



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

**Case reference** : **BIR/41UH/HIN/2024/0010**

**Property** : **24 Talbot Street Leek Staffs  
ST13 5JT**

**Applicant** : **Andrew Fox**

**Respondent** : **Staffordshire Moorlands District Council**

**Type of application** : **Appeal against an Improvement  
Notice under paragraph 10(1) of  
Schedule 1 to the Housing Act 2004**

**Tribunal members** : **Nicholas Wint  
FRICS  
R G Chumley-  
Roberts MCIEH, J.P**

**Date and place of  
hearing** : **26 July 2024  
(Inspection and Paper Review)**

**Date of decision** : **02 October 2024**

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**DECISION**

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## **Decision Summary**

The Tribunal determines that:

1. The Respondent is entitled to serve an Improvement Notice.
2. The Improvement Notice was correctly served on the Applicant.
3. The Schedule to the Improvement Notice is varied in accordance with paragraphs 35 to 62 of this Decision. In all other respects the Applicant is required to carry out the works specified in the Notice within the required time frame.

## **Background**

4. The Property is a two-storey mid-terraced house situated on Talbot Street on the southeast side of the town centre, a short walk from the main shopping areas. The accommodation includes a front living room, kitchen, bathroom, two bedrooms and rear yard area.
5. The Applicant, Mr Andrew Fox, is the registered freehold owner of the Property.
6. Mr Fox lets the property under a tenancy agreement to Ms Lyndsey Blunden
7. The Respondent, Staffordshire Moorlands District Council, as the Local Housing Authority, undertook an inspection of the Property following a report being made about the condition of the Property. Following that inspection, the Council identified a number of deficiencies categorized as category 1 and category 2 hazards and served an Improvement Notice dated 10 April 2024 which required these repairs to be carried out by Mr Fox.
8. The Notice specified the deficiencies in Schedule 1 and listed the hazards in Schedule 2. In total, 24 deficiencies were identified resulting in Class 1 hazards of excess cold, falling on stairs etc. and fire and Class 2 hazards of damp and mould growth, entry by intruders, domestic hygiene, pest and refuse, food safety, personal hygiene, sanitation and drainage.
9. The Notice also required the Applicant to start the works specified in Schedule 3 no later than 9 May 2024 and to complete the works within a period of 8 weeks of the start date.

## **Inspection**

10. The Tribunal inspected the Property on 26 July 2024 in the presence of Mr Shaun Simms from the council and Ms Blunden, the tenant. The Applicant did

not attend.

11. During the course of the inspection the Tribunal noted the following matters:

- (a) The top window casements to the front bedroom and living room are difficult to open and close. The living room window being ill-fitting.
- (b) There are loose rubber seals around the glazing to the bathroom window.
- (c) The kitchen window is single glazed, difficult to open and suffers from condensation and has missing putty beads.
- (d) The internal doors do not close properly into the frames and have no catches.
- (e) There is a missing internal door between the kitchen and living room.
- (f) The rear door frame is loose.
- (g) Damp and mould are evident on the walls to the rear of the utility and in the bathroom.
- (h) There is a water leak in the bathroom.
- (i) There is no mechanical air extraction in the bathroom.
- (j) The central heating system does not work, and the radiator valves are stuck and there is a missing radiator in the living room.
- (k) There is no current EPC certificate having expired since the new boiler was fitted.
- (l) The rear yard gate is missing.
- (m) Some plaster is missing around the ceiling rose in the kitchen.
- (n) The bath panel in the bathroom is damaged.
- (o) The kitchen sink base is missing as is a kitchen worktop/ counter surface.
- (p) The WC cistern top is cracked.
- (q) The WC pan is loose and unsecure.
- (r) The wash hand basin is cracked and its associated splash-back tiles are missing/part detached.
- (s) Some of the stair nosings are missing or split.
- (t) The lighting around the top and bottom of the stairs is poor.
- (u) There are no smoke alarms.
- (v) The external woodwork around the eaves and roof line is part detached and in need of redecoration.
- (w) The air extraction unit in the kitchen has been taped over.
- (x) There is no floor covering in the bathroom.
- (y) The ceiling plaster in the front living room is losing its key.
- (z) The seals to the double-glazing unit to the casement window in the front living room have failed.
- (aa) Only one radiator in the front living room appears to work.
- (bb) There is no carpet or floor covering on the stairs or landing area.

