



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

Case reference : **MAN/00CA/HPO/2024/0009**

Property : **69-73 King Street, Southport PR8 1LQ**

Applicant : **Kathleen Rafferty**

Applicant's Representative : **Mr Whitfield**

Respondent : **Sefton Metropolitan Borough Council**

Representative : **Ms Edwards**

Type of Applications : **Housing Act 2004 – Schedule 2, para. 7(1)**

Tribunal : **Judge P Forster
Judge S Westby
Mr J Elliott MRICS**

Hearing : **3 March 2025**

DECISION

Order

- (1) The appeal is dismissed.
- (2) The Prohibition Order dated 10 May 2024 is confirmed as varied.

Introduction

1. Kathleen Rafferty ('the Appellant') appeals under Schedule 2 Paragraph 7 of the Housing Act 2004 ('the Act') against a Prohibition Order dated 10 May 2024 made by Sefton Council ('the Respondent') in respect of 69-73 King Street, Southport PR8 1LQ ('the Premises').
2. The Premises is owned by the Appellant. It comprises three large terraced houses registered at HM Land Registry under two freehold titles, MS410030 and MS40281.
3. Concerns were raised with the Respondent about suspected criminal activity in the Premises and its use as an unlicensed House in Multiple Occupation (HMO). A warrant to inspect the Premises was executed on 26 April 2024.
4. The Respondent established that eleven of the rooms in the Premises were occupied, two rooms were vacant, and a self-contained room was occupied by the Appellant's son, Neil Rafferty.
5. A Housing Health and Safety Rating System assessment was undertaken and several category 1 and category 2 hazards were identified. These are detailed in Schedules 1 and 2 of the Prohibition Order. The Respondent decided that the hazards presented a significant and serious risk to the health and safety of the occupiers and visitors of the Premises and it was deemed necessary to prohibit the use of the Premises as residential accommodation and for both living and sleeping purposes.
6. The Respondent made a Prohibition Order in respect of the Premises under s.20 of the Act on 10 May 2024.
7. The Tribunal issued directions to the parties on 24 October 2024. The Appellant was required to provide a bundle of relevant documents to include inter alia a full statement of the reasons for the appeal. Likewise, the Respondent was required to provide a bundle of relevant documents.
8. The Tribunal did not inspect the Premises. The hearing was held on 3 March 2025 at the Civil and Family Court, Vernon Street, Liverpool. The Appellant was represented by a solicitor, Mr Whitfield and the Respondent was represented by Ms Edwards, a solicitor from the Council's legal department.

Preliminary matters

9. The Appellant did not comply with the Tribunal's directions. She did not provide a bundle of documents as required and particularly did not provide a statement of case. The Respondent did comply with the directions, providing two comprehensive bundles of documents which included a statement of case and witness statements.
10. The Appellant attended the hearing and asked for permission to submit a bundle of documents comprising an annotated copy of a letter from the Respondent dated 10 February 2025 reporting on an inspection carried out on the Premises on 5 February 2025; the Respondent's letter dated 12 December 2024 relating to one of the occupants of the Premises and two emails sent on 2 March 2025, the day before the hearing, from the Appellant to Mr Whitfield. The Respondent objected to the Appellant's application.
11. The annotated letter included ticks indicating agreement with and some very brief comments on the Respondent's inspection report. The Respondent's letter of 12 December 2024 confirmed that one of the occupants was being supported by the Council. The two emails included short lists of items of work said to have been completed the previous day referring to photographs which were not included.
12. The application to admit the bundle of documents was refused because it was served out of time. The bundle was only handed to the Respondent shortly before the hearing started. The Respondent did not have an opportunity to properly consider the documents and was not in a position to respond to the work said to have been completed.
13. In the absence of a statement of case or any documents from the Appellant the Tribunal had deferred to the hearing any decision whether to inspect the Premises. Based on the evidence before it at the hearing, the Tribunal determined that an inspection was not required.

The law

14. Part I of the Act sets out a regime for the assessment of housing conditions and a range of powers for local authorities to enforce housing standards. Housing conditions are assessed by the application of HHSRS.
15. Where a hazard or several hazards in a property are rated as HHSRS category 1 hazards, the options for enforcement include, by s.5 of the Act, the power to serve an improvement notice under s.11 or the making of a prohibition order under s.20.
16. By s.8 of the Act, the authority must prepare a statement of the reasons for its decision to take the relevant action.

