



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

Case reference : **BIR/00CU/HIN/2022/0001**

Property : **27 Manorhouse Close, Walsall, WS1 4PB**

Applicant : **Mr Faiz Rasul Din**

Respondent : **Walsall Council**

Type of application : **Appeal against an Improvement Notice under paragraph 10(1) of Schedule 1 to the Housing Act 2004**

Tribunal members : **Judge C Payne (Chair)
Mr P Wilson BSc (Hons) LLB MRICS
MCIEH CEnvH**

Date and place of hearing : **12 May 2022 (On Paper)**

Date of decision : **21 July 2022**

DECISION

Decision

The Tribunal determines that:

1. The Improvement Notice dated 20 December 2021 is confirmed.

Background

2. On the 20 December 2021 the Respondent served an Improvement Notice pursuant to sections 11 and 12 Housing 2004 Act (“the Act”).
3. On 5 January 2022, the Applicant appealed against the issue of the Improvement Notice to the Residential Property Tribunal. The Appeal was made within the 21 days of the service of the Improvement Notice and Directions were issued on the 13 January 2021.
4. No inspection of the Property took place, it not having been requested by the parties. The written submissions of the parties were considered on 12 May 2022.

The Law

5. The Respondent is responsible, under statute, for the operation of a regime designed to evaluate potential risks to health and safety from deficiencies in dwellings, and to enforce compliance with the standards required. The scheme is called the Housing Health and Safety Rating System (“HHSRS”). It is set up in the Housing Act 2004 (“the Act”), supplemented by the Housing Health and Safety Rating System (England) Regulations 2005 (“the Regulations”).
6. The scheme set out in the Act is as follows:
 - (a) Section 1 (1) provides for a system of assessing the condition of residential dwellings and for that system to be used in the enforcement of housing standards in relation to such premises. The system (which is the HHSRS system) operates by reference to the existence of Category 1 or Category 2 hazards on residential premises.
 - (b) Section 2 (1) defines a Category 1 hazard as one which achieves a numerical score under a prescribed method of calculating the seriousness of a hazard. A Category 2 hazard is one that does not score highly enough to be a Category 1 hazard. The scoring system is explained later.
 - (c) "Hazard" means any risk of harm to the health or safety of an actual or potential occupier of a dwelling which arises from a deficiency in the dwelling.

7. Under section 9(1)(b) of the Act, the local authority is required to have regard to the HHSRS guidance when carrying out their functions in relation to improvement notices, prohibition orders or hazard awareness notices.

8. The HHSRS Enforcement Guidance at paragraph 5.4 states:-

An improvement notice under section 11 or 12 of the Act is a possible response to a category 1 or a category 2 hazard. Under section 11, action must as a minimum remove the category 1 hazard but may extend beyond this. For example, an authority may wish to ensure that a category 1 hazard is not likely to reoccur within 12 months, or is reduced to category 2, or both. Such work would need to be reasonable in relation to the hazard and it might be unreasonable to require work which goes considerably beyond what is necessary to remove a hazard.

9. Section 4 of the Act provides the procedure to be followed by a local authority before commencing any enforcement action. If the local authority becomes aware that it would be appropriate for any property to be inspected with a view to determining whether a hazard exists, it must carry out an inspection for that purpose.

10. The right to carry out the inspection is derived from section 239 of the Act. This section gives the local authority a power of entry for the purposes of carrying out a section 4 inspection. The inspector must have been properly authorised to carry out that inspection, and (in sub-section 5), the authorised officer must have given at least 24 hours' notice of his (her) intention to inspect to the owner (if known) and the occupier (if any).

11. Section 5(1) of the Act provides that

“If a local authority consider that a category 1 hazard exists on any residential premises they have a duty to take the appropriate enforcement action in relation to the hazard”.

12. Section 5(2) says that the appropriate enforcement action means whichever of the following courses of action is indicated. Those courses of action are:

- (a) Improvement notice
- (b) Prohibition order
- (c) Hazard awareness notice
- (d) Emergency remedial action
- (e) Emergency prohibition order
- (f) Demolition order
- (g) Declaration of a clearance area

13. Section 5(3) of the Act says that if only one course of action within Section 5(2) is available to the authority in relation to the hazard, they must take that course of action. Section 5(4) says that if two or more courses of action within subsection (2) are available to the authority in relation to the hazard, they must take the course of action which they consider to be the most appropriate of those available to them.

