



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

Case Reference : MAN/00FF/HIN/2019/0027

Property : 85A Roe Lane, Sheffield S3 9AL

Applicant : Mr Delroy Dean
Representative : In person

Respondent : Sheffield City Council
Representative : Ms Ellie Staniforth

Type of Application : Housing Act 2004-Schedule 1,
Paragraph 10(1)

Tribunal Members : Judge J. E. Oliver
Tribunal Member S. A. Kendall MRICS

Date of Determination : 10th December 2019

Date of Decision : 8th January 2020

DECISION

Decision

1. The Improvement Notice dated 28th January 2019 is confirmed.
2. Schedule 2 of the Improvement Notice, setting out the Remedial Action, is amended as set out in the Schedule appended to this decision.
3. The work required in Remedial Action is to commence within 14 days of the service of this decision upon the parties and is to be completed 16 weeks thereafter.
4. The Applicant is to pay the demand for the payment of costs in the sum of £677.60.
5. There is no order for costs of the proceedings, claimed in the sum of £2674.20.

Background

6. This is an appeal by Mr Delroy Fitts-herbert Dean and Ms Sylvia Lorine Dean (“the Applicants”) in respect of an Improvement Notice dated and served on 28th January 2019 (“the Notice”) relating to 85a Roe Lane Sheffield (“the Property”).
7. The Respondent to the application is Sheffield City Council (“the Respondent”).
8. The Improvement Notice state there are both Category 1 and 2 hazards existing at the Property.
9. The Category 1 hazards are in the categories of damp and mould, excess cold, fall on level surfaces and fire. The Category 2 hazards are in the categories of entry by intruders, personal hygiene and sanitation, falls associated with stairs, steps and ramps, electric and structural collapse and falling elements.
10. The Remedial Actions list all the necessary works that are to be completed to extinguish the hazards in the Property.
11. The Notice require all the works to be completed within 16 weeks of the service of the Notice.
12. The Respondent has also served upon the Applicant a demand for payment of costs in the sum of £677.60.
13. The Applicants filed an application dated the 20th February 2019, to appeal against the Improvement Notice and the demand for costs. This was not received at the Tribunal offices until 18th April 2019. The Tribunal allowed the appeal to be made out of time.

14. On 13th June 2019 directions were issued providing for both parties to file their statements and documents in support and thereafter for the matter to be listed.
15. The application was listed for an inspection and hearing on 10th December 2019.

The Property/Inspection

16. The Tribunal inspected the Property in the presence of one of the Applicants, Mr Dean and Ms Staniforth and Mr Whitaker on behalf of the Respondent.
17. The Property is a ground floor one bedroomed flat in a converted semi-detached property, having a paved driveway to the front and a rear garden.
18. The flat comprises a rear porch, bathroom, kitchen, living room and bedroom.
19. At the inspection, it was evident the Applicants had commenced significant works at the Property. Mr Dean confirmed the tenant had vacated the Property, at a date unknown to him and he had begun the necessary remedial works within the previous 3 weeks.
20. It was agreed between the parties that some of the works detailed within the Notice had been completed, but some remained to be done and some items remained in dispute.
21. Mr Dean confirmed he had undertaken some work not specified within the Notice, in particular the removal of the bay window in the living room. The Applicants had replaced this with a French door that opened onto the rear yard/garden area and provided an additional fire escape.

The Law

22. The Housing Act 2004 provides the framework for the assessment of the condition of residential properties and the remedies that can be used to enforce standards in respect of them.
23. The Housing Health and Safety Rating System (HHSRS) establishes a rating system for hazards. The score will determine which category the hazard falls; a score over 1000 will be a Category 1 hazard and those below 1000 will be a Category 2 hazard.
24. Section 5(1) of the Act provides that if a Category 1 hazard exists then a local authority must take the appropriate enforcement action which can be an improvement notice, prohibition order, a hazard awareness notice, emergency remedial action, demolition order or declaring the area in which the premises are situate, a clearance area. The Act further provides that if only one course of action is appropriate, that course must be taken, or if there are two or more courses available, then the local authority must take the one deemed to be most suitable.

25. Section 7 of the Act provides the same courses of action should a Category 2 hazard exist.
26. Section 12 of the Act provides that if the local authority is satisfied that a Category 2 hazard exists and it serves an improvement notice that is a course of action open to a local authority where a Category 2 hazard exists.
27. Section 12(2) requires the person upon whom the improvement notice is served to take remedial action in respect of any of the hazards that are specified.
28. Sections 11(3) and (4) define what property may be included within any remedial action. Section 11(3) states that where any premises that are the subject of any remedial action is a flat, any action may also include any part of the building or any external common parts. Section 11(4) provides that a local authority may not require any remedial action to any part of the building not included within the premises unless it is “*satisfied that the deficiency from which the hazard arises is situated there*” or action is required to protect the health and safety of the occupiers of one or more of the flats.
29. Schedule 1, paragraph 14 (1) of the Act provides that a person upon whom an improvement notice has been served may appeal to the First-tier Tribunal within 21 days beginning with the day upon which the improvement notice was served. The grounds for the appeal are set out in paragraphs 11 and 12 of the Act. Paragraph 13 provides an appeal may be made against the decision by a local authority to vary or revoke an improvement notice.
30. Schedule 1, paragraph 15 provides for the First-tier tribunal to deal with any appeal by way of re-hearing, thus allowing it to consider the property at the date of the hearing and take into account matters of which the local authority may not have been aware at the date the notice was served. The Tribunal has the power to confirm, quash or vary the improvement notice.
31. Sections 49 & 50 of the Act allow a local housing authority to make a reasonable charge to recover administrative and other expenses incurred in serving an improvement notice. The expenses can include those incurred in deciding whether to issue the improvement notice, identifying the actions required in the notice and thereafter serving it upon the appropriate person.
32. Section 13(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the Rules”) provides that a Tribunal may make an order for costs “*if a person has acted unreasonably in bringing, defending or conducting proceedings*” in a residential property case.

