



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

<b>Case reference</b>	:	<b>LON/00AT/HIN/2022/0012</b>
<b>Property</b>	:	<b>37 Chaucer Avenue, Hounslow, Middlesex TW4 6NA</b>
<b>Applicant</b>	:	<b>Gaurav Kochhar</b>
<b>Respondent</b>	:	<b>London Borough of Hounslow</b>
<b>Type of application</b>	:	<b>Appeal in respect of an Improvement Notice</b>
<b>Tribunal</b>	:	<b>Judge Nicol Mrs F Macleod MCIEH</b>
<b>Date and Venue of Hearing</b>	:	<b>14<sup>th</sup> October 2022 10 Alfred Place, London WC1E 7LR</b>
<b>Date of Decision</b>	:	<b>9<sup>th</sup> January 2023</b>

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**DECISION**

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The Improvement Notice dated 14<sup>th</sup> April 2022 is confirmed, subject to the following variations (as recorded in the amended schedule attached as an Appendix to this decision):

1. The following requirements are removed:
  - (a) to demolish the lean-to and to carry out consequent work is removed (points 1 and 3 of the Works required to address the hazard of Fire); and
  - (b) to upgrade the construction between bedrooms and throughout the escape route.
2. However, the shower currently in the lean-to must either be removed or relocated into another part of the ground floor of the property.

3. Paragraph 2 above is suspended unless and until the current tenants of the property leave voluntarily or by lawful order, subject to the following conditions:
  - (a) The Applicant shall inform the Respondent as soon as practicable that the current tenants are leaving or have left the property and that their tenancy has terminated;
  - (b) The Applicant shall provide details of any works to be carried out to remove or re-locate the shower; and
  - (c) The Respondent shall not re-let the property after the current tenants leave unless and until the works referred to in subparagraph (b) have been carried out.

### **Reasons**

1. The subject property had been the Applicant's family's home for around 40 years. When his mother died in 2020, the property was no longer occupied and the Applicant decided to let it. He went through at least two lettings in quick succession, during which time the Respondent became concerned that it might be an unlicensed house in multiple occupation ("HMO"). The Respondent's concerns were raised further when the Applicant supplied them with a gas safety certificate (amongst other requested documents) the date of which appeared to have been altered.
2. Therefore, on 22<sup>nd</sup> February 2022, Mr Stephen O'Brien, a Housing Enforcement Officer with the Respondent, inspected the property. He carried out an assessment under the Housing Health & Safety Rating System and identified 2 category 1 hazards (Excess Cold and Fire) and 3 category 2 hazards (Lighting; Personal Hygiene, Sanitation and Drainage; and Domestic Hygiene, Pest and Refuse).
3. On 3<sup>rd</sup> March 2022, Mr O'Brien sent the Applicant a formal Notice of Intention to take action in regard to the hazards he had found. The Applicant indicated that he intended to carry out improvements to obviate the hazards but Mr O'Brien was not satisfied with progress and, on 14<sup>th</sup> April 2022, he sent the Applicant an Improvement Notice.
4. On 4<sup>th</sup> May 2022 the Applicant issued an appeal to this Tribunal. On 15<sup>th</sup> June 2022 the Tribunal issued directions. They were amended on 5<sup>th</sup> August 2022 by converting the hearing from video to in-person.
5. The hearing of the appeal took place on 14<sup>th</sup> October 2022. It was attended by the Applicant and Mr O'Brien. The documents available to the Tribunal consisted of a bundle from each party, of 69 and 83 pages respectively.
6. On the morning prior to the hearing, the Tribunal inspected the property. It is a two-storey, mid-terrace house, very close to Heathrow Airport. It has a rear garden which has some recently installed fencing

precluding access to a couple of outbuildings. The ground floor has two rear extensions. The first contains a kitchen, for which the only natural light is from a skylight and what filters from the front window at the other end of a long lounge.

