FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BH/HPR/2018/0001**
Property	**:**	**117 Mayville Road, London E11 4PL**
Appellant	**:**	**Lahrie Mohammed**
Respondent	**:**	**London Borough of Waltham Forest**
Type of application	**:**	**Appeal against refusal to revoke Prohibition Order**
Tribunal	**:**	**Judge Nicol** **Mr TW Sennett MA FCIEH**
Date & Venue of Hearing	**:**	**25th May 2018** **10 Alfred Place, London WC1E 7LR**
Date of Decision	**:**	**8th June 2018**

DECISION

The Tribunal rejects the Applicant's appeal against the Respondent's refusal to revoke the Prohibition Order made on 28th June 2016.

Relevant statutory provisions are set out in the Appendix to this decision.

Reasons

1. The Appellant is the freeholder owner of the subject property, a single-storey rear addition to a two-storey end of terrace house.

2. On 28th June 2016 the Respondent made a Prohibition Order, prohibiting the use of the property as sleeping and living accommodation on the basis that the lack of an automatic fire alarm system and the lack of thermal insulation gave rise to a category 2 fire hazard and a category 1 excess cold hazard respectively. The reason for making a Prohibition

Order rather than one of the other remedies listed in section 5(2) of the Housing Act 2004 was given as:

> The insubstantial nature of the ground floor rear extension structure means that there are no remedial works that could be carried out which would result in the order being revoked. Other than demolishing the extension and rebuilding it to Building Regulation standard which may also be subject to planning permission.

3. The Appellant's appeal against the Prohibition Order was rejected by the Tribunal on 26th October 2016. The Tribunal included the following in their reasons for their decision:

> 7. The Respondent's description contains conclusions central to its position ie (i) that it was built recently but without regard to building regulations or standards; (ii) "*the general appearance of the building [and evidence of] poor workmanship indicated that the bungalow had not been constructed on sound/sufficient foundations.*" The Applicant's expert [Mr Darren Stratton] was at pains to explain that he was neither able nor qualified to comment on the foundations.
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> 8. That was information easily within the Applicant's grasp had he chosen to obtain it and present it to the Tribunal at the hearing. Instead, the Applicant had recently instructed builders to dig trial pits, the results are unknown. …
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> 23. This case is really about the hazard concerning excess cold. There is no real dispute that it would be possible to fit a compliant automatic fire detection and alarm system.
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> 24. Mr Stratton's report … [concludes] that the windows and doors provide an "*adequate level of thermal performance*" [but] the floor and walls and roof do not. So he proposes … retrofitting "*insulation to the roof, walls and floor in order to meet with levels of thermal performance as required for a heated, habitable domestic dwelling under the current Building Regulations. Whilst this is likely to reduce the internal space somewhat, this is nevertheless achievable without having to demolish and rebuild the property.*"
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> 25. The Respondent's response to the Applicant's post-notice approach is particularised in Ms Ndu's letter dated 25th July … She pointed out (correctly) that the starting point appeared to be that the Applicant accepted that the structure is "*inadequate and gives rise to significant hazards.*" She made 4 points supporting the Respondent's approach: (i) the dwelling was built comparatively recently with a disregard to current regulations and standards (ii) the foundations are likely to be inadequate (iii) the wall thickness of 10cm is more susceptible to penetrating

damp (iv) Mr Stratton's proposals to retrofit insulation would further reduce available living space. …

26. … The foundations of the property … are an issue which requires expert input, not yet obtained, a structural engineer being instructed a couple of weeks prior to the hearing, but no report has been produced. Full details of the proposed improvements are not available to the Tribunal. …

29. … There are undoubtedly practical difficulties with [Mr Stratton's] proposals, not least rendering the wall along the neighbouring property, up against the fence, though there are obvious work-arounds available if co-operation between neighbours is obtained in order to deal with that. …

30. We conclude that Mr Stratton is a truthful and straightforward witness who was asked limited questions, and gave limited advice to the Applicant which the Tribunal accepts as limited. If we accept his evidence that the property can be retro-fitted to provide adequate thermal insulation, and a fire detection system, that does not, however, conclude the application in the Applicant's favour.

