

Y Tribiwnlys Eiddo Preswyl

Residential Property Tribunal Service (Wales)

DECISION AND REASONS OF RESIDENTIAL PROPERTY TRIBUNAL

Housing Act 2004

Premises: 5 Stone Cottages, Summerhill, Wrexham, LL11 4TF

RPT ref: RPT/007T/10/21

Applicant: Francesca Noretta

Respondent: Wrexham Borough Council

Tribunal: Trefor Lloyd (Legal Chair)
David Jones FRICS (Surveyor Member)
Dr Angie Ash (Lay Member)

Hearing: Virtual hearing on the CVP Platform
7th September 2022

The Applicant was represented by Mr Alistair Holl.

The Respondent was represented by Mr Moss of Counsel.

Order

The Improvement Notice as varied served by the Respondent on the 9th September 2021 is confirmed subject to the variations set out below.

Background

1. This is an appeal brought by Francesca Noretta (the Applicant) against an Improvement Notice served by the Local Authority (the Respondent) in relation to the premises known as 5 Stone Cottages, Summerhill, Wrexham, LL11 4TF (“the property”). The Improvement Notice was served on the 9th September 2021 pursuant to Section 11 of the Housing Act 2004. It related to:

Excess Cold

2. The deficiency giving rise to the hazard being stated as being “absence of a whole house fixed heating system to the property – absence of a radiator to the first floor rear bedroom”.
3. The Remedial action stated as being supply and fit an additional radiator to the rear first-floor bedroom to the existing gas fired central heating system. The heating must be capable of maintaining a room temperature of 21 degrees in the living/dining rooms and 18 degrees elsewhere when the temperature outside is minus 1 degree centigrade. In addition, the heating should be controllable by occupiers and safely and properly installed and maintained. It should be appropriate to the design and layout and construction such that the whole building can be adequately and efficiently heated. The heating system should therefore provide direct heating to every room.
4. The output of some of the radiators cannot heat the property effectively.

Absence of Controls to the radiators

5. In relation to this aspect the remedial action required is to “replace existing radiators with radiators of sufficient output for the room having regard to the room volume and heat loss characteristics of the structure using an approved domestic central heating calculator and approved radiator manufacturing sizing tables. Design table set out in BS5449 should be used with 21 degrees in the living/dining rooms, 18 degrees elsewhere with an outside temperature of -1 degrees centigrade. All radiators to be fitted with thermostatic radiator valves.”

Loft Insulation and Remedial Works

6. Top up existing level of insulation to a minimum thickness of 270mm, work to include adequate ventilation to the loft space to prevent condensation
7. The Respondent estimated the work at £1,000.00.
8. In summary the case on behalf of the Applicant is that:-
 - a) The heat loss calculations undertaken by the Respondent Authority upon which the Notice is founded are flawed and incorrect and;
 - b) There can be no risk of excess cold in the property as sufficient heating resources are provided by the landlord to meet the heat demand in the property even during periods of inclement weather.
9. The Respondent’s case in summary is that the calculations are correct and the hazards as referred to above are real and require attention hence the service of the Varied Improvement Notice.

10. We had before us a bundle of some 438 pages.
11. Mr Holl who presented the case on behalf of the Applicant, also produced a Statement dated 14th December 2022 pages 20 – 24 of the bundle and also comments within a Scott Schedule could be found from pages 377 – 392.
12. The Respondent opposed the appeal. In its Statement of Case it makes a number of points. These include:
 - a) An assertion that Mr Holl has no relevant qualifications in assessment of heating in residential properties;
 - b) Conversely the Respondent's witness Ms Patricia Thomas is an Environmental Health Officer;
 - c) One of the bedrooms which is described as a box room extends to an area of 7m² which is above the standard for a bedsit room. It is absent any permanent controlled fixed or affordable heating.
 - d) Portable heaters that were provided by the landlord (being electric oil filled radiators heaters with thermostats) were not considered suitable to adequately heat the property. They are expensive to run and a matter which this Tribunal can take note of. In that regard the Respondent Authority relies upon the decision of Liverpool City Council -v- Kassim [2012] UKUT 169 (LC) The principle from that decision being that a residential property tribunal was in error to determine that the running costs of the heating system was an irrelevant factor in assessing excess cold under the Housing Act 2004.
 - e) The property should have a heating system that is controllable and it should provide adequate thermal insulation.
13. The property was initially let and the first Improvement Notice (which we are not tasked with considering as it has been superseded by the Varied Notice) was served after a hazard warning notice was served. The chronology reveals that this occurred after a break-down in the boiler.
14. There is an argument between the parties as to the efficacy of the landlord's response to the broken boiler. That matter is not a matter that troubles this Tribunal. Neither do the allegations in relation to the landlord and/or Mr Holl being obstructive to the process or indeed any allegation made by the Applicant that the Respondent has acted improperly in any way. We will only determine whether or not the Improvement Notice as amended should stand, be quashed or be varied in any way.
15. Mr David Jones FRICS the Surveyor Member inspected the property on the 6th September 2022 and we convened a virtual hearing on the CVP Platform commencing at 10am on the 7th September 2022.