7. The second extension, which the Applicant said had been in place for over 12 years, may be described as a lean-to. It is attached to and is accessed from the first extension. Mr O'Brien accurately described it as "made from part brick, part woodchip board, part corrugated plastic roofing, with open wooden joists internally and no insulation". When Mr O'Brien inspected in February, he noted it contained a second kitchen, including a gas hob. On the Tribunal's inspection, the gas hob was no longer there, although there were cupboards all along one wall. The room had no smoke or heat detectors. There was evidence of damp penetration.
8. The main feature of the lean-to was a room with a shower and a toilet, apparently installed for the benefit of the Applicant's mother with the assistance of either health or social services. The current tenant's household also includes an elderly lady who needs downstairs toilet and washing facilities and therefore finds this convenient.
9. However, it did not require a detailed HHSRS assessment to realise that the lean-to would become too cold to use for washing facilities during the colder months. It contains a small radiator but the structure is far too flimsy to be able to retain any heat.
10. The Improvement Notice required the Applicant to demolish the lean-to. The Applicant balked at that. To him, the lean-to was a long-standing integral part of his property. The works and the removal of the downstairs shower facilities would mean the current tenants would have to move out and seek assistance from the Respondent's homelessness department. He emphasised that he was a rare landlord who let his property to a family on benefits and did his best to look after them.
11. At the hearing, Mr O'Brien conceded that the lean-to could be used if that use were limited to storage. With the removal of the gas hob, some of his concerns as to fire safety and unsuitable use of the lean-to had been alleviated.
12. In the Tribunal's opinion, it would be disproportionate to the issues which remain to require the lean-to to be completely demolished. It provides, and has provided for many years, a convenient addition to the property. The gas hob having been removed, the real problem is the presence of the shower. It is not fit for long-term use in an area which is capable of getting so cold. If the shower were removed from the lean-to, the only problem remaining would be the category 2 hazard arising from the limited amount of light reaching the kitchen in the other rear extension. It is a matter of balance but it is not worth demolishing the lean-to only to alleviate that one problem.

13. Having said that, if the shower were to be removed while the current tenants were still in occupation, the property would cease to be suitable for them. Even if they weren't forced out, the Respondent's homelessness department would probably have to undertake the difficult task of finding them somewhere else to live.
14. In the circumstances, the Tribunal sought to provide a balanced solution. The shower has to be removed from the lean-to (if possible, it should be re-located into the other rear extension). However, in order not to displace the current tenants, the requirement to remove or relocate the shower will be suspended in accordance with the Tribunal's powers under section 14 of the Act until the current tenants leave the property. The Applicant will be obliged to inform the Respondent if and when the current tenants leave and of what his plans are to remove or relocate the shower before any further letting takes place.
15. The Tribunal has decided to confirm the remainder of the Improvement Notice. In particular, the retention of the lean-to still leaves the ground floor without sufficient fire separation between the rooms. Therefore, the Tribunal has decided that the Improvement Notice should retain the requirement to install fire doors to the kitchen and living rooms on the ground floor, the fire detection and alarm system and fire fighting equipment. As the property is being occupied as a single dwelling, the requirement to upgrade the construction between letting rooms and throughout the escape route is removed.

**Name:** Judge Nicol

**Date:** 9<sup>th</sup> January 2023

## **Appendix of relevant legislation**

### **Housing Act 2004**

#### **1 New system for assessing housing conditions and enforcing housing standards**

- (1) This Part provides–
  - (a) for a new system of assessing the condition of residential premises, and
  - (b) for that system to be used in the enforcement of housing standards in relation to such premises.
- (2) The new system–
  - (a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and
  - (b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).
- (3) The kinds of enforcement action which are to involve the use of the new system are–
  - (a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),
  - (b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and
  - (c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).
- (4) In this Part “residential premises” means–
  - (a) a dwelling;
  - (b) an HMO;
  - (c) unoccupied HMO accommodation;
  - (d) any common parts of a building containing one or more flats.

- (5) In this Part–

“building containing one or more flats” does not include an HMO;

“common parts”, in relation to a building containing one or more flats, includes–

- (a) the structure and exterior of the building, and
- (b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling;

“external common parts”, in relation to a building containing one or more flats, means common parts of the building which are outside it;

“flat” means a separate set of premises (whether or not on the same floor)–

- (a) which forms part of a building,
- (b) which is constructed or adapted for use for the purposes of a dwelling, and
- (c) either the whole or a material part of which lies above or below some other part of the building;

“HMO” means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);

“unoccupied HMO accommodation” means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.

(6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).

(7) The following indicates how this Part applies to flats–

- (a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and
- (b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).

(8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.

## **2 Meaning of “category 1 hazard” and “category 2 hazard”**

(1) In this Act–

“category 1 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;

“category 2 hazard” means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and

“hazard” means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

(2) In subsection (1)–

“prescribed” means prescribed by regulations made by the appropriate national authority (see section 261(1)); and

“prescribed band” means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.

(4) In this section—

“building” includes part of a building;

“harm” includes temporary harm.

(5) In this Act “health” includes mental health.

### **7 Category 2 hazards: powers to take enforcement action**

(1) The provisions mentioned in subsection (2) confer power on a local housing authority to take particular kinds of enforcement action in cases where they consider that a category 2 hazard exists on residential premises.

(2) The provisions are—

(a) section 12 (power to serve an improvement notice),

(b) section 21 (power to make a prohibition order),

(c) section 29 (power to serve a hazard awareness notice),

(d) section 265(3) and (4) of the Housing Act 1985 (power to make a demolition order), and

(e) section 289(2ZB) of that Act (power to make a slum clearance declaration).

