



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

Case Reference : **MAN/ooCG/HIN/2023/0014**

Property : **56 Fieldhead Road, Sheffield S8 0ZX**

Applicant : **Stanley Jones**

Respondent : **Sheffield City Council**

Type of Application : **Appeal against Improvement Notice, paragraph 10,
Schedule 1 to the Housing Act 2004**

Tribunal Members : **Tribunal Judge A M Davies
Tribunal Member S Kendall MRICS**

Date of Decision : **24 January 2024**

DECISION

1. Schedules 1 and 2 to the Improvement Notice issued by the Respondent to the Applicant on 2nd March 2023 are varied to read as set out in the attached schedule.
2. Unless he has already done so, the Applicant shall pay the Respondent's administrative expenses in the sum of £484.

REASONS

BACKGROUND

The Appellant Mr Jones bought the leasehold property 56 Fieldhead Road, Sheffield at auction in 2003. He let it and appointed Haybrooks as his agents to manage the lettings. Approximately 5 years ago the property was let to Mr Studd and two other unrelated tenants.

1. Early in 2023 Mr Jones viewed the property from the road and realised that repair work was required. At his request Haybrooks suggested to the tenants that they should vacate the property to allow repairs to be carried out. Two tenants left, but Mr Studd reported to Sheffield City Council that there was no power, heating or hot water in the house. He also reported subsidence, a water leak in the kitchen ceiling and a collapsed floor in the bathroom.
2. Mr Armstrong, Senior Private Housing Standards Officer for Sheffield City Council, carried out a formal inspection of the property on 2 February 2023, and noted the presence of Category 1 and Category 2 hazards. On 2 March 2023 an Improvement Notice was served on Mr Jones, together with an invoice for administrative expenses amounting to £484.
3. On 14 March 2023 Mr Jones appealed to this Tribunal against the Improvement Notice.

THE LAW

4. The HHSRS is a system for assessing the severity of hazards in residential properties, and includes guidance as to how the system is to be administered. Chapter 2 of the Housing Act 2004 (“the Act”) provides local housing authorities with powers to take enforcement action against landlords where the HHSRS assessment indicates that the safety of occupiers is at risk.

5. Section 5 of the Act requires a local housing authority to take enforcement action where a Category 1 Hazard is identified, and section 11 provides that that action may be service of an improvement notice. Section 12 of the Act provides that an improvement notice may also be served where a Category 2 Hazard is identified. An improvement notice requires the person on whom it is served to take such remedial action as is specified in the notice. The notice must provide a date when the remedial action is to be started, but operation of the notice may be suspended and the time for compliance may be extended by the local housing authority.
6. Paragraph 10(1) of Schedule 1 to the Act provides that a person who has received an improvement notice may appeal to this Tribunal. The Tribunal makes its own determination by way of a re-hearing, and may have regard to matters of which the local housing authority was unaware. It may confirm, quash or vary the improvement notice.
7. Alternative forms of enforcement are available, including issue of a Prohibition Notice which requires anyone occupying the property to vacate it until repairs are completed.

INSPECTION OF THE PROPERTY

8. The Tribunal inspected the property on 24 January 2024 in the presence of Mr and Mrs Jones, Mr Armstrong and the Respondent's solicitor Ms Ferguson. 56 Fieldhead Road is a mid-Victorian three bedrooned mid-terrace property, stone fronted and built of brick under a slate roof. It has a two storey rear offshoot. To the right (seen from the road) is a passageway to the rear yard which passes beneath part of the adjacent property, the passageway wall of 56 Fieldhead Road being a party wall. The enclosed rear yard contains a small disused outhouse attached to a similar outhouse on the adjacent property.
9. The interior consists of an entrance hall with access to the living room, dining room and stairs. Through the dining room is the kitchen and from the dining room, under the staircase, is access to a cellar. At first floor level a landing leads to a bathroom over the kitchen, two bedrooms, and a further staircase to a second floor bedroom.

Both staircases are steep and the treads on the upper staircase are very narrow in places.

10. At the time of inspection extensive re-construction works were taking place and the whole property presented as a building site not capable of being occupied as a residence.