32. What the Applicant's evidence singularly fails to address is the consequence of carrying out the works identified in general terms by Mr Stratton. The Applicant puts to one side the concerns raised by the possible state of the foundations, though he has gone to the point of organising trial holes. This would indicate that the Applicant accepts he has to meet the Respondent's case on the structure of the building, … [The Applicant's counsel] submits: "*On the available evidence, the Applicant submits it is clear improvements can be carried out to make the property fit for human habitation and remedy the identified hazards.*" This ignores (i) the question mark over the structural viability of the property and (ii) the fact that its size would breach current standards and be incompatible with the Respondent's stated housing policy and (iii) basically invites the Tribunal to proceed on an imaginary specification.

35. The Applicant's main attack was reserved for David Beach [the Respondent's officer and principal witness]. In cross examination it transpired that there was a fundamental difference between his approach to the legislation, and [that of the Applicant's counsel]. Asked about the Respondent's failure to identify remedial works in Schedule 2 of the notice, Mr Beach said the process is to identify defects which may be hazards under the legislation. Not all defects are hazards. But they are all considered when deciding what remedy is appropriate. As the Respondent concluded that the nature of the dwelling is such that it could not be improved, a prohibition order was appropriate. He contrasted this with the case of a 70's built

house: that might be subject to a category 1 hazard in terms of heat loss, for example, but would be capable of being improved because the structure itself would be otherwise sound. He pointed out that Mr Stratton's recommendations involve complete stripping out above ground, tantamount to a rebuilding – but without taking account of what he regarded as an example of "*construction worse than a Victorian standard*." He maintained that it was his experience (which he had to defend in cross examination) that it was likely that where there is a poor structure above ground, there will be a poor structure below ground. In other words, if you invest in proper foundations, you do not erect an inadequate building on top.

> 38. The property above ground is structurally such that it is evidently poorly built. The Applicant has failed to demonstrate that the foundations are sound or that retro-fitting would produce a habitable unit fully compliant with building regulations, and regulations as to minimum sizes. There is no evidence at all at the date of the hearing that the Applicant has any real proposals, and nothing to indicate that they would be cost efficient, in terms of meeting the identified hazards, or producing a sustainable unit of habitable accommodation. Overall, we accept the Respondent's analysis, evidence, and conclusions.
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> 40. Whether at the time of the decision being made, or now, the appeal being a rehearing, the Respondent was in our judgment entitled to consider its overall conclusions as to the nature of the structure. Despite his vigorous cross examination of Mr Beach, … [the Applicant's counsel] has failed to persuade us that the matters taken into account by the Respondent were unsupported by the evidence, or outside the scope of any factors reasonably available for decision making. …

4. The Applicant sought but was refused permission to appeal by both the Tribunal and the Upper Tribunal.

5. The Applicant arranged for works to be carried out, allegedly in accordance with Mr Stratton's proposals although no specification of works, instructions to the builders or, indeed, any documents related to the builders were produced. The Applicant instructed BBS Building Control to provide a certificate of compliance for building regulation purposes based on a limited scope of works undertaken, namely insulation works. Mr Stratton reinspected in May 2017. He reported that the works had been carried out in accordance with his 2016 report and opined that the property was "now fully fit for all sleeping and residential purposes." On this basis, the Applicant asked the Respondent to revoke the Prohibition Order.

6. The Respondent refused to revoke the Prohibition Order by letter dated 14th February 2018. Mr Beach, the author of the letter, assumed in the

Applicant's favour that the works specified by Mr Stratton had been carried out. He confirmed he had taken account of the HHSRS Operating Guidance. He stated,