14. Section 11 of the Act sets out the duty of the Respondent to serve notice and states the following: -

(1) If—

(a) the local housing authority are satisfied that a category 1 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

then serving an improvement notice under this section in respect of the hazard is a course of action available to the authority in relation to the hazard for the purposes of section 5 (category 1 hazards: general duty to take enforcement action).

(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsections (3) to (5) and section 13.

(3) The notice may require remedial action to be taken in relation to the following premises—

(a) if the residential premises on which the hazard exists are a dwelling or HMO which is not a flat, it may require such action to be taken in relation to the dwelling or HMO;

(b) if those premises are one or more flats, it may require such action to be taken in relation to the building containing the flat or flats (or any part of the building) or any external common parts;

(c) if those premises are the common parts of a building containing one or more flats, it may require such action to be taken in relation to the building (or any part of the building) or any external common parts.

Paragraphs (b) and (c) are subject to subsection (4).

(4) The notice may not, by virtue of subsection (3)(b) or (c), require any remedial action to be taken in relation to any part of the building or its external common parts that is not included in any residential premises on which the hazard exists, unless the authority are satisfied—

(a) that the deficiency from which the hazard arises is situated there, and

(b) that it is necessary for the action to be so taken in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) The remedial action required to be taken by the notice —

(a) must, as a minimum, be such as to ensure that the hazard ceases to be a category 1 hazard; but

(b) may extend beyond such action.

(6) An improvement notice under this section may relate to more than one category 1 hazard on the same premises or in the same building containing one or more flats.

(7) The operation of an improvement notice under this section may be suspended in accordance with section 14.

(8) In this Part “remedial action”, in relation to a hazard, means action (whether in the form of carrying out works or otherwise) which, in the opinion of the local housing authority, will remove or reduce the hazard.

15. Section 12 of the Act sets out the powers of the Respondent to serve notice and states the following: -

(1) If—

(a) the local housing authority are satisfied that a category 2 hazard exists on any residential premises, and

(b) no management order is in force in relation to the premises under Chapter 1 or 2 of Part 4,

the authority may serve an improvement notice under this section in respect of the hazard.

(2) An improvement notice under this section is a notice requiring the person on whom it is served to take such remedial action in respect of the hazard concerned as is specified in the notice in accordance with subsection (3) and section 13.

(3) Subsections (3) and (4) of section 11 apply to an improvement notice under this section as they apply to one under that section.

(4) An improvement notice under this section may relate to more than one category 2 hazard on the same premises or in the same building containing one or more flats.

(5) An improvement notice under this section may be combined in one document with a notice under section 11 where they require remedial action to be taken in relation to the same premises.

(6) The operation of an improvement notice under this section may be suspended in accordance with section 14.

16. Paragraph 10 of Schedule 1 of the Act states:-

(1) The person on whom an improvement notice is served may appeal to the appropriate tribunal against the notice.

(2) Paragraphs 11 and 12 set out two specific grounds on which an appeal may be made under this paragraph, but they do not affect the generality of sub-paragraph (1).

17. Paragraph 11 of Schedule 1 of the Act states:-

(1) An appeal may be made by a person under paragraph 10 on the ground that one or more other persons, as an owner or owners of the specified premises, ought to—

(a) take the action concerned, or

(b) pay the whole or part of the cost of taking that action.

(2) Where the grounds on which an appeal is made under paragraph 10 consist of or include the ground mentioned in sub-paragraph (1), the appellant must serve a copy of his notice of appeal on the other person or persons concerned.

18. Paragraph 12 of Schedule 1 of the Act states:-

(1) An appeal may be made by a person under paragraph 10 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 notice was served.

(2) The courses of action are—

(a) making a prohibition order under section 20 or 21 of this Act;

- (b) serving a hazard awareness notice under section 28 or 29 of this Act; and*
- (c) making a demolition order under section 265 of the Housing Act 1985 (c. 68).*

19. Section 262(7) of the Act defines an owner and states: -

(7) In this Act “owner”, in relation to premises—

(a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple of the premises whether in possession or in reversion; and

(b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds 3 years.

20. Under paragraph 15 (3) of Schedule 1 of the Act a tribunal may by order, confirm, quash or vary an improvement notice.