THE HEARING

11. A hearing was held after the inspection. Mr Jones represented himself, and the Respondent was represented by Ms Ferguson. Mr Armstrong and Mrs Jones were present.
12. The Tribunal had a comprehensive hearing bundle from the Respondent but the Applicant had not complied with the directions order and produced no bundle. The Applicant's papers before the Tribunal comprised his original statement of grounds for appealing against the notice, a short supplementary statement dated 3 July 2023 and two structural survey reports he had obtained from JNP Group, Consulting Engineers. The first of these is dated 10 May 2023 following the Applicant's instructions dated 20 March and an engineer's inspection in April. The second is dated 18 July 2023.
13. At the hearing the Applicant produced, on a mobile phone, a schedule of work supplied by his contractors who are understood to be Johnstone Construction Management Limited ("Johnstone"). This indicated that work would start on 2 January 2024 and finish on 30 March 2024. The Tribunal notes, on the basis of its inspection of the property, that the work is already behind schedule.

THE IMPROVEMENT NOTICE

14. The Improvement Notice identified Category 1 hazards: Excess cold; Falls associated with stairs etc; Fire; and Structural Collapse/falling elements. Category 2 hazards were identified as Damp and Mould; Personal hygiene, sanitation and drainage; Falls on level surfaces; and Falls between levels.

15. Schedule 2 to the Improvement Notice, described as “a list of works that you must carry out to comply with this notice”, required the Applicant to complete, within 6 weeks after 10 April 2023, the following:

“1.1 Ensure that a suitably qualified and competent Structural Engineer is appointed to carry out a thorough site investigation in order to determine the reasons for the subsidence, which has led to the severe cracking seen predominantly on the rear elevations of the property.

Upon completion of the site investigation, the structural engineer must devise a suitable schedule of works to prevent further episodes of significant movement that may affect the foundations, and which stabilise the foundations to the rear of the house.

1.2 Once the necessary structural works have been completed, hack off perished, loose plaster screed and apply a suitable plaster mix to all exposed areas, ensuring a smooth even finish in the affected areas.

2.1 Employing the services of a suitably qualified Gas Safe engineer, carry out all works as necessary to repair or replace the gas fuelled combi boiler. Upon completion the boiler must be capable of running both the central heating and hot water systems.”

16. The Improvement Notice also specified the works necessary to remedy all other defects in the property and stated that they were to be completed within 3 months after 10 April 2023.

17. At the hearing, Mr Jones confirmed that he did not dispute that all the work specified in the Improvement Notice was necessary to remove the hazards identified by the Respondent. He did not deny that service of an Improvement Notice was the appropriate enforcement action. He agreed that the administrative expenses incurred by the Respondent were payable.

THE APPEAL

18. Mr Jones appealed against the Improvement Notice on the grounds

(a) that it was unclear what work was to be carried out,

(b) that the timescale did not allow for the work to be carried out completely and to a good standard, and

(c) other grounds, such as his intentions for future use of the property, the tenant's lack of co-operation and rent arrears, which are not relevant to the Tribunal's decision.

19. At the hearing, Mr Jones was permitted to make a statement which included evidence not previously disclosed, and helpfully Ms Ferguson did not object. Mr Jones explained the delays and difficulties he had encountered in firstly obtaining the tenant's agreement to leave the property, secondly finding a reputable contractor to undertake all the work and thirdly dealing with the matters associated with the construction work. These matters included obtaining Building Regulation consents, undertaking Party Wall procedures, checking his insurance cover, obtaining an opinion from a timber specialist, and trial pit investigations into the foundations and drainage system. The JPN Group consulting engineer identified defects in all the external walls towards the rear of the property and recommended stitching the rear offshoot walls to the main wall of the house, taking down and removing the side elevation of the rear offshoot, rebuilding part of the first floor rear elevation, tying the party wall to the rear bedroom wall, stitching the cracks above the rear kitchen window, carrying out the recommendations of a timber specialist in relation to the bathroom floor, and repointing. Mr Jones was advised to replace the joists in the bathroom floor.

19. Mr Jones told the Tribunal that in view of the extensive nature of the structural problems, it was impossible for him to comply with the Respondent's timescale and to have the remedial work identified and then completed within 6 weeks after 10 April 2023. Although the gas boiler for central heating and hot water had been checked annually by British Gas under a maintenance contract and were believed to be in working order, on receipt of the Improvement Notice he had the gas boiler replaced and the electrics checked and repaired as necessary.

