



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

Case Reference : **MAN/ ooFB/HER/2023/0001**
MAN/ooFB/HIN/2023/0016 and 0019

Property : **Flats 1, 2 and 3, Old Coach House, Fairfield Road,
Bridlington, YO15 3DR**

Applicants : **JOHN MALCOLM HOOD and CLARE HOOD**

Respondent : **EAST RIDING OF YORKSHIRE COUNCIL**

Type of Application : **Appeal against Emergency Remedial Action
Notice and Improvement Notices, Housing Act
2004**

Tribunal Members : **Tribunal Judge A M Davies
Tribunal Member P Mountain**

Date of Decision : **26 March 2024**

**Date of
Determination** : **3 April 2024**

DECISION

1. FLAT 1, OLD COACH HOUSE

The schedules to the Improvement Notices dated 14 March 2023 issued to the Applicants shall be varied to read:

“SECTION 11 HOUSING ACT 2004

Schedule 1

Address: Flat 1, Old Coach House, Fairfield Road, Bridlington YO15 3DR

Category 1 Hazard: Excess Cold

Deficiency resulting in the hazard:

1. Unless the flat roof has been insulated the flat roof reduces the thermal effectiveness of the property and increases heat loss.

2. The storage heaters are dated and lack a convector heater or dual heat facility.
The property does not have adequate supplementary heating.

Schedule of works to remedy Category 1 Hazards

1. Within 1 month from the date of this Notice provide evidence that the flat roof has been adequately insulated. If the flat roof is found not to be adequately insulated, within 3 months from the date of this Notice install insulation in line with the latest Building Regulations. The work to be carried out by a registered installer. Make good all disturbed surfaces and leave the ceiling in sound condition. Provide evidence of insulation to Private Sector Housing once the works are completed.

2. Within 3 months from the date of this Notice

Install *either* gas central heating with separate time and temperature programming for the living and sleeping areas of the property *or* electrical radiators with thermostats, in either case according to the recommendations of a suitably qualified heating engineer to ensure that all parts of the property are adequately heated.

Grants may be available from the council -

<https://www.eastriding.gov.uk/council/grants-and-funding/home-improvement-grants>. Alternatively other funding may be available nationally.

Following completion of the work -

provide a copy of the Heating/BTU calculation to Private Sector Housing to demonstrate that the new heating system is adequate to heat the whole property, and

obtain a report from a suitably qualified electrical engineer as to whether the electrical installation should be upgraded to allow for the increased load and carry out any work recommended in the report.

SECTION 12 HOUSING ACT 2004

Schedule 1

Address: Flat 1, Old Coach House, Fairfield Road, Bridlington YO15 3DR

Category 2 Hazards:

- 1. Excess Heat
- 2. Fire

Deficiencies resulting in the hazard:

1. The window in the second (rear) bedroom is fixed shut. Unless the extractor fan is fitted with humidistat sensors or are otherwise adequate there is insufficient ventilation in the room.
2. The fire detection panel in the entrance lobby of Old Coach House repeatedly displays faults and the fire detectors within the flat may also be defective. Faults in the system are not logged and investigated when they occur.

Schedule of works to remedy Category 2 Hazards

1. Within 3 months from the date of this Notice provide written evidence to Private Sector Housing that the extractor fan in the second (rear) bedroom, *either* has humidistat sensors *or* automatically changes the air in the room 4 times each hour.
2. Within 28 days from the date of this Notice provide a valid certificate of testing of the fire detection system from a suitably qualified electrician or specialist alarm engineer. The certificate must comply with BS5839-1.
Subsequently test and maintain the fire alarm and emergency lighting systems in accordance with BS 5839-1 and BS 5266-8 – 8:2004.”

2. FLAT 2, OLD COACH HOUSE

(1) The schedules to the Improvement Notices dated 14 March 2023 issued to the Applicants shall be varied to read:

“SECTION 11 HOUSING ACT 2004

Schedule 1

Address: Flat 2, Old Coach House, Fairfield Road, Bridlington YO15 3DR

Category 1 Hazard: Excess Cold

Deficiencies resulting in the hazard:

1. The storage heaters are dated and lack a convector heater or dual heat facility.
The property does not have adequate supplementary heating.
2. There are gaps round the patio doors in the living room creating uncontrollable draughts.

