

EASTERN RENT ASSESSMENT PANEL

FULL STATEMENT OF REASONS FOR THE DECISION OF THE COMMITTEE WHICH MET ON 12TH OCTOBER 2005 TO DETERMINE A FAIR RENT IN RESPECT OF 71 STOKE ROAD, AYLESBURY, BUCKS, HP21 8BL

File Reference No.:	CAM/11UB/F77/2005/0093
Landlord:	William Pears Ltd, c/o Bartholomews Property, Management, 15 Penrhyn Rd, Kingston-on- Thames, Surrey KT1 2BZ
Landlord's Agent	Bartholomews Property Management, as above
Tenant:	Mrs M Dodd
Existing Rent:	£286.50 (Uncapped £302.00) per month
Rent Proposed by Landlords:	£375.00 per month
Rent Determined by Rent Officer:	£328.50, capped at £318.00 per month under Rent Acts (Maximum Fair Rent) Order)
Rent Determined by Committee:	£304.00 per month, which is less than the cap of £318.50 per month under Rent Acts (Maximum Fair Rent) Order 1999
Members of the Committee:	Mr Adrian Jack (Chairman) Ms Marina Krisko BSc (Est Man) FRICS Mr Barry Tyers
Clerk to the Committee:	Mr Jon Childe

Full reasons:

The committee inspected 71 Stoke Road, Aylesbury on the morning of 12th October 2005 in the presence of the tenant. The landlord did not attend. We held a hearing in the afternoon. The tenant attended represented by Mr James D Payne FRICS, who also gave evidence. The landlord did not attend, but it made representations by a letter from Bartholomews Property Management dated 18th August 2005.

The Property:

The subject property is an inner terrace, late 19th century, two-storey house on an extremely busy road convenient to Aylesbury town centre. The construction is brick with a tiled roof. On the ground floor are two rooms, a kitchen, and a small storage/utility area. A double and two very small single bedrooms and a bathroom/WC are on the first floor. The external decorations are very neglected. The wooden window frames are in a very poor condition and some of the windows cannot be opened. The bay window on the front elevation has cracked sills and there is damp internally under this window and a hole in the floor. Both chimneys have poor pointing and spalling brick work. The kitchen drain on the rear elevation has an open discharge. There is a tiny front garden and a reasonably sized back garden, half of which has been converted by the tenant to provide car parking for one large or two small cars.

Internally, the property has been well kept by the tenant, who has installed heating and the kitchen units. The stairs to the first floor are extremely narrow and very steep. There are signs of damp under the ground floor windows, the front living room ceiling is cracked, the window in the bathroom has so rotted away that the glass is loose. The bathroom is very dated, with a mixed coloured suite.

The Committee were informed that the landlord rewired the property several years ago and fitted a new multi-point hot water heater in the bathroom about two years ago.

Evidence and submissions

The only live evidence on valuation which the committee heard was from Mr Payne. He is an experienced surveyor, having been admitted as ARICS in 1963. He was subsequently admitted as FRICS. He spent most of his professional life working in the Thames Valley area. Although earlier in his career he had been involved in letting and property management, more recently he had concentrated on surveys and valuations of residential freehold and long leasehold property. He retired in August 2004.

Bartholomews in their letter of 18th August 2005 draw our attention to the terms of section 70 of the Rent Act 1977. They point out that until recently demand for private rented property has far outweighed supply, particularly in London and the South East area, so that rents were increased substantially by reason of the scarcity value. They submitted that more recently the situation has changed as a result of the Housing Act 1988, so that many more units of accommodation were available for rent.

Mr Payne agreed with this assessment, but he says that the units now coming on the market are generally luxury flats with, as he put it, “all the superlatives” and that there is a still a shortage (albeit a smaller shortage than previously) of the sort of modest accommodation of which the instant property is an example. He suggested that a 10 per cent deduction for scarcity would be appropriate.

Mr Payne gave evidence on the open market value of the property on the assumption that the property was in good repair and that the landlord had provided central heating, a modern kitchen and bathroom and curtains and carpets and that the tenant had no internal repairing obligations. He suggested that the Rent Officer’s starting figure of £700 per month was too high and that £650 per month would be appropriate. He produced a comparable of a similar property described as “close to town” which was advertised in the Bucks Herald of 20th July 2005 as having been let with an asking price of £675 per month. Mr Payne also placed reliance on two determinations of Rent Officers in respect of 12 Queens Park, Aylesbury and 19 Grecian St, Aylesbury.

The open market value as calculated on these assumptions, Mr Payne said, needed to be adapted to the reality of the property under consideration. Mr Payne said that the following factors went to reduce the fair rent on this property: the very poor state of repair; the absence of any kitchen provided by the landlord; the age of the bathroom fittings; the tenant’s covenant to repair internally; and the failure to provide curtains and carpets or central heating. His view was that prospective tenants would refuse to take the property in its current condition. He said that in his view a 50 per cent reduction would be appropriate, although he explained that he had no evidence from market transactions to support this figure.

The landlord made no representations as to the open market value. Instead Bartholomews suggested that a fair rent of £375 per month would be appropriate. No explanation was given as to how this figure was calculated.

Bartholomews also referred us to the decisions in *BTE Ltd v Merseyside & Cheshire RAC* and *Spath Holme Ltd v Greater Manchester RAC*. Mr Payne agreed that these were the relevant cases for determining our approach to assessing the fair rent in this case.

