



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

**Case Reference** : **CHI/45UH/HPO/2018/0004**

**Property** : **6 East Avenue Goring by Sea  
Worthing, West Sussex, BN12 4DD**

**Appellant** : **Ms C J Billingham**

**Representative** : **In person**

**Respondent** : **Worthing Borough Council**

**Representative** : **Mr Reynolds**

**Type of Application** : **Schedule 2 para 7(1) Housing Act  
2004 (Appeal against prohibition  
notice)**

**Tribunal Members** : **Mrs F J Silverman Dip Fr LLM  
Mr R A Wilkey FRICS**

**Date of consideration** : **11 January 2019**

**Date of Decision** : **11 January 2019**

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**DECISION**

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The Tribunal confirms the Prohibition Order served by the Respondent.

## REASONS

- 1 The Appellant is the freehold owner and occupier of the property situated and known as 6, East Avenue, Goring by Sea , Worthing, West Sussex, BN12 4DD (the property). She filed an application with the Tribunal on 10 August 2018 appealing against the prohibition order served on her by the Respondent which purported to identify category 1 and category 2 hazards at the property and required the Appellant to remedy those defects.
- 2 Directions were issued by the Tribunal on 05 September 2018 and time extensions were granted on 04 October 2018.
- 3 The Tribunal inspected the property in the presence of the parties immediately before the consideration. The property comprises a two storey detached chalet bungalow situated on a residential street in Goring by Sea within walking distance of the sea front and all amenities. The property possesses a private drive on which a vehicle in a distressed condition was parked. Unrestricted on-street parking is available in the surrounding streets. The building is conventionally constructed of brick with a tiled roof and is thought to have been built post-1945. At the time of inspection both the front and rear gardens were overgrown and inaccessible except for a narrow uneven pathway leading from the public road to the front door and continuing round the left hand side of the house. The Tribunal understands that this access route had recently been cut by the Respondent acting under a court warrant. Although repairs had recently been made to the red-tiled front step and new air bricks had been near the damp proof course, the exterior of the property was in a poor condition with rotting woodwork, peeling paintwork and broken iron and glass on the front facing first floor balcony. Broken glass in the front door had been covered with a wood panel. A hand written note fixed to the door informed visitors that the doorbell did not work.
- 4 Despite the fact that the house had been cleared by the Respondent a few months ago, the Tribunal observed that there was an accumulation of large black rubbish bags in three of the ground floor rooms. The front door opens onto a hallway which was uncarpeted and had been stripped of wallpaper. A smoke detector fixed to the ceiling had no battery in it. The Appellant said she was living in one room only, viz the ground floor reception room to the right hand side of the front door. This room was cluttered with furniture and diverse objects and the Tribunal did not venture beyond the doorway. The ground floor room to the left of the front door was empty apart from rubbish bags and two chairs. The wallpaper had been stripped but there was evidence of a continuing leak into the bay area from an assumed problem on the balcony

above it. Curtains hanging at the window were rotting with damp. There was no floor covering in this room nor in any other room that the Tribunal viewed. A gas fire in the corner fireplace was non-functioning owing to the fact that gas had been disconnected from the property some years ago. The rear right hand ground floor room, described by the Appellant as a 'kitchen store overflow' contained a wardrobe and some household supplies. It was otherwise in a similar dirty and damp state as the other ground floor rooms. The rear left hand room was a kitchen which had the benefit of a new cold tap in the sink but no hot water. The cooker was dirty and appeared not to have been used for some time. The floor tiles were dirty and peeling. A side door in the kitchen gives access to the garden. Work surfaces were covered in diverse objects with no evidence of there being any usable food storage or preparation facilities. At the rear of the ground floor there was a windowless bathroom with an aquamarine bath and basin. There was no hot water in this room and the ceiling light did not work. A new toilet had been fitted in the adjacent lavatory which did work. Some new, but unfinished tiling was in place. The extractor fan had been removed from this room leaving a hole in the wall which exposed the room to the outside elements. There was no functioning central heating system in the property. An unlit bare wood staircase, with two winders led to the first floor where the rear bedroom was empty and damp with peeling wallpaper and visible mould. Dead or dying ivy covered the windows obscuring the daylight. The front bedroom had a fitted wardrobe containing old dirty and rotting clothes and gave access to an iron and glass balcony which was in a dangerous condition with broken ironwork and glass. It was similarly damp with visible mould growth on the walls and ill-fitting single glazed windows.