16. The site visit commenced at 9.30am on the 6th September 2022 and Mr A Holl for the Applicant was in attendance. The property is located in Wrexham, which is a major town on the North Wales/England border. Gwersyllt is a village located some two miles from Wrexham along the A541 and is of a mainly dormitory nature with usual shop and community facilities. Summerhill is a residential area of Gwersyllt but having local shops.
17. No. 5 Stone Cottages comprises of an end terraced cottage. It has stone and brick elevations to the original section under a slate clad roof. The rear section extension is presumed to be of block being rendered under a mono pitch concrete tiled roof. There are connections to mains services, PVC framed double-glazing and mixture of solid and timber floors. Mr Jones estimated from his inspection that the original property was built circa 1900 and the rear extension circa 1975.
18. Accommodation wise the property consists of:

Ground Floor

Lounge: 3.5m x 3.6m

Dining room: 4.3m x 3m

Kitchen: 2.4m x 1.9m

First Floor

Landing

Shower Room: 2.2m x 2m

Bedroom 1 (front): 3.6m x 2.2m x 4.3m (Maximum Dimensions)

Bedroom 2 (rear) 3.1m x 2.2m

Exterior

Steps up to the small front garden and a side pathway to an enclosed rear garden. There is also accessway along the left-hand elevation of No. 1 Stone Cottages to the rear entry giving access to a single garage for the property.

The property is located on an adopted highway with traffic calming measures.

At the time of the inspection the property was not tenanted, the tenant having moved out following the service of a Section 21 Notice and thereafter possession proceedings (a matter which does not trouble this Tribunal).

The Hearing

19. We firstly heard from Mr Holl who in his evidence in chief, firstly made reference to a voice mail the Applicant had received the Friday before the hearing from a Robert Johnson from the Guild Hall. Mr Holl was querying as to why the Applicant had been asked to attend at the Guild Hall. Mr Moss for the Respondent explained that she had

been telephoned in error. The Respondent Authority were trying to contact the previous tenant of the property. As nothing turned on the above, we comment no further upon it other than to mention it for the record.

20. Mr Holl then in his evidence in chief said that he had presented evidence that the heat loss calculations were incorrect, they were an over-estimate and as such the heat requirements were also incorrect. He submitted with reference to the WhatsApp messages (which can be seen at page 366 onwards) that the Applicant had acted reasonably at all times.
21. In terms of the substantive issues, he said that it was a disproportionate response to serve the Improvement Notice as the hazards were not particularly acute and the Respondent should have made recommendations. In relation to this Mr Holl made reference to the e-mail at page 330 in the bundle and specifically the comments of Ms Thomas as follows:

“Regarding the loft insulation, it was incorporated within the assessment of excess cold – when the radiator is fitted to the bedroom then it would reduce the category 1 to a category 2 so the loft insulation would only be a recommendation”.
22. Mr Holl went on to state that it was only recently that Ms Thomas had recognised that the heat input was adequate heating into the property [when the gas system and the electric oil fired heaters were utilised] and in this regard took us to paragraph 8 of Ms Thomas’ third statement which can be found at page 356 where she states “the comment in relation to the heat demand wattage being sufficient is not in dispute but the costs to run both a primary and secondary heating system is”.
23. He then gave evidence about the radiators, saying radiator valves may well be best practice but the system had a manual radiator valve, there were also controls on the boiler and also a thermostatic control in the main living room. As a consequence, his evidence was that this was not the subject matter of a category 1 hazard.
24. In relation to the heat calculations, he referred to a number of the BRE XCC calculations which had been undertaken by Ms Thomas. He gave evidence that the wrong U values had been utilised in that regard and relied upon the document at page 325 in the bundle which is an e-mail to Mr Holl from a Mr Tad Nowak the Senior Consultant, Housing and Health at BRE Housing Group. In that e-mail Mr Nowak answers a number of questions and in summary his answers indicate that whilst the excess cold calculator does have indicative U-values where nothing else better is available they are not identical to values used in the RDSAP and as such where available the RDSAP values should be used in preference. He also confirmed that -1 degree centigrade is a useful use of thumb for the outside modelling temperature and also made the point that ideally the same should be based upon the climate where the dwelling is situated.
25. Then in his evidence Mr Holl made the point that Ms Thomas had applied -3 celsius whereas based upon what is said by Mr Nowak -1 is reasonable. He also said that there