Submissions

33. The Applicants lodged an appeal against the Notice stating that some of the work required within the Notice is unnecessary, or the remedial work is excessive.

34. The Respondent stated it had served the Notice, having tried to resolve matters with the Applicants, without success. In particular, it had received a complaint from the tenant then living at the Property, regarding its condition, in August 2018. Mr Whitaker, a Senior Private Housing Officer and colleague had then inspected the Property on 21st August 2018 and found there to be both Category 1 and 2 hazards. On 11th September 2018, Mr Whitaker contacted the Applicants and suggested a schedule of works to mitigate the hazards. A letter identifying the hazards was issued on the same day. There then followed correspondence between the parties that did not resolve the issues to Respondent's satisfaction, resulting in a formal inspection of the Property on 9th January 2019. The Applicants did not attend this inspection. Due to the lack of progress made, the Respondent served the Notice on 28th January 2019, together with a claim for costs in the sum of £667.60.
35. The Applicants advised the Tribunal that little progress had been made with the works because in November 2018, the tenant had assaulted Mr Dean whilst he was attending the Property. Mr Dean was not prepared to risk any further assault and intended to take action to evict the tenant. He had sent an e-mail to Mr Whitaker, the Senior Housing Officer, advising that until the tenant was evicted, he was unwilling to undertake further work. No reply was received to that e-mail and so the Applicants worked on the assumption the Respondent agreed with this.
36. In their written submissions the Applicants objected to the Notice for the following reasons:
- (1) The Respondent had told the Applicants it would only take enforcement action if they failed to carry out the required works. This, they had been unable to do because of the assault upon Mr Dean. Further, they had a contract with British Gas to repair issues relating to heating, drainage and plumbing. Therefore the tenant had the ability to arrange a convenient time for the covered defects to be rectified. It was the tenant's failure to arrange this that was the issue.
 - (2) Some of the works required are not practical, nor compulsory under current Building Regulations and in particular:-
 - (a) Retrofit the frames with trickle vents; the Applicants state the existing window frames are only 5.5 cm thick and are therefore not wide enough to fit vents.
 - (b) The requirements for repairs to the front porch/cornice of 85B Roe Lane are outside the scope of the Notice since they are not part of the Property.
 - (c) The Applicants raised a submission relating to the replacement of lead pipes, but at the hearing it was agreed this was not a requirement of the Notice and therefore outside the scope of the Tribunal. It was a matter included within the earlier informal notice.

- (d) The Notice requires a mat well to be provided with a mat or filled in to prevent a trip hazard. The Applicants submitted the tenancy was for an unfurnished flat and so were unwilling to comply with this.
- (e) The Notice requires a gap between the base unit and kitchen wall to be filled and secured. The Applicants argue a small gap is necessary to allow the removal of the plinth.
- (f) The Notice further requires the removal of all household waste from the cellar. The Applicants state both a tenant and the Applicants can store items here and there is a fire sensor in the cellar. Consequently, this is unnecessary.
- (g) There is a recommendation for a pest control expert to attend the Property and for the Applicants to block up entrance points and eradicate pests. The Applicants advised a pest control expert had attended and those entrances identified were the air vent and cellar grate, neither of which can be blocked up.
- (h) The Notice requires the Applicants to investigate the level of insulation in the rear off-shot roof and remove any wet or defective insulation and bring the insulation up to the necessary standards. Mr Dean argues the rear entrance porch is enclosed and meets the current lettings requirements.
- (i) The Notice requires mouldy boarding to the cellar ceiling to be removed and to reinsulate between the joists. Mr Dean argues this EPC for the Property exceeds the minimum required and this is therefore not required.

Hearing

- 37. Mr Dean attended the hearing on behalf of himself and Mrs Dean. Ms Staniforth and Mr Whitaker attended on behalf of the Respondent.
- 38. At the outset of the hearing it was agreed between the parties that some of the work required by the Notice has already been completed. Further, it was agreed by Mr Dean, that other specified works would be carried out. The Respondent also conceded that some work could be deleted from the Notice.
- 39. The Tribunal thereafter considered those items of work that remained in dispute.
- 40. Trickle vents
Mr Dean re-affirmed his position that he had replaced all the single glazed units with double-glazing but the original frames remained. They are not deep enough for vents to be installed. Mr Whitaker stated the room requires ventilation. This can be achieved either by drilling holes in the window frame or installing a controllable air vent in the outside wall. Mr Dean submitted that neither of the alternatives is acceptable.