20. Mr Jones further said that even prior to receipt of the Improvement Notice he had taken the view that work on the house would be too extensive to enable the tenant to

remain in occupation. After negotiation with Mr Studd he returned the deposit and Mr Studd left the property in or about April, owing substantial arrears of rent.

21. In response, Ms Ferguson argued that the poor structural condition of the property must have been present for some years, and that if Mr Jones had properly managed the lettings (including taking action to obtain access to inspect if and when this was obstructed by the tenant) the property would not have deteriorated to the extent that 6 weeks was an insufficient time to remedy the defects. She stated that all the work could, in the opinion of the Respondent, have been undertaken while the tenant remained in occupation. She cross examined Mr Jones on the length of time it had taken him to realise that the two different contractors he initially approached were either incapable or unwilling to carry out the work. And she pointed out that both the initial and final schedules of work produced by Johnstones suggested that the structural repairs could be completed within 3 months.

FINDINGS

22. After careful consideration of the written and oral evidence, and after hearing the parties' submissions, the Tribunal finds as follows.
23. Paragraph 1 of Schedule 2 to the Improvement Notice, cited at paragraph 15 above, does not identify the remedial work to be undertaken. Mr Armstrong was not able to assess the extent of the structural defects on the basis of his visit to the property. It follows that he could not know (1) whether or not the repairs could be undertaken with the tenant in occupation, or (2) how long the work might take. He could not know, for example, whether the Party Wall Act procedure had to be followed, or whether a trial pit inspection of the foundation and drains would be required.
24. The Tribunal is able to take into account the findings of the structural surveys which confirm the structural damage to the property which existed at the date of the Improvement Notice, but the extent of which was not known at that time. The Tribunal does not take account of the specific delays and difficulties Mr Jones encountered in obtaining vacant possession and waiting for a contractor to start work on the property. It is regrettable that the Applicant and Respondent did not

communicate regarding the remedial action being undertaken, in order to agree on an appropriate variation to the timescales specified in the Improvement Notice.

25. The remedial work recommended by JNP Group and timber specialists could not be carried out while the tenant remained in possession. By negotiating with Mr Studd and effectively paying him to leave the property, Mr Jones properly avoided the lengthy process of obtaining a County Court possession order.
26. To allow for obtaining vacant possession, engaging a contractor, obtaining building inspector and party wall consents, completing the structural work and then carrying out remedial work to the interior of the property as specified in the Improvement Notice, a period of not less than 12 months was required. Schedule 2 of the Improvement Notice is varied accordingly.
27. On inspection the Tribunal noted that the outhouse in the rear yard is in danger of partial collapse. On 2 February 2023 Mr Armstrong did not obtain access to the rear yard and did not make a note of this hazard, which the Tribunal has added to the Improvement Notice.

SCHEDULE

Schedule 1 to the Improvement Notice dated 2 March 2023

Add on page 4 at the end of Schedule 1:

“The brickwork and timber lintel above the door to the outhouse in the rear yard are broken and partially collapsed”

Schedule 2 to the Improvement Notice dated 2 March 2023

- A. Replace the heading and paragraphs 1.0 and 2.0 with the following:

“Remedial Action

This is a list of works that you must carry out to comply with this notice

Urgent items – All works under this section are required to be completed within a period of 4 weeks from the date required for remedial action to commence:

1. Structural Collapse

Appoint a suitably qualified and competent Structural Engineer

- (a) to carry out a thorough site investigation to determine the reasons for the subsidence and cracking in the rear elevations of the property;
- (b) to recommend the works necessary to stabilise the property.

2. Central Heating System

Employ the services of a qualified Gas Safe engineer to carry out all works necessary to repair or replace the gas fuelled combi boiler. Upon completion the boiler must be capable of running both the central heating and hot water systems.

Standard items – All works under this section are required to be completed within a period of 12 months from the date required for remedial action to commence:

3. Structural Collapse

To carry out all works recommended by the Structural Engineer and by any other specialist adviser that he identifies.”

B. Remainder of the Schedule as the original, paragraphs renumbered as necessary.

C. Insert after [re]numbered paragraph 11.1

“11.2 Demolish the outhouse in the rear yard, making good any consequential damage to the adjoining outhouse at 54 Fieldhead Road.”