(3) The taking by the authority of one of those kinds of enforcement action in relation to a particular category 2 hazard does not prevent them from taking either—

(a) the same kind of action again, or

(b) a different kind of enforcement action,

in relation to the hazard, where they consider that the action taken by them so far has not proved satisfactory.

### **12 Improvement notices relating to category 2 hazards: power of authority to serve notice**

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may serve an improvement notice under this section in respect of the hazard.

(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsection (3) and section 13.

(3) Subsections (3) and (4) of section 11 apply to an improvement notice under this section as they apply to one under that section.

(4) An improvement notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) An improvement notice under this section may be combined in one document with a notice under section 11 where they require remedial action to be taken in relation to the same premises.

(6) The operation of an improvement notice under this section may be suspended in accordance with section 14.

### **13 Contents of improvement notices**

(1) An improvement notice under section 11 or 12 must comply with the following provisions of this section.

(2) The notice must specify, in relation to the hazard (or each of the hazards) to which it relates—

(a) whether the notice is served under section 11 or 12,

(b) the nature of the hazard and the residential premises on which it exists,

(c) the deficiency giving rise to the hazard,

(d) the premises in relation to which remedial action is to be taken in respect of the hazard and the nature of that remedial action,

(e) the date when the remedial action is to be started (see subsection (3)), and

(f) the period within which the remedial action is to be completed or the periods within which each part of it is to be completed.

(3) The notice may not require any remedial action to be started earlier than the 28th day after that on which the notice is served.

(4) The notice must contain information about—

(a) the right of appeal against the decision under Part 3 of Schedule 1, and

(b) the period within which an appeal may be made.

(5) In this Part of this Act “specified premises”, in relation to an improvement notice, means premises specified in the notice, in accordance with subsection (2)(d), as premises in relation to which remedial action is to be taken in respect of the hazard.

### **15 Operation of improvement notices**

(1) This section deals with the time when an improvement notice becomes operative.



(2) The general rule is that an improvement notice becomes operative at the end of the period of 21 days beginning with the day on which it is served under Part 1 of Schedule 1 (which is the period for appealing against the notice under Part 3 of that Schedule).

(3) The general rule is subject to subsection (4) (suspended notices) and subsection (5) (appeals).

(4) If the notice is suspended under section 14, the notice becomes operative at the time when the suspension ends.

This is subject to subsection (5).

(5) If an appeal against the notice is made under Part 3 of Schedule 1, the notice does not become operative until such time (if any) as is the operative time for the purposes of this subsection under paragraph 19 of that Schedule (time when notice is confirmed on appeal, period for further appeal expires or suspension ends).

(6) If no appeal against an improvement notice is made under that Part of that Schedule within the period for appealing against it, the notice is final and conclusive as to matters which could have been raised on an appeal.

### **18 Service of improvement notices etc. and related appeals**

Schedule 1 (which deals with the service of improvement notices, and notices relating to their revocation or variation, and with related appeals) has effect.

## **PART 3**

### **APPEALS RELATING TO IMPROVEMENT NOTICES**

#### *Appeal against improvement notice*

#### **10**

(1) The person on whom an improvement notice is served may appeal to the appropriate tribunal against the notice.

(2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).

#### **15**

(1) This paragraph applies to an appeal to the appropriate tribunal under paragraph 10.

(2) The appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(3) The tribunal may by order confirm, quash or vary the improvement notice.

(4) Paragraphs 16 and 17 make special provision in connection with the grounds of appeal set out in paragraphs 11 and 12.

**Appendix – amended schedule to Improvement Notice**

Hazard	Deficiencies	Location	Hazard Category
Fire	<p>Lack of a fire detection and alarm system that may allow smoke, fumes and/or fire to spread unnoticed.</p> <p>Doors of inappropriate materials and ill-fitting doors that may allow smoke, fumes and/or fire to spread</p> <p>Lack of effective self-closers where appropriate , that may allow smoke, fumes and/or fire to spread</p> <p>Inadequate separation of the kitchen from the living or sleeping areas – lack of a 30 minute fire door between the kitchen and the communal hallway/adjacent rooms, sited to the left hand side of the property and the main stairs leading to the first floor of the property (the main means of escape in the event of a fire).</p>	<p>Whole dwelling</p> <p>Ground Floor</p> <p>Ground Floor</p> <p>Ground Floor</p>	Category 2

