



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

**Case reference** : **CAM/26UF/HPO/2021/0010**

**HMCTS code (audio, video, paper)** : **F2F**

**Property** : **Outbuilding, The Cabinet, High Street, Royston, Hertfordshire SG8 8AH**

**Applicant** : **Richard Newman**

**Respondent** : **North Hertfordshire District Council**

**Representative** : **Mrs Nicholls**

**Type of application** : **Appeal against an emergency prohibition order**  
Sections 43-45 of the Housing Act 2004 (the “Act”)

**Tribunal members** : **Mary Hardman FRICS IRRV (Hons)**  
**Patricia Gravell**

**Date of decision** : **17 January 2022**

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**DECISION**

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**Covid-19 pandemic: description of hearing**

The hearing in this matter has been face to face as described below.

**Decision of the tribunal**

The tribunal orders that the emergency prohibition order dated 24 June 2021 is confirmed.

## **Reasons**

### **Procedural history**

1. This appeal is against an emergency prohibition order dated 24 June 2021 which prohibits use of the first floor for all purposes and the use of the ground floor for sleeping.
2. The order alleged various Category 1 hazards (examined below). It did not propose any remedial works as such, stating that '*a Building Regulation application is required to turn your outbuilding into a habitable premises with sleeping accommodation under the legislation provided by the Building Regulations 2010*'. The Applicant was advised to contact Building Control directly to discuss
3. On 12 July 2021, the tribunal received the appeal from the Applicant. The tribunal gave case management directions requiring the Respondent to produce their bundle of documents to explain their reasons for making the order, and the Applicant to produce his bundle in answer.
4. The property was inspected immediately prior to the hearing and the inspection was attended by Mrs Davidson for the council and the Applicant Mr Newman. There were also officials from building control and planning at the council present at the inspection.
5. The hearing was conducted at Cambridge County Court on a face to face basis on 16 November 2021. The Applicant represented himself and gave evidence. The Respondent was represented by Mrs Nicholls and Mrs Davidson (Environmental Health Officer) attended to give evidence for the Respondent.

### **Emergency Prohibition Order**

6. The Emergency Prohibition Order ("the Order") dated 24 June 2021 and served on 25 June 2021, immediately prohibited the use of the Premises for the purpose of residential accommodation.
7. The Order listed the following Category 1 Hazards at the Property:
  - i) Excess Cold – no insulation or heating in the building: building not designed for residential use
  - ii) Excess heat – no ventilation or opening windows
  - iii) Crowding and space – Does not meet space standards in Housing Act 1985. Not suitable for more than two occupants

- iv) Falling on stairs – no guarding or handrail to stairs
- v) Falling between levels – Carpet is a trip hazard at the top of the stairs . Inadequate guarding
- vi) Fire - Wooden construction. Inadequate fire protection, inadequate means of escape as windows do not open. Fire extinguisher not tested
- vii) Collision and entrapment – Space too small to give circulation space, low headroom on ground floor under stairs and on first floor.
- viii) Structural Collapse and Falling elements - Floorboards not adequately secured on first floor. Building not designed as a two-storey building.

### **Inspection**

8. The property, which we will refer to as ‘the outbuilding’, is a timber-built construction situated to the side of and in the grounds of, the former Grade 2 Public House known as The Cabinet, High Street, Reed Royston. The Cabinet no longer operates as a public house and part is now occupied as an Indian takeaway known as The Spice Cabinet and part is the living accommodation of the Applicant.
9. The age of the property was not clear from the inspection and is disputed between the parties, but it has clearly existed for some time.
10. The property is timber built with a tiled roof. There is a door to the front elevation and two large windows to the rear elevation which do not open. Since the original inspection by the local authority the Applicant has installed an escape hatch to the first floor.
11. Internally there is an open plan ground floor with kitchen and living/dining room and a separate shower room and wc. There is hot and cold running water. Heating is via two electric wall heaters to the ground floor and there was a heated towel rail in the bathroom. The area was furnished with a table and large L shaped sofa.
12. Stairs to the mezzanine style first floor run directly from the living area and give access to loft type space which contained two single mattresses. There was reasonable headroom to part of the first floor whilst part, where the mattresses were positioned was below 1.5m in height. The escape hatch was to the left-hand side of the first floor and was cut out of the timber wall and once unlocked opened outwards but did not secure on opening and had no child proof restrictor .

