



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

**Case Reference** : **CAM/00KC/HYI/2021/0003**

**HMCTS** : **CVP**

**Property** : **81 Corbet Ride, Leighton Buzzard,  
Bedfordshire LU7 2SJ**

**Applicant** : **Central Bedfordshire Council**  
**Representative** : **Pathfinder Legal Services Limited**

**Respondents** : **Nigel John Ashton**  
**Sally Ann Chappell**

**Type of Application** : **Application for authorisation to make an  
Interim Empty Dwelling Management  
Order (Ss 133 & 134 Housing Act 2004)**

**Tribunal** : **Judge JR Morris**  
**Mr Chris Gowman BSc MCIEH MCMI**

**Date of Application** : **2<sup>nd</sup> September 2021**  
**Date of Directions** : **21<sup>st</sup> May 2021**  
**Date of Hearing** : **27<sup>th</sup> September 2021**  
**Date of Decision** : **27<sup>th</sup> September 2021**

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**DECISION**

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## **Covid-19 Pandemic: Remote Video Hearing**

This determination included a remote video hearing together with the papers submitted by the parties which has been consented to by the parties. The form of remote hearing was Video. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing/on paper. The documents referred to are in a bundle, the contents of which are noted.

Pursuant to Rule 33(2A) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 and to enable this case to be heard remotely during the Covid-19 pandemic in accordance with the Practice Direction: Contingency Arrangements in the First-tier Tribunal and the Upper Tribunal the Tribunal has directed that the hearing be held in private. The Tribunal has directed that the proceedings are to be conducted wholly as video proceedings; it is not reasonably practicable for such a hearing, or such part, to be accessed in a court or tribunal venue by persons who are not parties entitled to participate in the hearing; a media representative is not able to access the proceedings remotely while they are taking place; and such a direction is necessary to secure the proper administration of justice.

### **Decision**

1. The Tribunal authorises the Applicant to make an interim Empty Dwelling Management Order in the form as set out at page A64-69 of the Bundle with the following amendments:  
“DRAFT” is to be deleted  
The Order is to be addressed to:
  - 1) Nigel John Ashton as the relevant proprietor at such address as he has given for communications
  - 2) Sally Ann Chappell as the relevant person at 1 Pankhurst Place, Broklesbury Close, Watford WD24 4GPThe Schedule narrative is to be completed “and as such shall carry out or arrange to have carried out the following works” followed by the table of works.
2. The Tribunal makes no order for payment of compensation.

### **Reasons**

#### **Introduction**

3. On 16<sup>th</sup> April 2021 the Applicant applied for authorisation for an interim Empty Dwelling Management Order in respect of the Property. The Order will enable the Applicant to enter the Property, because it is a dwelling, to undertake work and then to let it on the open market. In the absence of the owner’s consent being obtained the Applicant can make a Final Order without the further involvement of the Tribunal.
4. Following receipt of the Application, the Tribunal made a Directions Order on 21<sup>st</sup> May 2021.

## The Law

5. The relevant law is contained in sections 133, 134 and Schedules 6 and 7 of the Housing Act 2004 and the Housing (Empty Dwelling Management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006.
6. Section 133 states that a local housing authority may make an interim Empty Dwelling Management Order in respect of a dwelling which is wholly unoccupied and the relevant proprietor is not a public sector body, after it has obtained authority from a First-tier Tribunal (Property Chamber) (Residential Property).
7. Before making an application, the authority must:
  - a) identify the “*relevant proprietor*” in relation to the dwelling. The relevant proprietor means, in this case, “*the person who has the freehold estate in the dwelling*” (section 132(4)(c)(ii);
  - b) “*make reasonable efforts*” to find out what the relevant proprietor is intending to do “*to secure that the dwelling is occupied*” and to notify the relevant proprietor of its intentions to make an application for an Order (section 133(3));
  - b) take into account the rights of the relevant proprietor and the interests of the wider community when deciding whether to apply for authorisation.
8. Section 134 sets out the matters, which a tribunal must take into account. These are that:
  - none of the exceptions set out in the Housing (Empty Dwelling management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006 apply which are:
    - (a) it has been occupied solely or principally by the relevant proprietor and is wholly unoccupied because—
      - (i) he is temporarily resident elsewhere;
      - (ii) he is absent from the dwelling for the purpose of receiving personal care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder;
      - (iii) he is absent from the dwelling for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; or
      - (iv) he is a serving member of the armed forces and he is absent from the dwelling as a result of such service;
    - (b) it is used as a holiday home (whether or not it is let as such on a commercial basis) or is otherwise occupied by the relevant proprietor or his guests on a temporary basis from time to time;
    - (c) it is genuinely on the market for sale or letting;
    - (d) it is comprised in an agricultural holding within the meaning of the Agricultural Holdings Act 1986 or a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995;

