



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

**Case Reference** : BIR/00CQ/HIN/2024/0002

**Property** : 21 Howcotte Green, Canley, Coventry, CV4 8BP

**Applicant** : Mr Alan Goodall

**Respondent** : Coventry City Council

**Represented by** : Mrs Carter, Coventry City Council Solicitor and  
Mr J.R.Dunn, trainee Environmental Health Officer

**Type of Application** : Appeal against Improvement Notice under Part 3, Schedule 1  
to the Housing Act 2004

**Tribunal Members** : Mr I.D. Humphries B.Sc.(Est.Man.) FRICS  
Mr R. Chumley-Roberts MCIEH, JP

**Date and Venue of  
Hearing** : 29 July 2024 by on-line video Hearing

**Date of Decision** : 21 November 2024

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**DECISION**

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## DECISION

- 1 The Improvement Notice is confirmed in respect of some Issues, some issues are reduced from Category 1 to Category 2 and others deleted as set out below and more particularly in the following paragraphs. All work is required to be undertaken by 1 March 2025.

### Issue 1

#### Category 1

Excess cold:	Single glazed windows	Confirmed
Excess cold:	Boiler	Deleted
Excess cold:	Front door seal	Confirmed
Excess cold:	Front Bedroom window handle broken	Deleted

### Issue 2

#### Category 1

Falling on Stairs	Reduce to Category 2
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### Issue 3

#### Category 2

Fire:	Kitchen	Deleted
Fire:	Living Room/Hall door	Deleted
Fire:	Kitchen/Hall door	Deleted
Fire:	Living Room/Dining Room door	Deleted
Fire:	Rear Bedroom	Confirmed

### Issue 4

#### Category 2

Electrical hazards:	Understairs Area	Deleted
Electrical hazards:	Rear Extension, trailing power cable	Deleted

### Issue 5

#### Category 2

Falling between levels:	Confirmed
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### Issue 6

#### Category 2

Water Supply:	Deleted
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### Issue 7

#### Category 2

Damp and Mould:	Deleted
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### Issue 8

#### Category 2

Food Safety:	Kitchen Food Cupboard	Deleted
Food Safety:	No extractor fan over hob	Deleted

- 2 Respondent's Claim for Costs Reduced to £250

## REASONS

### Introduction

- 3 The subject property is a two storey semi-detached house of non-standard construction built post 1945. It had been built for the local authority, Coventry City Council and by 2006 the Freehold had been sold to Mr Ian Goodall, the son of the Applicant, Mr Alan Goodall.
- 4 The tribunal were not shown documentary evidence but understand Mr Alan Goodall holds a life tenancy in the property. By the date of application the property had been sub-let to Mr R.J. Singleton by Assured Shorthold tenancy initially granted for a term of six months from 1 January 2015. At the date of tribunal inspection, Mr Singleton remained in occupation as a statutory periodic monthly tenant.
- 5 On 1 November 2023 Mr Alan Goodall served Mr Singleton with Notice to Quit under section 21 of the Housing Act 1988.
- 6 Shortly afterwards, the local authority received a complaint about the condition of the property and on 12 December 2023 Mr Dunn, a trainee Environmental Health Officer employed by the Council, together with colleague Mrs E.Nwokejiobi, inspected the property under the Housing Act 2004 ('the Act').
- 7 On 2 January 2024 the Council served an Improvement Notice on Mr Alan Goodall identifying two Category 1 hazards and a further 6 Category 2 hazards detailed in the paragraphs below. The Notice required the work to be completed within 49 days, by 1 February 2024.
- 8 The Council also demanded charges of £435.00 for serving the Notice.
- 9 Mr Alan Goodall appealed to the First-tier Tribunal (Property Chamber) ('the tribunal') on 29 January 2024 in respect of both the Improvement Notice and Demand for Costs.
- 10 The tribunal issued Directions on 31 January 2024. The tribunal inspected on 29 July 2024 and held a video hearing the same day.

### The Law

- 11 Under section 11(1) the Housing Act 2004 ('the Act'), a local housing authority has a duty to serve an improvement notice if it considers a category 1 hazard exists in relation to residential property to which the Act applies and no management order is in place. If the authority considers category 2 hazards exist they have 'power' but no 'duty' to serve a Notice under section 12(2) of the Act.
- 12 The categories of hazard are listed in Schedule 1 to the Housing Health and Safety Rating System (England) Regulations 2005.
- 13 The Council served a Demand for Payment of a Charge for Enforcement Action under sections 49 and 50 of the Housing Act 2004.
- 14 On receipt of an Appeal, the tribunal is required to reach its Decision by way of re-Hearing under section 15(2)(a) of Schedule 1, Part 3 of the Act and may by order confirm, quash or vary an improvement notice under section 15(3) of the Act.