13. Internal walls were timber and there appeared to be some evidence of a foil layer between the internal and external timbers, but it was not possible to see this given the construction and positioning nor how extensive it was. In parts of the building, it was possible to see through to the outside via gaps in the timber wall.
14. There were two battery operated smoke alarms to the ground and first floor which Mr Newman tested and appeared to be operative.

### **Issues**

15. Mr Newman said that he purchased the property as part of the The Cabinet in November 2015. He let the outbuilding – which he referred to as ‘The Cottage’ and which he said was constructed in 1946 for the purpose of staff accommodation, to a tenant as his main residence via an assured shorthold tenancy (AST) which was signed in February 2016. He said that the tenant stayed until 1 December 2020 and he provided a witness statement from the tenant to this effect, and the AST.
16. In December 2020 the current tenant, Abjul Mojid, who also ran the ‘The Spice Cabinet’, took out an AST of the outbuilding. It was not intended for his own occupation. Mr Newman said that the council had visited on at least two occasions while Mr Mojid had his business staff living at the property. He understood that there could be no more than two people and he had passed this on to Mr Mojid.
17. He said that the first floor was already there when he bought the property, the windows were broken which he had repaired, and he had replaced the sanitary ware in the bathroom. He had installed the new front door in 2020 and smoke alarms. The drains were already installed as were the electrics. He had installed the escape hatch following the visit by Mrs Davidson. He was happy to do any other works which were required.
18. He had commissioned a full RICS survey via a surveyor he had found online via a search of surveyors with RICS accreditation to make sure the property was safe to live in and it showed no defect to the property.
19. Mrs Nicholls for the council, did not accept that the survey was by a ‘properly qualified surveyor’ and asked Mr Newman whether the survey he produced was actually for this property. He said that it was and that he had paid £300 for it.
20. On this point the tribunal finds that the surveyor, Robert Sheeley is not a qualified surveyor but is a candidate who is registered as working towards qualification. The tribunal asked that he appeared as a witness but whilst assurance was given that he would, he did not arrive at the

hearing. In the circumstances, the tribunal has given very little weight to the survey report.

21. The council also doubted the authenticity of the tenancy agreement with the tenant in 2016 and also pointed out that the tenant had been struck off as a company director in 2019. The address for his registration at Companies House was 'The Cabinet House' and not 'The Cottage'. They felt that the tenant may have been storing items in the outbuilding but not living in it.
22. The property was built as a barn and converted with no planning permission or building control certification. They had provided sales particulars from Christies dated January 2020 where the outbuilding was described as 'a large wooden shed currently used for storage'.
23. They also exhibited 3 photographs which had been sent by a local resident whose identity was redacted. They were said to be taken in July 2020, although no evidence was produced to substantiate this beyond an email from the resident which showed storage type doors to the front of the outbuilding and no additional first floor window. They felt that the property was unfit and that the failings could not be rectified via any other measure that they had set out- namely a Building Regulations approval. It should not be used for residential use.
24. Mr Newman agreed the photographs would have been taken whilst he owned the building but thought they must have been taken before any works had been done.
25. The case management directions identified the following issues to be determined and we examine these below, after a summary of the relevant law.
  - a. Has the council gone through the necessary steps in relation to the issue of the emergency prohibition order?
  - b. Do Category 1 hazards exist?
  - c. If so, do those hazards involve a risk of serious harm to the health or safety of any relevant occupiers?
  - d. Should the council have taken enforcement action ?
  - e. If so, and if an emergency prohibition order is the appropriate enforcement action, do the contents of the order comply with the requirements of section 44 of the Act?

- f. Should the tribunal confirm, vary or revoke the emergency prohibition order?

### **The law – hazards and emergency prohibition orders**

26. Part 1 of the Act sets out a system for assessing housing conditions and enforcing housing standards. The Housing Health and Safety Rating System (England) Regulations 2005 prescribe a method for assessing the seriousness of any hazards found by calculating a numerical score. A “band A” hazard is one with a score of 5,000 or more; a “band B” hazard is one with a score of 2,000 to 4,999; and a “band C” hazard is one with a score of 1,000 to 1,999. A hazard in these bands is a “category 1 hazard”. A hazard in any lower band (i.e. with a score of less than 1,000) is a “category 2 hazard”.

