IN THE UPPER TRIBUNAL (LANDS CHAMBER)

Neutral Citation Number: [2017] UKUT 31 (LC)
Case No: ACQ/22/2016

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

COMPENSATION – Compulsory Purchase – former retail unit converted to place of worship - long leasehold interest – notice to treat – choice of yields – whether any marriage value - compensation determined at £6,839 - Places of Worship (Enfranchisement) Act 1920

IN THE MATTER OF A NOTICE OF REFERENCE

BETWEEN:

THE TRUSTEES OF THE K&M WHOLESALE SUPPLIERS LTD RETIREMENT BENEFIT SCHEME	**Claimants**
- and -	
MEADOWHEAD CHRISTIAN FELLOWSHIP	**Respondent**

Re: 3, Jordanthorpe Centre
Dyche Lane, Sheffield, S8 8DX

Decision on Written Representations

Peter D McCrea FRICS

- -

The following cases are referred to in this Decision:

Waters v Welsh Development Agency [2004] 1 WLR 1304
Union of Welsh Independents Incorporated ACQ/64/2006
Colneway Ltd v Environment Agency [2004] RVR 37

DECISION

Introduction

1. This claim, determined under the written representation procedure, requires the Tribunal to make a rare excursion into the domain of the Places of Worship (Enfranchisement) Act 1920 ("the 1920 Act"), which in certain circumstances gives to trustees of churches, chapels, and other buildings used for public worship the right to purchase the freehold reversionary interest. The Act was amended by the Leasehold Reform Act 1967, and in its amended form, its text can be found in Schedule 6 to that Act.

2. By section 2 of the 1920 Act, for the purpose of acquiring the reversionary interest, Part I of the Compulsory Purchase Act 1965 ("the 1965 Act") applies as if the trustees (of the place of worship) were an authority authorised to acquire the premises by virtue of a compulsory purchase order.

3. The 1920 Act, coming onto the statute book nearly 100 years ago, no doubt envisaged traditional churches or chapels, and whilst it was later extended to include the minister's house, in the modern era it applies equally to more utilitarian buildings, on certain conditions. One such building is Unit 3, Jordanthorpe Centre, Dyche Lane, Sheffield, S8 8DX ("the reference property"), which as its address might imply, is situated in a shopping precinct. The parliamentary draftsman surely cannot have envisaged a former supermarket being caught by the legislation, but the reference property is now used as a place of worship by the Meadowhead Christian Fellowship, and it is common ground (at least latterly in these proceedings), that the tenant, its use of the reference property, and the original term of the lease satisfy the requirements of the 1920 Act.

4. The freehold interest in the reference property is owned by Mervyn and Kathryn Harrison in their capacity as Trustees of the K&M Wholesale Suppliers Limited 1987 Retirement Benefit Scheme. They are the claimants in this reference. For the avoidance of doubt, I will refer to the trustees of the Meadowhead Christian Fellowship as "Meadowhead", and the trustees of the Retirement Benefit Scheme as the claimants.

Facts

5. From the evidence I find the following facts.

6. The reference property forms part of the Jordanthorpe neighbourhood shopping centre, on the eastern side of Dyche Lane, approximately five miles south of Sheffield City Centre. The centre dates from the 1960's, and comprises single storey retail units arranged around a central pedestrian area, with an adjoining community library and car park. The adjoining area comprises mainly local authority housing.

7. The reference property is of cavity brick construction under a flat concrete slab felt-covered roof. It has a net internal area of around 2,820 sq ft, comprising an entrance lobby, inner hallway, meeting hall, kitchen, store rooms, office, two meeting rooms and w.c. accommodation, and is heated by gas fired central heating. Some years ago a rear yard was covered over to form further internal space.

8. In September 2003, Meadowhead took an assignment of a lease of the reference property dated 6 November 1989, which had a term of 99 years from that date at a fixed annual rent of £50. Meadowhead converted the property to a place of worship, with the claimant's consent.

9. The reference property has planning permission for use as a religious meeting hall. It is not currently assessed for non-domestic rating purposes.

Procedural history

10. An outline of the procedural history of this reference will assist in understanding my decision on the substantive issue and on costs.