was an anomaly in so far as Ms Thomas in some of her evidence refers to -1 despite having utilised -3 as an outside temperature. (See for example the e-mail at page 143).

26. In terms of the boiler in the bedroom, Mr Holl's evidence was that it did give some source of heat, he had never said that heat could be quantified but additional heat input from the electric heaters would be less due to the presence of the boiler which was not insulated from the remainder of the room, it being encased in a timber framed cupboard.
27. In terms of the cost of running the existing systems (i.e. the gas and the electricity) Mr Holl's evidence was that gas prices had increased significantly, electricity was 100% efficient whereas gas was not. The reliance on the Liverpool City Council -v- Kassim [Supra] case was not a proper comparison as in that case by carrying out the works there had been a 51% reduction in energy costs.
28. In terms of the insulation sought by the Respondent Authority that would only save some 1.4% of costs and would result in a 23.6 year payback. In other words, the tenant would only save, upon the Respondent's figures (which the Applicant agreed during the hearing), £19.00.
29. Mr Holl was then cross-examined by Mr Moss. It was put to Mr Holl that the HHS System criteria referred to a requirement for heat to be controllable. Mr Holl's answer was that the system met the criteria. He maintained as he did in his written evidence that the wet system i.e. the gas boiler together with the secondary system met the need and that need had been exaggerated. There were thermostatic valves on the portable oil filled electric units.
30. In relation to the small box room there was some latent heat from the boiler which came through the single skin wooden cupboard but in any event secondary heating from the oil filled electric heaters was controllable and sufficed. Mr Holl in answering Mr Moss maintained that they were the same as having thermostatic radiator valves on the wet system, i.e. both were controllable by thermostat.
31. When he was asked why the Applicant had not put a radiator in the small room, the answer given by Mr Holl was the Notice required all three actions, i.e. radiator in the small room, larger radiator in the downstairs room and also loft insulation and that the Applicant deemed this an unfair approach. He also maintained that the Applicant had owned the property for a considerable length of time and it had been tenanted for 12 years and none of the tenants had complained previously about the cold.
32. Mr Holl was then asked to be specific again about placing a radiator in the box room and maintained that there was no risk to the health and well-being of any tenant as his view was confirmed by Ms Thomas' subsequent evidence. He was asked again about the latent heat in the box room and answered that any shortfall from the wet system was supplemented by the electric heaters. He told us that the electric heaters had been purchased when the boiler had broken down and again made reference to the

chronology by way of WhatsApp messages as to the timely fashion the Applicant had dealt with matters.

33. It was put to him that the heat loss calculation was simply one tool in the consideration to which he answered that even on Ms Thomas's evidence the heat loss was more than adequately dealt with by the input heat and therefore there was no risk of excess cold. It was then put to him that the portable electric heaters were expensive to run to which he answered that when a comparison was made to the calculations at page 259 the actual saving would be £85.00 per annum.
34. At this juncture Mr Moss asked if Ms Thomas could give her evidence on this aspect of the case whilst the matter was fresh in the Tribunal's mind. Mr Holl was in agreement and accordingly, Ms Thomas then commented on this specific aspect as follows:
 - a) Ms Thomas said it was not appropriate to simply subtract from the cost of an entire space heating by gas boiler (which can be found in the second column of the table) from the cost of space heating in the first column to get to the £85.00. Her evidence was that you could not compare the same and she made reference to point 7 of the Respondent's Scott Schedule pages number 406 and 407.
 - b) Ms Thomas was then cross-examined by Mr Holl on this specific issue to which she conceded that the £19.00 figure was the correct saving for the insulation but again was adamant that the £85.00 in relation to the radiator savings was incorrect. She again maintained that you could not compare the current with the alternative.
35. Mr Holl was then cross-examined by Mr Moss and accepted that the EPC documents were not the same as the requirements in the Housing Act 2004 but maintained that he made reference to the EPC to point out that the house met the relevant EPC criterion. He accepted when he cross-examined that the XCC Report provided more detail.
36. He was then asked by the Tribunal Chair as to the cost of carrying out the works proposed by the Respondent Authority and confirmed that a new radiator in the box room and a replacement radiator in the downstairs room would cost £600.00 and placing new thermostatic valves on three radiators would cost £100.00. This he maintained was more accurate than the £1,000.00 estimated by the Respondent as part of its evidence.
37. Mr Holl was then asked by Tribunal Member Mr David Jones in relation to the solar gain to the bedroom to clarify given the position in the property and as to whether or not any calculations had been prepared. Mr Holl confirmed that no calculations had been carried out.
38. We then heard evidence from Ms Thomas who confirmed the content of her two witness statements which can be found commencing at pages 35 and 354 respectively and also the heat loss calculations. Mr Moss did not adduce any evidence in chief and Ms Thomas was then cross-examined by Mr Holl.