Excess Cold	<p>Lack of any form of insulation in the cavities of the ceiling or walls of the additional single storey, lean to, rear extension</p> <p>Lean to extension build of inappropriate materials (partial brick (single skin), partial wood framed, corrugated plastic and exposed wood joist ceiling) and not according to Building Control standards.</p> <p>Extensive and persistent dampness to external walls and ceilings that reduce the effectiveness of the thermal insulating material and/or the structure.</p> <p>Inadequate thermal insulation to the external envelope of the single storey additional, lean to rear extension. This is constructed from a partial brick/partial wood frame/partial corrugated plastic roof, lacking in any form of insulation</p> <p>Uncontrollable draughts caused from this same additional rear extension area, which is home to a shower room and adjacent to the kitchen and living areas</p>	Additional single storey, lean to, rear extension	Category 1
Lighting	With the other proposed amendments to the works, it is considered disproportionate to remove the lean-to for this hazard	Ground floor kitchen	Category 2
Personal Hygiene, Sanitation and drainage	<p>Bathroom sited in lean to rear extension areas has inadequate thermal insulation to the external envelope. This is constructed from a partial brick/partial wood frame/partial corrugated plastic roof, lacking in any form of insulation</p> <p>Defective design, construction and/or maintenance of the surfaces to the ceiling resulting in them not being capable of being kept clean and hygienic.</p>	Additional single storey, lean to , rear extension	Category 2
Food Safety	At the time of the inspection, the kitchen facilities had already been removed thus resolving this hazard	Kitchen	Category 2

Domestic Hygiene, Pests and Refuse	<p>Inadequate construction materials used in the ceiling of the lean to rear extension, specifically the upper wall and ceiling/roof</p> <p>Ill-fitting covers or lack of means of access to roof spaces to facilitate treatment</p> <p>Open joint between window and/or door frames adjacent walls and ceilings</p> <p>Presence of ants and ant infestation reported by the current tenants.</p>	Additional single storey, lean to, rear extension	Category 2
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**LONDON BOROUGH OF HOUNSLOW HOUSING ACT**

**2004**

**SCHEDULE 2**

**Schedule of works required to remedy the hazard/s described in Schedule 1 above**

The following works are to be carried out at **37 Chaucer Avenue, Hounslow, TW4 6NA**

References to 'left' and 'right' and 'front' and 'rear' in this schedule are to be taken as viewed from the opposite side of the street facing the front of the building.

**Works required to address the hazard of Fire,**

**Fire Detection and Alarm Systems**

1. Provide workable smoke alarms with integral battery back-up located in

the ground floor hallways and first floor landing and all communal hallways.

2. Provide a heat alarm with integral battery back-up located in all kitchen areas.

## **Fire Doors**

### **Doors to living room and Kitchen**

3. Replace the following doors with fire resisting doors (FD30S) that meet BS476 Part 22, 23, 31.1 and are installed in accordance with BS 8214:1990.
  - Ground Floor living room (2 no.) opening onto the ground floor hallway
  - Ground floor kitchen (1 no.) opening onto the ground floor hallway
4. Each door must have an intumescent strip and cold smoke seal, fitted down both sides and along the head of the door.
5. The door must be hung on three fire rated hinges, which comply with BS EN1935 (European notation) and be close fitting to the frame with a maximum gap of 4mm (ignoring seal/strip). The gap beneath the door should not exceed 8mm.
6. Doors must have self-closing devices. Overhead self-closers are preferred but double-chain "Perko" type closers are acceptable as a minimum, (Gibraltar self-closers are not acceptable).
7. Each door should close from any point of travel between 1 and 90 degree angle to effectively engage the catch.

## **Fire Fighting Equipment**

8. Provide primary means of fighting fire equipment such as a fire blanket in the kitchen and suitable multipurpose fire extinguisher.

## **Works required to address the hazards of Excess Cold**

### **And**

## **Works required to address the hazards of Personal Hygiene, Sanitation and Drainage**

### **Bathroom in rear, single storey, lean to extension**

9. Remove the bathroom in this area including capping off the water supply and drainage.
10. Remove all resultant debris from this area once works to remove the bathroom sited in the single storey, rear lean to extension have taken place.

**Works required to address the hazard of Domestic Hygiene, Pests and Refuse,**

11. Examine the roof coverings, eaves and verges of the main access door at the top of the external stairs leading to this area and properly seal all holes greater than 6mm that might allow access into the roof space of rats, mice, squirrels or birds.
12. Provide any necessary holes for ventilation to the bathroom, with suitable grilles to prevent access from pests.
13. Properly seal the open joints around the service pipes and electrical installation within the wall and floor around the main access door, using suitable plaster or intumescent material applied to clean properly keyed surfaces.

**Refuse areas**

14. Construct a refuse storage area sufficient for the size and occupancy of the property, it should be constructed from suitable materials on a firm base with falls to an existing surface water gulley, or other satisfactory form of surface drainage.