The Notice

21. The Improvement Notice was served on 20 December 2021, a copy of which was provided by the Applicant with his Application. The Improvement Notice was issued following an inspection of the Property by the Respondent’s officers on 16 December 2021. Details of the hazards identified during the inspection are contained in Schedule 1 of the Improvement Notice and the remedial action required is prescribed in Schedule 2. Both schedules are set out below. The hazard descriptions refer to the Housing Health and Safety Rating System Guidance Notes. The Improvement Notice was served on all known addresses of the Applicant. No issue has been raised regarding service by the Applicant.

22. The Applicant was identified by the Respondent under Schedule 1 Part 1 paragraph 2(2)(a) as the person having control of the dwelling and paragraph 5(2) having a relevant interest as freeholder. A copy of the Improvement Notice was also served on the Occupiers under paragraph 5(1)(b). A copy of HM Land Registry Entry Title Number WM947495 was provided, which confirmed that the Applicant has been the freehold owner of the Property since 24 February 2009.

23. *Hazard 1 – Falling on Level Surfaces etc*

This category covers falling on any level surface such as floors, yards, and paths. It also includes falls associated with trip steps, thresholds, or ramps, where the change in level is less than 300mm.

24. The deficiencies giving rise to the hazard: -

(a) The pavement to the front of the property has caved in in places and is unstable with some bricks missing and some bricks protruding above the pavement surface.

25. Remedial action required: -

Carry out works to ensure that the paving to the front of the property is stable with a level surface so as to reduce the risk of someone falling over the protruding slabs or falling through the unstable paving.

26. Hazard 2 – Domestic Hygiene, Pests and Refuse

This category covers hazards which can result from:

- a) poor design, layout and construction such that the dwelling cannot be readily kept clean and hygienic;*
- b) access into, and harbourage within, the dwelling for pests; and*
- c) inadequate and unhygienic provision for storing and disposal of household waste. 15.02*

27. The deficiencies giving rise to the hazard: -

- (a) There is evidence of rodent infestation in the form of rat holes to the front of the property and a foul odor in the ground floor WC which is indicative of dead rats/mice.*
- (b) There is evidence of fly infestation in the first floor en-suite bathroom.*
- (c) There is fungal growth in the first floor en-suite bathroom.*

28. Remedial action required: -

- (a) Carry out works to treat the rodent infestation, fill any access points with suitable rodent proof substance to ensure that rodents cannot gain access into the property and seek and remove any dead rodents.*
- (b) Investigate the cause of the fly infestation in the 1st floor en-suite bathroom and carry out remedial works as necessary.*
- (c) Investigate the cause of the fungal growth in the 1st floor en-suite bathroom and treat the fungi with antifungal treatment.*

29. Hazard No. 3 – Food Safety

This category covers threats of infection resulting from inadequacies in provision and facilities for the storage, preparation and cooking of food.

30. The deficiencies giving rise to the hazard: -

- (a) The oven in the kitchen does not work.*

31. Remedial action required: -

Carry out works to ensure that the oven in the kitchen is in good working order.

32. Hazard 4 – Personal Hygiene, Sanitation and Drainage

This category covers threats of infection and threats to mental health associated with personal hygiene, including personal washing and clothes washing facilities, sanitation and drainage. It does not include problems with pests associated with defective drainage facilities.

33. The deficiencies giving rise to the hazard: -

- (a) *The electric shower in the 1st Floor en-suite bathroom does not work.*
- (b) *The toilet in the first floor bathroom does not work.*

34. Remedial action required: -

- (a) *Carry out remedial works to ensure the shower in the first floor en-suite bathroom is in good working condition.*
- (b) *Carry out remedial works to ensure the toilet in the first floor en-suite bathroom is in good working condition.*

35. Hazard 5 – Position and operability of amenities etc

This category covers threats of physical strain associated with functional space and other features at dwellings.

36. The deficiencies giving rise to the hazard: -

- (a) *The window in the 2nd floor rear bedroom is stiff and difficult to close.*
- (b) *The window in the 2nd floor front bedroom is stiff and difficult to close.*

37. Remedial action required: -

- (a) *Carry out works to the 2nd floor rear bedroom window so as to ensure this can open and close easily.*
- (b) *Carry out works to the 2nd floor front bedroom window so as to ensure this can open and close easily.*

24. Hazard 6 – Damp and Mould

This category covers threats to health associated with increased prevalence of house dust mites and mould or fungal growths resulting from dampness and/or high humidities. It includes threats to mental health and social well-being which may be caused by living with the presence of damp, damp staining and/or mould growth.