11. On 10 November 2015 Meadowhead served a Notice to Treat on the claimants, who did not respond.

12. Mr John Francis FRICS, of the Sheffield firm Crapper and Haigh, was appointed by Meadowhead, and wrote to the claimants on 10 November 2015 but again did not receive a response. After speaking with Mr Harrison on the phone, he wrote again on 14 December 2015, and again on 4 February 2016 in which he offered to settle the claim at compensation of £2,500 plus costs, but this offer was marked both without prejudice and subject to contract.

13. On 16 February 2016, solicitors for Meadowhead wrote to the claimants, indicating that in the absence of a meaningful response, a reference would be made to the Tribunal. The reference was then made on 8 March, and the value of the claim was put at £850.00. The written representations procedure was requested. The Tribunal wrote to the claimants on 13 April 2016, requesting their response by 15 May 2016.

14. On 11 May 2016, solicitors for the claimants filed a notice of response, in which the standard procedure was requested, and an application for an extension of time to serve the claimants' statement of case; the application was granted, extending time to 11 July 2016.

15. On 6 July 2016, solicitors for the claimants made a further application for an extension of time, in which they indicated that counsel had been instructed to advise whether the leasehold interest qualified in accordance with the 1920 Act. The claimants acknowledged that their statement of case must include details of the compensation claimed, distinguishing amounts under separate heads, and how the amounts were calculated. They said that their valuer had inspected on 30 June, and was in the process of compiling his report. A deadline of 1 August was agreed by Meadowhead, and ordered by the Tribunal.

16. On 25 July, the claimant's statement of case was filed and served, in which the claimants claimed compensation for the freehold reversion of £32,792, a loss of ground rent of £970.19, plus surveyors' and legal fees. The claimants relied upon a valuation report prepared by Mr George Thompson FRICS, a partner of Fernie Greaves, chartered surveyors.

17. Mr Francis soon noticed a mathematical error in Mr Thompson's report, and on 9 August 2016 solicitors for the claimants confirmed to Meadowhead and to the Tribunal that the amount claimed for the reversion was in fact £3,279.17 – a reduction on a factor of 10. Given the relatively small sums now involved, solicitors for the claimants confirmed that they agreed that the written representations procedure was suitable.

18. The parties agreed an extension of time for the filing of Meadowhead's statement of case to 26 September 2016, which was ordered by the Tribunal, by consent, on 2 September.

19. Meadowhead's statement of case was dated 23 September 2016, and was supported by a valuation report prepared by Mr Francis, who valued the freehold reversionary interest at £31.46, and the loss of ground rent at £820.78.

20. On 11 October 2016, the Registrar confirmed that the reference would be determined under the written representations procedure.

21. On 27 October 2016, Mr Harrison wrote to the Tribunal indicating that he had "finally had sight of Meadowhead's actual statement of case", and requested the right of reply. In a further letter of 4 November 2016, Mr Harrison said that he had dispensed with the services of his solicitor and would be conducting the reference himself from that point.

22. I granted permission to Mr Harrison to submit a reply and, notwithstanding the sequential nature of the statements of case, invited Meadowhead to also submit a further reply if it so wished. I indicated that I did not envisage those further replies would be lengthy.

23. It is relevant at this point to observe that as part of their calculations both Mr Thompson and Mr Francis valued the freehold interest in the reference property, with assumed vacant possession, at £110,000. On 6 December 2016, Mr Harrison submitted a document in which he disavowed his expert's valuation, and indicated that he considered the appropriate compensation to be that of the agreed freehold value with vacant possession - £110,000. He referred to and attached a range of documents, the details of which are not relevant to the understanding of this decision, and upon which I have placed little weight.

24. On 18 January 2017 Meadowhead, with permission, submitted a rebuttal document. It is unnecessary for me to refer to it in detail, save to say that it included a further report from Mr Francis, rebutting Mr Harrison's new approach.

25. Mr Harrison clarified in a letter dated 9 December 2016 that he accepted Meadowhead's right to acquire the freehold interest, and was simply arguing for fair compensation.