- (e) it is usually occupied by an employee of the relevant proprietor in connection with the performance of his duties under the terms of his contract of employment;
  - (f) it is available for occupation by a minister of religion as a residence from which to perform the duties of his office;
  - (g) it is subject to a court order freezing the property of the relevant proprietor;
  - (h) it is prevented from being occupied as a result of a criminal investigation or criminal proceedings;
  - (i) it is mortgaged, where the mortgagee, in right of the mortgage, has entered into and is in possession of the dwelling; or
  - (j) the person who was the relevant proprietor of it has died and six months has not elapsed since the grant of representation was obtained in respect of such person.
- the tribunal must take into account the interests of the community and the effect that the order will have on the rights of the owner or any third party
  - the tribunal must be satisfied of the following matters:
    - *that the dwelling has been wholly unoccupied for at least 2 years or such longer period as may be prescribed;*
    - *that there is no reasonable prospect that the dwelling will become occupied in the near future;*
    - *that, if an interim order is made, there is a reasonable prospect that the dwelling will become occupied*
    - *that the authority has complied with section 133(3) and*
    - *that any prescribed requirements have been complied with*
9. The Housing (Empty Dwelling management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006 sets out what information has to be provided to the Tribunal to satisfy it that it has complied with Section 133(3) of the Housing Act 2004 i.e., to tell the owner what the applicant intends to do and what advice has been given.
10. If the Tribunal gives authority for the making of an interim Empty Dwelling Management Order, it may also make an order requiring the applicant to pay “*to any third party specified in the order an amount of compensation in respect of any interference in consequence of the order with the rights of the third party*”.

## **Hearing**

11. A hearing was held on 27<sup>th</sup> September 2021 attended by Ms Janice Edmond who is a Technical Officer in the Housing Initiatives Service and Ms Elisea Ruocco Housing Operations Manager and Ms Julie Liburn, Solicitor, of Pathfinder Legal Services Limited (formerly LGSS Law Limited) for the Applicant. The Respondents did not attend.

## Evidence and Considerations

12. The Witness Statement of Janice Edmond who is a Technical Officer in the Housing Initiatives Service of the Applicant was provided. This statement was not disputed by the Respondents.
13. The Applicant's Officers provided a Schedule to her witness statement setting out in chronological order the steps to determine the condition of the Property, its status as empty, the attempts to determine the relevant proprietor and the attempts to find the relevant proprietor resulting in the service of a Notice of Intention to make an interim Empty Dwelling Management Order.

### *Description and Condition of the Property & Locality*

14. The Property is a semi-detached two-bedroom bungalow in a residential area of Linslade. A plan and photographs of the Property were provided.
15. Internally the bungalow comprises a hallway, kitchen, living room, two bedrooms and a bathroom.
16. Externally the bungalow has brick elevations under a concrete tile roof, timber framed single glazed windows, timber door, soffits and fascias and upvc rainwater goods. At the hearing it was said that the timber of the windows was rotten beyond repair and the replacement with double glazed units would greatly increase the insulation. The garden to all sides of the Property is overgrown. The property is believed to have been constructed in the 1980's.
17. An inspection was carried out following the exercise of the powers of entry under section 239 Housing Act 2004 and a Schedule of Works was produced as follows:  
Internal Works  
Asbestos report, electrical condition report, inspect/service boiler, power flush central heating system, insulate loft, install new consumer unit, install wired smoke and heat detectors, replace windows (5), clear property, deep clean house, redecorate house, install lampshades and curtains, replace wc seat, replace taps.  
External Works  
Repaint fascia, replace fencing, replace external lights, jet wash path, clear front, side and rear garden, treat weeds, level steps, install hand rail.  
It was noted that the draft Order was for 12 months which is appropriate in order to carry out the work.
18. At the hearing it was said that modifications regarding the levelling of the path would make the Property particularly suitable for elderly persons for whom there was a significant demand for accommodation.
19. Cost of works estimated at £20,950.00 plus additional costs of management and maintenance costs of £11,288.54 makes a total of £31,238.40 which it was anticipated would be recouped over a period of 6.5 years with a rental income of £822.73 per month, in line with the local housing allowance.