> The inspection of the property on 5 December 2017 confirmed that the element of the external walls of the property that would prevent/resist water penetration was limited to the original 'skin' formed of 100mm blockwork, in part rendered and in part provided with no protective finish. The inspection confirmed that, in respect of the rendered areas to the rear wall, the quality was not good, with visible cracking. For the left-hand wall, there were open joints between the unfinished blockwork and brickwork components.
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> Walls constructed of 100mm blockwork are recognised as a very inadequate standard to resist damp penetration and the consequent moisture build up:
>
> - From persistent wet weather during normal local climatic conditions,
> - Of cold-bridging phenomena and excessive condensation from over-use of heating to compensate for inadequate thermal standards, even with additional dry-lining materials added
> - That the foreseeable outcome is likely to be that damp penetration will continue and lead to development of hidden rot of the wall battens and the internally affixed thermal insulation linings
>
> A minimum 225mm thick and adequately rendered blockwork is considered to be the very minimum needed to provide a reasonable resistance to damp penetration.
>
> My conclusion therefore, is that inherent limitations of the original construction, whereby the dwelling was built having no regard to any recognised building practices or regulations, means that the dwelling remains susceptible to damp problems. Damp penetration would have the clear potential to compromise the thermal properties of the structure and give rise to an Excess Cold risk. …
>
> Through the rearrangement of the property, and the provision of mains-linked detectors, it is considered that the property no longer presents a significant Fire hazard. However, for the reasons detailed above, it is my finding that the property continues to present an Excess Cold risk and the Council does not consent to the revocation of the Prohibition Order.

7. Mr Beach re-assessed the property's hazard rating under the HHSRS in its condition as at the date of his inspection on 5th December 2017. He concluded that, while there was some improvement bringing the rating down a little, there remained a category 1 excess cold hazard.

8. The Applicant has now appealed the Respondent's refusal to revoke the Prohibition Order. The appeal was heard on 25th May 2018. The Applicant was represented by Mr Shaw Kelly of counsel and gave evidence himself. He also relied on Mr Stratton's two reports and the building control certificate which he said was backed up by several visits by the building control surveyor during and after the works. The Respondent was represented by Mr Ashley Underwood QC and Mr Beach gave evidence.

9. It is remarkable how little the substance of the dispute between the parties has moved on since the Tribunal's decision of 26th October 2016. The Applicant has focused on the statement in the Prohibition Order that the category 1 excess cold hazard is due to a lack of thermal insulation and asserts that works to address thermal insulation mean that a Prohibition Order is inappropriate while the Respondent has focused on the property's original structure which is essentially unchanged. The Applicant relied on two elements not present in the previous appeal against the Prohibition Order.

10. Firstly, the Applicant has now carried out works aimed at addressing the hazards identified in the Prohibition Order. As the Respondent has acknowledged, the fire hazard no longer exists with the installation of a suitable system. However, in the Tribunal's opinion, the works have not made a material difference to the existence of the excess cold hazard. It was correctly pointed out that the Tribunal is not bound by the previous decision but, equally, based on the latest evidence and the Tribunal's own observations when inspecting the property prior to the hearing, the current Tribunal agrees entirely with the findings and reasoning in the previous decision.

11. In particular, on inspection the Tribunal found that, while the property was in good condition internally, the exterior was in poor condition. As much as the internal works appeared to have been carried out competently, the exterior rendering had been done poorly. There were significant cracks which could allow water penetration. The render had been taken down to the level of the external path which would bridge any damp proof course, even assuming that there is one. The wall adjacent to the boundary fence with the neighbouring property was still unrendered and was even found to have a hole almost the entire depth of the wall itself.

12. Mr Kelly tried to argue that, if the risk of damp penetration were as high as the Respondent is suggesting, there would be by now evidence of it on the interior walls. However, he had no expert evidence to back up this bare assertion and the Tribunal is confident, in its expert judgment, that he is wrong. It is highly likely that the interior dry-lining will effectively seal in any damp which penetrates from the outside and disguise any damage caused by it for a significant period of time. In addition, the ceramic wall tiling to the full height of the bathroom would effectively mask dampness and restrict the chances of its presence becoming noticeable in the short to medium term. Such damp would adversely

affect the thermal qualities of the property before it became apparent internally.