Schedule of works to remedy Category 1 Hazard

Within 3 months from the date of this Notice

- 1) Install *either* gas central heating with separate time and temperature programming for the living and sleeping areas of the property *or* electrical radiators with thermostats, in either case according to the recommendations of a suitably qualified heating engineer to ensure that all parts of the property are adequately heated.

Grants may be available from the council -

<https://www.eastriding.gov.uk/council/grants-and-funding/home-improvement-grants>. Alternatively other funding may be available nationally.

Following completion of the work -

provide a copy of the Heating/BTU calculation to Private Sector Housing to demonstrate that the new heating system is adequate to heat the whole property, and

obtain a report from a suitably qualified electrical engineer as to whether the electrical installation should be upgraded to allow for the increased load and carry out any work recommended in the report.

- 2) Carry out works to ensure the patio doors open and close properly and that there are no gaps around them. Leave the patio doors in sound weathertight condition.

SECTION 12 HOUSING ACT 2004

Schedule 1

Address: Flat 2, Old Coach House, Fairfield Road, Bridlington YO15 3DR

Category 2 Hazards:

1. Excess Heat
2. Damp and mould
3. Fire

Deficiencies resulting in the hazard:

1. The window in the second bedroom is fixed shut. Unless the extractor fan is fitted with humidistat sensors there is insufficient ventilation in the room.
2. The extractor fan in the bathroom is or has been defective. Air and extraction vents in the property have been taped shut.
3. The fire detection panel in the entrance lobby of Old Coach House repeatedly displays faults. Faults in the system are not logged and investigated when they occur.

Schedule of works to remedy Category 2 Hazards

- 1) Within 3 months from the date of this Notice provide written evidence to Private Sector Housing that the extractor fan in the second bedroom *either* has humidistat sensors *or* automatically change the air in the room 4 times each hour.
- 2) Within 3 months from the date of this Notice provide written evidence to Private Sector Housing that the extractor fan in the bathroom has humidistat sensors. Install appropriate air and extraction vent covers which minimise heat loss and draughts within the property. Once installed, make good any disturbed surfaces and leave in working condition.
- 3) Within 28 days from the date of this Notice provide a valid certificate of testing of the fire detection system from a suitably qualified electrician or specialist alarm engineer. The certificate must comply with BS5839-1. Subsequently test and maintain the fire alarm and emergency lighting systems in accordance with BS 5839-1 and BS 5266-8 – 8:2004.”

(2) The Respondent's costs of the Emergency Remedial Action in the sum of £283.40 are payable by the Applicant.

3. FLAT 3, OLD COACH HOUSE

(3) The schedules to the Improvement Notices dated 29 March 2023 issued to the Applicants shall be varied to read:

“SECTION 11 HOUSING ACT 2004

Schedule 1

Address: Flat 3, Old Coach House, Fairfield Road, Bridlington YO15 3DR

Category 1 Hazard: Excess Cold

Deficiencies resulting in the hazard:

The storage heaters are dated and lack a convector heater or dual heat facility. The property does not have adequate supplementary heating.

Schedule of works to remedy Category 1 Hazard

Within 3 months from the date of this Notice

Install *either* gas central heating with separate time and temperature programming for the living and sleeping areas of the property *or* electrical radiators with thermostats, in either case according to the recommendations of a suitably qualified heating engineer to ensure that all parts of the property are adequately heated.

Grants may be available from the council -
<https://www.eastriding.gov.uk/council/grants-and-funding/home-improvement-grants>. Alternatively other funding may be available nationally.

Following completion of the work -

provide a copy of the Heating/BTU calculation to Private Sector Housing to demonstrate that the new heating system is adequate to heat the whole property, and

obtain a report from a suitably qualified electrical engineer as to whether the electrical installation should be upgraded to allow for the increased load and carry out any work recommended in the report.