## The Law

12. The Respondent is responsible, under statute, for the operation of a regime designed to evaluate potential risks to health and safety from deficiencies in dwellings, and to enforce compliance with the standards required. The scheme is called the Housing Health and Safety Rating System (“HHSRS”). It is set up in the Housing Act 2004 (“the Act”), supplemented by the Housing Health and Safety Rating System (England) Regulations 2005 (“the Regulations”).

13. The scheme set out in the Act is as follows:

(a) Section 1 (1) provides for a system of assessing the condition of residential dwellings and for that system to be used in the enforcement of housing standards in relation to such premises. The system (which is the HHSRS system) operates by reference to the existence of Category 1 or Category 2 hazards on residential premises.

(b) Section 2 (1) defines a Category 1 hazard as one which achieves a numerical score under a prescribed method of calculating the seriousness of a hazard. A Category 2 hazard is one that does not score highly enough to be a Category 1 hazard. The scoring system is explained later.

(c) "Hazard" means any risk of harm to the health or safety of an actual or potential occupier of a dwelling which arises from a deficiency in the dwelling.

14. Under section 9(1)(b) of the Act, the local authority is required to have regard to the HHSRS guidance when carrying out their functions in relation to improvement notices, prohibition orders or hazard awareness notices.

15. The HHSRS Enforcement Guidance at paragraph 5.4 states: -

*An improvement notice under section 11 or 12 of the Act is a possible response to a category 1 or a category 2 hazard. Under section 11, action must as a minimum remove the category 1 hazard but may extend beyond this. For example, an authority may wish to ensure that a category 1 hazard is not likely to reoccur within 12 months, or is reduced to category 2, or both. Such work would need to be reasonable in relation to the hazard and it might be unreasonable to require work which goes considerably beyond what is*

*necessary to remove a hazard.*

16. Section 4 of the Act provides the procedure to be followed by a local authority before commencing any enforcement action. If the local authority becomes aware that it would be appropriate for any property to be inspected with a view to determining whether a hazard exists, it must carry out an inspection for that purpose.

17. The right to carry out the inspection is derived from section 239 of the Act. This section gives the local authority a power of entry for the purposes of carrying out a section 4 inspection. The inspector must have been properly authorised to carry out that inspection, and (in sub-section 5), the authorised officer must have given at least 24 hours' notice of his (her) intention to inspect to the owner (if known) and the occupier (if any).

18. Section 5(1) of the Act provides that

“If a local authority consider that a category 1 hazard exists on any residential premises, they have a duty to take the appropriate enforcement action in relation to the hazard”.

19. Section 5(2) says that the appropriate enforcement action means whichever of the following courses of action is indicated. Those courses of action are:

**(a) Improvement notice**

(b) Prohibition order

(c) Hazard awareness notice

(d) Emergency remedial action

(e) Emergency prohibition order

(f) Demolition order

(g) Declaration of a clearance area

20. Section 5(3) of the Act says that if only one course of action within Section 5(2) is available to the authority in relation to the hazard, they must take that course of action. Section 5(4) says that if two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.

21. Section 11 of the Act sets out the duty of the Respondent to serve notice and states the following: -

*(1) If—*

*(a) the local housing authority are satisfied that a category 1 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,*

*servicing an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).*

*(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 subsections (3) to (5) and section 13.*

*(3)The notice may require remedial action to be taken in relation to the following premises—*

*(a)if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;*

*(b)if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;*

*(c)if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.*

*Paragraphs (b) and (c) are subject to subsection (4).*

*(4)The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—*

*(a)that the deficiency from which the hazard arises is situated there, and*

*(b)that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.*

*(5)The remedial action required to be taken by the notice —*

*(a)must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but*

*(b)may extend beyond such action.*

*(6)An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.*

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

*(8)In this Part “remedial action”, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.*

22. Section 12 of the Act sets out the powers of the Respondent to serve notice and states the following: -

*(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.*

23. Paragraph 2 of Schedule 1 of the Act states: -

*2(1) This paragraph applies where the specified premises in the case of an improvement notice are—*