39. She confirmed that the first XCC Report undertaken on the property was the first one that she had undertaken using that specific software. She had measured up all the rooms and taken photos and completed the inspection sheet. Ms Thomas was then asked specifically about why she had applied certain U values for examples, a default U value for the double-glazed units because they were pre 2002. Ms Thomas said that she had simply used the default U values within the software itself and had not gone beyond that. After lengthy cross-examination she eventually accepted that the manual had short-comings and the best practice would have been to apply specific U values as per the BRE tables and guidance.
40. Reluctantly, Ms Thomas eventually accepted that if the U values were in-correct it would over exaggerate the heat loss and as a consequence over exaggerate the heat requirements. She was then asked about the cost of heating the property and agreed that the £19.00 calculated as a cost saving if the insulation was put in would now be reduced due to her concession about the exaggerated heat loss calculations and similarly the £85.00 which was put to her by Mr Holl as the saving if an entire gas central heating system was operational would be less. Ms Thomas again maintained as she had done in previous cross-examination on this specific point that she never agreed the £85.00. As a consequence, the Applicant and Respondent agreed to differ and it was put to Ms Thomas in the alternative that if her figure was correct i.e. £148.00 that would be reduced due to the over exaggeration of heat loss to which she agreed.
41. In addition, in relation to cost she was asked about a reasonable payback period to which she advanced a 5 year period or less in accordance with the CIH Guidance. Despite suggesting a 5 year payback period she then disputed that although the loft insulation would take some 23.68 years to payback at £19.00 per annum (the cost being £450.00) it was unreasonable to do so. She made reference to the building regulations. At that stage Mr Holl put to her that they were not applicable to which Ms Thomas answered that in her view they provided a criterion.
42. Mr Holl continued his cross-examination and again put to Ms Thomas that 24 years paid back on the insulation was unreasonable to which she maintained her point about the CIH Guidance and stated that the HSRSS Assessment did require the additional loft insulation and without it there would likely be harm.
43. Ms Thomas was then asked questions about her reliance on the Liverpool City Council -v- Kassim [Supra] case and it was put to her that she could not justify comparing that case with the current position at the property. It was put to her that the tenant saving was far greater in that case being some 51% as opposed to in relation to the two aspects in the issue at the property of 1.4% saving for the insulation and 6.8% for the radiator works and as such those works were unreasonable, especially bearing in mind the exaggerated calculations. Unsurprisingly, Ms Thomas did not agree.
44. She was then asked questions about the status of the occupant. She maintained as she did in her written evidence that she had to look at an occupier of an age greater than 65 and in any event a young child would be vulnerable. She agreed that in terms of the

enforcement action itself there needed to be consideration of the occupier but again maintained that due to there being a young child that was appropriate in the circumstances.