38. The deficiencies giving rise to the hazard: -

- (a) *There is water penetration to the 2nd floor front bedroom window.*

39. Remedial action required: -

- (a) *Carry out works to the 2nd floor front bedroom window ensuring that the same is left wind and weather proof.*

Written Submissions

40. The Applicant, Mr Din, in addition to his Application provided a statement setting out the grounds for his appeal to which he appended a copy of the title plan for the Property registered under title WM947495, photographs of the subsidence to the front and side of the Property, photographs of the Bin Store situated on the land adjacent to the Property, a Google Maps photograph of the Property and a copy of an electronic request to HLM Property to repair the subsidence at the Property. The Applicant also provided the Tribunal, under separate cover, an official copy of the registered title for the Property (title WM947495) and the registered title for the adjoining land (title WM833586). He then made further submissions in an email to the Tribunal on 2 March 2022. A copy of the Improvement Notice was appended to the Application to the Tribunal.
41. The Respondent, Walsall Council, provided a 2 page letter to the Tribunal dated 10 February 2022 by way of submissions.

Grounds of Appeal

42. In respect of Hazard 1, the Applicant acknowledged the presence of the hazard but submitted that the Improvement Notice had been served on the incorrect party. He submitted that the owner of the neighbouring land and/or their managing agent was the appropriate party to be served with the Notice as they were responsible for the bin storage area on the land adjacent to the Property.
43. The Applicant feels that the damage to the Property resulting from the rat infestation noted in the Improvement Notice was caused by the location of the bin store on the neighbouring land immediately adjacent to the Property and the poor management of the bins areas, which were often overflowing, by the neighbouring owner and/or their managing agents. He said the rats had burrowed under the Property from the bin area, which had resulted in the damage to the paving around the Property. On that basis, he submits that they should be responsible for remedial works to the Property.
44. In respect of Hazards No 2, 3, 4, 5 and 6, the Applicant made some general comments that they were either not present or incorrectly assessed. He did not specify which hazards he felt were not present or incorrectly assessed. No evidence was provided to the Tribunal to support this assertion. The Applicant stated that some of the hazards had been addressed since the Improvement Notice was issued or were in the process of being addressed by him.
45. In respect of Hazard 4, the Applicant confirmed that, at the time of the inspection, the shower unit was not working and was showing an error light for low water pressure. Upon inspection, following the service of the Improvement Notice, the

Applicant noted that the stop cock was not fully open to allow mains water to enter the unit at an appropriate pressure. Once opened, the unit was found to be functioning correctly. No evidence of this was provided. The Applicant confirmed that the toilet was not working at the time of the inspection. He was waiting for a 'special washer for the dual-flush system' to become available and had difficulty arranging access to the Property with his Tenant in order to complete works. He noted that there was a second toilet in the main bathroom of the property, which was in working order.

46. In respect of Hazards 2, 3, 5 and 6 the Applicant did not provide any further information.
47. The Applicant submitted that he was given 2 days' notice of the inspection on 16 December 2021, which he was unable to attend. He was unable to attend the inspection and stated that, if he had been able to attend that he would have been able to persuade the Respondent to take an alternative course of action. The Applicant did not particularise the information he would have provided or provide any further evidence related to the hazards listed in the Improvement Notice. The Applicant did not specify which alternative course of action he would have recommended at the inspection.
48. The Applicant felt the Respondent was 'heavy handed with their inclusion of items on the Notice'. The applicant did not particularise why he felt it was heavy handed or inappropriate to issue an Improvement Notice or what alternative enforcement action that he feels the Respondent should have taken other than to issue an Improvement Notice in respect of the hazards identified at the Property. In his email to the Tribunal of 2 March 2022 he requested that the Improvement Notice be varied to include the works relating to the inside of the house that forms part of the Property only and that another Improvement Notice be served on the neighbouring land owner for works outside of the house, but within the curtilage of the Property.
49. The Applicant stated that issues with the Tenant not allowing access to the Property had delayed some of the issues being addressed before the date of the inspection. The Applicant did not confirm which items this related, particularise the access issues or provide any evidence of the same.