Statutory provisions

26. Sections 1 and 2 of the 1920 Act provide:

> Right or persons holding leasehold interest in place of worship or minister's house to acquire freehold.
>
> 1 (1) Where premises held under a lease to which this Act applies are held upon trust to be used for the purposes of a place of worship or, in connexion with a place of worship, for the purpose of a minister's house, whether in conjunction with other purposes or not, and the premises are being used in accordance with the terms of the trust, the trustees, notwithstanding any agreement to the contrary (not being an agreement against the enlargement of the leasehold interest into a freehold contained in a lease granted or made before the passing of this Act), shall have the right as incident to their leasehold interest to enlarge that interest into a fee simple, and for that purpose to acquire the freehold and all intermediate reversions: ….
>
> ….
>
> Procedure for acquisition of reversionary interests.
>
> 2. For the purpose of acquiring such reversionary interests as aforesaid, Part I of the Compulsory Purchase Act 1965 shall apply as if the trustees were an authority authorised to acquire the premises by virtue of a compulsory purchase order, made under the Acquisition of Land (Authorisation Procedure) Act 1946; but in relation to any acquisition under this Act the following provisions shall have effect:—
>
> (a) in Part I of the Compulsory Purchase Act 1965 section 4 (time limit for acquisition) shall not apply, and for the purposes of the said Part I "land" shall include easements in or relating to land;
>
> (b) the consideration payable in respect of any intermediate reversion may, at the option of the person entitled to that reversion, be an annual rentcharge for a term corresponding to the unexpired residue of the term of the reversion;
>
> (c) in determining the amount of any compensation the value of any buildings erected or improvement made by the trustees, shall be excluded;
>
> (d) no allowance shall be made on account of the acquisition being compulsory;

(e) in determining the amount of compensation in any case where the rent reserved under the lease is less than the full annual value of the land the compensation, so far as it is payable in respect of the interest of the lessor expectant on the expiration of the term of the lease, shall not be ascertained on the basis of the rent so reserved, but, subject always to the foregoing provisions of this section, on the estimated full value of the land at the expiration of the term of the lease.

27. Since Meadowhead are assumed to have the mantle of an acquiring authority under a compulsory purchase order, the measure of compensation is calculated having regard to the rules in section 5 of the Land Compensation Act 1961 ("the 1961 Act"):

5 Rules for assessing compensation.

Compensation in respect of any compulsory acquisition shall be assessed in accordance with the following rules:

(1) No allowance shall be made on account of the acquisition being compulsory:

(2) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise:

(3) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the requirements of any authority possessing compulsory purchase powers:

(4) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account:

(5) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the [Upper] Tribunal is satisfied that reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of equivalent reinstatement:

(6) The provisions of rule (2) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land:…

Evidence

28. I should immediately say that I reject Mr Harrison's view that the claimants should simply receive the agreed notional market value with vacant possession. This view has no logic and ignores that fact that the freehold interest is not in hand, and given the very low amount of rent is unlikely to be in hand until the end of the lease. I have instead relied upon the expert evidence of the two chartered surveyors.

29. Mr Thompson's opinion of the freehold value of the reference property with assumed vacant possession of £110,000, agreed by Mr Francis, was arrived at by applying an all risks yield of 12% to a notional rental value of £13,300 per annum.

30. The valuers also agreed the basic approach – capitalising the ground rent of £50 per annum for the unexpired period of the lease, and then valuing the freehold reversion by deferring the agreed capital value of £110,000 until the end of the term. As I indicate below, that exercise merely values the freeholders' current interest, but does not have regard to marriage value.

31. Mr Thompson's valuation, after amendment, was as follows:

Term			
Ground rent payable:	£50 per annum		
yp 72 years @ 5%:	19.4038		
		£970.19	
Reversion			
Freehold value:	£110,000		
pv £1 for 72 yrs			
@ 5%:	0.0298106		
		£3,279.166	
		£4,249.36	
	(say)	£4,250.00	

32. Mr Francis differed from Mr Thompson only in his choice of yields to be applied to the two parts of the valuation. Mr Francis considered that Mr Thompson was wrong to apply the same 5% yield to the capitalisation of the rental income as to the deferment rate of the reversionary freehold. As regards the capitalisation of the rent for the remainder of the lease, Mr Francis considered that one needed to reflect the covenant which the long leaseholder provided – which he considered to be excellent, and he therefore considered that the ground rent acquisition market would be prepared to look at an interest rate of not less than 6%. As regards the deferral rate to be applied to the reversionary capital value, Mr Francis said that the correct approach would be to look at the risk rates being used in the market for the type of property being considered, in this case a place of worship, with the possibility of reverting to retail. He argued that if 12% was the appropriate rate to be applied to the rental value to arrive

at a capital value, as was common ground, then that should also be the appropriate rate to use in the deferment.