## Facts Found

- 15 The tribunal inspected the property on 29 July 2024 in the presence of the sub-tenant, Mr Singleton. Neither the Applicant nor Respondent were represented.
- 16 The Tribunal inspected the property internally and externally in relation to the hazards identified in the Notice.

## Issues

- 17 The issues listed in the Improvement Notice are summarised as follows:

Issue	Hazard	Summary Description
1	<b><u>Category 1</u></b> Excess cold	Single glazed windows were ill fitting and providing little insulation or draught proofing.  The boiler was faulty as it operated intermittently.  The seal around the front door provided inadequate draught proofing.  A front bedroom window handle was broken.
2	Falling on stairs	The stair handrail was inadequate and difficult to grip.
3	<b><u>Category 2</u></b> Fire	Kitchen. There was no heat detector.  Living Room / Hall door failed to close properly.  Kitchen / Hall door failed to close properly.  Living Room / Dining Room required a Smoke detector.  Rear Bedroom. Polystyrene ceiling tiles required removal.
4	Electrical hazards	Consumer Unit. Loose plastic cover.  Rear extension. Trailing power cable to ceiling light.
5	Falling between levels.	The front bedroom sill height was too low and the opening casement needed a restrictor.
6	Water supply	The rear downpipe discharged to paving.
7	Damp and Mould	There was no mechanical ventilation in the bathroom.
8	Food Safety	A door was missing from a low level cupboard.  There was no ventilation or extractor over the kitchen hob.

## **Preliminary Issue**

- 18 The initial question for the tribunal is whether the Improvement Notice had been correctly served on the right person. The parties' submissions and tribunal Decision are as follows.
- 19 Applicant  
In Mr Alan Goodall's opinion, the Notice should correctly have been served on three parties; the freeholder Mr Ian Goodall, himself as life tenant and the sub-tenant Mr Singleton as they were each responsible for different aspects. He suggested 'structural issues' should have been Mr Ian Goodall's responsibility, defects caused by the tenant's occupation were Mr Singleton's responsibility and any residual liability under the Act was his responsibility.
- 20 Respondent  
Mrs Carter for the Council said Mr Alan Goodall was the correct person for service as he collected the rack rent and was the person in control of the property under the Housing Act 2004 Schedule 1, Part 1.2(2)(a).
- 21 Tribunal  
There was no doubt that Mr Alan Goodall was the party to which rack rent should be paid and the person in control of the dwelling for the purposes of service of a Notice. The Tribunal finds he was the correct person to be served. However, he was not liable for items or defects caused by the sub-tenant's occupation.

## **Hearing**

- 22 The Hearing was held by on-line video on 29 July 2024.
- 23 Applicant  
Mr Alan Goodall represented himself.
- 24 Respondent  
Coventry City Council was represented by in-house Solicitor Mrs Carter with witness evidence by Mr Joseph Dunn who had prepared the Improvement Notice and was the Officer responsible for the case. Mr Dunn explained that at the date of his inspection on 12 December 2023 he had been employed as a trainee Environmental Health Officer for four months having taken up his position in September 2023. He was attending a part-time course in Environmental Health at Wolverhampton University. Prior to that, he had been employed in the homeless persons group of the city housing department and had a degree in building surveying from Nottingham Trent University.
- 25 Freeholder  
Mr Ian Goodall was neither present nor represented.

## **The Parties' Submissions and Tribunal Findings on each point**

### **Category 1 Issue 1**

- 26 Excess cold: Single glazed windows
- 27 Appellant  
Mr Goodall acknowledged that the windows were single glazed but said in his view there was no requirement to replace them as the property was rated in EPC Band D for letting purposes which demonstrated that they met the required standard of insulation.