27. Section 5 of the Act contains the general duty to take enforcement action in respect of category 1 hazards:

*“(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...*

*(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...”*

28. Section 9 provides for guidance to authorities. This has been given in the Housing Health and Safety Rating System (“HHSRS”) Operating Guidance and the HHSRS Enforcement Guidance, both issued by the then Office of the Deputy Prime Minister. Under section 9(2), the authority are required to have regard to such guidance.

29. Section 40 of the Act provides as follows:  
(1) If-  
*(a) the local authority are satisfied that a Category 1 hazard exists on any residential premises, and*  
*(b) they are further satisfied that the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers or those or any other residential premises, and*  
*(c) no management order is in force under Chapter 1 or 2 or Part 4 in relation to the premises mentioned in paragraph (a) the taking by the authority of emergency remedial action 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)*

30. Section 43 of the Act provides as follows:

(1) If-  
*(a) the local authority are satisfied that a Category 1 hazard exists on any residential premises, and*  
*(b) they are further satisfied that the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers of those or any other residential premises, and*  
*(c) no management order is in force under Chapter 1 or 2 or Part 4 in relation to the premises mentioned in paragraph (a)*  
*making an emergency 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) *an emergency prohibition order under this section is an order imposing, with immediate effect, such prohibition or prohibitions on the use of any premises as are specified in the order in accordance with subsection (3) and sections 44.*

31. At the commencement of the hearing Mrs Nicholls asked for permission to rely on a supplemental witness statement from Mrs Davidson which had only just been produced together with a skeleton

argument. The Respondent, Mr Newman similarly asked for a supplemental witness statement to be admitted. Neither party objected and the tribunal admitted the statements.

**Has the council gone through the necessary steps in relation to the issue of the emergency prohibition order?**

32. Mrs Nicholls for the respondent council referred to the steps that the council had taken prior to serving the EPO. On 14 January 2021 concerns were raised by the Parish Council that restaurant workers were living in an outbuilding on the site and they suspected it was an unlicensed HMO and 'unfit for human habitation'. On 11 February 2021 Mrs Davidson and a colleague, Mrs Rebecca Clarke had made a visit to the property and were allowed access to the ground floor by Mr Newman. They observed people inhabiting the outbuilding and sleeping on the ground floor. They were not allowed access to the first floor.
33. On 18 March 2021 the council were again contacted by the Parish Council and on 4 June 2021 were contacted by the Fire Service to advise that they had noticed at least 6 people in the outbuilding, and they had serious concerns as to safety.
34. On 24 June 2021, having obtained a warrant the council visited the property with the Fire and Police service. They found two beds downstairs and four single beds upstairs, Four men were present who gave various main residential addresses to the police.
35. The Council had to take action if they identified Category 1 hazards in a property. They had considered the options available to them
36. They considered that an Improvement Notice was not appropriate as that would require them to put in place a course of action. She felt that there were so many serious hazards and so many people who could continue to occupy creating serious overcrowding whilst the notice period elapsed and works were done that this was not the correct remedy.
37. A Hazard Awareness Notice would also not remedy the situation and a Prohibition Order or a suspended Prohibition Order would allow the property to continue to be occupied for up to 28 days .
38. The council did not believe that they could take emergency remedial action without the input of Building Control to visit and inspect and in the circumstances, they felt that the most appropriate response was to serve an emergency probation notice.
39. On 25 June 2021 the council served an emergency prohibition order on Mr Newman, Mr Mojid and the occupiers of the property.
40. This prohibited use of the first floor for any purpose and the ground floor for sleeping. They recognised that the restaurant staff had nowhere else to go for breaks and they felt that there was a decreased risk as during the day people were conscious and more aware of what was going on.