33. Mr Francis's valuation was therefore this:

Term		
Ground rent payable:	£50 per annum	
yp 72 years @ 6%:	16.4156	
		£820.78
Reversion		
Freehold value:	£110,000	
pv £1 for 72 yrs		
@ 12%:	0.0002860	
		£31.46
		£852.24
	(say)	£850.00

Discussion and conclusions

34. Both valuers adopted a term and reversion approach to calculating the freeholder's current interest. One reading of s.2(e) of the 1920 Act, the wording of which even the learned authors of Hague find puzzling, could be that it precludes the valuation of the term. A more sensible interpretation is that there must be a reversion as part of the valuation, and that that reversion should be calculated having regard to the current market rent of the property, rather than the rent passing. I am therefore satisfied that the valuers have adopted an acceptable method.

35. In respect of the first part of the valuation - the capitalisation of the ground rent - there is little between the valuers. On the one hand, the notional investor would be confident that given the low ground rent passing, the leaseholder tenant be very unlikely to default and that the ground rent was very secure indeed. He or she might therefore be prepared to accept a lower rate of interest than a higher one. However, it must also be borne in mind that this is a fixed ground rent, with no opportunity to review it, which in my judgement would cause the notional investor to require a slightly higher rate of return – causing the value of the income stream as a capital amount to reduce. I therefore prefer Mr Francis's figure of 6%.

36. In respect of the second part - the valuation of the reversion - I agree with Mr Francis that the same yield should not be applied to both the term and reversion. In agreeing Mr Francis's £110,000, Mr Thompson accepted Mr Francis's all risks yield of 12% which was applied to the market rent of £13,300 to arrive at that figure. In my judgment, if a yield of 12% is adopted to

capitalise a notional rental value in perpetuity, but not to be received for a period of years, the same yield should normally be used in the deferment exercise to reflect the fact that that rent would not be received until the end of that period. It is common for valuers to adopt the same yield in a reversionary exercise, to the extent that "Parry's Valuation Tables" provides a table of a "Years Purchase of a Reversion to a Perpetuity" which assumes that the same yield will be adopted for both the deferment and the eventual capitalisation when the deferment period expires. This obviates the need to do two calculations, being the separate years purchase and present value multipliers, as the Tables already combine the two.

37. For the above reasons, I prefer Mr Francis's approach to Mr Thompson's, both in respect of the term and reversion aspects of the valuation. I therefore determine that freeholder's current interest is, as Mr Francis contends, £850.00.

38. However, that is not the end of the valuation exercise, as marriage value needs to be accounted for. In *Waters v Welsh Development Agency* [2004] 1 WLR 1304, Lord Nicholls said (at [37]):

> "In one case the Court of Appeal expressly applied Lord Romer's 'friendly negotiation' approach: *Lambe v Secretary of State for War* [1955] 2 QB 612. As applied in that case this approach was not at odds with the traditional understanding. There the acquiring authority was the sitting tenant and the compulsory purchase order related to the freehold reversion. The Court of Appeal rightly held that rule 3 was inapplicable. The marriage value which a reversion has for a sitting tenant does not clothe the land with a special suitability within that rule. The court decided that the correct measure of value was the price the acquiring authority, in the course of Lord Romer's friendly negotiation, would have been willing to pay for the reversion if it had no compulsory powers. This included the marriage value. In my view this decision was correct. Any other result would have been most unfair. A freehold reversion is invariably worth more to the sitting tenant. Why should the landlord be paid less because the tenant acquires the reversion in the exercise of statutory powers?"

39. Continuing a Cambrian theme, the marriage value approach was adopted by the Lands Tribunal (Mr P R Francis FRICS) in *Union of Welsh Independents Incorporated* ACQ/64/2006, albeit in an unopposed reference.

40. Neither section 2(e) of the 1920 Act nor rule (3) of the 1961 Act direct that in assessing compensation, the marriage value or tenant's bid should be ignored. It is standard practice in residential leasehold calculations to reflect the marriage value, and a calculation under the 1920 Act should also account for marriage value, if any. This marriage value would be calculated by deducting from the value of the reference property with vacant possession (agreed at £110,000) the aggregate of the parties' current interests, and the resulting amount being split equally between the parties.