Respondent's Case

50. The Respondent submitted that the Applicant's belief that the neighbouring landowner and/or their managing agent was responsible for addressing Hazard 1 and the rat infestation issue noted as part of Hazard 2 was misconceived. They noted that the Applicant was the freehold owner of the Property and that all works listed in the Notice were within the curtilage of the Property. The Applicant is not required under the Improvement Notice to undertake works to any property or land that is not in his control.
51. The Respondent recognised that there may be a causal link between the bin storage area on the adjacent land and the rat infestation. However, they submitted that it was for the Applicant to seek separate legal remedy against the owner of the

neighbouring land and that this did not negate his responsibility for the works required at the Property.

52. The Respondent advised the Tribunal that on 9 January 2022 that the Applicant had written to the Respondent saying '*Further to my phone call today I am now writing to inform you that the work requested by you as scheduled on the Improvement Notice.. has now been completed... I am therefore ready for your inspection as soon as you can come.*' A copy of the email itself was not supplied.
53. The Respondent feels an inspection to see that works are completed cannot take place until the Tribunal has resolved whether or not the Improvement Notice is confirmed, quashed or varied as a result of the Applicant's appeal.
54. The Respondent considered that the Applicant had failed to meet the criteria under paragraph 11 of Schedule 1 of the Act as the owner of the neighbouring land and the managing agent engaged by them had no legal interest in the Property.

Decision

55. The questions for the Tribunal to answer in respect of this appeal are: -

- (a) Is the Respondent entitled to serve an Improvement Notice?
- (b) Has the notice been served on the correct party?
- (c) Can the Applicant rely on paragraph 11 of Schedule 1 of the Act?
- (d) Does the Tribunal confirm, quash or vary the Improvement Notice?

Is the Respondent Entitled to serve an Improvement Notice?

56. Section 5(1) of the Act imposes a duty on the Respondent to take appropriate enforcement action where they consider that a category 1 hazard exists on any residential premises. Appropriate enforcement action may include the issue of an Improvement Notice under section 5(2) of the Act. Sections 11 and 12 of the Act entitle the Respondent to serve an Improvement Notice where they are satisfied a category 1 or category 2 hazard exists at the Property. The HHSRS Enforcement Guidance also confirms that the issue of an Improvement Notice is an appropriate response to the presence of category 1 or Category 2 hazards at a property.
57. The Respondent was satisfied that, at the time of the inspection on 16 December 2021, there were hazards present at the Property. The hazards identified are set out in detail in the Schedule to the Improvement Notice. The Applicant acknowledges that the rat infestation was present at the Property at the time the Improvement Notice was issued and that the shower and toilet in the en-suite bathroom were not working at that time. The Applicant did not provide any specific submissions to the Tribunal regarding the other hazards listed in the Improvement Notice. He did not specify which, if any, of the hazards he felt were not present or were incorrectly categorized and did not provide any evidence to support this assertion. Therefore, on the basis of the evidence before the Tribunal, it is determined that the hazards, as described in the Schedule to the Improvement Notice, were present at the Property at the time of the inspection in December 2021. No evidence was provided to the Tribunal of any specific work having been done to address the hazards since

the Improvement Notice was served, though it is noted the Applicant claims the works are now complete and the Respondent has been invited to inspect the Property to confirm this is the case.

58. Given the serious nature of the range of hazards identified during the inspection, the Tribunal considered that the issue of an Improvement Notice was a proportionate and reasonable action for the Respondent to take.
59. Paragraph 12 of Schedule 1 of the Act allows a party to appeal an Improvement Notice on the basis that an alternative course of action, such as a prohibition order, hazard awareness notice or demolition order, would be more appropriate. The Applicant has said that he felt the Respondent was 'heavy handed' but has not put forward a proposal that any other specific course of action listed under paragraph 12 of Schedule 1 of the Act would be more appropriate. Therefore, he is unable to rely on this ground of appeal.
60. The Applicant in his email submissions to the Tribunal on 2 March 2022 stated that he felt it was appropriate that an Improvement Notice is served on him for those hazards identified within the house that forms part of the Property. He also submitted that an Improvement Notice would be the appropriate course of action for those hazards identified outside of the house, but within the curtilage of his property, though he suggests that the notice relating to those hazards should be served on a third party.
61. On the basis of the submissions and evidence provided, the Tribunal finds that the Respondent was entitled to serve an Improvement Notice and that the service of that notice was reasonable and proportionate in the circumstances of this case.