41. Front porch/Cornice

Mr Dean confirmed he had replaced some rotten timbers but accepted that the timbers used were not of a suitable quality and would need to be replaced. He confirmed the work still has to be finished but that this was problematic, since all the timbers are warped. The porch and cornice are shared with the neighbouring property. Mr Whitaker accepted some remedial work had been done and there was now no evidence of damp coming into the Property from the site, but he remains concerned regarding the state of the porch and cornice.

Mat well

It was agreed at the inspection this hazard had been removed; the Applicants have filled in the mat well to prevent any trip hazard.

Kitchen unit

Mr Dean argued it is unnecessary to fill in the gap between the kitchen units and plinth; it is required to enable the plinth to be removed should access be required. Mr Whitaker agreed this item could be removed from the Notice.

Removal of waste from the cellar

At the hearing Mr Dean agreed this work is to be done.

Pest Control

The Respondent accepted the cellar grate and air vent do not require covering.

Rear off-shot roof

Mr Dean confirmed he objects to this work arguing there is a pitched roof and access is difficult. He would be willing to under-draw the ceiling with plasterboard. Mr Whitaker advised the work is required to provide the necessary U-value that cannot be achieved with plasterboard.

Cellar

Mr Dean did not accept the work set out in the Notice is required. He accepts the existing defective insulation should be removed, but the replacement of further insulation is not necessary. Mr Whitaker confirmed the Respondent still requires replacement insulation in order to prevent cold from the cellar rising through the floor.

Fire Alarm System

Mr Dean submitted the replacement of the bay window in the living room with French doors creates a fire escape and can be accessed from the bedroom. The requirement for an escape window in the bedroom is therefore unnecessary. Mr Whitaker advised the bedroom is still classed as an internal room requiring a means of escape from the room itself.

Mr Dean agreed the fire alarm system would be upgraded to the level specified within the Notice. He submitted the proposal to allow access to the entrance of 85B Roe Lane, where the current fire panel is now situated, is impractical. Mr Whitaker confirmed the requirement to remedy this hazard had two alternatives. Consequently access via 85B is not the only solution.

42. Mr Dean submitted the Respondent's actions in issuing the Notice was unreasonable. It issued an Informal notice and he had attempted to do the necessary work. However, when his tenant had assaulted him, he had been unwilling to undertake any further work until the tenant had been evicted. He had e-mailed Mr Whitaker of the assault and heard nothing further, and therefore assumed the Respondent accepted the position. Mr Dean confirmed he had issued a Notice to Quit upon the tenant, but this was defective and therefore ineffective. He had reported the assault to the police but had chosen not to take any further action. He had visited the Property after the assault, but was always accompanied. He did not instruct any contractors to carry out the remedial work, since having advised the Respondent of the position and having heard nothing further, he thought it had accepted no work would be completed until the tenant was evicted. It was only when he had visited the Property approximately 3 weeks before the hearing he found the tenant had left. He had then begun some of the remedial work.
43. Mr Dean further submitted that some of the work required within the Improvement Notice was unnecessary. The HSRSS calculations are subjective and he cannot see any evidence to show the Property is cold. He had obtained an EPC certificate, giving a D rating whilst the minimum lettings standard is an E.
44. The Respondent argued the assault upon Mr Dean had taken place in November 2018. When a formal inspection was carried out on 9th January 2019, Mr Dean did not attend. Mr Whitaker had not responded to the e-mail, although with hindsight, he should have done so. When the initial assessment had been carried out, there were Category 1 hazards thereby imposing a requirement on the Respondent to take action. He had tried to resolve the matter with Mr Dean on an informal basis, but when inspecting the Property on 9th January 2019 only about 5% of the necessary work had been done.
45. The Respondent submitted a claim for costs in the sum of £677.70, being the costs for the preparation and service of the Notice. Mr Dean argued those costs are unreasonable. If the Respondent had responded to his e-mail, he may have acted differently. Further, the costs claimed are a normal overhead of the Respondent, for which he should not be liable.
46. The Respondent made a further claim for the costs of the proceedings in the sum of £2674.20. Ms Staniforth submitted there was no merit in the application. The Applicants had never challenged the Category 1 and 2 hazards. The Respondent had attempted to deal with the matter on an informal basis and it was only by the Applicants' failure to undertake the work had a formal Notice been necessary. There had been considerable work in dealing with the appeal application and it was be unfair for that cost to be borne by the Respondent.

47. Mr Dean stated that when filing the appeal, he had not asked for a hearing and had just expected a decision. He again submitted the costs are a normal overhead of the Respondent and should not be passed on.