20. In comparison a compulsory purchase was likely to lead to a loss of £25,528.75.
21. The Tribunal noted that the cost of certain items of the schedule of works was high relative to their replacement, in particular the £4,000 set aside for curtains, blinds and light shades. The Applicant's Officer responded that the purpose of the expenditure was to put the Property in a fit state for letting. The Tribunal accepted that some cost would be under budget and others over but essentially the Schedule and costing was appropriate.
22. The Tribunal commented that from its knowledge and experience in its other jurisdictions the anticipated rent appeared modest. The Tribunal suggested that if the rent were higher the costs incurred for refurbishment would be recovered sooner and so well within the 7-year period of the final Order.
23. The Applicant's officer said that it was intended to let the Property at an affordable rent as part of the Applicant's related policies.
24. The Tribunal, following the hearing, noted the requirements of the final Empty Dwelling Order Management Scheme as set out in Part 2 of Schedule 7 paragraph 13. This states at sub paragraph (3)  
*The scheme is to contain a plan giving details of the way in which the authority proposes to manage the dwelling, which must in particular include-*  
*(c) the amount of rent which, in the opinion of the authority, the dwelling might reasonably be expected to fetch on the open market at the time the management scheme is made*
25. The Tribunal appreciates the commendable desire of the Applicant to provide affordable accommodation. However, the purpose of the Empty Dwelling Management Order is to bring back into occupation dwellings which are empty. In achieving this the Applicant is a public body which is taking over a private individual's property to meet the general need for accommodation and is able to recoup its costs in doing so through the rent. The proprietor of the Property should not be penalised by the Order being prolonged or the financial gain reduced by a rent being charged that is less than the market rent. The Tribunal is of the opinion that paragraph 13(3)(c) of Part 1 of Schedule 7 of the Housing Act 2004 supports a market rent being charged. The Tribunal appreciates that the present application is with regard to an interim Order nevertheless it suggests that this view be taken into account in respect of the final Empty Dwelling Management Order.
26. The neighbour has been seeking to sell her bungalow but several sales are said to have 'fallen through' due to the condition of the Property. At the hearing it was also stated that the Police have received complaints about the condition and possible use of the Property. In addition, adjacent to the Property is an area of open land which is also overgrown. The condition of the Property exacerbates the risk of fly tipping both at the Property and on the adjacent open area of land. The Applicant's Officers confirmed that inquiries were

being made with regard to the use of the adjacent open area of land. The condition of the Property affected the amenity in the area generally.

27. The Applicant has as at 1<sup>st</sup> May 2020 a housing waiting list of 444 applicants with a need for two-bedroom accommodation, 98 of whom are registered in Leighton Buzzard. Empty properties with overgrown gardens have a negative impact on the prices of neighbouring properties which directly affects the financial position of their owners.
28. At the hearing it was said that bungalows, which were suitable for elderly persons such as the Property, were in particularly short supply.

#### *Status as Empty Dwelling*

29. The Applicant submitted that the Property has, for at least two years, been empty. According to the Applicant's Council Tax records it has been empty since 18<sup>th</sup> December 2011 (section 134(2)(a)).
30. On 21<sup>st</sup> May 2019 and 25<sup>th</sup> June 2019 letters were sent by the Applicant's Officers to Woodfines Solicitors, as the contact for the Property for Applicant's Council Tax Department, seeking information as to the status of the Property. On 8<sup>th</sup> August 2019 Woodfines telephoned the Applicant's Officers stating that the person believed to be the relevant proprietor had mental health issues.
31. On 24<sup>th</sup> January 2020 an Officer of the Applicant carried out a site inspection and found the garden to be overgrown and received no answer at the bungalow.
32. On 11<sup>th</sup> February 2020 a Notice of Entry under section 239 Housing Act 2004 was served on the Property requesting access to inspect the Property on 18<sup>th</sup> February 2020. Officer of the Applicant attended on 18<sup>th</sup> February 2020 but could not obtain access.

On 18<sup>th</sup> February 2020 a warrant was applied for (Woodfines were informed) and was granted on 4<sup>th</sup> March 2020 (Woodfines were informed). On 17<sup>th</sup> March 2020 the Warrant was executed and a full survey was carried out, a copy of which was provided as noted above.