Has the notice been served on the correct party?

62. The Applicant is the freehold owner of the Property and, as such, satisfies the definition of Owner under Section 262(7) of the Act. Therefore, the Applicant is the appropriate party to be served with an Improvement Notice in relation to the Property.

Can the Applicant rely on paragraph 11 of Schedule 1 of the Act?

63. Paragraph 11 of Schedule 1 of the Act allows a party to appeal against an Improvement Notice on the basis that a third party, 'as an owner or owners of the specified premises', ought to be taking the action to remedy the hazards or to pay for remedying those hazards.
64. The Applicant has suggested that the owner of the adjoining land and/or their managing agent may be responsible for the hazards related to rat infestation at the Property. Neither the owner of the adjacent land or their agent meet the definition of 'Owner' under Section 262(7) of the Act, having no freehold or leasehold interest in the Property. As such, an Improvement Notice could not be served on those parties and the Applicant is unable to rely on the grounds set out in paragraph 11 of Schedule 1 of the Act.

65. It may be the case that the Applicant is entitled to take independent action against third parties if he considers that they have caused damage to his Property. However, the Applicant remains responsible for the condition of the Property. As such, the Applicant is responsible for ensuring remedial work is carried out at the Property to address the hazards identified.
66. The Tribunal does, however, have considerable sympathy with the Applicant's expressed view that both the Respondent and the neighbouring landowner and/or their agent do bear some responsibility for the entry of rats onto the subject property. From the evidence before the Tribunal, it is apparent that the source of what appears to have been a serious infestation is the bin store immediately adjacent to the subject Property. The bins are for communal use and it is unusual to use such stores with individual houses rather than flats. Presumably it was incorporated in the estate design as the houses are terraced and the alternative would be either bins being brought through the properties or bin storage at the front of each house.
67. Whatever the reason for the estate layout and position of the bin store, it is incumbent on those with responsibility for the bin store to ensure it is managed in such a way as to prevent serious pest infestations arising. Furthermore, the Respondent is a local authority with statutory duties that extend beyond their role in statutory housing enforcement. In particular, they have a statutory duty under Part III of the Environmental Protection Act 1990 to investigate and take appropriate enforcement action in respect of statutory nuisances. From the evidence available to the Tribunal, the condition of the bin store as the source of a substantial rat infestation will have been both prejudicial to health and a nuisance. In addition, the Respondent authority has a duty under the Prevention of Damage by Pests Act 1949 to take steps to secure so far as practicable that their district is kept free from rats and mice and also a power set out in the Act to compel the owners and occupiers of land to take steps to destroy rats and mice.
68. In their submissions, the Respondent acknowledges that it "... recognises that there may be a causal link between communal bin storage area and some of the works specified on the Improvement Notice." Notwithstanding this, there is nothing in the evidence available to the Tribunal which indicates that the Respondent has taken any action under these two Acts with regard to the rat infestation or indeed that they even considered doing so. It seems to the Tribunal from the evidence that the Respondent simply focussed on dealing with the consequences of the infestation in the subject Property, while failing to address the root cause as they should have done given their wider responsibilities. Prompt action to deal with the infestation might well have prevented ingress of rats onto the subject Property.

Does the Tribunal confirm, quash or vary the Improvement Notice?

69. The Tribunal, having found that Respondent was entitled to serve an Improvement Notice and the Notice has been served on the correct party, finds no grounds have been established by the Applicant for quashing the Improvement Notice.

70. The Applicant has not set out any grounds to challenge the inclusion or categorisation of any of the hazards noted in the Improvement Notice. The Notice cannot be varied to be served in full or in part on the owner of the neighbouring land or their agent as neither meet the criteria to be considered an owner of the Property. The Tribunal finds that the Applicant has not established any grounds for varying the Improvement Notice.

71. The Tribunal therefore confirms the Improvement Notice.

Appeal

72. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Payne
Chair
First-tier Tribunal (Property Chamber)