SECTION 12 HOUSING ACT 2004

Schedule 1

Address: Flat 3, Old Coach House, Fairfield Road, Bridlington YO15 3DR

Category 2 Hazard: Fire

Deficiencies resulting in the hazard:

The fire detection panel in the entrance lobby of Old Coach House repeatedly displays faults. Faults in the system are not logged and investigated when they occur.

Schedule of works to remedy Category 2 Hazard

Within 28 days from the date of this Notice provide a valid certificate of testing of the fire detection system from a suitably qualified electrician or specialist alarm engineer. The certificate must comply with BS5839-1.

Subsequently test and maintain the fire alarm and emergency lighting systems in accordance with BS 5839-1 and BS 5266-8 – 8:2004.”

REASONS

BACKGROUND

1. Mr and Mrs Hood own and manage 4 flats in Old Coach House, Bridlington as part of a portfolio of rented properties. The building was converted into flats in or about 2010. Flats 1 and 2 are accessed from an unheated ground floor entrance lobby which contains the fire detection panel and the staircase. Flat 3 is situated on the first floor above Flat 1, part of which has a flat roof. Each of the flats is heated by elderly night store heaters with limited controls. The kitchens and bathrooms are located off internal corridors and have no outside walls. The windows of the second bedrooms in Flats 1 and 2 are glazed shut to comply with planning requirements. All three flats have patio doors to their living rooms.

THE RESPONDENT'S INSPECTIONS

2. Following a complaint of cold from the tenant of Flat 2, Ms Skelton, the Respondent's Private Sector Housing Officer, inspected the flat early in 2023 and found that the night store heaters (which were the only permanent form of heating) were not working. The Applicants say that the electricity supply to them had been disconnected because the tenant preferred to use secondary (moveable) heaters which he believed were cheaper. The Respondent concluded that the flat was overly cold and served notice on the Applicants that Emergency Remedial Action would be taken, namely the checking and repair of the night store heaters and the supply of temporary heaters as necessary. This action was duly taken on 10 February 2023, and the Respondent has claimed expenses amounting to £283.40. The Tribunal finds that this expense is payable by the Applicants.
3. Ms Skelton found hazards other than excess cold at Flat 2 went on to inspect Flats 1 and 3 following contact from their tenants. She completed an HHSRS assessment of the properties and entered into correspondence with Mr Hood regarding necessary improvements. Some of these were carried out, but the Applicants denied that the heating arrangements were inadequate, and also stated that any problems with the fire detection system were caused by tenants tampering with it when they wished to smoke. The Applicants did not supply the Respondent with evidence of the wall and ceiling insulation they had been asked for, and it remained unclear whether the extractor fans in those rooms without openable windows were capable of adequate ventilation of those rooms. Consequently Improvement Notices were served by the Respondent in respect of Flats 1 and 2 on 14 March 2023 and in respect of Flat 3 on 29 March 2023.

THE LAW

4. Following receipt of an Improvement Notice, a landlord may appeal against it to the tribunal, which may confirm, quash or vary the notice. The tribunal's decision is made by way of a re-hearing but may be determined having regard to matters of which the housing authority was unaware when the initial Improvement Notice was prepared (paragraph 15 of Schedule 1 to the Housing Act 2004).

INSPECTION AND DIRECTIONS

5. A hearing and inspection was arranged for 29 January, but the Applicants requested that the hearing appointment be vacated. Both parties agreed to a paper determination following an inspection of the property by the Tribunal. Consequently Further Directions were issued on 18 January 2024 providing for the inspection to take place on 29 January and permitting each party to supply a detailed written statement of case with supporting documentation.
6. Tribunal inspected the properties in the presence of representatives of the Respondent and Mr Hood. They were shown round the flats by the tenants, and were permitted to take photographs. Notes were made of those items where both parties agreed that sufficient remedial work had already been done.
7. The Applicants did not comply with the Further Directions. The Tribunal received a detailed statement of case from the Respondent in respect of each flat. As agreed with the parties, the Tribunal then made a determination without a hearing and on the basis of its inspection of the properties and documents received.