45. Ms Thomas also maintained that at the time the Notice was served the tenant was still in occupation and in any event, it was appropriate as if the property was to be rented again there would be a risk of harm without the works being done. She was asked about the payback period for the radiators being 7 years when calculated upon Mr Holl's figures by the Tribunal Chair and despite her earlier answer said that 7 years would be reasonable as a payback period.
46. She was then asked by Tribunal Member Mr David Jones about applying the BRE software to which she agreed and she also said that as an environmental health officer she used her judgement as she saw fit as the initial assessment and the BRE considerations came at a later stage.
47. Mr Moss then re-examined Ms Thomas briefly. She confirmed she had never checked the gaps in the double-glazed units but had simply put in the U value of 3.1 as she had been told that they were pre 2002 units and that was the standard practice. She confirmed that at the time of the inspection the tenant's child was approximately 12 months old. She was able to reference this by the fact the child was not walking.
48. The parties were then given 20 minutes or so to prepare their closing submissions and Mr Moss provided closing submissions for the Respondent commencing at 2.20pm. He referred us to the Scott Schedule, the extensive written evidence and the Respondent's statement in response. In his submission the Housing Act 2004's purpose was to safeguard tenants and ensure that properties were habitable and not subject to excess cold. The HRSRS complimented this.
49. He submitted that a number of matters need to be considered including payback, heat loss, size of rooms, layout and the ability to control a heating system and whether or not a secondary heating system was appropriate. The function of an environmental health officer was to use experience and make assessments in all circumstances, look at the hazards and then evaluate the HRS for the whole property.
50. In his submissions there was a need for a whole house heating system at 21 degrees in the downstairs rooms based upon an external temperature of -1 degree Celsius. The BRE running costs was a tool but was not definitive of the answer. It was clear there had been no inspection prior to the tenancy and it was clear that from the chronology there needed to be a variation to the Improvement Notice to keep the family warm especially as they were facing two separate energy bills. The costs of the Improvement Notice had been waived on the understanding that the landlord would install the radiator and the landlord's approach had been combative from the outset.
51. Again, he submitted the BRE XCC was a useful tool to assist Ms Thomas and he properly accepted that the U values Mr Holl had submitted would result in less heat loss. He

maintained that the landlord was not taking her duties seriously by maintaining there was latent heat from the boiler in the box room and requiring the tenants to use oil filled electric heaters which were expensive to run. Affordability was an issue and also the convenience of being able to easily control the heating system. Electricity prices were rising substantially and the oil filled radiators would be expensive to run.

52. The assessment had been carried out by an experienced environmental health officer, she had applied all the relevant guidance calculations, her experience had enabled her to objectively consider the factors in relation to the hazard classifications. Conversely, the Applicant was making a number of bare assertions which were unsustainable, the EPC had no relevance and was a misconceived approach.
53. Mr Moss submitted that the whole house needed a complete heating system. He read out paragraph 2.20 Annex D from the HHSRS Operating Guidance (Pages 387 & 388 in the bundle) and maintained that direct heat was compliant with the 2004 Housing Act. Reference to this can be further found at paragraph 6 of the Respondent's reply to the Statement of Case page 404 and 405. Mr Moss concluded by saying that in all the circumstances the Improvement Notice as Varied should stand.
54. We then heard from Mr Holl in closing submissions. He started by saying it was disappointing in his view that matters had to progress to the Hearing. He took issue with the fact that the Respondent was alleging the Applicant and he were combative. He submitted that he had been reasonable towards the tenant at all times. The Applicant had only ever owned one rental property, this property. A sale price had been agreed and contracts exchanged and they were hoping for an early completion and the implication of the Notice or any variation could lead to misunderstandings on the part of the purchasers. He maintained that the landlord had been reasonable at all times as evidenced by the WhatsApp messages at page 320. A plumber was sent as soon as the boiler was reported broken and in the 12 years the Applicant had let the property with no complaints until the last set of tenants.
55. He maintained the environmental health officer's judgment from the outset, had been subjective and influenced by the tenant. Mr Holl agreed the BRE XCC was one tool but a useful tool in relation to looking at the heating costs. He welcomed the concession that the heat input was sufficient as referred to in page 330. He submitted that given Ms Thomas' evidence that a 5 year payback was reasonable, her reliance upon loft insulation which had a 23.6 year payback was perverse. He maintained that 7 years was unreasonable as a payback requirement for the radiators or 8.23 years if it included the valves. He submitted there was a significant difference between the case of Liverpool City Council -v- Kassim [Supra] and the issue in this case. The crux of the matter being that it would be a cost saving to the tenant to some 51% in that case whereas in the instance here, the saving to the tenant would be 1.4% on the insulation and 6.8% on the radiators and as such there was no comparison between both matters.
56. Mr Holl welcomed the acknowledgement that the heat calculations were incorrect and that the payback was based on incorrect values. He submitted that the 21 degrees was

to the whole house but in reality, there should be different temperatures for different rooms, i.e. 18 degrees in bedrooms. He submitted that in the light of the costs and the savings it was disproportionate to require these works. He submitted the system as existing was capable of being controlled, there was a manual valve on the radiators, there was a control on the boiler and there was a thermostatic control in the living room. Whilst he accepted that the thermostatic valves might be best practice as a consequence of his above submissions the system was capable of being controlled manually.

