

Y TRIBIWNLYS EIDDO PRESWYL  
RESIDENTIAL PROPERTY TRIBUNAL  
LEASEHOLD VALUATION TRIBUNAL

Reference: RPT/0012/08/23

In the matter of Number 132 Albany Road, Roath Cardiff, CF24 3RU (the Property)

And in the Matter of an Application under Sections 11 and 12 Improvement Notice of the Housing Act 2004 (the Act)

APPLICANT                      Mr Nazir Ahmed  
   attending the hearing in person assisted by his daughter Ms S Akbar

RESPONDENT                    Shared Regulatory Services  
   Cardiff and Vale of Glamorgan Councils  
   Represented by Mr R Grigg

TRIBUNAL                        Mr AR Phillips - Tribunal Judge  
   Mr K Watkins – Surveyor  
   Mr D Morris – Lay Member

Date and Venue of Hearing - 7<sup>th</sup> February 2024 at Oak House, Cleppa Park, Celtic Springs, Newport NP10 8BD.

BACKGROUND

1. This is an appeal against an Improvement Notice (the Notice) dated the 2<sup>nd</sup> August 2023 served on the Applicant by the Respondent pursuant to Section 11 and Section 12 of the Act in respect of the Property which is owned by the Applicant.
2. The Property is situated in the Albany Road area which is a mixture of commercial and residential properties on the fringe of Cardiff City Centre. The Property itself comprises two commercial properties and a central doorway on the ground floor with the door leading to the upper-level flats. Internally the upper two floors comprise four flats which are tenanted, together with a further flat in the attic space, which is prohibited from use by the Local Authority. The front elevation comprises two shop fronts with associated signage, with principally facing brickwork to the upper levels and two projecting timber bays to the first and second floors, with tile hanging to the front gable, all beneath a pitched and slated roof covering, with a rooflight in the front roof slope. The right-hand flank elevation comprises a painted render finish.
3. The Property was inspected on 5<sup>th</sup> February 2024 by tribunal members Mr Watkins and Mr Morris, also present were the Applicant Mr Ahmed and Mr Gronow from Cardiff and Vale of Glamorgan Councils.

4. The Notice states that the Respondent is satisfied that two Category 1 hazards and two Category 2 hazards are present at the Property.
5. The Category 1 hazards are Fire and Falls on stairs and the Category 2 hazards are Electricity and Entry by intruders.
6. The specific issues giving rise to each alleged hazard are described in Schedule 1 of the Notice which also sets out in Schedule 2 of the Notice, the necessary works that the Respondent requires the Applicant to carry out.
7. The deficiencies set out in the Notice giving rise to the hazard are as follows:

Hazard: Fire

8. No evidence was available during the inspection that the fire alarm had been regularly inspected.
9. The gas meter cupboard was not properly fire protected and contained flammable material.
10. The electricity meter cupboards were not properly fire protected.
11. Fire doors to the flat entrances were defective.
12. Walls and ceilings in the common areas had been lined with pvc/plastic sheeting that may not comply with the requirements for surface spread of flame. Also, these sheets may give off toxic fumes in the event of a fire which may affect the ability of the tenants to escape from the property.
13. No evidence was available at the time of inspection that the partitions, both vertical and horizontal, between the commercial and residential parts of the property provide 30 minutes fire resistance.
14. It was agreed between the parties that some of the required works had been carried out since the date of the Notice.

Hazard: Falls on stairs

15. The stairs to the first and second floors have riser heights that vary between 190mm and 280mm. In addition, the going of these stairs varies between 170mm and 240mm. This is likely to lead to falls.

Hazard: Electricity

16. No evidence was available at the time of inspection that the landlord's electricity supply has been inspected at regular intervals.

### Hazard: Entry by intruders

17. The glazing to the main property entrance door has been temporarily covered from the inside with a piece of Oriented Strand Board and may allow access by intruders.
18. The lock to the main property was loose and may allow access by intruders.

### **THE LAW**

19. The Act introduced a new housing, health and safety system for Councils to deal with the condition of Housing in their area. A Local Authority has to consider the effect on the health and safety of occupiers and then decide which of the conditions constitute a hazard and if this is the case, whether these hazards constitute a Category 1 or 2 hazard and decide what action is required. This may be an improvement notice, a prohibition notice, or a clearance or demolition notice. Pursuant to Part 3 of the Act, a person on whom a notice is served may appeal to the Residential Property Tribunal.

