Committee took into account the various disadvantages of the subject property and therefore made deductions from the £1100 figure. As to the other apartments at Old Blundells itself, the Committee noted that No.5 had more bedrooms than No/s 2 and 4, and that it did not have the disadvantage of fronting onto the “quad” with its unlimited public access and consequent lack of privacy. As a result, it was considered that No.5 would have a higher market value than £600 per month.  
In all the circumstances, the Committee determined that the open market value of the subject property was £950 per month, or £11400 per annum.
2. **Deductions.** The Committee calculated a deduction of £50 per month for the tenant’s obligations to decorate the interior, and of £416 per month for the tenant’s improvements, taking a nominal figure of £25000 over a 5 year period.  
Since most assured shorthold/open market lettings include the provision of carpets and floor coverings, a further deduction of £41 per month was made for the lack of such provision in this case.



3. Scarcity. The Committee members were satisfied, both from their own local knowledge and experience and from the evidence put before them, that there was no "significant" scarcity factor in the area. No deduction was therefore made for scarcity.
4. Calculation. The fair rent, as calculated above, would give a figure of £5300 per annum.  
Since this is higher than the Maximum Fair Rent, the Committee calculated and determined a "capped" rent, in accordance with the law and the prescribed formula, at £4685 per annum.

Chairman      (Signed)  
Mrs. T C Clark (Chair)

Dated          7<sup>th</sup> October 2004

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