13. Mr Kelly also tried to criticise Mr Beach's inspection as being insufficiently thorough or comprehensive. However, the only element he was able to point to was the fact that Mr Beach did not measure the internal or external temperature at the time of his inspection. Unfortunately, this is patently erroneous thinking which the Applicant could have avoided if he had taken advice from an environmental health expert on this point. One datum, namely the temperature at one point in time, is evidence of nothing at all material. The Applicant appears to have confused the exercise of assessing whether there is a risk of excess cold over a period of 12 months, which is what the Respondent was required to do and did, with whether the property happens to be cold at any single point in time.

14. Mr Kelly put forward another argument which appeared to misunderstand the assessment process under the HHSRS. As they are required to do, the Respondent carried out the assessment on the assumption that any occupant of the property would be in the most vulnerable category of those who may be affected by relevant hazards. The Applicant gave evidence that he would only rent to young professionals and would turn away anyone who relied on benefits to help pay their rent. Mr Kelly argued that the assessment should have been taken this into account but that is simply not possible under the HHSRS.

15. Mr Kelly further tried to rely on the lack of evidence as to whether there were adequate foundations or not. However, in the Tribunal's opinion this argument was not open to the Applicant. The previous Tribunal recorded the evidence of his own witnesses that trial holes had been made in order to investigate this very issue and the only reason that evidence about the foundations was not then available was that the hearing had come too soon – the Applicant had even sought an adjournment for this purpose. It was clearly within the Applicant's own power to call evidence about the nature of the foundations. Its absence is entirely his responsibility.

16. The fact is that the structure of the property remains problematic, both in itself and because there are defects, both of which may result in damp penetration and possibly rising damp. Such damp penetration would lower the temperature achievable within the property and give rise to a hazard of excess cold.

17. It is also notable that the interior dimensions of the property are even smaller after the works. Mr Kelly asserted on his client's behalf that the Applicant is a purveyor of quality rented property but he could not answer the point in his evidence of how this assertion squares with the fact that he is prepared to rent out property so significantly smaller than the Respondent's minimum space requirements.

18. The second new element was the Applicant's assertion that the Respondent, and Mr Beach in particular, were motivated by malice to target him and his properties personally. Much of Mr Kelly's cross-examination of Mr Beach was aimed at establishing this claim. However, the fact is that the Applicant did not have a shred of evidence to support it. In the Tribunal's opinion, Mr Beach answered every one of Mr Kelly's questions with patience and forebearance. He was able to deflect the implication of malfeasance with ease, given that the allegation was so flimsy in the first place.

19. The best that can be said in the Applicant's favour is that he seems genuinely puzzled as to why his arguments in this case have not succeeded. He seems to think that the only explanation which makes sense is that the Respondent is acting in bad faith. This is nonsense. The reasoning in the Tribunal's previous decision and Mr Beach's letter of 14th February 2018 have provided him with clear reasons as to why he cannot rent out the property. It is one thing to disagree with such reasons but, if the current decision does not provide enough for him to understand now why the Prohibition Order remains in place, then it can only be from his willful blindness. This case can only provide support for the argument that the Respondent's actions represent a proper and proportionate response to problems identified in the Applicant's property.

20. The Tribunal is satisfied that, despite the works arranged by the Applicant, it is appropriate to refuse to revoke the Prohibition Order.

Name: NK Nicol **Date:** 8th June 2018

Appendix – Relevant legislation

Housing Act 2004

1 New system for assessing housing conditions and enforcing housing standards

(1) This Part provides—
  (a) for a new system of assessing the condition of residential premises, and
  (b) for that system to be used in the enforcement of housing standards in relation to such premises.

(2) The new system—
  (a) operates by reference to the existence of category 1 or category 2 hazards on residential premises (see section 2), and
  (b) replaces the existing system based on the test of fitness for human habitation contained in section 604 of the Housing Act 1985 (c. 68).

(3) The kinds of enforcement action which are to involve the use of the new system are—
  (a) the new kinds of enforcement action contained in Chapter 2 (improvement notices, prohibition orders and hazard awareness notices),
  (b) the new emergency measures contained in Chapter 3 (emergency remedial action and emergency prohibition orders), and
  (c) the existing kinds of enforcement action dealt with in Chapter 4 (demolition orders and slum clearance declarations).

