



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **PJ/LON/OOAP/HIN/2014/0037**

Property : **Flat 1, 18 Birkbeck Road, London
N17 8NG**

Appellant : **Mr H Parmer (landlord)**

Representatives : **None**

Respondent : **London Borough of Haringey**

Representatives : **Ms R Clarke and Mr M Belotti (of
the Respondent's Environmental
Health Department) with Mr A
Pitter an expert witness**

Type of Application : **An appeal under section of the
Housing Act 2004 against the
service of an improvement notice.**

Tribunal Members : **Professor James Driscoll (Judge) ,
Mr Trevor Sennet and Mrs R Turner**

Date of Hearing : **13 March 2015**

Date of Decision : **10 April, 2015**

DECISION

The Decision summarised

1. The appeal against the service of an improvement notice is dismissed and the notices are confirmed.

Background

2. This is an appeal against an improvement notice which was served under section 11 of the Housing Act 2014 by the London Borough of Haringey (the 'authority'). It is brought by Mr Parmer who is the owner of 18 Birkbeck Road and the landlord under a tenancy of flat 1 (the 'landlord'). He told us that the address to which correspondence has been addressed is a business address and he lives at 178 Colney Hatch Lane, London N10. We were told that similar improvement notices have been served on the other three flats in the building. Mr Parmer has not appealed those and at the hearing he told us that he will he will the outcome of this appeal to the other three flats as well.
3. The appeal is governed by Part 3, Schedule 1 of the Act.
4. The improvement notice was served on or about 30 October 2014 following extensive enquiries by the authority. The authority has concluded that the current arrangements for the provision of heating and the supply of hot water are inadequate. The authority has decided that only the provision of a gas fired central heating system will produce adequate heating in the flat and adequate provisions of hot water.
5. On receipt of the landlord's appeal on 21 November 2014 directions were given on 3 December 2014.

The hearing

6. A hearing was originally arranged for but this date was postponed to 13 March 2015. Before the hearing started the tribunal visited the premises and carried out an inspection of the flat.
7. We were allowed into flat 1 by the tenant Mr. H Kamiaka. Also, present outside the premises were Ms R Clarke and Mr. M Belotti (of the authority's Environmental Health Department) with Mr. A Pitter their expert witness. Mr. Parmer the landlord also met us outside the building. We told them that we would carry out the inspection on our own and they were not with us when we carried out the inspection.
8. We viewed the front and rear elevations, the shared hallway and the ground floor front flat (flat 1). We are grateful to Mr. H Kamiaka, the tenant of flat 1 for allowing access to his home and to the rear garden.
9. The building is a two storey inner terraced house built about 1880 of London brick under a slated roof with a single storey bay to the front and a two storey back addition with mono pitched roof and a later single storey extension to the ground floor rear. The property is set back from the pavement with a shallow front garden and has a rear yard/garden that backs onto a railway line. The house has been converted into four small self-contained units; two per floor.
10. The front door to the house leads into a small communal hallway, which has a worn and dirty carpet and is in a poor state of decorative repair. A door leads up stairs to flats 3 & 4 on the first floor and a second door gives access to a further narrow hall with doors into the ground floor flats, 1 & 2.
11. Flat 1, the subject of the appeal, comprises a hallway with an electric card meter, a front living room/kitchenette, a rear bedroom and an internal bathroom with shower, w.c. and wash basin (which has cold water only). The living room incorporates a sink unit with cold and hot water supplies; the hot being in the form of a hand rinsing spray from an instantaneous electric heater. Heating to the room is by way of a 2kw wall mounted convector heater to the south side of the front wall and plugged into an extension lead. An old and unused pressed

steel radiator is fixed to the partition wall with the hallway. Mould was seen to the front wall of the room on the north side of the bay at low level.

12. Various patches of wall and ceiling appear to have been recently painted with sealant. The bathroom, which appears to have been formed by partitioning the ground floor rear room, has working facilities including an electric shower heater but no heating/heated towel rail. Damp staining was seen around the soil pipe extending into the ceiling. The small rear room has a 2kw wall mounted electric convector heater to the north side of the door to the rear yard, with plug for inserting into a socket. The door from this room to the yard is wooden with a single glazed panel, is ill-fitting, has rotted components and no draught proofing. The louver window above the door is draughty and has been part sealed with plastic.
13. We noted that both the front garden and rear yard contained quantities of old furniture, miscellaneous rubbish and packaging and it was presented in an unkempt condition. The front elevation of the house is in fair order and repair with replacement double glazed windows to the bay and first floor set in PVCu frames incorporating trickle vents. The roof covering to the main and back addition structures appears sound.
14. The single storey back addition extension is of single skin blockwork construction with a built up felt covered flat roof. Both the walls of the extension, roof covering and rainwater goods are in need of repair. Windows to the back addition and extension are double glazed in either PVCu or metal frames. The first floor window facing the railway has exposed reveals. A doorway to the south side of the back addition has been sealed in blockwork and does not match the brickwork.
15. The condition of the door and window to the rear room of flat 1 is detailed above. The yard area immediately outside the rear door to flat 1 has defective foul drainage with a Durgo valve (automatic air admittance valve) sited just above yard level and which appears to be allowing waste water to overflow onto the yard surface and for fumes to escape into the yard area from the drains.