- 28 Respondent  
The Notice stated that the windows were 'slim aluminium frames' providing little thermal insulation and were worn/degrading throughout. There were no thermal breaks, there was potential for cold air penetration and they were not to the standard of modern double glazing.
- 29 Tribunal  
The tribunal noted the windows were not 'slim aluminium frames' as described by Mr Dunn but standard post-War Crittall galvanised steel frames. Over time, there had been a build-up of paint which prevented them closing correctly, some were showing signs of corrosion where the galvanising was worn and some of the handles were loose. They were allowing draughts into the house and the Tribunal agrees with the Council that they need replacement with modern double glazed units. Accordingly, they remain a deficiency resulting in a Category 1 hazard and the Applicant is required to replace them.
- 30 Excess cold: Boiler
- 31 Appellant  
Mr Goodall said he believed the boiler fault had been caused by the tenant's occupation but in any case he produced evidence that it had been repaired in March 2024.
- 32 Respondent  
Mr Dunn said he would re-consider whether the boiler fault should remain in issue.
- 33 Tribunal  
The Tribunal finds the boiler has been repaired and deletes this item from the Notice.
- 34 Excess cold: Front door seal
- 35 Appellant  
Mr Goodall said the sub-tenant had replaced the front door lock and damaged the seals.
- 36 Respondent  
The Notice said the seal was ineffective and allowing cold air ingress.
- 37 Tribunal  
The Tribunal found the front door seal to be faulty, permitting excess draughts and requires the front door to be replaced with a new pvu Unit at the same time as the windows.
- 38 Excess cold: Front bedroom window handle broken
- 39 Appellant  
Mr Goodall acknowledged that the windows were single glazed but said in his view there was no obligation to improve them as the property was rated in EPC Band D for letting purposes which demonstrated that they met the required standard of insulation. He said the sub-tenant had fitted an external camera with trailing leads around the casements that prevented them closing.
- 40 Respondent  
The Notice stated the handle was broken making it difficult to close the casement.
- 41 Tribunal  
This item is superseded by the requirement to replace the windows and is deleted.

## **Category 1 Issue 2**

42 *Falling on Stairs*

43 Appellant

Mr Goodall said he lived nearby in the same type of house with the same type of handrail and it had not caused a problem.

44 Respondent

The Notice said the handrail was difficult to grasp as it could only be partly held without a full hand grip. It was also too short as it was too low to reach at the top of the stairs.

45 Tribunal

The tribunal did not consider this a major issue as it was a type of handrail widely fitted in properties of this age. However, to reduce the risk of falling, the tribunal requires the Applicant to install a new handrail (as per the Local Authority's specification) but reduces this to a Category 2 hazard.

## **Category 2 Issue 3**

46 *Fire: Kitchen*

47 Appellant

Mr Goodall said the Fire Brigade had inspected the house in 2023 and found it safe without a heat detector in the kitchen. There was no requirement for a heat detector to be fitted but he had fitted one in any case to reduce the risk, together with a new smoke detector between the kitchen and living room.

48 Respondent

The Notice noted there was no heat detector and required one to be fitted.

49 Tribunal

A heat detector has been fitted by the Applicant. This item is deleted.

50 *Fire: Living Room/Hall door*

51 Appellant

Mr Goodall did not consider this a problem.

52 Respondent

The Notice stated the door could not close completely and required it to be adjusted.

53 Tribunal

The tribunal did not find this a major problem and deletes the item.

54 *Fire: Kitchen/Hall door*

55 Appellant

Mr Goodall did not consider this a problem.

56 Respondent

The Notice stated the door did not latch securely and required it to be adjusted leaving gaps no greater than 4 mm.

57 Tribunal

The tribunal did not find this a major problem and deletes the item.

58 Fire: Living Room/Dining Room

59 Appellant

Mr Goodall did not consider this a problem.

60 Respondent

The Notice requires an additional smoke detector to be fitted at the threshold of the Living Room and Dining Room.

61 Tribunal

The tribunal did not find this a major problem as there are already smoke detectors in the ground floor rooms. This item is deleted.

62 Fire: Rear Bedroom

63 Appellant

Mr Goodall said the polystyrene ceiling tiles had been fitted by the tenant without permission.

64 Respondent

The Notice said the tiles could allow rapid spread of fire and should be removed.

65 Tribunal

The tribunal agrees the tiles need to be removed as a Category 2 hazard.

#### **Category 2 Issue 4**

66 Electrical hazards: Understairs Area

67 Appellant

The EICR (Electrical Installation Condition Report) commissioned in January 2023 had not indicated a problem when the property was inspected. Mr Goodall said the damage to the consumer unit door had been caused by the sub-tenant and was not his responsibility.

68 Respondent

The Notice recorded the plastic cover to the Consumer Unit being damaged and required it to be repaired and certified by a qualified electrician.

69 Tribunal

Having seen the satisfactory EICR and tenant's items being stored in the cupboard around the consumer unit, the tribunal finds it highly likely to have been caused by the tenant's occupation. Accordingly this item is deleted.