41. An Emergency Prohibition Order was the most appropriate as it would be the *'best option to make the occupiers safe and would mean the property is vacant allowing for work under other legislation to be carried out to facilitate the repair of the property'*
42. If Building Control approval was achieved then it would show that the first floor was safe to use and the EPO would be lifted.
43. The order listed a number of hazards as set out in paragraphs 6 and 7 above and was accompanied by a statement of reasons which stated that:

*'in determining the appropriate action regard has been given to the following*

  - *Serious unacceptable risk to the occupiers of the building*
  - *Views of the Fire Service, Planning Control and Building Control*
44. Mr Newman did not raise any issues with the process that the council had followed prior to serving the EPO although did question whether an EHO was entitled to make findings about defects to property which he thought should only be done by a fully qualified surveyor. He had not given the council access to the upper floors at the first unannounced visit because he said that they were unwilling to wear COVID protection but the council gained access after having applied for and being granted a warrant prior to the visit on 24 June 2021.
45. Having considered the documents supplied and the councils account of the process they followed the tribunal is satisfied that the council went through the necessary steps in relation to the issue of the emergency prohibition order.

**Do Category 1 hazards exist and do those hazards involve a risk of serious harm to the health and safety of any relevant occupiers ?**

46. Mrs Davidson explained at the hearing the HHSRS system that she had used to score each of the hazards. This she said was a complicated risk assessment system on which she had undertaken a 2-day training course following considerable experience as an environmental health officer.
47. She then took the tribunal through each of the hazards and Mr Newman was then given the opportunity to comment:

i) Excess Cold

Mrs Davidson said that there was no insulation in the property. The only heating was panel heaters to the ground floor with none to the first floor. There was no timing control for the heating. The front door was poor quality which would not protect from the cold. The

property had been built as a barn and had no building control certificate nor planning permission for residential use. She explained how she had scored this hazard with reference to worked examples – as she did for all the hazards. This had scored 3275 and was a Category 1 Hazard.

Mr Newman said that there was electric heating, a heated towel rail in the bathroom and plenty of hot water. It was in good repair and well maintained. The previous tenant had lived in the property very happily for over 4 years. It had been used as residential in the past prior to his ownership. There was thermal insulation.

### Conclusion

On inspection, the tribunal found that there appeared to be foil insulation between the walls, but this appeared to be insubstantial, and it was not clear whether it extended to the whole property. There were gaps in the timber directly through to the outside which would have allowed the cold to penetrate. There was no heating to the first floor. The tribunal agrees with the council that due to the issues with this property, it is very likely that the property would expose relevant occupiers to excess cold hazards in Band B or above. It is further satisfied that it involves an imminent risk of serious harm to the health or safety of the occupiers.

### ii) Excess heat

Mrs Davidson said that there was no thermal insulation. The size and orientation of the glazing to the rear elevation and the lack of opening windows would lead to excessive solar gain. There was only a tiny window in the bathroom. This had scored 1040 and was a Category 1 Hazard. The large ‘cat flap’ had been inserted since the visit. This would influence the scoring but not to the extent to take it out of the scoring for a Category 1 hazard.

Mr Newman did not comment specifically on this beyond referring to the opening hatch which was accessible from the first floor.

### Conclusion

The council had scored Excess Heat at 1040 before taking account of the opening hatch to the upper floor. A score below 1000 would mean that this did not constitute a Category 1 hazard. It therefore seems very unlikely that an adjustment for something which gives albeit limited ventilation would not make what is a only a 4% adjustment to the scoring. Particularly given that some of the issues for Excess Heat such as gaps in the walls and poor fitting door are likely to provide albeit unplanned ventilation and mitigate this risk .

We are not satisfied that in the current condition the property would expose the occupiers to excess heat.

iii) Crowding and space

When the council visited, they found 4 occupiers and 6 beds made up. The council stated that it was of a suitable size for only two occupants. It was a two-stage process which when taking account of actual occupation scored 2142 and was a Category 1 Hazard.

Mr Newman said that once the council had visited, he had understood that he was only permitted to have two people staying in the property . He had instructed the tenant that no more than that number could occupy the property for sleeping purposes.

Conclusion

Whilst Mr Newman was mistaken in his understanding of what was permitted under an EPO, the tribunal saw evidence of only two mattresses in the property and accepted Mr Newman's assurance that he did everything in his power to ensure that no more than this were staying in the property for sleeping purposes. On this basis the property would meet the council guidance on the maximum occupancy and the tribunal does not find that it constitutes a Category 1 Hazard.

iv) Falling on stairs

The carpet to the top of the stairs was loose when they inspected and there was no handrail and no carpet on the stairs which meant that trips were more likely. Additionally, people were more likely to fall in a cold building as they were more tense. The ground floor was concrete and the proximity of the walls increased the risk. This had scored 3275 and was a Category 1 Hazard.

Mr Newman did not agree and said that the stairs were safe.

Conclusion

On inspection the carpet to the top of the stairs was not loose but there was no carpet on the stairs and more importantly there was no handrail at any point on the stairs. It seems rather double counting to make adjustments for likelihood of falls in a building that is cold given this is accounted for above. However, these were open tread stairs with no protection on ascending/descending and the tribunal is satisfied that there is a Category 1 hazard in respect of Falling on stairs. It is further satisfied that it involves an imminent risk of serious harm to the health or safety of the occupiers

#### v) Falling between levels

Mrs Davidson said that she had discussed this with her manager and had regard to the worked examples. She felt that this was still above average due to the poor opening and the height but would probably drop below a Category 1 with only two occupants of the first floor. This had originally scored 1133 and had been assessed as a Category 1 Hazard.

Mr Newman did not have anything specific to add beyond what he had said in iv) above.

#### Conclusion

The tribunal agrees with Mrs Davidsons re-assessment and finds this would be unlikely to constitute a Category 1 Hazard with only two occupants.

#### vi) Fire

Mrs Davidson said that the fire brigade had expressed concern and Gavin Hill, a Senior Fire Safety Officer had supplied a witness statement (but did not appear as a witness) that set out a number of concerns in respect of the single smoke detector; a single access/exit; combustibles and gas canisters to the rear of the building; no testing records for the fire extinguisher; poor housekeeping in respect of overflowing ashtrays and clothes covering electrics. In addition, he was concerned at the lack of a protected route out of the building from the first floor, the lack of emergency lighting, the absence of a thumb lock on the interior of the only entrance door and the lack of evidence of a Fire Risk Assessment having been carried out.

Mrs Davidson said that the property was of wooden construction and was not designed for residential purposes and she did not believe that it satisfied Building Regulations. She had scored Fire Risk at 2391 which was a Category 1 Hazard. The addition of the escape hatch to the first floor made a difference and she said that it may no longer be a Category 1 risk and may be a Category 2.

Mr Newman said that he had now installed two standalone smoke alarms and showed the tribunal that the test buttons were functional during the inspection. He had installed the escape hatch to a specification he had used on a similar property elsewhere where it had been approved. The gas cylinders and the combustibles had been removed from the rear of the property.

#### Conclusion

The tribunal found that the report of the Senior Fire Safety officer made concerning reading although it also accepted that some of the issues had been addressed – namely the single smoke alarm, the single exit from the property, the canisters and combustibles to the rear of the property. On inspection there was no evidence of overflowing ashtrays and clothing on electrical heaters - but that is hardly surprising. The tribunal was concerned that the escape hatch did not secure to enable it to remain open if used as an escape route. It was also concerned about the lack of any fire separation to the upper floor and the ability for smoke to permeate through the loose floorboards. There would appear to be no Electrical Installation Condition Report.

On balance, the tribunal considers that this remains a Category 1 Hazard and involves an imminent risk of serious harm to the health or safety of the occupiers

#### vii) Collision and entrapment

Mrs Davidson felt that the low ceiling height under the stairs and to part of the first floor gave a much-increased risk of collision with low beams and the loose floorboards could lead to fingers being trapped. This had scored 3275 and was a Category 1 Hazard.

Mr Newman did not comment specifically on this beyond saying that the property was in good repair and well maintained.

#### Conclusion

The tribunal did not find the ceiling height under the stairs to the ground floor caused any serious obstruction to circulation. Whilst part of the first floor was below 1.5m in that the ceiling sloped, this area was occupied by the two mattresses and did not create a serious risk of collision. The floorboards were loose and theoretically fingers could be trapped. However, the scoring on this seems excessive and even if it were a Category 1 Hazard the tribunal is not satisfied that it involves an imminent risk of serious harm to the health or safety of the occupiers

#### viii) Structural Collapse and Falling Elements

Mrs Davidson said that following discussion with the Planning Dept. it was clear that the building was originally designed as a store for the adjacent Public House rather than as a dwelling and had not been constructed with two floors. They believed that the building may date from Victorian times and there was no evidence that the structural strength of the walls and footings had been ascertained. The floorboards were also loose to the first floor and it was not clear how this floor was supported and whether it would take the weight of up to four people. This had scored 1382 and was a Category 1 Hazard.

Mr Newman did not comment specifically beyond saying that the first floor was not new and had been in place when he bought the property in 2015.

### Conclusion

The tribunal inspected the property, and the floorboards were loose on the first floor as they were not adequately secured in place. This appeared to be the main concern of the council when scoring and providing the justification for the scores. However the council then go on to say in the justification that ‘ While not immediately unsafe ..... . The requirement is to that the local authority are satisfied that a Category 1 hazard exists AND they are further satisfied that the hazard involves an imminent risk of serious harm to the health or safety of any of the occupiers. It would appear that they are not satisfied and nor are the tribunal. We do not uphold their assessment in respect of this hazard.

### **Should the Local Authority have taken enforcement action and is emergency prohibition order the appropriate enforcement action ?**

48. Generally a prohibition order is a severe course of enforcement action. We note the relevant provisions of the HHSRS Enforcement Guidance. This indicates that a prohibition order might be appropriate where: *“...the conditions present a serious threat to health or safety but where remedial action is considered unreasonable or impractical for cost or other reasons...*
49. The Enforcement Guidance states that action should be directed at making potential accommodation suitable (whether by serving an improvement notice, or otherwise) if that is reasonable and practical.
50. The tribunal finds that an improvement notice would not be feasible in relation to the key hazards identified in this decision, namely the excess cold and the falling from stairs in that it is hard to see how either could be easily remedied whilst occupied and may require some substantial structural alterations to the property. An improvement notice might have been appropriate in relation to some of the issues (such as securing the first-floor floorboards) if they were the only defects, but even if these were remedied the key hazards would still exist.
51. Similarly, the tribunal finds that a Hazard Awareness Notice was not appropriate given the substantial nature of the findings. It agrees with the local authority that in the circumstances emergency remedial action would not be suitable.

**Do the contents of the order comply with the requirements of section 44 of the Act?**

52. In respect of the requirement under s44 2(d) to state ‘any remedial action which the authority consider would, if taken in relation to the hazard, result in their revoking the order’ the local authority states that a Building Regulations application is needed and for Mr Newman to contact Building Control to discuss.
53. At the hearing Mrs Davidson explained that they believed that there were so many issues with the property. It was a timber structure which had been converted from a storage unit with no planning permission or building control and they doubted that it was suitable at all for residential use. In the circumstances they believed that the most appropriate remedial action was to require Mr Newman to make an application to building control who were in a position to make the required judgment on its suitability and to stipulate what works, if any, could be done to make it suitable for use for people to safely sleep in and to use the first floor for any purpose.
54. The tribunal is satisfied that in these circumstances the absence of a schedule of works at Schedule 2 is reasonable and, having examined the rest of the order, is satisfied that the requirements of section 44 are met.

**Should the tribunal confirm or vary the emergency prohibition order or make an order revoking it as from a date specified in that order, under section 45 of the Act?**

55. In view of the findings, we have made above, we are satisfied that we should confirm the emergency prohibition order. The terms of the order do not prohibit usage of the ground floor for ‘living’ and we believe that remains reasonable but that no further use of the property in its existing state should be allowed.
56. The Enforcement Guidance states that (para. 5.36) ‘an emergency prohibition order is served on the day it is made. It will be for the authority to consider whether subsequent action by the owner gives grounds to revoke or vary the order.’
57. Mr Newman has acted in respect of some of the hazards and this has been reflected in our findings above. We do not believe they remove the need for the order nor should the order be varied.

**Mary Hardman FRICS IRRV(Hons)**

**Date:** 17 January 2022

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).