

Y TRIBIWNLYS EIDDO PRESWL

RESIDENTIAL PROPERTY TRIBUNAL WALES

LEASEHOLD VALUATION TRIBUNAL

Reference: LVT/0063/3/26

In the matter of 52 Ael-y-Bryn, Fforestfach, Swansea SA5 8JB

And in the matter of an application under s168(4) Commonhold and Leasehold Reform Act 2002

Tribunal Judge: Mr R Phillips

Surveyor member: Mr H Lewis

Lay member: Ms C Thomas

Applicant: John Leslie Crawford and Elaine Crawford

Respondent: Akhamiaali Ltd

Date and Venue of Hearing: 2nd July 2026 via Remote Hearing. Determination without an oral hearing

DECISION

A breach of covenant of the lease has occurred.

The Respondent has breached Covenants 2(4), 2(8) and 2(13) of the lease.

The Application

1. On 16 June 2022, the Applicant applied to the Tribunal, pursuant to paragraph 168(4) of the Commonhold and Leasehold Reform Act 2002 (“the Act”) alleging breach of covenant or condition of the lease of 52 Ael Y Bryn Road, Fforestfach, Swansea, SA5 8JB (“the Property”).

2. Page reference numbers in this decision are prefaced with a “P” and relate to the numbering in the hearing bundle.

3. In the application form to the Tribunal the Applicant claims that there has been a breach of covenants in the lease 2(4), 2(8) and 2(13).

4. Reference is made to Clause 4 of the lease, which is not a specific covenant as such, but is the forfeiture clause, the potential trigger for forfeiture, should the covenants in the lease be breached.

5. In the document Legal Basis for the Application (P102) the Applicant additionally alleges breach of the covenant 2(11) not to carry out alterations without consent and the covenant to comply with statutory requirements and any other relevant covenants identified in the accompanying Schedule of Breaches (Section B).

6. Subsequently, the Applicant further submitted there were breaches of covenant 2(12) in relation to use of the property as a single private dwelling (P12) and a breach of a covenant to comply with statutory requirements (P102).

7. Directions were issued by the Tribunal on 18th March 2026 with amended Directions being issued on 6th May 2026.

8. It had been agreed that the matter could proceed as a determination on the papers and the Tribunal therefore determined the application on 02/07/2026 without an oral hearing in accordance with Regulation 13 Leasehold Valuation Tribunals (Procedure) (Wales) Regulations 2004.

9. The Tribunal had regard to the hearing bundle of 162 pages and the email from the Applicant dated 01/07/2026 together with the findings following the inspection which took place on 30/06/2026.

The Law

10. Section 168 of the Commonhold and Leasehold Reform Act 2002 states that:

168 No forfeiture notice before determination of breach

(1) A landlord under a long lease of a dwelling may not serve a notice under section 146(1) of the Law of Property Act 1925 (c. 20) (restriction on forfeiture) in respect of a breach by a tenant of a covenant or condition in the lease unless subsection (2) is satisfied.

(2) This subsection is satisfied if—

(a) it has been finally determined on an application under subsection (4) that the breach has occurred,

(b) the tenant has admitted the breach, or

(c) a court in any proceedings, or an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, has finally determined that the breach has occurred.

(3) But a notice may not be served by virtue of subsection (2)(a) or (c) until after the end of the period of 14 days beginning with the day after that on which the final determination is made.

(4) A landlord under a long lease of a dwelling may make an application to the appropriate tribunal for a determination that a breach of a covenant or condition in the lease has occurred.

(5) But a landlord may not make an application under subsection (4) in respect of a matter which—

(a) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,

(b) has been the subject of determination by a court, or

(c) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(6) For the purposes of subsection (4), “appropriate tribunal” means—

(a) in relation to a dwelling in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal; and

(b) in relation to a dwelling in Wales, a leasehold valuation tribunal.

11. In determining the application, the correct question for the tribunal is to consider whether there had been a breach of covenant, even if it may have been remedied at the time of any inspection of the property by the tribunal. See *Forest House Estates Ltd and Dakhil Allah R Al-Harhi* [2013] UKUT 0479 (LC).

12. The decision confirmed that the tribunal is entitled to record that a breach had been remedied at the time of inspection, but any issues as to any remedy, damages or forfeiture are not matters for the tribunal.

13. In reaching any determination the burden of proof is upon the Applicant to satisfy the tribunal on the balance of probabilities.