Determination

48. The Tribunal considered the Applicants' submission the Respondent had acted unreasonably in issuing the Notice and failing to take into account the issues they had experienced with their tenant. The Tribunal acknowledged Mr Whitaker should have responded to the e-mail sent by the Applicants. In failing to do so, it was not unreasonable for the Applicants to believe the Respondent accepted their reasons for not carrying out the work specified in the informal Notice. However, there was no good reason given why the Applicants did not attend the formal inspection on 9th January 2019. The failure by the Applicants to respond to that resulted in the issue of the Notice. The Respondent had no alternative but to do so. The Respondent had issued an informal Notice. The Applicants had not challenged the Category 1 and 2 hazards and had been given time to do the work. Despite the issues with the tenant, the Applicants could have had contractors undertake the work. They could have attended on the 9th January and advised the Respondent their current position. In failing to do that, it was not unreasonable for the Respondent to issue the Notice. They are obliged to issue a Notice where a Category 1 hazard exists. In the absence of any progress, they had no alternative.
49. The Tribunal has made a determination upon all the work specified in the Notice as set out in the attached Schedule. Some of the work has either already been carried out or has been agreed by the Applicants. Where there is a dispute, the determination is set out.
50. In respect of the claim for costs in the sum of £677.70 the Tribunal determines these are payable by the Applicants. The Respondent had no alternative other than to issue the Notice and it therefore follows those costs should be borne by the Applicants. There was nothing said to suggest the amount claimed is unreasonable.
51. The Tribunal has considered the application for the costs of the proceedings in the sum of £2674.20. Rule 13 (1)(b) of the Tribunal Rules provides that an order for costs may be made if a person has acted "unreasonably" in bringing, defending or conducting proceedings before the Tribunal.
52. The Tribunal considered ***Willow Court Management Company Limited v Alexander & Others [2016] UKUT 290 (LC)*** where the Upper Tribunal considered what amounted to unreasonable. There it was said
- "Unreasonable" also means what it has been understood to mean this context for at least half a century. The expression aptly describes conduct which is vexatious, designed to harass the other side rather than advance the resolution of the case, and it makes no difference that the conduct is the product of excessive zeal and not improper motive. But conduct cannot be

described as unreasonable simply because it leads in the event to an unsuccessful result or because more cautious legal representatives would have acted differently. The acid test is whether the conduct permits of a reasonable explanation. If so, the course adopted may be regarded as optimistic and as reflecting on a practitioner's judgment, but it is not unreasonable."

53. Here, the Tribunal considers that although the application could be considered to have little merit, when taking into account the outcome, the Tribunal does not consider the Applicants' conduct to be unreasonable as defined above. The Applicants accepted Category 1 and 2 hazards existed and had shown a willingness to undertake much of the required work. However, they did not accept all the work was necessary, nor the method of it. Consequently, it was not unreasonable for an appeal to be issued, despite the fact that much of the remedial action within the Notice has been confirmed.

Tribunal Judge Oliver
8 January 2020

Schedule

Number	Description	Applicant's Position	Respondent's Position	Tribunal's Determination
4	Safely remove the existing single glazed window panes and safely dispose of at a proper site	All units are now double glazed	Agreed	This item to be removed from Improvement Notice
5	Strip back all old peeling paint and thoroughly overhaul the existing wooden frames, cutting out all rotten or otherwise perished timber and splicing in new pressure impregnated hardwood where necessary. Treat all adjacent timber with a suitable fungicide, used in accordance with manufacturer's specifications	All works done	Agreed	This item to be removed from Improvement Notice
6	Rebate the frames to allow for new double glazed units, with toughened glass, to be installed and secure in place with suitable beading and putty	All works done	Agreed	This item to be removed from Improvement Notice
7	Retrofit into the frames trickle vent, with appropriate operable covers	Disputed; the window frames are too narrow for trickle vents to be installed	The works are required to provide ventilation in to the property	This item is confirmed but, in the alternative, the Applicant can install controllable air vents
8	Paint all timbers with at least two coats of external timber paint	Agreed and will be done	This is still required	This item is confirmed in the Improvement Notice.
9	Ensure upon completion that the frames and adjacent masonry are in a weather-proof condition and that all opening casements can be readily opened and securely closed and locked	This work has been done	Agreed, save the bathroom window still does not close	This item is varied to provide for the bathroom window to be repaired such that it can be securely closed and locked

10	Renew the perished pointing to the rear elevation wall, where the lead flashing is tied into the wall with a suitable sand and cement mixture, ensuring upon completion that the wall is left in a weather-proof condition.	All works done	Agreed	This item to be removed from Improvement Notice
11	Thoroughly investigate the condition of the portico above the entrance door to Flat 85B to determine its structural stability and to determine the cause of the dampness and rot to the timbers. Carry out all necessary works of repair/replacement and to abate the cause of the dampness and rot. Properly and securely re-affix the porch/cornice to the front elevation wall. Investigate the condition of the lead work flashing and felt of the pitched roof and carry out all necessary works to prevent water ingress into the porch/cornice structure. Cut out all rotten and otherwise defective timbers and splice in new pressure impregnated timbers and treat with at least two coats of external timber paint.	Some remedial work has been done, namely wood has been spliced into the end of the portico to replace wooden timbers. The timbers have warped making it difficult to bend it back to re-fix it to the wall. The portico extends above the neighbour's entrance. This item is not part of the Property and should therefore be excluded from the Improvement Notice.	There is now no evidence of water ingress from the portico and therefore the repair has been effective, but the replacement wood is not of a suitable quality and will rot again. The portico is still coming away from the wall. Although the portico/porch is above the entrance to 85B Roe Lane, it falls within the definition of that property that can be included in any remedial action in accordance with Sections 11(3) & 11(4) of the Housing Act 2004 and so can be included within the Improvement Notice.	The Applicant has undertaken some of the necessary remedial work, but not to a high standard to necessarily prevent future rot. It is considered this item is necessary to prevent further rot and water ingress and is confirmed. The Tribunal accepts the necessary work can be included within the Improvement Notice, falling within the definition of Sections 11(3) & (4) of the Housing Act 2004.

