



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

Case reference : **MAN/00FB/HIN/2023/0048**
MAN/00FB/HER/2023/0002

Property : **9 Short Lane, Weybridge, Brompton YO16 6XB**

Applicant : **John Hood and Clare Hood**

Respondent : **East Riding of Yorkshire Council)**

Type of Application : **Housing Act 2004 – Schedule 1,
Paragraph 10(1)
Housing Act 2004 – Section 45(1)**

Tribunal MemberS : **Mr J A Platt FRICS FTPI
Ms J Gittus MRICS**

Date of Decision : **4 February 2025**

DECISIONS

SUMMARY OF DETERMINATIONS

1. The Tribunal confirms the Notice of Emergency Remedial Action dated 6 November 2023 and
2. The Tribunal confirms the Improvement Notice dated 4 December 2023.

BACKGROUND

3. On 6 November 2023, East Yorkshire Council (“the Council”) served a Notice of Emergency Remedial Action on the Applicant, under Section 41 Housing Act 2004 (“the Act”).
4. The Applicant lodged an appeal against the Notice of Emergency Remedial Action on 6 December 2023.
5. On 4 December 2023, the Council served an Improvement Notice on the Applicant, under Sections 11 & 12 of the Act.
6. The Applicant lodged an appeal against the Improvement Notice on 23 December 2023.
7. On 15 October 2024 the Tribunal issued a preliminary decision and invited the parties to make written representations on:
 - a. The Tribunal’s interpretation of Mr Hood’s emails of 31 July 2024 and 19 September 2024 as notification that the Applicant has withdrawn its objections to both the Notice of Emergency Remedial Action and the Improvement Notice and does not wish the Tribunal to consider the evidence already submitted.
 - b. The Tribunal’s proposal to make decisions without a hearing
 - c. The Tribunal’s proposal to confirm both the Notice of Emergency Remedial Action dated 6 November 2023 and the Improvement Notice dated 4 December 2023
8. A copy of the preliminary decision is annexed to this decision and should be read as forming part of this decision.
9. No representations were received from the Applicant. The Tribunal interprets the lack of any representations as confirmation that the Applicant has withdrawn its objections to both the Notice of Emergency Remedial Action and the Improvement Notice and does not wish the Tribunal to consider the evidence already submitted.
10. The Council made representations on 11 November 2024 confirming that it is in full agreement with the Tribunal’s proposed decisions.

THE LAW

11. The powers of the Tribunal in respect of an appeal under paragraph 10 is detailed in paragraph 15 of the Act:

- (2) The appeal—*
 (a) is to be by way of a re-hearing, but
 (b) may be determined having regard to matters of which the
 authority were unaware.
(3) The tribunal may by order confirm, quash or vary the improvement
notice

DECISIONS

12. In the absence of any objection to the Notice of Emergency Remedial Action and the Improvement Notice, the Tribunal confirms both the Notice of Emergency Remedial Action dated 6 November 2023 and the Improvement Notice dated 4 December 2023.

ANNEX



FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	:	MAN/00FB/HIN/2023/0048 MAN/00FB/HER/2023/0002
Property	:	9 Short Lane, Weybridge, Brompton YO16 6XB
Applicant	:	John Hood and Clare Hood
Respondent	:	East Riding of Yorkshire Council)
Type of Application	:	Housing Act 2004 – Schedule 1, Paragraph 10(1) Housing Act 2004 – Section 45(1)
Tribunal MemberS	:	Mr J A Platt FRICS FTPI Ms J Gittus MRICS
Date of Decision	:	15 October 2024

PRELIMINARY DECISIONS
**(subject to receipt and consideration of written
representations)**

SUMMARY OF DETERMINATION

1. The Tribunal proposes to confirm both the Notice of Emergency Remedial Action dated 6 November 2023 and the improvement notice dated 4 December 2023.
2. The parties are invited to make written representations on its proposals within 14 days of the date of this preliminary decision.