Background

14. The Respondent purchased the Property at auction on 19th January 2024 with a purchase price of £74,000.

15, The Applicant states that he was not aware of the internal condition of the Property.

“The property had been vacant for several years prior to the auction. The Applicants were not aware of the internal condition until the auction catalogue was published. Upon becoming aware, we took immediate steps to protect the freehold interest”.
(P136)

16. On 12/12/2023, prior to the auction, the Applicant notified the seller’s solicitors by email (P63) of their concerns as to the state of repair of the Property, requesting that any prospective purchaser was “made aware of the dilapidations and of the original Lease

Terms". This correspondence was included in the auction pack made available to prospective purchasers.

17. The Respondent acknowledges that the Property was bought in a dilapidated condition in his statements dated 28/04/2026 (P107) and 20/05/2026 (P160), but states that renovation work is being carried out to provide a family home.

18. It would appear from the freehold Land Registry Title WA872086 that the Applicant has owned the freehold of the property since 09/06/1998.

19. According to the Applicant's Supplementary Witness Statement dated 12/05/2026 it is accepted that the Property had been vacant for several years, prior to the purchase by the Respondent (P136).

The Inspection

20. The Tribunal Judge, Surveyor and Lay Member attended and inspected the Property on the morning of 30/06/2026.

21. The Applicant Mr JL Crawford was present with his son Mr A Crawford. For the Respondent Mr A Kandasamy was present together with Ms Mathanky.

22. During the inspection, work appeared to be actively being carried out to the Property in particular the mono-pitched roof was being renewed/resurfaced with glass fibre and a delivery of building materials took place. It was noted that considerable internal refurbishment works were substantially complete.

23. The activity is therefore consistent with the Respondent's assertion that repair and renewal works were being undertaken to provide a family home.

24. The other properties in the vicinity appeared to be well maintained being consistent with age and type of construction. The general neighbourhood was tidy and well cared for.

25. The Property comprises of a semi-detached house situated in an established residential locality of predominantly private housing. It occupies a convenient location being accessible to Swansea City Centre, the Fforestfach retail park and the M4 corridor.

26. The Property was constructed around the 1930's of cavity brick walls with rendered elevations under a pitched, hipped tiled roof. Accommodation is arranged over two floors and briefly comprises:

Ground Floor: hall, sitting room, family room and dining area, fitted kitchen.

First Floor: landing, bathroom with shower and w/c, three bedrooms.

Externally: forecourt, side access to rear garden. Concrete slab to former garage.

Services: Mains electricity, gas, water and drainage.

27. The condition is briefly summarised as:

External Fabric

Shared chimney stack removed and tiled over.

Roof covering exhibit localised areas of disrepair to include a number of missing or damaged tiles and displaced hip tile to rear.

Large areas of defective and cracked render to main walls.

Cracked and 'blown' render to bay window walls.

Damaged or missing air ventilation bricks

Mono-pitched roof over rear wing in course of renewal/resurfacing in glass fibre. New decking applied.

New rain-water gutters and down-pipes fitted.

Missing downpipe gulleys

Replacement PVCu double glazed patio door to rear single storey structure.

The other windows at the Property are replacement PVCu and appear to be of some age.

Internally

Ground floor tiled throughout

New fitted kitchen

New fitted bathroom

Internal joinery replaced or upgraded.

Internal walls and ceilings replastered or repaired. Internal wall on ground floor removed historically.

Electrical wiring renewed or upgraded with new consumer unit.

New combination gas fired boiler fitted with associated flue and radiators either fitted or 'on site'.

New loft ladder fitted.

Roof space plasterboard lined to underside of roof structure.(No access to roof timbers).

Externally

Forecourt level raised and concreted over.

New concrete slab pending garage replacement.

Consideration

28. The Applicant has made an application for a determination that breach of covenant of the lease has occurred. Such a determination is required before service of a forfeiture notice. The Applicant relies on breach of covenants of the lease dated 14th December 1938 ("the Lease")(P32).

29. The relevant covenants in the Lease are as follows:

30. Clause 2(4) At all times during the term hereby granted to keep the said messuage and all other buildings now or hereafter to be erected on the land hereby demised in good and substantial repair at the end or sooner determination of the said term peaceably to surrender and yield up unto the Lessors together with all things in the nature of or usually considered as landlord's fixtures which at any time during the said term shall be affixed and belong to the premises hereby demised.

