

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

**Address of Premises**

3 Launceston Close,  
Old Town, St. Mary's  
Isles of Scilly TR21 0NJ

**The Committee members were**

D Sproull LLB (Chairman)  
R Batho MA BSc LLB FRICS  
A J Lumby BSc FRICS

**1. Background**

On 18<sup>th</sup> February 2005 the tenant of the above property referred to the Committee an application under section 22 of the Housing Act 1988.

The tenancy, which was unfurnished, commenced on 1<sup>st</sup> September 2004 for a term of 2 years. The current rent is £7,000.00 per annum.

**2. Inspection**

The Committee inspected the property on 13<sup>th</sup> April 2005 and found it to be in good condition for its age and type.

The following qualifying tenant's improvements had been made to the property.  
None qualifying

The following services are provided for the tenant.  
Grass cutting to communal grassed area.

## **Rent Assessment Committee: Extended reasons for decision.**

### **Housing Act 1988**

#### **Address of Premises**

3 Launceston Close  
Old Town  
St Mary's  
Isles of Scilly TR21 ONJ

#### **The Committee members were**

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The following qualifying tenant's improvements had been made to the property. None qualifying.

The following services are provided for the tenant.

Grass cutting to communal area.

In the presence of the landlord's agent and the tenant's wife the Committee then had the opportunity of inspecting the exterior of the other properties in Launceston Close, in particular numbers 14 and 17, which were the first two properties on the landlord's list of comparables. Although similar in construction, these two properties were very different in that they fronted onto a roadway adjacent to a beach (with corresponding advantages and disadvantages) whereas the subject property was very much an estate property.

Following the external inspection of the Launceston Close properties the Committee then inspected a number of the other comparables provided by the landlord by car, again in the presence of the landlord's agent and the tenant's wife. This involved a tour of a substantial area of St Mary's, enabling the Committee to obtain an overview of the many

different sorts of tenanted properties on the island owned by the Duchy of Cornwall, although none of these were directly comparable properties to 3 Launceston Close.

### **3. Evidence**

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

Both parties requested a hearing which was held at the Council Chamber Hugh Town St Mary's. Both parties made representations at the hearing.

- a. **The written evidence** - The tenant had submitted a letter in evidence prior to the hearing and submitted a written bundle at the hearing to include copies of various press cuttings concerning rents of properties in the Isles of Scilly. The main points relied upon by the tenant were that the rent for the subject property in 2000 was £4,680.00 (and in relation to that figure £7,000.00 was too high), that other properties in Launceston Close were let at a lower rent, that the range of tendered rents in respect of number 3 Launceston Close was between £8,000.00 and £3,120.00 with a mean average of £4,925.00, that none of the landlord's comparables were true comparables and that "high" rents were not desirable or sustainable and could not match the present and long term socio-economic needs and trends of the local people.

The landlord's agent had submitted a copy of the Tenancy Agreement dated 4<sup>th</sup> November 2004 signed by the parties at a rent of £7,000.00 per annum. He submitted a list of comparables to include numbers 14 and 17 Launceston Close referred to above. He also submitted details of the tenders received for numbers 3 and 4 Launceston Close on the 11<sup>th</sup> February 2000 showing the highest tender as £8,000.00.

- b. **The oral evidence** – The tenant took the Committee through his written evidence. He provided the Committee with a summary of the availability of rented property within the Isles of Scilly and the difficulty experienced by potential tenants in obtaining properties at an acceptable rent. He told the Committee of events leading up to his acceptance of the tenancy and his inability to refuse the offer of the tenancy at £7,000.00 per annum. He maintained that the Duchy had not inspected the property to see the state of it when they agreed to let it to him. He dealt with the details of the 2000 tender for the property and pointed out that there

were only two offers above £5,500.00, the mean offer being £4,925.00. He did not consider that the other two properties in Launceston Close submitted by the landlord were true comparables.

The landlord's agent then gave evidence to include details of properties let by the Duchy at below market rents to key workers, former employees and former agricultural tenants. He said that the Duchy's policy as to lettings had changed within the last two years and properties were now being offered for rent on the open market and not being restricted to local people only. He said that in future the majority of properties would now be let in the National open market. He confirmed that all lettings were for permanent occupation and not for second homes or for holiday lets. He expressed the view that on the open market it would be possible to obtain a figure in excess of £7,000.00 per annum for number 3 Launceston Close.

#### **4. Consideration**

The Committee considered in detail both the written and oral evidence of both parties. It was concerned only with the open market rent defined by Section 14 Housing Act 1988 as the rent at which "the dwellinghouse concerned might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy...". The Committee had no power to concern itself with the landlord's policy as to letting of properties at below the market rent to key workers or former employees or tenants, nor with the obvious difficulties for inhabitants of the islands to obtain tenancies at affordable rents, as described to us by the tenant. We accepted the landlord's agent's evidence as to the Duchy's change of policy as to lettings. We had the opportunity to inspect and hear evidence of the lettings of other properties on St Mary's but the Committee concluded that the best evidence of market rents, on which we relied heavily, was the details of the tenders submitted for this and the adjoining property in 2000, the highest tender at that time being £8,000.00 per annum.

#### **5. The Law**

The Law is to be found in Section 22 (3) of the Act, which provides that, where an application is made with respect to the rent under an assured shorthold tenancy, the Committee shall not make such a determination unless they consider:


- (a) that there is a sufficient number of similar dwelling-houses in the locality let on assured tenancies (whether shorthold or not); and
- (b) that the rent payable under the assured shorthold tenancy in question is significantly higher than the rent which the landlord might reasonably be expected to obtain under the tenancy, having regard to the level of rents payable under the tenancies referred to in paragraph (a) above

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 the Isles of Scilly. The Committee had decided that it was only realistic to adopt an area limited to the Islands themselves as a self-contained community and that in that area there was sufficient evidence of rents to reach the conclusion that the rent for the subject property was not significantly higher than the evidence suggested.

#### **6. The decision**

The Committee has decided not to make a determination because the Committee decided that the rent payable was not significantly higher than the rent which the landlord might reasonably be expected to obtain under the tenancy.

Chairman



Dugald Sproull LLB

Dated

3<sup>rd</sup> June 2005