70 Electrical hazards: Rear Extension, trailing power cable

71 Appellant

Mr Goodall said the trailing cable and light had been added by the sub-tenant and was not his responsibility.

72 Respondent

The Notice stated that a light fitting was hanging from the ceiling from a loose power cable.

73 Tribunal

The tribunal noted that it was not a permanent light fitting, it was powered from a wall



mounted socket and intended as a temporary light for DIY use. Accordingly, it was not the Applicant's responsibility and should be deleted from the Notice.

### **Category 2 Issue 5**

74 Falling between levels

75 Appellant

Mr Goodall did not consider this a problem.

76 Respondent

The Notice noted the sill height of 892 mm and required the Applicant to fit a restrictor to the window to avoid the risk of occupants falling from the window.

77 Tribunal

The window is a multi-pane glazed window with timber glazing bars that reduce the risk of a fall. However, the windows are already required to be replaced as noted above, so this individual item is deleted.

### **Category 2 Issue 6**

78 Water Supply

79 Appellant

Mr Goodall said there used to be a water butt to collect rainwater from the downpipe which the tenant had removed.

80 Respondent

The Notice stated there was no drain to take water from the downpipe and rainwater was washing over the garden paving.

81 Tribunal

This was included in the Schedule under the Hazard Profile 'water supply', which concerns the quality and adequacy of water within a dwelling for drinking and for domestic purposes. The downpipe in question conveys rainwater which is not used in the house and as such the wrong hazard profile has been used. In any event, the tribunal does not consider it a deficiency that should be included in the Improvement Notice. Accordingly it is deleted.

### **Category 2 Issue 7**

82 Damp and Mould

83 Appellant

Mr Goodall said there was no evidence of damp or mould in the bathroom and drew attention to Mr Dunn's email to him of 18 December 2023 stating '... *and unless I noted excess cold, condensation or mould (which I didn't) we wouldn't specify anything related to insulation.*'

84 Respondent

The Notice noted there was no mechanical ventilation in the bathroom and required an extractor fan to be fitted.

85 Tribunal

The tribunal notes 3 points:

- 1) there is no legal requirement to retro-fit an extractor fan in a bathroom with an opening window such as this;
- 2) Mr Dunn's email of 18 December 2023 to the Applicant states he found no evidence of damp or mould;
- 3) Mr Dunn's site notes, given in evidence, record no damp or mould either. Mr Dunn was invited to identify anywhere in the notes recording damp or mould but was unable to do so.

Accordingly this item is deleted.

**Category 2 Issue 8**

86 Food Safety: Kitchen Food Cupboard

87 Appellant

Mr Goodall did not consider this an issue.

88 Respondent

The Notice stated there was a door missing from a low-level food cupboard and required a new door to be fitted.

89 Tribunal

There was no evidence of a missing door to any low level food cupboard. There was a missing drawer front from a low level cupboard but as the drawer was not used to store food it was not a risk. This item is deleted.

90 Food Safety: No Extractor Fan over hob

91 Appellant

Mr Goodall did not consider this a problem.

92 Respondent

The Notice said there was no ventilation or extractor fan over the kitchen hob and required a fan to be fitted.

93 Tribunal

There is no legal requirement to retro-fit an extractor fan in property of this age and there is adequate ventilation in the house. Accordingly this item is deleted.

**Respondent's Claim for Costs for Service of Improvement Notice**

94 The tribunal is surprised the Respondent addressed the issues by service of Improvement Notice without prior discussion with the Applicant which would have been the normally expected procedure. Furthermore, the tribunal finds the majority of items listed to have been excessive and some included as more of a 'wish list' than schedule of major hazards requiring attention.

95 The main item is the requirement to replace windows and while the house may have achieved a D rating under EPC requirements, those requirements are designed purely to measure the thermal efficiency of accommodation and are not the same standards applied to housing under the Housing Act 2004. The tribunal requires the windows to be replaced and as this was listed in the Improvement Notice together with other valid points which have been reduced to Category 2 hazards, the tribunal allows the Respondent to reclaim

costs but not those claimed in its Notice, as some of the items listed are found to be irrelevant.

- 96 Bearing these points in mind, the tribunal finds the Respondent's reasonable costs for service to be £250.00.

I.D. Humphries B.Sc.(Est.Man.) FRICS  
Chairman

### **Appeal**

If either party is dissatisfied with this decision an application may be made to this Tribunal for permission to appeal to the Upper Tribunal, Property Chamber (Residential Property) on a point of law only. Any such application must be received within 28 days after the decision and accompanying reasons have been sent to the parties (Rule 52 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).