Assessment of the evidence

Mr Payne impressed the committee as an open and frank witness, who was willing to make concessions even if these were against the interests of his client. Nonetheless we bore in mind that he had not had much recent experience of the residential letting market.

Bartholomews' submissions on law appeared to be uncontroversial. Their submissions on fact were, however, wholly unsupported by any evidence. The figure for a fair rent of £375 was not accompanied by any explanation as to how the figure was calculated. Bartholomews made no attempt to produce any comparables, or any other relevant evidence. This was particularly surprising since they had cited the relevant case law which showed what evidence could and should be adduced on these points.

In these circumstances the committee considered that it had to make its assessment of a fair rent on the basis of its own knowledge and on the basis of the evidence adduced on the tenant's behalf.

Open Market Rent

The committee started its consideration of what a fair rent might be by deciding first what the open market rent might be for a property similar to that in question here, but which was in good repair and condition with central heating and a modern kitchen and bathroom, carpets and curtains without any internal repairing covenant on the part of the tenant.

We found the comparable produced by Mr Payne useful. We disagree, however, with Mr Payne's view that 71 Stoke Rd (if in proper condition etc) would be less attractive to a tenant than the comparable. Although the comparable was more attractive in some respects, the subject property has rear vehicular access, thus enabling the tenant to provide off-street parking. This made two properties in our judgment very similar in terms of the likely rental obtainable.

We did not find Mr Payne's citation of the Rent Officer's decisions useful, because the committee has to decide what a fair rent should be on the basis of evidence rather than precedent. We have accordingly not placed reliance on those cases.

A figure of £675 per month also accords with our view of local market conditions and this is the figure which we have taken.

Disrepair and other conditions

The property is in a lamentable state of repair. It is clear that little has been done to it for many years. As noted above, the windows cannot in practice be opened. The landlord did not provide the kitchen at the property. The bathroom is old. The landlord does not provide carpets, curtains or white goods. There is no central heating. The tenant has the responsibility for internal repairs. These matters clearly require an adjustment of the £675 per month figure.

So far as disrepair is concerned, the landlord is clearly in gross breach of its obligations to the tenant under section 11 of the Landlord and Tenant Act 1985. Indeed we find it surprising that the tenant has taken no steps to enforce her rights against the landlord by bringing a claim for damages and for an order for the carrying out of works. Mr Payne would seem to be well placed to prepare a schedule of the works which need doing. These are not, however, matters for the committee.

Mr Payne's view was that a 50 per cent reduction is appropriate to take into account all the matters in the previous paragraph but one. In our judgment no sensible landlord would attempt to let a property in the condition of this one on the terms on which this property is let. No statistics could therefore be expected for rents on a property in this sort of the condition. Mr Payne's view is thus not undermined by the absence of any statistics of this sort.

A 50 per cent reduction is in our judgment appropriate to reflect all the matters above. It should be noted that this figure cannot be a simple arithmetical calculation and is not based upon capital cost but is the committee's estimate of the amount by which the rent would have to be reduced to attract a tenant.

Scarcity

The committee first considered whether there was any evidence of scarcity at all. The committee accepted Mr Payne's view that, although there was a plentiful supply of up-market accommodation, the demand for modest accommodation in the area still exceeded supply. This accords with our own knowledge of conditions in the area. We accepted his evidence that a 10 per cent deduction for scarcity was appropriate.

For these purposes, the committee notes that Aylesbury is at the end of a London commuter line. As such it represents the end of the "commuter belt", at least so far as this part of Buckinghamshire is concerned. The north-west part of Buckinghamshire, starting about 5 miles north of Aylesbury, constitutes in our judgment a different market for housing. The Committee decided that there was substantial scarcity in the locality of Aylesbury Vale, South Oxfordshire and South Bedfordshire districts.

Committee's Calculations:

Open Market Rent:	£675.00 per month
Less global deduction	<u>£337.50 per month</u>
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Less Scarcity 10% (rounded)	<u>£ 33.50 per month</u>
	£304.00 per month

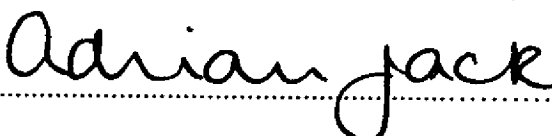
The provisions of the Rent Acts (Maximum Fair Rent) Order 1999 require that the registered rent is either the capped fair rent or the fair rent decided by the committee which ever is the lower. The capped fair rent is calculated in accordance with a statutory formula using the existing rent as a base. The capped rent in this case is £318.50, which is higher than the Fair Rent assessed by the committee and therefore the uncapped rent is to be registered.

FAIR RENT = £304.00 per month

Other matters

In the course of our inspection, it became apparent that the description of the property in Fair Rent Register was inaccurate. In the committee's judgment, the following is a proper description of the property:

Premises: 71 Stoke Road, Aylesbury, Buckinghamshire HP21 8BL
Description: Inner Terrace house, late 19th century without central heating comprising:
Ground floor: 2 rooms, 1 kitchen and small utility room
1st floor: 1 double bedroom, 2 single bedrooms, 1 bathroom/wc
Outside: Shed (provided by landlord)


.....Adrian Jack, Chairman

Caution: The Committee inspected the subject property for the purposes of reaching this decision. The inspection was not a structural survey and any comments about the condition of the property in these reasons must not be relied upon as a guide to the structural or other condition of the property. Except for the determination of the fair rent, any statement as to the rights and obligations of the landlord and tenant is not binding on any other court or tribunal and the parties should take their own legal advice.