(4) In this Part "residential premises" means—
  (a) a dwelling;
  (b) an HMO;
  (c) unoccupied HMO accommodation;
  (d) any common parts of a building containing one or more flats.

(5) In this Part—
- "building containing one or more flats" does not include an HMO;
- "common parts", in relation to a building containing one or more flats, includes—
  (a) the structure and exterior of the building, and
  (b) common facilities provided (whether or not in the building) for persons who include the occupiers of one or more of the flats;
- "dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling;
- "external common parts", in relation to a building containing one or more flats, means common parts of the building which are outside it;
- "flat" means a separate set of premises (whether or not on the same floor)—
  (a) which forms part of a building,
  (b) which is constructed or adapted for use for the purposes of a dwelling, and
  (c) either the whole or a material part of which lies above or below some other part of the building;
- "HMO" means a house in multiple occupation as defined by sections 254 to 259, as they have effect for the purposes of this Part (that is, without the exclusions contained in Schedule 14);
- "unoccupied HMO accommodation" means a building or part of a building constructed or adapted for use as a house in multiple occupation but for the time being either unoccupied or only occupied by persons who form a single household.

(6) In this Part any reference to a dwelling, an HMO or a building containing one or more flats includes (where the context permits) any yard, garden, outhouses and

appurtenances belonging to, or usually enjoyed with, the dwelling, HMO or building (or any part of it).

(7) The following indicates how this Part applies to flats—
  (a) references to a dwelling or an HMO include a dwelling or HMO which is a flat (as defined by subsection (5)); and
  (b) subsection (6) applies in relation to such a dwelling or HMO as it applies in relation to other dwellings or HMOs (but it is not to be taken as referring to any common parts of the building containing the flat).

(8) This Part applies to unoccupied HMO accommodation as it applies to an HMO, and references to an HMO in subsections (6) and (7) and in the following provisions of this Part are to be read accordingly.

2 Meaning of "category 1 hazard" and "category 2 hazard"

(1) In this Act–
  "category 1 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount;
  "category 2 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description; and
  "hazard" means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

(2) In subsection (1)–
  "prescribed" means prescribed by regulations made by the appropriate national authority (see section 261(1)); and
  "prescribed band" means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

(3) Regulations under this section may, in particular, prescribe a method for calculating the seriousness of hazards which takes into account both the likelihood of the harm occurring and the severity of the harm if it were to occur.

(4) In this section–
  "building"includes part of a building;
  "harm"includes temporary harm.

(5) In this Act "health"includes mental health.

5 Category 1 hazards: general duty to take enforcement action

(1) If a local housing authority consider that a category 1 hazard exists on any residential premises, they must take the appropriate enforcement action in relation to the hazard.

(2) In subsection (1) "the appropriate enforcement action" means whichever of the following courses of action is indicated by subsection (3) or (4)–
  (a) serving an improvement notice under section 11;
  (b) making a prohibition order under section 20;
  (c) serving a hazard awareness notice under section 28;
  (d) taking emergency remedial action under section 40;
  (e) making an emergency prohibition order under section 43;
  (f) making a demolition order under subsection (1) or (2) of section 265 of the Housing Act 1985 (c. 68);

(g) declaring the area in which the premises concerned are situated to be a clearance area by virtue of section 289(2) of that Act.

(3) If only one course of action within subsection (2) is available to the authority in relation to the hazard, they must take that course of action.

(4) 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.

(5) The taking by the authority of a course of action within subsection (2) does not prevent subsection (1) from requiring them to take in relation to the same hazard–

(a) either the same course of action again or another such course of action, if they consider that the action taken by them so far has not proved satisfactory, or

(b) another such course of action, where the first course of action is that mentioned in subsection (2)(g) and their eventual decision under section 289(2F) of the Housing Act 1985 means that the premises concerned are not to be included in a clearance area.

(6) To determine whether a course of action mentioned in any of paragraphs (a) to (g) of subsection (2) is "available" to the authority in relation to the hazard, see the provision mentioned in that paragraph.

(7) Section 6 applies for the purposes of this section.