33. On 2<sup>nd</sup> October 2020 a Notice of Intention to make an Empty Dwelling Management Order was served on the Property. On 16<sup>th</sup> October 2020, following legal advice as set out below, further notices were served on Sally Chappell at her partner's address of 33 Orwell Court, Watford and Nigel Ashton at Woodfines Solicitors. The three-month notice period ending on 17<sup>th</sup> January 2021.

#### *Identifying Relevant Proprietor*

34. The Applicant's Officers sought to determine who the relevant proprietor is in order to serve the Notice of Intention. The communications by telephone, email and letter commenced on 21<sup>st</sup> May 2020 with Woodfines, Solicitors as the contact address for Council Tax. A brief background was provided by

Woodfines. On 24<sup>th</sup> September 2019 the Applicant's Officers obtained a copy of the Land Registry Entry for the Property identifying Evelyn Elsie Davisson as the Proprietor (Copy provided).

35. In February and March 2020, the Applicant's Officers, liaising with the Council Tax Department, received some contradictory and unclear information from Woodfines as to who held the Property. In June and August 2020, the Applicant's Officers were able to obtain documentation which it passed to Pathfinder Legal Services Limited (formerly LGSS Law Limited) on 13<sup>th</sup> August and instructed them for advice. On 8<sup>th</sup> October 2020 the Applicant's Officers received advice with regard to the Relevant Proprietor.
36. A copy of the legal advice was provided which set out the history of the ownership of the property in chronological order as follows:
  1. An official copy of Title Number BD194956 at HM Land Registry dated 21<sup>st</sup> February 2020 shows the Proprietor of the Property on 11<sup>th</sup> July 1996 to be Evelyn Elsie Davisson. No mortgage is shown on the Charges Register.
  2. The will of Evelyn Elsie Davisson dated 19<sup>th</sup> April 1985 appointed Paul Stroud Cox as Executor and her daughters, Sally Ann Chappell and Pamela Jean Davisson were left the residue of her estate in equal shares.
  3. Evelyn Elsie Davisson died on 1<sup>st</sup> March 2003 and Sally Ann Chappell and Pamela Jean Davisson became the beneficiaries of her estate and entitled to the Property.
  4. The Grant of Probate for Evelyn Elsie Davisson was issued on 30<sup>th</sup> March 2005 and named Pamela Jean George as her executor not Paul Stroud Cox. It is not known why Paul Stroud Cox did not apply for Probate and it is not relevant to these proceedings. Pamela Jean George gave address as the Property when she was appointed as executor and it is understood that she is the same Pamela Jean Davisson. It is not known why her surname has changed.
  5. The will of Pamela Jean George dated 16<sup>th</sup> May 2014 appointed Nigel John Ashton as her sole executor and made modest legacies to 5 persons and the residue to her half-sister Sally Ann Chappell.
  6. Pamela Jean George died on 31<sup>st</sup> May 2014 and Sally Ann Chappell became the beneficiary of the residue of her estate which included the Property.
  7. The Grant of Probate for Pamela Jean George was issued on 10<sup>th</sup> October 2014 and named Nigel John Ashton as executor.
  8. Both the Grants state that the will is annexed but it is not known whether the will annexed is the will provided although there is no evidence to show they are not.
  9. Pamela Jean George as the executor of Evelyn Elsie Davisson should have vested the Property to Sally Ann Chappell and herself. This did not happen and therefore the administration of Evelyn Elsie Davisson's Estate was not complete. Under the chain of representation Pamela Jean George's executor, Nigel John Ashton can complete the administration of Evelyn Elsie Davisson's Estate.
  10. Until the Property is vested in the beneficiary, Sally Ann Chappell, by the Executor, Nigel John Ashton, she has no legal title only an equitable



or beneficial interest which would be insufficient to register her as the Proprietor at the Land Registry. It is the executor who has the legal title.

11. The Empty Dwelling Management Order Guidance and legislation does not refer to registered proprietors but “relevant proprietors”. At the time of giving the advice it was not clear whether Sally Ann Chappell or Nigel John Ashton or both are the relevant proprietors under the legislation.
  12. The Applicant’s Officers were advised to serve the appropriate notices on the Property and to serve notices on Sally Ann Chappell and Nigel John Ashton.
37. The above was confirmed at the hearing.

