

UPPER TRIBUNAL (LANDS CHAMBER)



UT Neutral citation number: UKUT 104 (LC)  
LT Case Number: ACQ/438/2007

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

*COMPENSATION – compulsory purchase – land – valuation of freehold interest – compensation assessed at £500*

IN THE MATTER OF A NOTICE OF REFERENCE

**BETWEEN**                      **ETON PARK CONSULTING LIMITED**                      **Claimant**

**and**

**GREATER MANCHESTER**                      **Acquiring**  
**PASSENGER TRANSPORT EXECUTIVE**                      **Authority**

**Re: Land at the rear of Albany House**  
**Albany Road**  
**Chorlton**  
**Manchester**  
**M21 0AN**

**Determination on the basis of written representations under Rule 27 of the Lands Tribunal Rules (1996) as amended**

**By**

**A J Trott FRICS**

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## DECISION

### Introduction

1. This is a reference made on 2 July 2007 by the acquiring authority, the Greater Manchester Passenger Transport Executive (GMPTE), to determine the amount of compensation payable in respect of the compulsory acquisition of 51 sqm of land forming part of the embankment between a disused railway line and the building known as Albany House, Albany Road, Chorlton, Manchester M21 0AN.

2. GMPTE compulsorily purchased the subject land under the Greater Manchester (Light Rapid Transit System) (Airport Extension) Order 1997. Notice to treat was served on 10 May 2002 and notice of entry was served on 21 January 2005. The date of entry, and hence the valuation date, is said by GMPTE to be 20 May 2005. There is no record of a claim having been made prior to the reference.

3. The claimant, Eton Park Consulting Limited, was originally represented by Shammah Nicholls LLP, solicitors of Manchester. That firm sent an email to the Tribunal on 31 October 2007 saying that they did not believe there was an issue for the Tribunal to consider. The Registrar therefore arranged for a pre-trial review to be held on 4 December 2007. The claimant failed to attend or to be represented. The Registrar issued directions for the future conduct of the reference on 12 December 2007, the first of which was a direction that the claimant should file and serve a statement of case by 18 December 2007.

4. Upon receipt of the Registrar's order Ms Hunwick of Shammah Nicholls sent an email to the Tribunal on 13 December 2007 stating:

“... I confess to being utterly baffled by this whole situation ... I do not believe that there is an issue for the Tribunal to consider between my client and GMPTE and cannot quite understand how the Tribunal came to order my client to serve a Statement of Case when there is no case.

I am going to attempt to resolve this directly with GMPTE who seem to have decided that it is more expeditious to litigate this matter than enter into ordinary correspondence.

For the avoidance of doubt Eton Park will not be serving a Statement of Case because they do not have a case.”

5. In view of this statement the acquiring authority were asked to file and serve its valuer's expert report. This was filed on 1 May 2008. Both parties then confirmed that the reference should be determined without a hearing. On 1 July 2008 the Tribunal received a letter from Shammah Nicholls saying that they had received a TPI (Transfer of part of registered title) form from GMPTE and had asked their client to sign it. No details were given of the price although it seems likely that it was in the sum of £500, the amount contained in GMPTE's

notice of reference. Shammah Nicholls said that once the signed form had been forwarded to GMPTE "...at that stage there is no further necessity for [the] involvement of yourselves."

6. In the event the transfer did not proceed. On 11 August 2008 Shammah Nicholls sent an email to GMPTE saying that the claimant had spoken to "other land owners in Chorlton who have sold to GMPTE and has decided that his piece of land is much larger than theirs and needs therefore, on a pro rata basis, to be paid £1,000".

7. On the 20 August 2008 the acquiring authority increased its offer to £750, subject to a time limit for acceptance of 29 August 2008. The offer was not accepted and on 7 October 2008 Shammah Nicholls informed the Tribunal that they were no longer instructed by the claimant and that Mr Anderson of Eton Park Consulting Limited would be acting on its behalf. Mr Anderson failed to respond to three subsequent letters from the Tribunal and has not made any written representations. GMPTE were asked to submit any further representations they wished to make in the light of the claimant's request for compensation of £1,000. No such further representations have been received.

## **Evidence**

8. The only representations before the Tribunal are submitted by GMPTE and are contained in the expert report of Mr James Ogborn BA (Hons) DipLE MRICS, a Director of Lambert Smith Hampton and Head of Land Assembly in the Manchester office of that firm. In his report Mr Ogborn says that the claimant's agent is GVA Grimley and that they were appointed on 1 July 2005 but there is no other record or document before this Tribunal of that practice having been so instructed.

9. The reference land is a narrow strip of disused and unbounded land (approximately 2.5 x 20 m) adjoining Albany House, Albany Road in Chorlton Cum Hardy, some two miles south west of Manchester City Centre. It lies in an area of mixed residential and commercial property.

10. Mr Ogborn relies upon three comparable transactions in the nearby area, each of which comprised forecourt land and was acquired under the scheme for £500.

- (i) 40 sqm of land at 649 Mauldeth Road West,
- (ii) 21 sqm of land at 294 Barlow Moor Road,
- (iii) 18 sqm of land at 292 Barlow Moor Road,

In the light of this evidence Mr Ogborn values the freehold interest in the reference land in the sum of £500.

## **Conclusion**

11. I am satisfied, in the absence of any further evidence, that the comparables support a figure of £500 for the value of the freehold interest in the reference land. In reaching this decision I am mindful of two things; firstly that the comparables are all settlements under the scheme and are not open market transactions and, secondly, that they differ considerably in size. On the first point there is unlikely to be any evidence of open market transactions for small land parcels such as these and no evidence (of any sort) has been produced by the claimant to rebut the valuation of the acquiring authority. On the second point I do not think it appropriate to analyse these comparables and the reference land on a per square metre basis. I accept Mr Ogborn's approach that they are all likely to attract a "one-off payment" rather than a price based upon a unit of area comparison. Nor is there any suggestion that the reference land has development value.

12. The open offer of £750 made by GMPTE on 20 August 2008 was time limited and apparently made in an attempt to compromise the dispute. It was not accepted by the claimant and, in my opinion, does not justify a higher award on the evidence before me.

13. I therefore determine the compensation in the sum of £500. A letter on costs accompanies this decision which will take effect when, but not until, the question of costs is decided.

Dated 8 June 2009

A J Trott FRICS