7 Category 2 hazards: powers to take enforcement action

(1) The provisions mentioned in subsection (2) confer power on a local housing authority to take particular kinds of enforcement action in cases where they consider that a category 2 hazard exists on residential premises.

(2) The provisions are–

(a) section 12 (power to serve an improvement notice),

(b) section 21 (power to make a prohibition order),

(c) section 29 (power to serve a hazard awareness notice),

(d) section 265(3) and (4) of the Housing Act 1985 (power to make a demolition order), and

(e) section 289(2ZB) of that Act (power to make a slum clearance declaration).

(3) The taking by the authority of one of those kinds of enforcement action in relation to a particular category 2 hazard does not prevent them from taking either–

(a) the same kind of action again, or

(b) a different kind of enforcement action,

in relation to the hazard, where they consider that the action taken by them so far has not proved satisfactory.

8 Reasons for decision to take enforcement action

(1) This section applies where a local housing authority decide to take one of the kinds of enforcement action mentioned in section 5(2) or 7(2) ("the relevant action").

(2) The authority must prepare a statement of the reasons for their decision to take the relevant action.

(3) Those reasons must include the reasons why the authority decided to take the relevant action rather than any other kind (or kinds) of enforcement action available to them under the provisions mentioned in section 5(2) or 7(2).

(4) A copy of the statement prepared under subsection (2) must accompany every notice, copy of a notice, or copy of an order which is served in accordance with–

(a) Part 1 of Schedule 1 to this Act (service of improvement notices etc.),

(b) Part 1 of Schedule 2 to this Act (service of copies of prohibition orders etc.), or

(c) section 268 of the Housing Act 1985 (service of copies of demolition orders),

in or in connection with the taking of the relevant action.

(5) In subsection (4)–

(a) the reference to Part 1 of Schedule 1 to this Act includes a reference to that Part as applied by section 28(7) or 29(7) (hazard awareness notices) or to section 40(7) (emergency remedial action); and
(b) the reference to Part 1 of Schedule 2 to this Act includes a reference to that Part as applied by section 43(4) (emergency prohibition orders).

(6) If the relevant action consists of declaring an area to be a clearance area, the statement prepared under subsection (2) must be published–
(a) as soon as possible after the relevant resolution is passed under section 289 of the Housing Act 1985, and
(b) in such manner as the authority consider appropriate.

20 Prohibition orders relating to category 1 hazards: duty of authority to make order

(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,

making a prohibition order 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) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsections (3) and (4) and section 22.

(3) The order may prohibit use of 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 prohibit use of the dwelling or HMO;
(b) if those premises are one or more flats, it may prohibit use of 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 prohibit use of 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), prohibit use of 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 such use to be prohibited in order to protect the health or safety of any actual or potential occupiers of one or more of the flats.

(5) A prohibition order 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.

(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

21 Prohibition orders relating to category 2 hazards: power of authority to make order

(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 make a prohibition order under this section in respect of the hazard.

(2) A prohibition order under this section is an order imposing such prohibition or prohibitions on the use of any premises as is or are specified in the order in accordance with subsection (3) and section 22.
(3) Subsections (3) and (4) of section 20 apply to a prohibition order under this section as they apply to one under that section.
(4) A prohibition order 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) A prohibition order under this section may be combined in one document with an order under section 20 where they impose prohibitions on the use of the same premises or on the use of premises in the same building containing one or more flats.
(6) The operation of a prohibition order under this section may be suspended in accordance with section 23.