12	Carryout all necessary works of repair/replacement to the soil vent pipe currently serving the WC to ensure that the drainage is laid to proper falls, all the pipework and associated fittings are properly sealed to provide a water-proof seal and a proper vent pipe is fitted to the drainage system to ensure the proper venting of gasses. The vent pipe shall be installed and sited to ensure it complies with current building regulations.	This work has been done. The applicant disputed the issue regarding the falls, stating British Gas, who hold a maintenance contract for drainage and plumbing, would have highlighted any issues.	Due to the current building works and items in the outhouse the work could not be inspected, but the Respondent is content to re-visit once the site is accessible to check the work has been completed	The Tribunal could not inspect the work due to building debris preventing accessibility. It noted the Respondent would re-inspect when possible. This item is therefore to remain in the Improvement Notice. The Respondent to re-inspect when accessibility is available. This item will be redundant if the remedial work is effective. The Tribunal determined the falls issue was relevant in this.
13	Replace either the hopper or the fall pipe to the side elevation wall to ensure that they are properly connected and all waste water is properly discharged into a suitable surface drain.	The internal kitchen wall, on the wall where the hopper is fixed, is tiled and there was no evidence of dampness and this item of work is not necessary	It was accepted that at the inspection there was no evidence of dampness to the internal wall	This item is to be deleted from the Improvement Notice. There was no evidence to support the contention the fall pipe was not properly discharging, despite the hopper being a different shape to the fall pipe.
14	The Council highly recommends you enlist the services of a damp specialist contractor to thoroughly investigate, identify and remedy the causes(s) of dampness to the dwelling. The issues to be addressed will include but may not be limited to the following points. Below is also a list of possible remedial works	The Applicants have already obtained a report from Proten Services to report upon rising damp and wood rotting fungi. The report suggests the dampness may be caused by a defective	The Respondent did not accept this report as dealing with all issues since it was limited to the ground floor of the Property and did not report upon the condition of the cellar. It was accepted the bay	

	<p>which could be carried out to remedy the issues:</p> <p>Suspected rising dampness due to the failure of the damp course: Thoroughly investigate the condition of the damp-proof course (DPC) to the external walls to determine its integrity. If the DPC has failed install a new DPC into the wall ensuring that the DPC is at least 150mm above the external ground level.</p> <p>There is also dampness around the bases of the chimney breasts in the living room and bedroom, this might be attributed [to]the redundant chimneys not having been capped and the fact there are no passive ventilation to the chimneys. Carry out all necessary works to ensure that the chimneys are properly capped and install two passive air vents into each chimney breasts, one at low level and one at high level, to ensure proper air flow.</p>	<p>DPC and rainwater penetration due to defective gutters and roof to the bay window in the living room.</p> <p>Mr Dean confirmed he had removed the plaster and put in a tanking slurry; he then proposes to put lime and cement plaster up to 1 metre, dry line the walls and re-plaster the walls</p>	<p>window and guttering has been replaced.</p> <p>Mr Whitaker advised this is not an approved method and there would still be dew points allowing damp; there would need to be a vapour barrier. Mr Whitaker confirmed the Respondent would accept this method as an alternative to a chemical DPC provided it complies with Building Regulations</p>	<p>This item is confirmed, but Improvement Notice is amended to show that in the alternative the Respondent may adopt the tanking method already commenced but to be completed using a vapour barrier and complying with current Building Regulations.</p> <p>This item is confirmed.</p>
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14	<p>Suspected penetrating dampness due to possible leaks in the rear off-shot extension, which encompasses the ground floor bathroom and rear access vestibule and leaks to the flat felted roof to the rear bay window of the living room and leaks to the guttering serving the rear off-shot extension;</p> <p>Thoroughly investigate the condition of the roof to the rear off-shot extension, the roof to the bay window of the rear bay window and the guttering to the rear of the off-shot extension (above the bay window) to determine and causes of leaks and or dampness. Carry out any necessary works of repair or replacement to the tiles, felt flashings and pointing to ensure that the roofs are left in a weather-proof condition and any leaks are abated. Carry out all necessary works of clearing out, replacement and or re-alignment to the guttering to the rear off-shot to ensure all leaks are abated.</p>	<p>This work has been completed.</p> <p>This work has been completed.</p>	<p>Agreed.</p> <p>Agreed.</p>	<p>This item to be removed from the Improvement Notice.</p> <p>This item to be removed from the Improvement Notice.</p>
14	<p>Suspected traumatic dampness due to leaks from the pipework, fixtures and fittings serving the bath and WC in the bathroom;</p> <p>Thoroughly investigate all associated pipework, fixtures and fittings serving the bath and WC in the bathroom to identify any leaks. Carry out all necessary works of repair or</p>	<p>It was advised this work had been completed.</p>	<p>The bathroom contained building debris at the inspection and it could not be verified whether all the specified work had been completed.</p>	<p>The Tribunal accepts this work may have been completed to remedy all the necessary defects but this could not be confirmed at the inspection. This item is confirmed in the Improvement Notice.</p>

	replacement to ensure any leaks are abated. Properly affix the WC pan to the floor. Ensure all waste water pipework is laid to proper falls to ensure that effective drainage is maintained.			
14	Suspected woodworm/rot infestation to the timbers in the cellar; Thoroughly investigate all joists, floorboards, plaster board and any other timbers in the cellar for the presence of wood worm and rot. Cut out any affected timbers and remove. Splice in new suitable timbers as necessary to ensure the structural integrity of the cellar ceiling. Treat all remaining timbers with a suitable fungicide/insecticide as appropriate, ensuring that these chemicals are used in accordance with manufacturers specifications.	Mr Dean advised the report from Proten Services also covered woodworm and rot infestation. In the light of the Respondent's objections to the extent of the report, he confirmed he would be willing to obtain a further report to cover the whole of the Property.	The Respondent did not accept the report upon the basis it only covered the ground floor and not the cellar.	None of the work recommended within Proten's report had been carried out. The report does not cover the cellar area where the Tribunal evidenced signs of rot and woodworm. This item is therefore confirmed in the Improvement Notice.
14	Suspected rot to some timbers in the bedroom; thoroughly investigate the following timbers; The skirting board in the bedroom under the bay window and under the radiator. The floor boards under the radiator in the bedroom. Cut out all damp/rot affected timbers and splice in new suitable timbers as necessary. Treat all adjacent as necessary as per the specification above.	The skirting board in the bedroom has been removed.	Agreed.	This item is confirmed save the requirement for the removal of the skirting board in the bedroom. The remaining work is still required to eradicate any rot in the Property.

15	<p>Carry out an electrical Installation Condition Report of the existing electrical installation of the whole house and carry out all urgent work deemed necessary by the electrician to put the electrical installation into a safe condition and proper working order. This will include rectifying all C1 and C2 defects identified in the report.</p> <p>This remedial works shall include but not be limited to:</p> <p>All works of repair or replacement necessary to ensure the damp affected electrical wiring and outlets in the rear access vestibule are in a sound and safe condition.</p> <p>All necessary works of repair or replacement to then light switch in the rear access vestibule to ensure that it is securely affixed to the wall and the wires are fully enclosed.</p> <p>Relocate the wall mounted double plug socket in the kitchen adjacent to the sink on the left hand side when facing the sink to a new location outside the splash zone.</p> <p>Thoroughly investigate the cause of the current leakage from the electrical circuit serving the immersion heater and carry out all necessary works to remedy the issue and leave the circuit in a safe and sound condition. Replace the damaged switch in the kitchen which serves the immersion heater with a new switch, properly affixed to the wall.</p>	Agreed.		This item is confirmed in the Improvement Notice.
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	<p>Replace the defective wall mounted double plug socket in the kitchen adjacent to the fire extinguisher with a new double plug socket, ensuring upon completion that it is in a fully functioning condition. Provide upon completion relevant minor works/installation/periodic inspection certificates as appropriate.</p> <p>The electrical inspection should be carried out by an installer who is a member of an approved Competent Person Scheme in accordance with Part P of the Building Regulations.</p>			
16	<p>Carry out all necessary works of repair/ replacement to the latch and clasp mechanism of the kitchen fire door to ensure that it is proper working order and is capable of securely holding the door closed.</p>	Agreed.		<p>This item is confirmed in the Improvement Notice but amended to also include a requirement to adjust the door to the living room to ensure it can be closed.</p>
	<p>A sufficient and functioning automatic fire alarm system must be installed within the flat. This can be achieved by carrying out the works detailed in either paragraphs 17 or 18, or by the works detailed in paragraphs 19-24.</p>	<p>Mr Dean submitted that having removed the bay window from the living room and replaced it with French doors, there is now a viable escape route from the bedroom, through the living room rendering the specified work unnecessary.</p>	<p>The Respondent's position is the bedroom remains an internal room using LACORS guidance and requires an exit within the room.</p>	<p>The Tribunal accepts the Respondent's position. At the inspection it was evident that although a fire escape has been created by the replacement of the bay window with French doors, there remains the possibility of this exit being unavailable in the event of a fire. This is due to the layout of the Property.</p> <p>This is confirmed in the Improvement Notice.</p>