41. The tenant's interest is calculated by capitalising its profit rent over the unexpired term of the lease. It is common ground that the market rent of the reference property is £13,300. The rent passing is £50 per annum, and hence Meadowhead are benefitting from a profit rent of £13,250 per annum for 72 years.

42. As a leasehold interest is being valued, which is regarded as a wasting asset, a dual rate yield is appropriate. The dual element of the yield assumes that the tenant is investing to replace the asset "wasted" at the end of the lease by way of a sinking fund, which is ordinarily adjusted for tax. In a traditional approach, the yield applied to the term in the valuation of the freeholder's interest would be adjusted upwards slightly to reflect the leasehold interest. In this instance that is inappropriate. For instance, a yield of say 7%, with and a 2.5% sinking fund, for 72 years, would produce a years purchase of over 13. The effect of this would be that the leasehold interest of 72 years' duration would be worth *more* that the agreed freehold interest with vacant possession. That cannot be right.

43. The reason for the discrepancy seems to be that the low yield range which the valuers adopted reflected what is in essence a ground rent. It is therefore necessary to make a significant yield shift in order that the final valuation, on a stand back and look approach, makes sense. Accordingly, in my judgment an appropriate rate is to add 1% to the reversionary yield. I have therefore adopted a dual rate yield of 13%, with a 2.5% sinking fund, and a nominal tax rate of 20%. At a term of 72 years this produces a years purchase of 7.333[1].

44. Applying this to the profit rent of £13,250 produces a value of the leasehold interest of £97,173. I have determined the freeholder's interest at £850, and accordingly the combined current interests amount to £98,023. On the basis of the agreed freehold value with vacant possession of £110,000 there is therefore marriage value of £11,977, which must be split equally between the parties.

45. I therefore determine the claimants' compensation at £850 plus £5,989, totalling £6,839.

Costs

46. The claimants claim surveyor's fees to date of £900; and legal costs to date of £4,918.00. They also claim costs of the reference.

47. Meadowhead argue that the claimant's right to recover costs is limited by section 4(1)(b) of the Land Compensation Act 1961, in that the Notice to Treat was served on 10 November 2015, which stated that the claimants were requested to submit their claim for compensation within 21 days of the date of service of the Notice. Despite Meadowhead's agent's letters of 10 November 2015, 14 December 2015, and 4 February 2016, with the latter containing a without prejudice offer to pay £2,500 for the freehold and reasonable costs, and a letter from their solicitor dated 16 February 2016, no notice of claim was received from the claimants, causing Meadowhead to have to resort to making this reference. Meadowhead say that since the

[1] This cannot be found in Parry's Tables, but can be derived from formula.

claimants are seeking fixed costs at this stage, they consider it appropriate to refer to the without prejudice offer at this stage.

48. Meadowhead relied on *Colneway Ltd v Environment Agency* [2004] RVR 37, to submit that a reasonable time for serving a notice of claim for the purposes of section 4(1)(b) was deemed to be three months, or 10 February 2016 in this case. Meadowhead's Notice of Reference was made on 8 March 2016.

49. Meadowhead submit that the claimants should not be entitled to their costs of the reference, and should bear Meadowhead's costs of and in connection with the Reference from 10 February 2016. Meadowhead's legal costs of and in connection with the Reference from 10 February 2016 were said to be £4,375.40 inclusive of VAT, and disbursements and surveyor's fees are £1,256.52 inclusive of VAT. They claimed these on the standard basis, to be assessed if not agreed.

50. In their final rebuttal document, Meadowhead said that these costs had increased to £6,937.20, and surveyor's costs of £1,668, both inclusive of VAT.

51. Alternatively, if the Tribunal were minded to order that Meadowhead should pay the claimants' costs, those costs should not be summarily assessed as insufficient detail is given Further, in connection with the surveyor's fees, it should be noted that Mr Thompson's surveyors report contained a significant error, originally valuing the claim at £33,750.