*Tracing Relevant Proprietor*

38. On the understanding that Sally Ann Chappell was a relevant proprietor the Applicant’s Officers sought to trace her.
39. On 6<sup>th</sup> November 2019 in response to a Notice served under section 16 Local Government (Miscellaneous Provisions) Act 1976 for information as to ownership the Applicant’s Officers received an address for Sally Ann Chappell of 21 Pankhurst Place, Radlett Road, Watford WD24 4GP. On 12<sup>th</sup> November 2019 a letter was sent by post and on 14<sup>th</sup> November 2019 hand delivered to the address and again on 15<sup>th</sup> and 21<sup>st</sup> January 2020 respectively.
40. In January 2020 neighbours of the Property were also asked whether they knew of Ms Chappell’s address to no avail.
41. In March 2020 Dacorum Council within whose area Ms Chappell’s Watford address is situated was approached asking if they were able to provide an address for Ms Chappell. In addition, Watford Community Housing Trust who are shown at HM Land registry to own 21 Pankhurst Place, Radlett Road, Watford WD24 4GP were asked if they could provide any information as to how to contact Ms Chappell. Neither were able to reply presumably due to confidentiality obligations.
42. On 29<sup>th</sup> June 2020 the Applicant’s Officers made inquiries of its Social Service Department as Ms Chappell was known to have mental health issues but she was not known to Adult Social Care.
43. Also, on 29<sup>th</sup> June 2020 Fraser and Fraser, a tracing agency, were engaged. On 25<sup>th</sup> September 2020, following information provided by the Agency the Applicant contacted a mental health facility in Haywards Heath.
44. On 15<sup>th</sup> October 2020 the Applicant’s Officers were able to contact Ms Chappell on a mobile number who confirmed that her address is 21 Pankhurst Place, Radlett Road, Watford WD24 4GP but that she was living temporarily with her partner, Mr Jones, at 33 Orwell Court, Watford due to an incident at her home address.

45. Ms Chappell said the Property had been owned by her mother and had then passed to her half-sister but said that she had another sister following her father's re-marriage. The Applicant's Officers explained the situation with regard to the Property and the help she could get and said that the relevant information would be sent to 33 Orwell Court. A Notice of Intention was sent to 33 Orwell Court on 16<sup>th</sup> October 2020.
46. On 8<sup>th</sup> September 2021 Mr Jones's brother, Mr David Jones, informed the Tribunal that 33 Orwell Court, Watford had been unoccupied for five months due to his brother being in hospital and intermediate care. He said his brother is now permanently in a care home. He added that he believed that Ms Chappell was under the care of mental health services and that her address may now be 21 Pankhurst Place, Brocklesbury Close, Watford WD24 4GP.

#### *Compliance with Notice etc Requirements*

47. Copies of correspondence were provided as follows:

##### Letters & enclosures regarding proprietors' intentions for empty property

48. Letter dated 21<sup>st</sup> May 2019, repeated 25<sup>th</sup> June 2019 and 12<sup>th</sup> November 2019, requesting Ms Chappell's intentions by questionnaire addressed to Woodfines Solicitors. Similar letter dated 6<sup>th</sup> January 2020 and repeated 15<sup>th</sup> January 2020 to Ms Chappell addressed to 21 Pankhurst Place, Radlett Road, Watford WD24 4GP.

##### Letters and enclosures regarding Notice of Intention to make an Interim Empty Dwelling Management Order

49. Letter dated 15<sup>th</sup> October 2020 following a telephone conversation with Ms Chappell in which she confirmed her address at that time was 33 Orwell Court, Watford and to Mr Ashton at Woodfines Solicitors both with a Notice of Intention to make an interim Empty Dwelling Management Order and accompanying notes a copy of which were provided.

#### *Summary*

50. The Applicant's Officers submitted that:
  - a) The Applicant has made reasonable efforts to find out who the relevant proprietor is and what the relevant proprietor intends to do to ensure that the dwelling is occupied and to notify the relevant proprietor of its intentions to make an application for an Order and a Notice of Intention and draft Order has been served on 16<sup>th</sup> October 2020 (Section 133(3) Housing Act 2004).
  - b) The Property has been unoccupied for at least two years as required by Section 134(2)(a) Housing Act 2004.
  - c) There is no reasonable prospect that the dwelling will be occupied in the near future as it has remained unoccupied since December 2011 (section 134(2)(b) Housing Act 2004).