REASONS AND PRELIMINARY DECISION

3. On 6 November 2023, East Yorkshire Council (“the Council”) served a Notice of Emergency Remedial Action on the Applicant, under Section 41 Housing Act 2004 (“the Act”).
4. The Applicant lodged an appeal against the Notice of Emergency Remedial Action on 6 December 2023.
5. On 4 December 2023, the Council served an Improvement Notice on the Applicant, under Sections 11 & 12 the Act.
6. The Applicant lodged an appeal against the Improvement Notice on 23 December 2023.
7. Directions were issued in respect of both applications on 23 April 2024. Both parties have provided written evidence,
8. Emails were received by the Tribunal from Mr Hood on 31 July 2024 and 19 September 2024. The emails indicate that Mr Hood considers that he has withdrawn the applications for personal reasons. It is not necessary for this decision to elaborate on those reasons.
9. Rule 22 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the Rules”) sets out the requirements for withdrawal of an application:

Withdrawal

22.—(1) Subject to paragraph (2), a party may give notice of the withdrawal of its case, or any part of it—

- (a) orally at a hearing; or*
- (b) by sending or delivering to the Tribunal a written notice of withdrawal.*

(2) A written notice of withdrawal must—

- (a) be signed and dated;*
- (b) identify the case or part of the case which is withdrawn;*
- (c) state whether any part of the case, and if so what, remains to be determined;*
- (d) confirm that a copy of the notice of the withdrawal has been provided to all other parties and state the date on which this was done;*
- (e) include the written consent of any of the other parties who have consented to the withdrawal.*

(3) Notice of withdrawal will not take effect unless the Tribunal consents to the withdrawal.

(4) The Tribunal may make such directions or impose such conditions on withdrawal as it considers appropriate.

(5) A party which has withdrawn its case may apply to the Tribunal for the case to be reinstated.

(6) An application under paragraph (5) must be made in writing and be received by the Tribunal within 28 days after—

(a) the date of the hearing at which the case was withdrawn orally under paragraph (1)(a); or

(b) the date on which the Tribunal received the notice under paragraph (1)(b).

(7) The Tribunal must notify each party in writing of a withdrawal under this rule.

(8) Any party may, within 28 days after the date of receipt of notification by the Tribunal under paragraph (7), apply for a case, or part of a case, which has been withdrawn under this rule to be re-instituted.

10. The emails received from Mr Hood do not satisfy Rule 22(2) and the Tribunal's consent to the withdrawals is not granted.

11. The Tribunal considered directing the Applicant to confirm its request to withdraw the applications and to satisfy the requirements of Rule 22(2) but a considerable period of time has elapsed since both the Notice of Emergency Remedial Action and the Improvement Notice were served and winter is approaching. The Tribunal considers it to be in the best interests of all parties, and in accordance with the overriding objective, to make determinations without further delay.

12. The Tribunal interprets Mr Hood's emails as notification that the Applicant has withdrawn its objections to both the Notice of Emergency Remedial Action the Improvement Notice and does not wish the Tribunal to consider the evidence already submitted.

13. In the absence of any objection to the Notice of Emergency Remedial Action and the Improvement Notice, the Tribunal proposes to make determinations based on the written evidence submitted by the Council.

14. The powers of the Tribunal in respect of an appeal under paragraph 10 is detailed in paragraph 15 of the Act:

(2) The appeal—

(a) is to be by way of a re-hearing, but

(b) may be determined having regard to matters of which the authority were unaware.

(3) The tribunal may by order confirm, quash or vary the improvement notice

15. In the absence of any objection to the Notice of Emergency Remedial Action and the Improvement Notice, the Tribunal proposes to confirm both the Notice of Emergency Remedial Action dated 6 November 2023 and the Improvement Notice dated 4 December 2023.

DIRECTIONS

16. Both parties are invited to make written representations on:
 - a. The Tribunal's interpretation of Mr Hood's emails
 - b. The Tribunal's proposal to make decisions without a hearing
 - c. The Tribunal's proposal to confirm both the Notice of Emergency Remedial Action dated 6 November 2023 and the Improvement Notice dated 4 December 2023
17. All representations to be in writing and received within 14 days of the date of this proposed decision.

J A Platt
Tribunal Chairman