*(a) a dwelling which is not licensed under Part 3 of this Act, or*

*(b) an HMO which is not licensed under Part 2 or 3 of this Act, and which (in either case) is not a flat.*

*(2) The local housing authority must serve the notice—*

*(a) (in the case of a dwelling) on the **person having control** of the dwelling; (b) (in the case of an HMO) either on the person having control of the HMO or on the person managing it.*

24. Section 263 of the Act defines ‘person having control’ as follows:

*263 (1) In this Act “person having control”, in relation to premises, means (unless the context otherwise requires) the person who receives the rack-rent of the premises (whether on his own account or as agent or trustee of another person), or who would so receive it if the premises were let at a rack-rent.*

*(2) In subsection (1) “rack-rent” means a rent which is not less than two-thirds of the full net annual value of the premises.*

25. Paragraph 10 of Schedule 1 of the Act states: -

*(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).*

26. Paragraph 11 of Schedule 1 of the Act states: -

*(1) An appeal may be made by a person under paragraph 10 on the ground that one or more other persons, as an owner or owners of the specified premises, ought to—*

*(a) take the action concerned, or*

*(b) pay the whole or part of the cost of taking that action.*

*(2) Where the grounds on which an appeal is made under paragraph 10 consist of or include the ground mentioned in sub-paragraph (1), the appellant must serve a copy of his notice of appeal on the other person or persons concerned.*

27. Paragraph 12 of Schedule 1 of the Act states: -

*(1) An appeal may be made by a person under paragraph 10 on the ground that one of the courses of action mentioned in sub-paragraph (2) is the best course of action in relation to the hazard in respect of which the notice was served.*

*(2) The courses of action are—*

*(a) making a prohibition order under section 20 or 21 of this Act;*

*(b) serving a hazard awareness notice under section 28 or 29 of this Act; and*

*(c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).*

28. Under paragraph 15 (3) of Schedule 1 of the Act a tribunal may by order, confirm, quash or vary an improvement notice.

## **Decision**

29. The questions for the Tribunal to answer in respect of this appeal are: -

(a) Is the Respondent entitled to serve an Improvement Notice and is this the most appropriate course of action?

(b) Has the notice been served on the correct party?

(c) Does the Tribunal confirm, quash or vary the Improvement Notice?



***Is the Respondent Entitled to serve an Improvement Notice and is it the most appropriate course of action?***

30. Sections 11 and 12 of the Act entitle the Respondent to serve an Improvement Notice where they are satisfied a Category 1 or Category 2 Hazard exists at the Property. The HHSRS Enforcement Guidance also confirms that the issue of an Improvement Notice is an appropriate response to the presence of Category 1 or Category 2 hazards at a property.
31. The Respondent is satisfied that there are hazards present at the Property. The hazards identified are set out in detail in the Schedule to the Improvement Notice.
32. The Tribunal has concluded from its own inspection that the Category 1 and Category 2 Hazards identified by the Respondent remain present in the Property.
33. Given the serious nature of the range of hazards identified during the inspection and the fact that in the eight months since the Applicant was first notified of the need to address them, they have not been addressed, the Tribunal considers that the issue of an Improvement Notice is a proportionate and reasonable action for the Respondent to take.

***Has the notice been served on the correct party?***

34. The Applicant did not dispute that he was the correct party on whom the notice should be served. Mr Fox is the registered proprietor and manages the Property and has confirmed that he is entitled to receive rent from the tenant, Ms Blunden. Mr Fox is entitled to dispose of the fee simple and as such, he is therefore the '*appropriate person*' to whom a notice should be addressed.

***Variation of the Improvement Notice***

35. The Improvement Notice was served under sections 11 and 12 of the Act, as it contained Category 1 Hazards and Category 2 Hazards. The Tribunal determined, as a result of the information provided by the parties and the observations made during the inspection that, the Schedule should be varied. The variations determined are set out in paragraphs 36 and 62.

***Item No. 3 – Kitchen Bay Window***

36. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Renew or overhaul the timber single glazed bay window to the kitchen. Renew any missing putty beads, plus provide window casements that provide suitable ventilation and are ergonomic to use. On completion of the works ensure that the window works safely, correctly fitted, water/weatherproof, draft free, thermally efficient and ergonomic to use.*

37. The Tribunal considers the Notice should be varied to require the Applicant to replace the window in its entirety with a new UPVC double glazed window with opening casements.

#### Item No. 4 – Internal Doors

38. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Overhaul all internal doors to the property and ensure that on completion they close into their rebates and latches and ironmongery work correctly the doors must be to standard, close fitting and draught free, sound and in proper working order.*

39. The Tribunal considers the Notice should be varied to require the Applicant to only replace the doors fitted by the Landlord (excluding those replaced by the Tenant e.g. the door between the kitchen and lobby and to the first floor front bedroom).

#### Item No. 12 – Heating System

40. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

Overhaul or renew the heating system to the dwelling, examine the water plumbing, gas plumbing and accessories to the dwelling, renew any missing radiators, thermostatic valves and balance the system, ensure that all necessary remedial works are completed so that the installation complies with the requirements of all current heating, gas and water standards and Regulations.

41. The Tribunal considers the Notice should be varied to require the Applicant to complete the above but not replace the radiator in the front living room, which was removed by the tenant.

#### Item No. 13 – EPC Certificate

42. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Provide a current up to date EPC certificate for the dwelling.*

43. The Tribunal considers the Notice should be varied. The Applicant is not required to provide an EPC certificate.

Item No. 16 – Missing Plaster

44. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Patch up the area of missing plaster around the ceiling light to the kitchen.*

45. The Tribunal considers the Notice should be varied. The Applicant is not required to undertake these works.

Item No. 17 – Replace bath panel.

46. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Renew the damaged bath panel to the bathroom.*

47. The Tribunal considers the Notice should be varied. The Applicant is not required to undertake these works.

Item 19 – WC Cistern Top

48. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Renew the WC cistern top in the bathroom.*

49. The Tribunal considers the Notice should be varied. The Applicant is not required to undertake these works, as the cistern top/lid was damaged by the occupier.

Item No. 21 – Provide a Suitable Wash Hand Basin

50. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Provide within the bathroom area a suitable wash hand basin so that on completion all facilities are safe to use, work correctly, connect to the relevant hot and cold water supplies and waste water systems and comply with all current regulations and standards.*

51. The Tribunal considers the Notice should be varied. The Applicant is not required to undertake these works, as the wash hand basin was damaged by the occupier.

Item No. 22 – Staircase

52. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Renew the missing nosing's to the stair treads and make safe any split treads. Provide suitable artificial lighting to the top and bottom of the stairs to prevent shadowing and dark areas. On completion, provide the authority with an up-to-date certificate of installation, commissioning and/ or testing (no more than 1 month old) showing the system is fully operating to current regulations and standards.*

53. The Tribunal considers the Notice should be varied. The Applicant is also required to replace all worn treads on the staircase in addition to those specified in the Notice.

Item No. 23

54. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Provide a current up to date Electrical Certificate for the dwelling.*

55. The Tribunal considers the Notice should be varied. The Applicant is not required to undertake these works as it understands the certificate has already been provided.

General – G1: Radon

56. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*If the Property has had a Radon test, the Applicant is to provide a copy of the test results and the approximate date of the test. If any significant structural works have been carried out to the ground floor, then the Applicant is strongly advised to have a further test carried out.*

57. The Tribunal recommends the Applicant carries out a test if applicable.

General – G2: Redecoration of External Woodwork

58. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

*Prepare and paint all new internal and external woodwork (and metal work) in a manner as to ensure adequate protection.*

59. The Tribunal considers the Notice should be varied. The Applicant is not required to undertake these works.

#### General – G4: Other Such Appropriate Works

60. The Tribunal noted in Schedule 3, the remedial action required the Applicant to:

61. *Carry out other such appropriate works to render the property suitable for occupation on completion.*

62. The Tribunal considers the Notice should be varied. The Applicant is not required to undertake these works.

#### **Timing**

63. The timing is amended to require remedial action to start within 28 days of the Tribunal's decision and completed within two months.

#### **Appeal**

64. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

**Nicholas J P**

**Wint FRICS**

**Chair**

First-tier Tribunal (Property Chamber)