57. In terms of the actual enforcement action, he submitted that no consideration had been given to the fact that the tenant vacated after the possession proceedings. Mr Holl concluded by saying that the crux of the case was costs, that was key and he had set out the Applicant's position in the Scott Schedule. In essence the savings even on the inflated calculations boiled down to £19.00 per annum for loft insulation and £85.00 per annum for the radiators if installed.

Decision

58. The Tribunal having considered all the evidence before it during both the Hearing and received previously in terms of written format unanimously come to the following decision:
- a) The Respondent via its environmental health officer Ms Thomas was entitled to take the matters in the round. In other words, the Respondent Authority was not simply bound by the BRE calculations. Having come to that conclusion we do also find that the calculations are a significant tool in relation to the consideration in this matter.
 - b) We further find that the heat loss and as a consequence, heat requirements were over exaggerated as was eventually conceded by Ms Thomas.
 - c) In terms of the Respondent's evidence, we have to say that in certain aspects we were not impressed by Ms Thomas' evidence. For example, on the one hand she maintained that a reasonable payback period would be 5 years but then subsequently insisted that it was reasonable for loft insulation to be placed although the payback she accepted would be nearly 24 years. We further find this aspect of Ms Thomas' evidence particularly strange given that in the e-mail at page 105 she herself conceded that if a radiator was placed in the downstairs room there would likely be no need for loft insulation as it would go from a category 1 to a category 2 hazard. As a consequence, it appears to us that the Respondent Authority has not been prepared to be flexible in relation to this matter.
 - d) We were also not clear as to Ms Thomas' evidence in relation to the cost savings. It seems to us pretty clear that when one looks at the BRE Report that includes 100mm of insulation, the way to calculate the cost saving is to estimate the current heating costs which would involve adding together the figures for the boiler and electric heating in the first column and thereafter deduct from that figure the

heating cost in the second column. That can be the only straight forward way of assessing the cost savings and as such we accept the Applicant's submissions in that regard.

59. In relation to the specific matters raised by the parties we find as follows:

Loft Insulation

- a) We do not form a view that additional loft insulation is required and as such quash this item from the Improvement Notice as Varied. The reason for this being the concession by Ms Thomas that a 5 year payback period (subsequently varied to stating that 7 years would be appropriate when asked the question by the Tribunal Chair at the end of her evidence) it cannot be said that a nearly 24 year period can be appropriate. This is especially so given she herself in the e-mail referred to above conceded that if other works were undertaken there would be no need for the loft insulation.

Radiator in the Box Room

- b) Whilst we accept to an extent that there would be some latent heat from the boiler in the bedroom/box room, and the fact that there are significant differences evidentially between this instant case and the material facts in the Liverpool City Council -v- Kassim [Supra] case we are of the view that the principle from that case i.e. that the affordability and cost of heating can and should be taken into account by this Tribunal. That being so albeit that the heating requirements have been exaggerated (as accepted by Ms Thomas due to the fact that inappropriate U values had been inputted). Bearing in mind the calculations were done some time ago the cost of electricity has increased in the interim. In the circumstances doing the best we can we form a view that the savings in approximate real terms would now equate to the £85.00 in terms of the radiators and (albeit no longer relevant due to our findings above) £19.00 in relation to the loft insulation.
- c) Against this we bear in mind the cost of electricity which will inevitably increase further given the current global situation in relation to energy prices, and conclude that although the cost of the radiators would result in a 7 year payback we are of the view that that the existing radiator removed from the downstairs room, (i.e. the radiator which is not of sufficient capacity) could then be installed in the box room thus reducing the overall cost due to only having to purchase one radiator as opposed to two. That being the case the costing would be reduced to no more than a 7 year payback for the entirety of the works including installation of the valves. In our view this is reasonable in the circumstances and it is appropriate to uphold the Improvement Notice in relation to these two specific aspects with the Notice being varied so as to delete the requirement to install further loft insulation.
- d) The fact that the property is no longer tenanted is not of relevance, neither is the fact that it is soon to be sold.

60. In summary we therefore uphold the Improvement Notice as Varied to require the installation of a radiator of sufficient output in the downstairs room and either the installation of the existing radiator from the downstairs room into the first-floor bedroom/box room or the installation of a new radiator in the first floor bedroom/box room (the decision to be at the discretion of the Applicant) together with the installation of thermostatic valves to all the radiators. As a result of our findings it follows that the requirement to install loft insulation is to be deleted from the Improvement Notice.

Dated this 4th day of October 2022

TRIBUNAL CHAIRMAN