FLAT 1

8. At the date of the Tribunal's inspection all deficiencies identified by the Respondent had been addressed except a possible lack of insulation to the walls and flat roof of the property, excess cold, issues relating to fire safety, and lack of ventilation.
9. The Tribunal finds that, provided the Applicant can show that the flat roof has been properly insulated and once the property is adequately heated, the major work involved in installing cavity wall insulation or dry lining will not be required. The storage heaters are no longer effective and the Applicants must replace them with gas central heating or electric radiators, in each case with thermostat controls and as advised by a heating engineer so as to ensure that every part of the flat is capable of being heated efficiently.
10. The Applicants claim that the extractor fan in the second bedroom replaces the air in the room 4 times per hour. Evidence of this, or alternatively evidence that the fan operates with humidistat sensors, is to be provided to the Respondent in order to ensure (a) that the temperature in the room does not become excessively high and (b) that damp and mould do not occur for lack of ventilation.

11. The Applicants told the Respondent and the Tribunal that the fire detection system in the building was working properly, but was subject to tampering by the tenants when they wished to smoke. The Tribunal notes that Ms Skelton found faults in the panel and in the fire detectors within the flat, and that the tenants also reported repeated faults. The Tribunal has not seen any recent inspection report from a qualified person, and the Applicants are therefore required to have the system tested and certified. Further, a proper record of any faults in the system should be kept and, where they recur, investigated. The Applicants have relied on one of the occupiers of Old Coach House to provide this service, and if this arrangement is to continue the Applicants must ensure, and check, that this person understands his responsibilities and carries them out. In addition the Applicants are required to ensure that in future a qualified contractor provides regular maintenance of the fire detection and emergency lighting systems in the flat and in the common parts of the building.

FLAT 2

12. At the time of the Tribunal's inspection all deficiencies identified by the Respondent had been addressed except a possible lack of insulation to the walls of the property, excess cold, issues relating to fire safety, draughts, and lack of ventilation.

13. The Tribunal accepts that the tenant of Flat 2 may have disconnected the night store heaters, but the Applicants admit that he did so because he thought that using them was expensive. The storage heaters are no longer effective and the Applicants must replace them with gas central heating or electric radiators, in each case with thermostat controls and as advised by a heating engineer so as to ensure that every part of the flat is capable of being heated efficiently.

14. The Tribunal finds that once the property is adequately heated, the major work involved in installing cavity wall insulation or dry lining will not be required. However on inspection by the Tribunal there still appeared to be gaps around the patio doors in the living room, and these must be addressed to avoid uncontrollable loss of heat from the property.

15. The Applicants claim that the extractor fans in the second bedroom and bathroom (none of which have opening windows) replace the air in those rooms 4 times per hour. Evidence of adequate ventilation is to be provided to the Respondent in order to ensure (a) that the temperature in the rooms does not become excessively high and (b) that damp and mould do not occur.
16. Since Ms Skelton found faults in the fire detection panel situated in the entrance lobby of the building and repeated faults were also reported by the tenants, the Applicants are required to have the system tested and certified. Further, a proper record of any faults in the system should be kept and, where they recur, investigated. The Applicants have relied on one of the occupiers of Old Coach House to provide this service, and if this arrangement is to continue the Applicants must ensure, and check, that this person understands his responsibilities and carries them out. In addition the Applicants are required to ensure that in future a qualified contractor provides regular maintenance of the fire detection and emergency lighting systems in the flat and in the common parts of the building.
17. As the tenant of the flat had no effective heating that he felt he could afford in January/February 2023, the emergency remedial action taken by the Respondent was a proper response. The cost claimed by the Respondents is payable by the Applicants.

FLAT 3

18. At the time of the Tribunal's inspection all deficiencies identified by the Respondent had been addressed except a possible lack of insulation to the walls of the property, excess cold, and issues relating to fire safety.
19. On or about 9 February 2023 the tenant of this flat contacted the Respondent to report difficulties in heating the property. Following correspondence with the Applicants the heating issues were not remedied and the situation remained the same when the Tribunal inspected. The continuing fire safety issues in the building also apply to Flat 3.

20. The night store heaters are no longer effective. An efficient modern heating system is required for this flat as for Flats 1 and 2. Once the property is adequately heated, the major work involved in installing cavity wall insulation or dry lining will not be required.

Tribunal Judge A Davies

26 March 2024