- d) If the Interim Empty Dwelling Management Order is made there is a reasonable prospect that the dwelling will become occupied (section 134(2)(c) Housing Act 2004).
- e) The Applicant has complied with section 133(3) Housing Act 2004 on 16<sup>th</sup> October 2004 and the Respondents have not complied with the prescribed requirements (section 134(2)(d) Housing Act 2004).
- f) The Applicant has at 1<sup>st</sup> May 2020 a housing waiting list of 444 applicants with a need for two-bedroom accommodation, 98 of whom are registered in Leighton Buzzard. Empty properties with overgrown gardens have a negative impact on the prices of neighbouring properties which directly affects the financial position of their owners (section 134(3)(a) Housing Act 2004);
- g) The Applicant is not aware of any particular or special circumstances of the proprietor that would mean the making an Empty Dwelling Management Order would have an impact on them that was not envisaged by the legislation. There is no mortgage and the resultant income generated by its occupation following the reimbursement of the cost of refurbishment is of benefit to the Respondent (section 134(3)(b) Housing Act 2004).
- h) The Applicant is not aware of any particular or special circumstances of the proprietor or of any third party that would mean an order for compensation to be made
- i) It is the Applicant's duty to take appropriate steps for the purpose of securing the occupation of the dwelling. The Applicant has made an assessment of the repairs and the costs and calculated the rental income that is likely to be produced and found that the project is cost effective. The Applicant has funds and a management service available (section 135(2) Housing Act 2004).
- j) The relevant proprietor does not come within the exceptions set out in article 3 of the Housing (Empty Dwelling Management Orders) Prescribed Exceptions and Requirements) (England) Order 2006 (Housing Order 2006) (article 4(1)(a) Housing Order 2006).
- k) The Applicant made enquiries to find the relevant proprietor and ascertain the proprietor's intentions to secure the occupation of the dwelling and to identify the course of action to achieve this (article 4(1)(b)(ii) Housing Order).
- l) The Applicant has offered advice, assistance and encouragement (article 4(1)(b)(iii) Housing Order 2006)
- m) The Property is in Council Tax Band B (article 4(1)(b)(v) Housing Order 2006).

51. No representations were received from either of the Respondents.

### **Decision**

52. The Tribunal considered all the evidence adduced and submissions made. In the Reasons above the Tribunal has made some observations e.g., regarding a market rent being charged, which although not part of the Decision for authorisation of an interim Order are relevant to a final Order should it be made.

53. Firstly, the Tribunal determined the relevant proprietor.
54. The Tribunal finds that Nigel John Ashton is the trustee of the Property under the implied statutory trusts under the Administration of Estates Act 1925 and Trustee Act 1925 as amended by the Trusts of Land Appointment of Trustees Act 1996, the express trusts in the wills of Evelyn Elsie Davisson and Pamela Jean George and in any event by a constructive trust, for Sally Ann Chappell.
55. The reason for the finding is that Pamela Jean George obtained a Grant of Probate to the estate of Evelyn Elsie Davisson. The estate of Evelyn Elsie Davisson which included the Property was devised in her will to Pamela Jean Davisson (also known as Pamela Jean George) and Sally Ann Chappell, but no assent of the Property was made. By her will Pamela George left the residue of her estate to Sally Ann Chappell which included her share in the Property. A Grant of Probate was made to Nigel John Ashton personally, who by reason of the chain of representation, automatically is the executor of both testators and holds the undistributed residue, which includes the Property, for Sally Ann Chappell.
56. The need for the finding is to identify the relevant proprietor upon whom the Notice of Intention has to be served for the interim Empty Dwelling Management Order. The effect of the finding is that the Tribunal determines that the relevant proprietor is Nigel John Ashton.
57. Mr Ashton should apply to be registered at HM Land Registry as the personal representative of the deceased, restrictions will be placed on the register commensurate with his role. He will then be able to transfer or assent the Property. Reference should be made to HM Land Registry Practice Guide 6: Devolution on the death of a registered proprietor (updated 27 August 2021).
58. The appointment in the Will and the Grant of Probate is to Mr Ashton personally and not to any firm. He should be aware that under section 5 of the Administration of Estates Act 1925 he is unable to delegate, transfer or assign his executorship, although he may employ professional persons to carry out work related to the executorship. There was some reference to costs in the statement of case. There may be an entitlement to remuneration under the terms of a will but it is not a pre-condition to carrying out the obligations of a personal representative.
59. It is not within the Tribunal's jurisdiction to make any further finding or determination as to the relevant proprietor. However, the Applicant should be aware of possible future issues that may arise during the period of the interim or final Orders. In particular Mr Ashton, under the implied statutory trusts and express trusts of the wills could sell, assent or continue to hold on trust, the Property.
60. A sale would be subject to the Order as a local land charge, and following the sale, Mr Ashton would need to settle all debts from the proceeds and hold the remainder on trust for Ms Chappell and those who become entitled through her e.g., by will or intestacy.