### THE APPLICANT'S CASE

20. The Applicant had provided to the Tribunal an undated and unsigned document headed Expanded Statement of Reasons setting out the Applicant's case.
21. For the purposes of this decision, it is useful to refer to the paragraph numbers set out above in this decision when referring to the Hazards identified by the Respondent in the Improvement Notice.
22. After some initial discussions prior to the hearing of evidence, Mr Grigg on behalf of the Respondent confirmed that the required works had either been carried out, or that the Respondent did not wish to pursue the matters in paragraphs 12,13, 17 and 18.
23. Mr Ahmed gave evidence to the Tribunal in relation to each of the remaining hazards as identified above.
24. Paragraph 8, Mr Ahmed stated that the inspector had attended, and works had been carried out to the flats, but he was unable to complete the fire alarm test because the tenant of Flat 3 had damaged the property, including damage to the smoke alarm. The tenant of Flat 3 was uncooperative and was not assisting in access to the flat to carry out the necessary works to enable the test to be completed.
25. The same issues arose in relation to paragraph 16 above and the electrical inspection.
26. In response to a question from Mr Grigg, Mr Ahmed stated that the last electrical certificate was obtained a couple of years ago and he didn't have the updated certificate.
27. There had been a previous fire alarm test which he had given to the council.

28. These tests were part of the procedure for obtaining an HMO licence.
29. Paragraph 9, Mr Ahmed stated that the gas meter cupboard was no longer in use, and he had not carried out any works to it because there was no gas supply to the Property and the supply had not been in use for a long time.
30. Paragraph 10 Mr Ahmed stated that a door lining, fire seal and fire door had been fitted to the electrical cupboard and it was fully enclosed and was fitted with a bolt. He could not do anything further.
31. In response to questions from Mr Watkins, Mr Ahmed did not know if the fire door to the electricity meter cupboard had lost its integrity because it had been cut down. He was not aware that a bespoke fire door could be made.
32. In response to a question from Mr Morris, Mr Ahmed accepted that there was a void within the electricity meter cupboard where the cables ran up and that there was nothing blocking the void.
33. The electricity cupboard on the second floor containing the fuse board had not been lined and sealed and Mr Ahmed accepted there was a gap, but he had not been asked to carry out works to that electricity cupboard.
34. Paragraph 11, Mr Ahmed stated that works had been carried out to the fire doors including the fitting of intumescent strips and smoke seals and self-closing devices, but accepted that the identified works needed to be completed.
35. Once again, the tenant of Flat 3 was uncooperative and had damaged her door making it difficult for the works to be completed.
36. Paragraph 15, Mr Ahmed stated that the Property was well known to the Council and had been inspected previously and no other officer had ever informed him that the stairs constituted a danger.
37. The Property had been inspected a number of times by the Council since the carpet was removed. He had been asked to fit handrails which he had done and had also raised the height of the balustrade, as requested by the Council.
38. Mr Ahmed was not aware of anyone ever having fallen on the stairs.
39. Mr Ahmed had done as much as he could do with the stairs.
40. During the course of his evidence Mr Ahmed accepted that there was no current Fire Risk Assessment.
41. Mr Ahmed stated that he was in the process of organising an electrical inspection.

#### THE RESPONDENT'S CASE

42. The Respondent had provided to the Tribunal a statement from Huw David Gronow dated 4<sup>th</sup> December 2023 setting out the Respondent's case.
43. The Respondent's case was clearly set out in Mr Gronow's statement and through the questions raised by Mr Grigg when Mr Ahmed gave evidence as set out above.
44. In his closing submission Mr Grigg invited the Tribunal to amend the Notice by adding the requirement for a Fire Risk Assessment to be carried out.
45. Mr Grigg argued that it was irrelevant that previous council officers had not identified the hazards, even if they were mistaken in not so doing. Now that the Council were aware of the hazards, they were required to take the appropriate action.

### **DECISION**

46. The evidence before the Tribunal was fundamentally not in dispute.
47. Mr Ahmed did not seek to challenge the factual basis of the evidence of Mr Gronow or challenge the categorization of the identified hazards.
48. The Tribunal considered each of the identified hazards and the necessary works specified in Schedule 2 of the Notice.
49. Category 1 Hazard: Fire
50. Fire Alarm test and inspection certificate. The Tribunal was satisfied that there was no evidence that the fire alarm had been regularly or recently fully inspected and confirms this part of the Notice.
51. Gas meter cupboard. The Tribunal was satisfied that the gas meter cupboard was not properly fire protected and had noted during the inspection that there was a pot of paint stored in it.
52. Mr Ahmed's case was that the gas supply was no longer in use and therefore it was not necessary to carry out the required works.
53. The gas meter cupboard contains a gas meter, and the Tribunal was satisfied, on the balance of probabilities, that there is likely to be a gas supply running to the meter from the gas main. This represents in the opinion of the Tribunal a significant risk, in the event of a fire.
54. If Mr Ahmed wishes to pursue this point further then **he shall within one month of the date of this decision provide to the Tribunal, and to the Respondent, documentary evidence from the gas utility supplier, or from an independent Gas Safe registered business, confirming that there is no gas supply from the gas main to the gas meter at the Property.**