17	<p>Replace one of the existing windows in the bedroom with an escape window, which must comply with Building Regulations 2010 Approved Document B-Fire Safety, any Local Planning restrictions and the following criteria:</p> <p>The escape window must have an unobstructed openable area that is at least 0.33m with no dimension being less than 450mm.</p> <p>The bottom of the openable area should not be more than 1100mm above the floor.</p> <p>The window shall be designed so as to ensure that they will remain in the open position without needing to be held by a person making an escape.</p> <p>The opening casement must be fitted with a restrictor stay, restricting the opening distance to 100mm, but which can be over-ridden by an adult in case of an emergency without the use of a key.</p>			
18	<p>A fire alarm system is required for the flat. This shall be a minimum of a 240-volt mains powered interlinked detection system to BS 5839 Part 6 2004, Grade D, LD2.1 The detectors should incorporate an integral battery standby supply and the system may be linked by radio wave.</p> <p>The system shall include;</p> <p>Smoke detectors and alarms to cover the hallway, bedroom and cellar.</p> <p>A compatible 60 degrees C fixed temperature element heat alarm within the kitchen</p>			

	Detectors should be preferably mounted on ceilings and should be located at least 300mm horizontally from any wall or light fitting.			
19	Carry out such works of repair/replacement necessary to re-instate the current defective part 1 panel fire alarm system and provide certification to prove it is in full functioning order.			
20	Reinstate the existing door which leads from the bedroom of the flat into the original ground floor hallway of the premises, which now constitutes the entrance hallway of 85B (the upper flat). Keys to this door and the front external access door shall be given to the tenant.			
21	Construct a half hour fire resistant partition wall, spanning across ground floor entrance hallway at the bottom of the ground/first floor stairs which lead to 85B (upper flat). The new wall shall be situated at least 900mm away from the bottom going of the staircase. Slight deviations from this ideal will be tolerated.			
22	The partition wall may be constructed with 50 x 50 timbers of 600mm centres, 12.5mm plasterboard to both sides and skim, or any other construction that will give half hour fire resistance.			

23.	Install into the new partition wall a 30 minute fire resistant door and frame to open into the flat. The door shall be fitted with all necessary ironmongery and door furniture to ensure it can be readily opened and securely closed.			
24	Additional lighting and or switches may need to be provided or relocated to ensure that there is sufficient lighting to the new communal vestibule and the stairs of the upper flat. It must also be possible to operate any light along the stairs or on the first floor landing from the base of the stairs.			
25	Thoroughly inspect the condition of the central heating system including all pipework, fittings, fixtures, connections and radiators to identify all issues. Carry out all necessary works of repair or replacement to remedy all leaks and ensure that the central heating system is in full working order.	Mr Dean advises he has a contract with British Gas to service and maintain the central heating system. He will have them inspect and repair and repair where necessary. This is therefore agreed		This item is confirmed in the Improvement Notice.
26	Hack off all damp affected plaster work to the ceilings and walls to the following locations and re-plaster to ensure a smooth and even and flush finish, with adjacent surfaces and then redecorate to match existing: Bathroom Access vestibule Kitchen Living room Bedroom	This work has already commenced and is agreed		This item is confirmed in the Improvement Notice.

27	Install a suitably sized mat into the recess in the floor adjacent to the rear access door, or fill in the recess using other alternative and suitable materials. Upon completion there shall no longer be a significant trip hazard.	The recess has been filled in.	Agreed	This is to be deleted from the Improvement Notice
28	Carry out all necessary works of repair or replacement to the rear access door and frame to ensure that it is well fitting, draught and weather-proof and is readily openable and can be securely closes and locked. This will include cutting out and replacing any rotten or otherwise damaged timbers and splicing in new timbers. Installing a suitable latch clasp and appropriate recess into the frame. Renewing the weatherboard. Installing a secure and draught-proof letter-box cover.	All the necessary work has been completed save for the installation of a weather board.	Agreed	This item is to be varied, such that the work required is the installation of a weatherboard to the rear access door.
29	Take up the existing vinyl floor covering and inspect the condition of the floor surface. Carry out all necessary works to ensure the floor surface is smooth and even. Carry out all necessary works to ensure that the vinyl floor covering is well-fitting, smooth, even and securely affix to the floor. Upon completion it shall no longer present a trip hazard.	This work has been completed.	Agreed	This item is to be deleted from the Improvement Notice.
30	Remove the raised threshold between the access vestibule and the kitchen and make good the disturbed floor surface. This could be achieved by installing an appropriate threshold strip.	This work has been completed.	Agreed	This item is to be deleted from the Improvement Notice.