31. Clause 2(8) That the Lessee will at the same time with every outside painting restore and make good the outside stone stucco cement and brickwork whenever necessary and at the same time with every inside painting will paper whitewash and colour such parts of the inside of the said messuage and other buildings as are usually papered whitewashed and coloured.

32. Clause 2(11) That the Lessee will not without the consent in writing of the Lessors erect upon the land hereby demised any building other than the said messuage or alter or add to the same.

33. Clause 2(12) That the Lessee will not use or permit the premises hereby demised or any part thereof to be used for any trade business or otherwise than as a private dwelling-house but so that this restriction shall not prevent the user of the said premises for the purposes of carrying on thereon the profession of a medical practitioner dentist or solicitor.

34. Clause 2(13) That the Lessee will not do or permit to be done on the premises hereby demised or any part thereof any act or thing whatsoever which shall be or become a nuisance annoyance or injury to tenants or owners of properties adjoining or near to the said premises or any act or thing which may tend to deteriorate the value of such neighbouring properties.

35. In considering the evidence and reaching a determination the tribunal makes the following observations/findings.

36. As a general principle the requirement in the Lease to keep the Property in good and substantial repair does not require the lessee to keep the Property in pristine or perfect condition.

37. The purpose of the clause is to enable the lessor to ensure that his interest in the freehold reversion is adequately protected. It does not, in the opinion of the tribunal, permit the lessor to scrutinise in detail every action of maintenance and repair at the Property, routinely require reports and specify how the works are carried out.

38. The Applicant refers to a covenant in the Lease “to comply with statutory requirements”. (P102). The covenants are specifically set out in clause 2 of the Lease and there is no such covenant as the Applicant contends in that clause.

39. The Respondent acknowledged that the Property “was in a dilapidated condition at the time of the purchase which was reflected in the purchase price of £74,000”. (P107).

40. In his statement dated 20/05/2026 (P162) the Respondent states that the Applicant: “places considerable reliance on his own observations, experience and conclusions regarding workmanship, compliance, contractor capability and risk. I do not accept that these opinions are determinative. They are matters for the Tribunal to assess in the light of all the evidence”.

41. As a result, the Applicant is put to proof by the Respondent.

Clause 2.4

42. The tribunal accepts the evidence of the Applicant as to the condition of the Property contained in his statement dated 19/03/2026 (P10). These defects were identified following on from an inspection of the Property by the Applicant on 13/06/2026.

43. A number of the defects remained at the time of the inspection and a number appeared to be in the course of being remedied.

44. The tribunal is satisfied that at the time of the inspection and application the following defects were present:

45. The original garage had been demolished and removed and replaced with a concrete base awaiting reconstruction.

46. The render to the Property was defective and remains in parts defective and is incomplete, awaiting replacement.

47. Defects to the flat roof to the rear extension were being remedied and resurfaced.

48. There were broken air bricks requiring replacement.
49. Repair or reinstatement was required to a number of missing/damaged roofing tiles including one missing hip tile.
50. Missing gullies to guttering/rainwater goods.
51. The Applicant has argued consistently that some of the works at the Property require compliance with building regulations.
52. This may be the case, but the lease does not require the Respondent as a matter of course to provide such evidence to the Applicant, merely to keep the Property in “good and substantial repair”, although compliance with building regulations (or alternative scheme) may be a part of this.
53. The Respondent has provided an email from Swansea Council (P113) from a Mr D Corbett that he attended the Property on 05/01/2026 and “informed the owner that the building control department wouldn’t have any involvement with the property from what I had seen at the time”.
54. What works Mr Corbett saw at that time is unknown and it may well be that subsequent works at the Property do need to comply with building regulations.
55. The works undertaken may comply with building regulations and if the Applicant alleges there is a breach, the burden of proof is upon the Applicant to prove this. It is possible that relevant works may have been undertaken by competent ‘self-certified’ contractors under the Competent Person Scheme, in which case building regulations certification from the Local Authority may not have been required.
56. The absence of a building regulations completion certificate is, not of itself, proof of a failure to keep the Property in good and substantial repair.
57. The tribunal accepts that the inspection affords a limited opportunity to assess whether works are in compliance with building regulations, but there was nothing from the limited inspection to suggest to the tribunal any noncompliance with building regulations,
58. Accordingly, in relation to the question of compliance with building regulations is concerned, the tribunal is not satisfied that the allegations of breach are proven.
59. Notwithstanding, at the relevant time, the tribunal is satisfied that the Property was in a dilapidated condition and therefore satisfied that the Respondent is in breach of Clause 2(4).

