FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00CM/LBC/2024/0602**
Property	**:**	**Easington Lane Cemetery Lodge, 100 Murton Lane, Houghton le Spring DH5 0NB**
Applicant	**:**	**The Council of the City of Sunderland**
Representative	**:**	**Mr P Dunn, Senior Solicitor**
Respondent	**:**	**G L D Developments Ltd**
Representative	**:**	**Mr Cooper**
Type of Application	**:**	**Commonhold and Leasehold Reform Act 2002 (the "Act") Section 168(4)**
Tribunal Members	**:**	**Mr I Jefferson** **Mr C Snowball MRICS**
Date of Decision	**:**	**25 November 2025**

DECISION

The Application is granted. The Tribunal determine pursuant to Section 168(4) of the Commonhold & Leasehold Reform Act 2002 that breaches of a covenant or condition in the lease have occurred, as recorded later in this decision.

Background

1. By Application dated 17 October 2024 (the "Application") the Tribunal was requested to make a determination under Section 168(4) of the Commonhold & Leasehold Reform Act 2002 (the "Act") that a breach has occurred of one or more covenants in the lease dated 26 March 2018 between the Council of the City of Sunderland and G L D Developments Limited for an initial term of 999 years in respect of the Property.

2. The Property is a late Victorian detached lodge at the entrance to Easington Cemetery built of brick elevations under a pitched slate roof together with later rear offshoots. The accommodation formerly comprised single Reception, Kitchen, Bathroom, 3 Bedrooms and rear outhouse, but at the date of sale, and Hearing, the property was in a serious state of disrepair. Externally there is an open garden to front and enclosed garden to rear with a right of access to a side footpath jointly with the Cemetery.

3. The Applicant owns the freehold title TY475614 but following internal policy the Council decided to dispose by way of long leases surplus properties such as Cemetery and Park lodges.
The Applicants drafted a long lease, together with a Development Guidance Note with photographs setting out that they expected any purchaser to undertake sympathetic repairs in accordance with the age, character and setting of the property.

4. The Property was placed on the market with Michael Hodgson, estate agents on behalf of the Applicants at an asking price of £50,000.00. The particulars stated that the property was in need of major refurbishment. A figure of £30,000.00 was accepted from the Respondents, no doubt reflecting the extent of work required as the property was not habitable and was in a poor state of repair both internally and externally. Briefly the slate roof covering had reached the end of its expected lifespan, gutters and pointing were in poor repair. Internally floors and ceilings had collapsed to some rooms and the services are understood to require complete refurbishment.

5. The purchase was completed by way of the long lease on 26 March 2018 the Respondent becoming the sole owner of the leasehold interest in the property, registered at the Land Registry under title number TY555311.

6. The covenants alleged to have been breached are those obligations binding the Respondent in Clause 12 of the Lease, namely:

    12 TENANTS RESPONSIBILITY FOR PAYMENTS FOR THE STATE AND CONDITION OF THE PROPERTY

    12.1 The Tenant must repair the Property and keep it in good and substantial repair and condition in accordance with the requirements of the Development Guidance.

    12.2 The Tenant must maintain the outside areas of the Property shown coloured pink on the Plan and keep the same landscaped and grassed and in a neat and tidy condition.

12.3 The Tenant must keep the roof gutters and drainpipes on the Property free from leaves plants and dirt.

12.4 The Tenant must regularly clean the windows at the Property.

12.5 The Tenant must as often as necessary decorate or treat as appropriate the exterior parts of the Property.

7. Directions were issued by the Tribunal on 9 September 2025. The Respondent appeared to take no part in adhering to Directions, and no written representations were received by the Tribunal, nor by the Applicant. Accordingly an Administrative Judge on reviewing this matter issued a proposal dated 6 November 2025 to bar the Respondent from further proceedings unless they complied with Directions. The main purpose seemingly was to encourage participation but nothing was received. The matter of barring was left over as a preliminary issue to be dealt with by the Tribunal at the Hearing.

8. An inspection was undertaken on the morning of the Hearing to which the named Representatives of each party attended. The Tribunal undertook both an external and brief internal inspection. The internal inspection was constrained due to the dangerous nature of the property and only 2 or 3 rooms were inspected from the central hallway but this was sufficient to show the property was in a dilapidated condition with missing flooring, missing ceilings, paint peeling off, ivy growing into some rooms, and no functioning kitchen, bathroom, or heating. The Hearing took place later at the appointed time of 12 noon at Sunderland Magistrates Court. Both the Applicants and Respondents Representatives attended.

Preliminary Issue

9. The question of possibly barring the Representative for not complying with Directions was addressed. The Applicants did not object to the Respondent being able to put forward his case to the Tribunal. The Tribunal adjourned for a short period and decided that in accordance with Rule 8 of the Tribunal Procedure (First Tier Tribunal) (Property Chamber) Rules 2013, updated 1 May 2024 that little or nothing would be gained from barring the Respondent but they restricted his participation in the proceedings to oral submissions only.