61. If an assent is granted to Ms Chappell directly or with the assistance of the Court of Protection, taking into account her health, it would be helpful for the Applicant to know who might become entitled through Ms Chappell e.g., by will or intestacy, at the end of the Order.
62. If the Property continues to be held on trust there may be the need to appoint another trustee or another beneficiary who may become entitled.
63. Secondly, the Tribunal determined the relevant person.
64. Under section 133(8) Housing Act 2004 Part 1 of Schedule 6 applies in relation to the making of an interim Empty Dwelling Management Order. Under paragraph 1 of Schedule 6
  1. *Before making an Order the authority must-*
    - (a) *Serve a copy of the proposed order together with a notice under this paragraph on each relevant person; and*
    - (b) *consider any representations made in accordance with the notice and not withdrawn*
  8. (4) [as per section 133(8)(d)] *“relevant person” is any person, who to the knowledge of the local housing authority, is a person having an estate or interest in the dwelling*
65. The Tribunal found that the relevant person includes, in this case, Mr Ashton but it also includes Ms Sally Ann Chappell as she has an interest in the Property.
66. Having determined the relevant proprietors and relevant persons relating to the Property, the Tribunal considered whether the Applicant had complied with the statutory requirements to make an Order.
67. The Tribunal considered the list of requirements as set out in the summary of the evidence above.
68. The Tribunal is satisfied that the Property has been wholly unoccupied for at least 2 years. There is no reasonable prospect of the Property becoming occupied in the near future. The Applicant has also set out a Schedule of work to put it into a condition for occupation and made a calculation as to how and when the cost will be recouped. If an interim order is made, there is a reasonable prospect that the dwelling will become occupied.
69. The Tribunal is satisfied that the Applicant has taken into account the interests of the wider community when deciding whether to apply for authorisation by deciding to refurbish the property and reclaim the cost through the rental, reducing the risk of blight to the area.
70. The Tribunal is satisfied that the Applicant has complied with all the requirements as regards the initial notices requesting information as to intentions for the property and the Notice of Intention to make an Empty Dwelling Management Order.

71. The Tribunal is satisfied that none of the exceptions set out in the Housing (Empty Dwelling management Orders) (Prescribed Exceptions and Requirements) (England) Order 2006 applies.
72. The Tribunal was disappointed that Mr Ashton did not attend the hearing. He provided no statement or evidence as to why, since the Grant of Probate in 2014, he has not been more proactive in settling the estates of Evelyn Elsie Davisson and Pamela Jean George in favour of the beneficiary Ms Sally Ann Chappell. It is hoped that he will discuss the situation and the options that are still open with regard to the Property with the Applicant's Officers and Ms Chappell following this decision.
73. Ms Chappell did not provide any representations nor did she attend the hearing. Notwithstanding that Mr Ashton is the relevant proprietor and no assent has yet been made to Ms Chappell, she has paid the outstanding Council Tax of £5,000. If the Property were left empty under section 11B of the Local Government Finance Act 1992 amended by The Local Government Finance Act 2012 the Council Tax liability would increase by 300% which on its assent to her could cause considerable hardship.

Based on the evidence adduced and the submissions made, the Tribunal authorises the Applicant to make an interim Empty Dwelling Management Order in the form as set out at page A64 to 69 of the Bundle with the following amendments:

"DRAFT" is to be deleted

The Order is to be addressed to:

- 1) Nigel John Ashton as the relevant proprietor at such address as he has given for communications
- 2) Sally Ann Chappell as the relevant person at 1 Pankhurst Place, Brocklesbury Close, Watford WD24 4GP

The Schedule narrative is to be completed "and as such shall carry out or arrange to have carried out the following works" followed by the table of works.

74. The Applicant does not ask the Tribunal to make an order for compensation.

**Judge JR Morris**

#### **ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional Office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e., give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.