16. The hearing started later that day. The landlord attended on his own. He told us that he had decided not to appoint a representative and that he would not be calling any witnesses. He has decided also not to appoint an expert witness. In his opinion, the current heating arrangements are adequate for small flats. He considers that the installation of gas fired central heating is therefore unnecessary.
17. Ms R Clarke and Mr. M Belotti attended the hearing on behalf of the authority. They were accompanied by Mr. A Pitter their expert witness.
18. As these appeals are to be dealt with by way of a re-hearing (see paragraph 15(2), Schedule 1 of the Act) the authority presented their case first.
19. Ms Clarke gave evidence and she based this on her written statement (which is undated) in the bundle of documents she prepared as directed by the tribunal. Ms Clarke answered questions from the tribunal and from the landlord.
20. She told us that she has been involved with this property since April 2013 when she initially dealt with flat 3 in the premises and later flat 1, the subject premises. A full inspection of the premises (including flat 1) was undertaken on 28 February 2014 with an assessment of potential hazards as defined by the Housing Health and Safety Rating System ('HHSRS').
21. Three potential hazards were identified: excessive cold; damp and mould growth; and personal hygiene. Following an internal review the authority decided an improvement notice requiring the installation of gas fired central heating was required. She served a notice to consult with the landlord on the proposed action. This led to a number of exchanges with the landlord. She also commissioned an energy survey from Mr. Pither.
22. She decided to serve an improvement notice on 30 October 2014. This stated that the subject property suffered from category 1 and 2 hazards. A category 1 hazard existed because of the excessive cold

whilst category 2 hazards existed because of the personal hygiene issue and the damp and mould growth.

23. To deal with the excessive cold the improvement notice requires the installation a gas fired central heating system, or the installation of an electrical combination boiler and heating system. For the personal hygiene hazard the supply of constantly available hot water into the wash hand basin is required. For the damp and mould growth hazard the same installation of hearing for the excessive cold issue is required.
24. The notice required to the necessary remedial action to start by 5 January 2015 and to be completed within a period of 4 months.
25. Mr. Pither (an energy specialist with Alan Pither Limited) told us that he has inspected the subject premises and that he has concluded that the current system for the provision of heating and hot water is unsatisfactory. He recommends the installation of a single gas boiler in the premises to supply heating and hot water of all of the flats. As the flats are small this would be more efficient in his view than fitting individual boilers. If a single boiler is installed heat meters would be needed to allow the landlord to charge tenants for their use. In answer to our questions he told us that central heating could be installed for the whole building at a cost of about £3,000.
26. He answered questions from the tribunal and from the landlord.
27. Mr. Belotti also supported Ms Clarke's evidence and he confirmed the authority's policy and procedures in dealing with the HHSRS. He is the head of the environmental health department. On the basis of his experience it costs about £4,000 to install central heating to a three bedroom house. On the basis of this it would cost a similar amount to install central heating into the subject premises.
28. The landlord gave his evidence and submissions. He is of the view that the current heating system for flat 1 is adequate but he accepts that hot water needs to be supplied for the wash basin. The landlord is of the view that the options given in the improvement notice as too costly. Provision of storage heaters is another option

which the authority should consider. He is also concerned that fitting one boiler is impracticable given the relatively small size of the building. It would also be difficult to keep a record of how much each tenant is using.

29. He told us that he receives a weekly rent of £192 for each of the flats. This is paid by housing benefit. He also owns 50 other properties, flats and houses, which he rents. He has been in business for some 15 years.

Reasons for our decision

30. We have decided to reject this appeal. On the basis of our inspection, our own professional knowledge and experience, the very thorough assessments by Ms Clarke and the expert evidence also from Mr. Pither, we have concluded that in flat 1 the current system of heating is wholly inadequate and expensive to use. There is no heating in the bathroom and though there is hot water for the shower, there is no hot water for the bathroom handbasin.
31. We were surprised that the landlord did not call any expert evidence and he has not challenged the findings that there are both category 1 and category 2 hazards in the flat. As there is a category 1 hazard, the authority are required to take action and they have the power to serve improvement notices for both category 1 and 2 hazards. Ms Clarke had a very extensive exchange of emails and other communications with the landlord and she also gave him the opportunity of making alternative proposals to ensure that the hazards are dealt with.
32. Given the nature of the hazards it seems to us that the obvious solution is the provision of gas-fired central heating. We very much doubt the accuracy of the estimates for the costs of installation given by Mr. Pither and Mr. Belotti's suggestions were more convincing.
33. We agree with the time given for completion of the works (up to four months) which we consider is entirely reasonable for such an installation.

34. Ms Clarke and her colleagues have followed all relevant guidance reaching their decision to serve improvement notices. For all of these reasons we have decided that the service of the improvement notices was fully justified, we confirm the notices and accordingly the landlord's appeal is dismissed.
35. We refer to the landlord's statement set out in paragraph 2 above that he will apply the result of this appeal to all four flats in the building. For the avoidance of doubt, this means that gas-fired central heating is to be fitted to all four flats.

James Driscoll, Trevor Sennett and Rosemary Turner

13 April 2015