The Law

10. Section 168(1) of the Act states:

"A landlord under a long lease of a dwelling may not serve a notice under section 146(1) of the Law of Property Act 1925 in respect of a breach by a tenants of a covenant or condition in the Lease unless subsection (2) is satisfied".

Section 168(2) states:

"This subsection is satisfied if –

a. It has been finally determined on an application under subsection (4) that the breach has occurred,
b. The Tenant has admitted the breach, or"
c. A court in any proceedings, or an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, has finally determined that the breach has occurred

Section 168(4) states:

"A landlord under a long Lease of a dwelling may make an application to the First-Tier Tribunal for a determination that a breach of a covenant or condition in the Lease has occurred".

The Evidence and Submissions

The Applicant

11. The Applicant spoke to their comprehensive Statement of Case. In short the Respondent was required to repair the property as per Clause 12 of the Lease, coupled with reference to the higher standard set out in the Development Guidance Note. The Applicants relied upon Proudfoot v Hart (1890) 25QBD42 and attached a Law Report of that case.

12. The Applicants confirmed that the Council had made an error in serving a Section 146 Notice prior to any determination as to whether a breach of the Lease had occurred.
The Applicants also contacted the Respondent on 18 July 2024 both by email and telephone to establish whether the Respondent had an intention to rectify the perceived breaches. On 17 October 2024 the Applicant applied to the Tribunal for determination. A schedule setting out the perceived breaches, detailing the covenants of the lease, and the remedy required was also issued. The Applicants Representative stated his view that he believed it might be insupportable in law to require the higher standard of repair as set out in the Development Guidance Note, but maintained that the requirement to repair still stood albeit to a lesser standard perhaps.

13. The Applicant also briefly mentioned that he envisaged the Respondent would rely on misrepresentation namely alleging that the Applicants Representative at a site inspection prior to the grant of the lease had stated that the property had the benefit of an electricity supply. It transpired later, after purchase, that this was not the case. The Applicants deny such representation.

The Respondent

14. As already identified the Respondent did not adhere to Directions, did not submit any written representations, and did not engage with the Tribunal in any way until appearing at the property site inspection and Hearing. The Respondent apologised and stated that he had understood that he had instructed his solicitor John O'Neill to engage with the Tribunal. The Tribunal

requested that he contact his solicitor to establish if any written representations had been sent to the Tribunal and after a brief adjournment the Respondent confirmed that there had been miscommunication between himself and his solicitor and that solicitors had not submitted any representations to the Tribunal either following Directions or the proposal to bar.

15. In oral evidence the Respondent explained that he had been aware of the Development Guidance Note and had intended to put the property into good repair on purchase. He had commissioned a House Buyer Report by a surveyor but on reading an extract from it to the Tribunal it was apparent that the surveyor merely restated an oral representation that the property had gas, water, electricity and possibly drainage. It was not until the Respondent commissioned architects plans after purchase that he became aware that the former overhead electrical supply no longer existed and an estimated cost of renewing the electrical supply was £15,000.00. He considered this sum excessive and the whole project unviable. Apparently in discussions with the Applicants they offered to meet one half of the cost of installing the electrical supply, albeit denying misrepresentation, but the offer was not taken up.

16. The Respondent did not progress any repairs, and maintained that the property was only slightly worse than the dilapidated state at the date of purchase.

Tribunals Findings and Decision

17. The repairing covenant set out at Clauses 12 to 12.5 of the Lease are not disputed save that the Applicants themselves considered that in law that they might have met resistance to a higher standard of repair as required by the Development Guidance Note. Neither party disputed that the repairing clauses were otherwise clear.

18. The suggestion that misrepresentation allowed the Respondent to ignore any responsibility for repair was refuted by the Applicants. The Tribunal stated that their jurisdiction did not permit any consideration or determination of that matter.

19. The Tribunal consider that the wording of the tenants repair liability in Clause 12 of the Lease is clear including its reference to the Development Guidance. In the alternative, should the Tribunal be incorrect in a higher quality of repair expected by the Guidance note cannot be substantiated in law, the Tribunal determined that the Respondent was still liable to repair the property as per the remainder of Clause 12.1.

20. Whilst the Applicants majored on external repairs and their schedules did not detail internal repair (considering that most owners would wish to undertake that in any event in order to make the property habitable) the Tribunal determine that the building is in a very poor state of repair including roof, gutters and downpipes, pointing of brickwork, windows and doors, and internally collapsed floors, collapsed ceilings, and the requirement to repair extensively generally throughout. Externally the rear garden is overgrown and unkempt. In short each of the 5 repair obligations set out in Clause 12 of the Lease have not been complied with.

21. The Tribunal found therefore that the Respondent is in breach of the repair covenants specifically Clauses 12.1, 12.2, 12.3, 12.4, and 12.5 of the Lease.

22. The Tribunal make no finding as to costs as neither party made any application in respect of costs.

Chairman