Discussion and conclusions

52. The basic starting point under a claim for compulsory purchase compensation is that the claimants should be awarded their costs, under the principle of equivalence, subject to section 4 of the Land Compensation Act 1961, which provides:

> "4 (1) Where either—
>
> > (a) the acquiring authority have made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by the Upper Tribunal to that claimant does not exceed the sum offered; or
> >
> > (b) the Upper Tribunal is satisfied that a claimant has failed to deliver to the acquiring authority, in time to enable them to make a proper offer, a notice in writing of the amount claimed by him, containing the particulars mentioned in subsection (2) of this section;
>
> the Upper Tribunal shall, unless for special reasons it thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the acquiring authority so far as they were incurred after the offer was made or, as the case may

be, after the time when in the opinion of the Upper Tribunal the notice should have been delivered.

(2) The notice mentioned in subsection (1) of this section must state the exact nature of the interest in respect of which compensation is claimed, and give details of the compensation claimed, distinguishing the amounts under separate heads and showing how the amount claimed under each head is calculated."

53. Taking these provisions in turn, Mr Francis's letter of 4 February 2016 was not an unconditional offer, since it was marked "without prejudice and subject to contract". It should not have been referred to in the claimant's submissions, either before or after my decision was published, but in any event both the "without prejudice" and "subject to contract" designations mean that section 4(1)(a) does not apply in the way Meadowhead submit, as no unconditional offer was made.

54. As regards section 4(1)(b), *Colneway* is not authority for the claimant's submission that a claim should be delivered within a three-month period in every case. In the circumstances of *Colneway* the Tribunal considered that the claimant could have submitted a particularised claim within a few months and went on to say that it should have done so within three months of the deemed Notice to Treat. But section 4(1)(b) doesn't require a written notice within three months, and each case should be considered on its merits.

55. The 1920 Act is encountered infrequently, and in my judgment the claimants needed time to obtain advice. I am satisfied that legal issues required investigation before a valuer could be appointed. The claimant's statement of case was filed and served on 25 July 2016 (a further extension of time having been agreed by Meadowhead). In my judgment that was not an unreasonably long period after the Notice to Treat, given these factors.

56. In any event, Meadowhead's submission is inconsistent with the fact that they were able to make an offer, via Mr Francis, on 4 February 2016. Accordingly, I do not consider that Meadowhead's submission as regards section 4(1)(b) is made out.

57. Since neither of the exceptions under section 4 apply, the claimants should be awarded their costs, in principle. However, this reference was dealt with under the Tribunal's written representations procedure, in which costs are only awarded in exceptional circumstances. The parties agreed to this procedure relatively late in the day - the claimants' solicitor's letter of 9 August 2016 suggested this procedure (in the circumstances of Mr Thompson's calculation reducing from £32,792 to £3,279), and the procedure was agreed by Meadowhead's solicitors in a letter to the Tribunal of 23 September 2016. The written representations procedure was ordered by the Registrar on 11 October 2016.

58. Accordingly, a distinction can be made in respect the claimant's costs incurred prior to 11 October, and those incurred after that date, when the written representations procedure was adopted.

59. I make no award in respect of the claimants' costs between 25 July 2016 and 11 October 2016, since these can only have been incurred as a result of Mr Thompson's mathematical error. And I make no award of costs from 11 October 2016, since costs under the simplified procedure are not awarded save in exceptional circumstances, and I am not persuaded that, having reflected Mr Thompson's mathematical error, there are any further such circumstances.

60. As for Mr Harrison's late change of stance, having dismissed his professional team, this was entirely without merit, and as a result of it Meadowhead incurred further costs. However, the written representations procedure was engaged by that point, and I do not consider Mr Harrison's actions as a lay person to be sufficiently unreasonable to award Meadowhead any costs. In any event, no permission was sought or granted to ask Mr Francis to produce a further report. I make no award of costs for this element of the proceedings.

Disposal

61. I determine that Meadowhead shall pay to the claimants compensation of £6,839, and shall pay the claimants' costs incurred up to 25 July 2016, which shall be summarily assessed in the absence of agreement.

62. The claimants have previously indicated that their costs to 25 July 2016 comprised surveyor's fees of £900, and legal costs of £4,918.00. They shall file with the Tribunal and serve on Meadowhead a breakdown of those costs within 14 days. If these cannot be agreed, Meadowhead shall make any observations in response within a further 14 days, following which the Tribunal shall make a summary assessment.

Dated: 27 February 2017

Peter D McCrea FRICS