31	Remove the defective bath seal to the bath in the bathroom and re-seal using a mould resistant silicone based sealant. Upon completion there shall be a water tight seal to the bath and the tiled wall splash back and the seal shall be easily cleanable.	This work has been completed.	Agreed	This item is to be deleted from the Improvement Notice.
32	Carry out works necessary to properly and securely re-fix the boiler housing cupboard to the wall.	The boiler housing cupboard is to be removed, thus removing the need for this work	Agreed	This item is to remain in the Improvement Notice, but should be redundant once the cupboard has been removed.
33	Carry out all works of repair/replacement necessary to ensure the built –in oven is securely affixed into the housing and no longer falls out when the door is opened.	Agreed		This item is to remain in the Improvement Notice
34	Replace the existing glazing in the door between the kitchen and the rear vestibule with toughened glass or cover both sides with safety film. Ensure that the glazing is securely held in place with putty or appropriate beading.	Agreed, although the Applicant may replace the glass with hard boarding.	The Respondent would agree to replacement with hard boarding in the alternative.	This item is to remain in the Improvement Notice, with the amendment that, in addition to toughened glass or safety film, hard boarding may also be used.
35	Carry out all works necessary to the tiled splash back and sealing on and around the kitchen sink to ensure that the tiled splash back extends down far enough to be flush with the work top surface and there is a water-proof seal between the work top surface and the tiled splash back.	This work has been done,	Agreed	This item is to be deleted from the Improvement Notice.

36	Fill in the gap between the base unit and the kitchen wall using a suitable fillet of timber, secured properly in place.	The Applicant states this is not necessary; the gap is there to enable the kitchen plinths to be removed	Agreed	This item is to be deleted from the Improvement Notice.
37	Properly re-affix or replace the threshold strip between the kitchen and the hallway.	This work has been completed.	Agreed	This item is to be deleted from the Improvement Notice.
38	Remove the damp affected boarding currently covering the fireplace and properly block up the fireplace using appropriate construction techniques. This could be achieved by bricking.	This work has been completed.	Agreed	This item is to be deleted from the Improvement Notice.
39	Properly re-affix or replace the threshold strip between the bedroom and the living room	This work has been completed.	Agreed	This item is to be deleted from the Improvement Notice.
40	Remove all accumulations of household waste from the cellar and dispose of safely at a registered site of proper disposal	The Applicant agrees the remaining household items need to be removed		This item is to remain in the Improvement Notice
41	Install a handrail on the cellar staircase of an adequate section at a height between 0.84m and 1.1m measured vertically above the pitch line of the stairs. The handrail shall be continuous for the full length of the staircase. The handrail shall be sound and secure upon completion.	The Applicant has installed a further section of handrail to the existing section, providing two separate handrails.	The Respondent does not accept the additional handrail is sufficient; there are now two separate rails, some distance apart and are inadequate for tenants who have to go into the cellar on a regular basis to access the coin operated meters in the basement	The handrail, in its present form is inadequate. It is not continuous and is on two separate angles, making its continuous use difficult. This item is to remain in the Improvement Notice

42	Install a functioning light in the cellar head. This light shall be connected to the existing light switch at the cellar head to be operated at the same time as the cellar body light.	This work has been completed.	Agreed, save at the inspection there was no light bulb to enable the fitting to be tested.	Upon the basis the light fitting could not be tested, this item is to remain in the Improvement Notice. Once a light bulb has been installed and the fitting tested, this requirement may be redundant,
43	Increase the level of passive ventilation to the cellar by unblocking any current airbricks and re-instating the old coal shoot. A suitable external grated cover will need to be installed over the top of the coal shoot to prevent the creation of an additional trip hazard.	This work has been completed	Accepted	This item is to be deleted from the Improvement Notice.
44	Investigate the current level of insulation to the rear off-shot extension roof void. Remove all wet or otherwise defective insulation. If the level of insulation does not meet current standards as dictated by Building Regulation 2010-Documents L1B-Conservation of Fuel and Power, then the level of insulation shall be upgraded. This should be achieved by installing new insulation between the joists, to the eights of the joists, being careful not to obstruct any passive air vents into the roof void. The thermal elements should be improved so after insulation works are complete the roof area at ceiling level meets a U-value of 0.16W/m ² K ⁸ . Slight deviation from this ideal will be tolerated.	Mr Dean objected to this work; the roof is a pitched roof and is not accessible to check the insulation nor replace it. He confirmed he would be willing to line it with plasterboard to provide insulation.	The Respondent's position is that lining with plasterboard will not provide the necessary insulation. The roof area needs to meet the specified U-value to provide the appropriate level of insulation.	The Tribunal noted the Property's bathroom is in the off-shot extension. It therefore requires the necessary insulation. The Applicants did not show that by lining the roof with plasterboard that the necessary U-value would be met. This item is therefore confirmed in the Improvement Notice.

45	Remove the wet and mouldy over-boarding from the cellar ceiling and safely dispose at a site of suitable disposal. Install insulation between the joists, to the height of the joists. This could be achieved by installing mineral fibre insulation held in place with chicken wire, thereby allowing adequate ventilation to the timbers and prevent further mould, rot and dampness.	Mr Dean confirmed he would be willing to remove the over-boarding from the cellar, but would not provide any further insulation between the joists, deeming it to be unnecessary.	The Respondent requires the installation of insulation to provide additional warmth for any tenant of the Property. The removal of the over-boarding is to prevent any further spread of mould , rot and dampness.	The Tribunal noted at the inspection there was evidence of rot, dampness and mould in the cellar joists and the over-boarding prevents the airflow to prevent this re-occurring when treated. The cellar requires insulation. The current level of insulation could not be properly inspected because of the over-boarding. This item is therefore confirmed in the Improvement Notice.
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