22 Contents of prohibition orders

(1) A prohibition order under section 20 or 21 must comply with the following provisions of this section.
(2) The order must specify, in relation to the hazard (or each of the hazards) to which it relates–
  (a) whether the order is made under section 20 or 21,
  (b) the nature of the hazard concerned and the residential premises on which it exists,
  (c) the deficiency giving rise to the hazard,
  (d) the premises in relation to which prohibitions are imposed by the order (see subsections (3) and (4)), and
  (e) any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order under section 25.
(3) The order may impose such prohibition or prohibitions on the use of any premises as–
  (a) comply with section 20(3) and (4), and
  (b) the local housing authority consider appropriate in view of the hazard or hazards in respect of which the order is made.
(4) Any such prohibition may prohibit use of any specified premises, or of any part of those premises, either–
  (a) for all purposes, or
  (b) for any particular purpose,
  except (in either case) to the extent to which any use of the premises or part is approved by the authority.
(5) A prohibition imposed by virtue of subsection (4)(b) may, in particular, relate to–
  (a) occupation of the premises or part by more than a particular number of households or persons; or
  (b) occupation of the premises or part by particular descriptions of persons.
(6) The order must also contain information about–
  (a) the right under Part 3 of Schedule 2 to appeal against the order, and
  (b) the period within which an appeal may be made,
  and specify the date on which the order is made.
(7) Any approval of the authority for the purposes of subsection (4) must not be unreasonably withheld.
(8) If the authority do refuse to give any such approval, they must notify the person applying for the approval of–
  (a) their decision,
  (b) the reasons for it and the date on which it was made,
  (c) the right to appeal against the decision under subsection (9), and
  (d) the period within which an appeal may be made,

within the period of seven days beginning with the day on which the decision was made.

(9) The person applying for the approval may appeal to the appropriate tribunal against the decision within the period of 28 days beginning with the date specified in the notice as the date on which it was made.

(10) In this Part of this Act "specified premises", in relation to a prohibition order, means premises specified in the order, in accordance with subsection (2)(d), as premises in relation to which prohibitions are imposed by the order.

25 Revocation and variation of prohibition orders

(1) The local housing authority must revoke a prohibition order if at any time they are satisfied that the hazard in respect of which the order was made does not then exist on the residential premises specified in the order in accordance with section 22(2)(b).

(2) The local housing authority may revoke a prohibition order if–

(a) in the case of an order made under section 20, they consider that there are any special circumstances making it appropriate to revoke the order; or

(b) in the case of an order made under section 21, they consider that it is appropriate to do so.

(3) Where a prohibition order relates to a number of hazards–

(a) subsection (1) is to be read as applying separately in relation to each of those hazards, and

(b) if, as a result, the authority are required to revoke only part of the order, they may vary the remainder as they consider appropriate.

(4) The local housing authority may vary a prohibition order–

(a) with the agreement of every person on whom copies of the notice were required to be served under Part 1 of Schedule 2, or

(b) in the case of an order whose operation is suspended, so as to alter the time or events by reference to which the suspension is to come to an end.

(5) A revocation under this section comes into force at the time when it is made.

(6) If it is made with the agreement of every person within subsection (4)(a), a variation under this section comes into force at the time when it is made.

(7) Otherwise a variation under this section does not come into force until such time (if any) as is the operative time for the purposes of this subsection under paragraph 15 of Schedule 2 (time when period for appealing expires without an appeal being made or when decision to revoke or vary is confirmed on appeal).

(8) The power to revoke or vary a prohibition order under this section is exercisable by the authority either–

(a) on an application made by a person on whom a copy of the order was required to be served under Part 1 of Schedule 2, or

(b) on the authority's own initiative.

SCHEDULE 2
PROCEDURE AND APPEALS RELATING TO PROHIBITION ORDERS

PART 3
APPEALS RELATING TO PROHIBITION ORDERS

Para 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.

Para 11

(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.

Para 13

(1) This paragraph applies to an appeal to the appropriate tribunal under paragraph 9.
(2) Paragraph 11(2) applies to such an appeal as it applies to an appeal under paragraph 7.
(3) The tribunal may by order confirm, reverse or vary the decision of the local housing authority.
(4) If the appeal is against a decision of the authority to refuse to revoke a prohibition order, the tribunal may make an order revoking the prohibition order as from a date specified in its order.

Para 16

(1) In this Part of this Schedule "relevant person", in relation to a prohibition order, means a person who is–
(a) an owner or occupier of the whole or part of the specified premises,
(b) authorised to permit persons to occupy the whole or part of those premises, or
(c) a mortgagee of the whole or part of those premises.
(2) If any specified premises are common parts of a building containing one or more flats, then in relation to those specified premises, "relevant person" means every person who is an owner or mortgagee of the premises in which the common parts are comprised.