55. **Within one month of the receipt of this documentary evidence, the Respondent shall confirm whether they wish to pursue this requirement for the works to be carried out to the gas meter cupboard and serve a further witness statement upon the Tribunal and the Applicant, explaining the reasons why.**
56. **If the Applicant does not serve this evidence within the required month, then this part of the Notice is to be treated as confirmed.**
57. If the Respondent wishes to pursue the matter following service of the documentary evidence, then the Tribunal will issue further Directions for the determination of this part of the Notice.
58. Electricity meter cupboards. The Tribunal is satisfied that within the downstairs electricity cupboard, the cables travel up to a void in the ceiling above and this fire risk needs to be properly and safely addressed by Mr Ahmed when completing the works. The Tribunal recommends that Mr Ahmed takes expert advice in this regard as to how to deal with this issue.
59. The Tribunal is satisfied that the electricity meter cupboards are not fully enclosed.
60. In his evidence to the Tribunal Mr Ahmed stated that the meter cupboard door had been cut down to fit the size of the meter cupboard.
61. It is possible that the electricity meter cupboard door has lost its fireproof integrity as a result and should be replaced with a compliant door made specifically for the cupboard in question.
62. The integrity of the door to the electricity meter cupboard door should be addressed in the Fire Risk Assessment to be carried out as per paragraph 69 of this Decision.
63. The Tribunal confirms this part of the Notice.
64. Fire doors. Mr Ahmed accepted in his evidence that the works to the fire doors were incomplete. The tenant of Flat 3 had damaged the fire door which had not helped matters.
65. The Tribunal accepts Mr Gronow's evidence in his statement that some of the doors lacked functional self-closing devices and had excessive gaps between the door and frame and/or door and floor.
66. Whilst the actions of the uncooperative tenant do not assist Mr Ahmed, as the landlord he must take appropriate steps to require the tenant to cooperate with the safety works or take the appropriate legal action to ensure that the safety of the Property is not compromised.
67. The Tribunal confirms this part of the Notice.

68. The Tribunal hears the matter by way of a re-hearing and may confirm, quash or vary the Notice (Schedule 1, Part 3, Paragraph 15 of the Act).
69. It was accepted by Mr Ahmed that there was no recent Fire Risk Assessment of the Property, and the Notice is varied to require a Fire Risk Assessment of the Property to be carried out within 30 days of the date of this decision and provided to the Respondent.
70. As indicated in paragraph 62 above Mr Ahmed must take the appropriate action to ensure this is carried out and the safety of the Property is not compromised.
71. Category 1 Hazard - Falls on Stairs.
72. It is perhaps unfortunate that Council have failed to identify this as an issue when previously inspecting the Property on a number of occasions. That does not however mean that this potential hazard cannot be considered by the Tribunal or prevent the Tribunal from determining this point.
73. In the course of the evidence the findings of Mr Gronow were not disputed, and the Tribunal is satisfied that this is a Category 1 hazard and confirms this part of the Notice.
74. The Tribunal confirms this part of the Notice.
75. Category 2 Hazard – Electricity.
76. There was no evidence before the Tribunal of any recent inspection of the electricity supply to the Property.
77. The Tribunal confirms this part of the Notice.

#### **ORDER**

78. The Notice served by the Respondent is confirmed subject to the deletion of the hazards identified in paragraphs 12, 13, 17 and 18 of this decision and with the addition of the following paragraph.
79. **The Applicant shall within one month of the date of this decision carry out a Fire Risk Assessment at the Property and supply it to the Respondent.**

## COSTS

80. The Tribunal is satisfied that the Respondent acted reasonably in issuing the Notice and upon the application of the Respondent and pursuant to Section 49 (7) of the Act the Tribunal orders that the Applicant is to pay the Respondent's costs in the sum of £157 as set out in the Notice.

Dated this 25<sup>th</sup> day of March 2024

AR Phillips  
Tribunal Judge