17. A Prohibition Order is an order which prevents specified residential premises being used for all or any purposes. By s.22 the contents of prohibition orders are prescribed. By s.22(2)(e) the order must specify, in relation to the hazard (or each of the hazards) any remedial action which the authority consider would, if taken in relation to the hazard, result in its revoking the order under s.25. This section requires an authority to revoke an order if it is satisfied that the hazard in respect of which the order was made, does not then exist.
18. Appeals in respect of prohibition orders are dealt with in Part 3 of Schedule 2 to the Act. Paragraph 7 of that schedule gives a relevant person a general right of appeal against service of a prohibition order. Paragraph 8 provides:
 - (1) An appeal may be made by a person under paragraph 7 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 order was made.
 - (2) The courses of action are:
 - (a) serving an improvement notice under section 11 or 12 of this Act;
 - (b) serving a hazard awareness notice under section 28 or 29 of this Act;
 - (c) making a demolition order under section 265 of the Housing Act 1985.”

Reasons for the decision

19. The Appellant did not provide a statement of case. She did not put forward any evidence to support the appeal. The Appellant attended the hearing but she had not made a witness statement. The Tribunal invited Mr Whitfield to make submissions on the Appellant’s behalf but he declined to do so.
20. The Respondent complied fully with the Tribunal’s directions, provided a detailed statement of case which was supported by witnesses statements and documentary evidence.
21. The Tribunal proceeded on the evidence in front of it.
22. The Tribunal asked Mr Whitfield to address the question of whether the Premises is an HMO as defined in s.254 of the Act. Mr Whitfield told the Tribunal that the Premises had once been run as a hotel but over the years business had declined and in recent times had provided accommodation on occupants on a residential licence. On behalf of the Appellant, Mr Whitfield accepted that the Premises is an HMO and therefore subject to the relevant provisions of the Act.

23. The Respondent re-inspected the Premises on 5 February 2025 and its findings are reported in its letter dated 19 February 2025. There were 16 category 1 hazards and 13 category 2 hazards identified in Schedules 1 and 2 to the Prohibition Order. In respect of the category 1 hazards, the Respondent found that 3 items had not been completed, 5 items had not been fully completed and 5 items had not been completed. In respect of the category 2 hazards, 8 items had not been completed, 1 item had not been fully completed and 4 items had been completed.
24. The Tribunal accepted the Respondent's evidence which is not disputed by any evidence from the Appellant. It made findings accordingly and these are set out in Appendix 1 and Appendix 2 to this decision. The Tribunal has adopted the Respondent's numbering used in its letter of 19 February 2025.
25. The appeal is by way of rehearing. The Tribunal can take into account the condition of the Premises at the date of the hearing. Having considered the nature and severity of the hazards, the Tribunal determined to confirm the Prohibition Order in respect of the hazards that have not been remedied or not been completely remedied and to vary the Prohibition Order by deleting those hazards that have been remedied.

Dated 23 March 2025
Judge P Forster

APPENDIX 1

SCHEDULE 1 Category 1 hazards

	Status	Comment	Decision
1	Not completed		confirmed
2	Not fully completed	Some rooms provided with adequate form of heating – 10 rooms had electric panel heaters but these not permanently wired to a fused spur – one gas boiler inoperable	confirmed
3	Not fully completed	6 rooms did not have adequate supply of hot water	confirmed
4	completed		varied
5	Not fully completed	Inadequate lighting within some rooms	confirmed
6	completed		varied
7	Not fully completed	No live wires observed but no electrical installation condition report provided	confirmed
8	completed		varied
9	Not completed	No additional electrical sockets provided	confirmed
10	Not completed		confirmed
11	Not fully completed	Some doors damaged as previously	confirmed
12	Not completed		confirmed
13	Not completed		confirmed
14	Not fully completed	Items still being stored within common escape route	confirmed
15	Not completed		confirmed
16	Not completed	Insufficient evidence as to type of detectors within individual rooms	confirmed

APPENDIX 2

SCHEDULE 2 Category 2 hazards

	Status	Comment	Decision
1	completed		varied
2	completed		varied
3	Not fully completed	Mechanical ventilation still not operative in several rooms	confirmed
4	Not completed		confirmed
5	completed		varied
6	Not completed	Some damp and mould remains	confirmed
7	completed		varied

RIGHT OF APPEAL

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.

The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.

The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e., give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking