

Y TRIBIWNLYS EIDDO PRESWYL
RESIDENTIAL PROPERTY TRIBUNAL

Reference: RPT/0010/10/16

In the matter of 46 High Street, Connah's Quay, CH5 4DD

And in the matter of an Application Sections 11 and 12 of the Housing Act 2004

Between Mr Vivian Davies (Applicant)

And Flintshire County Council (Respondent)

Tribunal: Mr A R Grant – Chairman
Mr H Lewis
Mr W Brereton

Appearances for the Applicant: Mr Vivian Davies

Appearances for the Respondent: Mr A Kelly – Environmental Health Officer
Ms J Prendergast
Ms L Dodd

Decision

Item 3 on page 4 of the Notice and Item 1 on page 8 of the Notice are varied as set out in the reasons given below.

Reasons

1. This is an appeal made by the Freeholder, Mr Vivian Davies against the terms of an Improvement Notice ("The Notice") served upon him by Flintshire County Council ("The Council") and which was dated the 15th September 2016 in respect of a property situated at number 46 High Street, Connah's Quay, Deeside, CH5 4DD ("the Property").
2. The Improvement Notice identified various category 1 and 2 Hazards that the Council stated were present at the Property and also specified the remedial works which were required to be carried out within various times which were again set out in the Notice.
3. Following service of the Improvement Notice upon him, Mr Davies issued his application which was dated the 30th September 2016 and which was received at the Tribunal office on the 3rd October 2016.
4. Directions were issued on the 7th October 2016 and the matter was listed for hearing on the 6th January 2017.

5. Prior to the hearing the Tribunal inspected the property. Present at the inspection were the Tribunal members and Mr Davies. Mr Kelly and Ms Dodd were in attendance for the Council.

The Property

6. The property comprises a semi-detached house with frontage to one of the main thoroughfares in Connah's Quay. Construction is of solid brick walls under a pitched tile clad roof. All mains services are connected including gas fired central heating. The accommodation is arranged over 3 floors and briefly comprises:

Ground Floor: entrance hall, living room, kitchen, stairs descending to,

Lower ground floor: basement store.

First Floor: landing, two bedrooms, bathroom with W/C.

Outside: enclosed forecourt, side pedestrian access to rear yard and garden.

7. The general condition of the property appears consistent with its age and type of construction, but some work of repair and maintenance are required. Elements of the property are ageing and likely to require attention.

The Hearing

8. In advance of the hearing the Tribunal had received the following documents – A letter from V W Davies Properties addressed to the Tribunal dated the 29th September 2016., the Application dated the 30th September 2016, The Improvement Notice dated the 15th September 2016 and supporting calculations , A statement from Mr Davies dated the 24th October 2016. A statement from Mr Kelly (on behalf of the Council) dated the 4th November 2016 and a copy of an e mail from Mr Davies to the Tribunal with accompanying paperwork dated the 5th January 2017.
9. On the day of the hearing and prior to the proceedings commencing Mr Kelly handed to the Tribunal a copy of a further statement dated the 5th January 2017. A copy had been provided to Mr Davies on the 5th January 2017 by the Council.
10. At the start of the hearing the Tribunal enquired as to whether all items on the Notice were still in contention or whether any agreement had been reached between the parties on any of the issues.
11. The Tribunal were informed by the parties that the only issues which remained for determination were items 3 (page 4 of the Notice) and item 1 (page 8 of the notice). The Council stated that all the other items had either been remedied to the Council's satisfaction or were no longer being pursued.
12. The remaining issues were (1) that the front bedroom door had a missing timber panel allowing heat loss from the room and preventing adequate thermal comfort and (2) that the stairs leading from the kitchen area to the cellar have narrow treads and excessive risers which are in excess of the ideal and these deficiencies increased the risk of falls.

13. The Tribunal dealt with each issue in turn.

The Issues

The missing panel from the front bedroom door

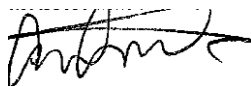
14. Mr Kelly submitted that the relevant operational guidelines make specific reference to heat loss. He stated that whilst there was no specific reference to internal doors he was of the view that the damaged door would allow heat to be lost from the room resulting in increased heating costs.
15. Mr Kelly went on to submit that the door was the Applicant's responsibility and the missing panel should either be replaced or a new door fitted to remove the hazard.
16. Mr Davies responded that the door had been damaged by the tenant. He stated that when the tenancy started the door was in good order and the fact that it is now out of repair is in consequence of the tenant's behaviour which amounted to a breach of the tenancy agreement.
17. Mr Davies also asserted that there was no heat loss in consequence of the missing panel. However, he did not produce any evidence to support that submission.
18. Mr Davies stated that he had attempted to fit a new panel but had been prevented from doing so by the Tenant who stated that she required a new door to be fitted and did not want a replacement panel.
19. In discussion, Mr Davies stated that he was still prepared to replace the panel which was missing from the door. The Council accepted that a replacement panel would be sufficient compliance with the notice as regards that issue.
20. Given the agreement reached between the parties on this issue the Tribunal has determined that the notice be varied to provide that the Applicant repairs the front bedroom door by replacing the missing panel from the door.

The Stairs leading to the Cellar

21. Mr Kelly stated in evidence that he had taken measurements of the stair treads and that they had a depth of 90mm. He stated that this is 90 mm less than the recommended depth set out in the operational guidance.
22. He further stated that the risers had a height of 195mm and that this was 15mm higher than the recommended height as set out in the operational guidance.
23. He stated that the tenant uses the stairway to access her back garden and for the purposes of leaving her recycling waste out for collection.

24. His conclusion was that given the frequency of use, it presented a category 2 hazard to the occupier. In those circumstances the council required the provision of a softwood handrail extending the full flight of the stairs.
25. Mr Davies stated that this was not a habitable room and was used infrequently. He said that the tenant did not have to access the garden from the cellar door and could use the front door.
26. The Tribunal enquired as to whether there was any compromise to be had on this issue.
27. Mr Davies stated that he would be prepared to fit a 600mm grab handle to the wall opposite the current handrail by way of compromise.
28. Mr Kelly stated that would be acceptable to the Council.
29. The Tribunal determines that some form of handrail is necessary on the stairway. The stairs are used frequently by the tenant and the absence of a handrail pose a risk to the occupier.
30. Given the compromise indicated by the parties the Tribunal varies item 1 on page 8 of the Notice and directs that the Applicant is to securely fix a grab handle no shorter than 600mm in length on the wall down to the cellar at a point to be agreed between the parties and in default of agreement at a point mid-way along the length of the wall.
31. Either party may Appeal this decision to the Upper Tribunal (Lands Chamber). Any application for permission to Appeal should in the First instance be made to this Tribunal and must be made within 21 days of the date upon which this decision was made.

Dated this 31st day of January 2017



A Grant
Chairman