- 5 The Respondent had carried out an assessment of the property which identified both category 1 and category 2 hazards at the property. As a result a Prohibition Order was served on the Appellant on 13 July 2018.
- 6 The Appellant's appeal was initially lodged out of time. The Tribunal accepted the Appellant's reasons for the delay and permitted the late submission of the application (see Direction 3, page 18).
- 7 Apart from the lengthy statement contained within her application the Appellant brought no evidence to challenge the Respondent's worksheets and priorities and raised no valid argument against the Respondent's requirements. No surveyor's report or other expert evidence was offered on the Appellant's behalf. The Respondent had on several occasions stated that they would remove the Order when satisfied that the relevant works had been completed. On inspection it was clear that the works remained incomplete.
- 8 The Respondent's statement sets out their reasoning and justifications for service of the order and a reply to the observations made in the

Appellant's own statement. This was accompanied by a witness statement from Jemma Seaton and copies of the calculations which had been made as part of the HHSRS assessment.

- 9 The Tribunal dealt with this matter at a paper consideration which took place immediately following the inspection of the property on 11 January 2019. Neither party had accepted the Tribunal's offer to proceed by way of an oral hearing.
- 10 While the Tribunal respects the right of the Appellant to live in her own house as she chooses, the provisions of the Housing Act 2004 (the Act) prescribes and limits the remedies which the Tribunal may consider in these circumstances. Where on an inspection carried out under the Act the Respondent has found the existence of Category 1 hazards it is required to take action in respect of them. This is a mandatory provision which excludes the exercise of any discretion. The Tribunal's powers are similarly limited to the three options of confirming, varying or quashing the order.
- 11 Although the Tribunal recognises that the Appellant has carried out a number of remedial works in accordance with the Respondent's Order, there remain several major issues which need to be addressed. These include the provision of hot water and central heating to the property and adequate food preparation facilities. Some of these outstanding matters present a significant health risk to any occupiers or visitors to the property and for that reason the Tribunal considers that it would be inappropriate to either vary or quash the Order at the present time.
- 12 Therefore, having considered the written evidence placed before it, including photographs of the property taken by the Respondent during their inspections and taking into account the Tribunal's observations during its own inspection of the property, the Tribunal determines that it will confirm the Respondent's Order, all provisions of which remain extant and in full effect.
- 13 The Tribunal does however, encourage the parties to work together to resolve the outstanding issues without excess formality.
- 14 The Law:  
Housing Act 2004 Sched 2 *Appeal against prohibition order*:  
"7 (1)A relevant person may appeal to the appropriate tribunal against a prohibition order.  
(2)Paragraph 8 sets out a specific ground on which an appeal may be made under this paragraph, but it does not affect the generality of sub-paragraph (1).

8 (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 (c. 68).

9 A relevant person may appeal to the appropriate tribunal against—

(a) a decision by the local housing authority to vary a prohibition order, or

(b) a decision by the authority to refuse to revoke or vary a prohibition order.

10 (1) Any appeal under paragraph 7 must be made within the period of 28 days beginning with the date specified in the prohibition order as the date on which the order was made.

(2) Any appeal under paragraph 9 must be made within the period of 28 days beginning with the date specified in the notice under paragraph 3 or 5 as the date on which the decision concerned was made.

(3) The appropriate tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

11 (1) This paragraph applies to an appeal to the appropriate tribunal under paragraph 7.

(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 prohibition order.

(4)Paragraph 12 makes special provision in connection with the ground of appeal set out in paragraph 8.

12 (1)This paragraph applies where the grounds of appeal consist of or include that set out in paragraph 8.

(2)When deciding whether one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to a particular hazard, the tribunal must have regard to any guidance given to the local housing authority under section 9.

(3)Sub-paragraph (4) applies where—

(a)an appeal under paragraph 7 is allowed against a prohibition order made in respect of a particular hazard; and

(b)the reason, or one of the reasons, for allowing the appeal is that one of the courses of action mentioned in paragraph 8(2) is the best course of action in relation to that hazard.

(4)The tribunal must, if requested to do so by the appellant or the local housing authority, include in its decision a finding to that effect and identifying the course of action concerned.”

Judge F J Silverman as Chairman  
11 January 2019.

Note:

### Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

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

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-

day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.