Clause 2(8)

60. At the inspection of the Property there were large areas of defective and cracked render to main walls and cracked and 'blown' render to bay window walls. Sections of the render had been removed as part of the renovation works.

61. This was also evidenced in the statement and photographs of the Applicant dated 19/03/2026.

62. The Tribunal is therefore satisfied that the Respondent is in breach of Clause 2(8).

Clause 2(11)

63. The Applicant maintains that alterations have been carried out at the Property without consent.

64. Having considered both statements of the Applicant and his email dated 28/06/2026, it is not however clear as to what the alterations said to have been carried out without consent are.

65. It is noted also that in the original application form to the tribunal (P162), extracts from the Lease (P3) and in the Schedule of Breaches (P19) there is no reference to a breach of clause 2(11) and it would appear to have been something of an afterthought by the Applicant.

66. The Applicant's email dated 28/06/2026 (which does not form part of the hearing bundle) includes reference to the chimney removal and attic modifications. For ease of reference the main body of it is set out below:

"Following the Tribunal's physical inspection of 52 Ael Y Bryn yesterday, the Applicant respectfully submits two brief, factual clarifications arising directly from the site visit for the Panel's consideration before Thursday's determination

1. Timeline of Chimney Removal (Respondent's Credibility) During the inspection, the Tribunal inquired as to when the chimney had been removed, to which the Respondent stated it occurred four to six weeks ago. The Applicant attaches contemporaneous evidence a dated photograph of 22/03/2026, demonstrating that the chimney was actually removed over three months ago. This is submitted to assist the Tribunal in assessing the accuracy of the Respondent's timeline regarding structural alterations and roof damage. The attached photograph is not included as new evidence but contemporaneous clarification of the correct timeline.

2. Discovery of Attic Modifications. The inspection revealed extensive internal alterations within the attic space (boarding, plaster boarding, lighting, materials and a loft ladder, concealment of insulation) which effectively conceals the underside of the front roof section. The Applicant requests that these structural modifications and their impact on the restrictive covenants/building control status be formally noted within the Tribunal's record of findings."

67. Even with this email, it remains unclear as to what specific alterations the Applicant is concerned lack the appropriate consent and represent a breach of covenant.

68. The chimney stack was removed no doubt with consent from the owner of the adjoining property and the Applicant (see paragraph 76 below). There is no evidence of structural alterations to the roof space. The roof has merely been lined to the underside, boarded and lit together with a loft ladder fitted.

69. Clause 2(11) states:

“That the Lessee will not without the consent in writing of the Lessors erect upon the land hereby demised any building other than the said messuage or alter or add to the same”.

70. On a common sense interpretation, the covenant is referring to the exterior of the Property. It prevents further buildings, extensions, modifications being added or made to the Property which might cause a loss of amenity to the Lessor, or the owners of adjoining properties.

71. In the opinion of the Tribunal, it cannot have been the intention of the original parties to the Lease that any alteration, (however minor), to the interior of the Property required the consent of the Lessor, it would be unworkable and serve no purpose for either party.

72. The attic modifications are, in the judgement and experience of the tribunal, internal alterations, relatively minor and are not structural alterations. They do not require consent under the terms of the Lease.

73. From the inspection of the Property, the external alterations that might be a breach are the removal of the chimney and the installation of a double glazed patio door to the rear single storey structure.

74. If internal structural alterations do require consent, the removal of an internal wall downstairs would have required consent.

75. It is not in dispute that the chimney stack has been removed, but the Applicant does not specifically allege this is as a breach and implicitly consents in the Remedial Action Schedule (P41) in the required/remedial works “subject to adjoining property agreement—take down the stack”.

76. In relation to the fitting of a double glazed patio door and the historic removal of the internal wall downstairs there is no clear complaint by the Applicant and no evidence of a lack of consent. Consent may have previously been given to these alterations by an earlier freeholder. The Applicant has not proved a breach on the balance of probabilities, even if consent is required.

77. In the light of the above the Tribunal is not satisfied that there is a breach of clause 2(11).

Clause 2(12)

78. The Applicant in the Schedule of Breaches, (and at various other points), refers to the installation of locks on all bedroom doors which indicates “a pattern of occupation inconsistent with a single private dwelling, potentially affecting neighbouring amenity and value.” (P21).

79. Clause 2(12) refers to use “otherwise than as a private dwelling”, the word “single” does not appear in that clause. The Applicant’s contention of breach is therefore inaccurate.

80. There is nothing in clause 2(12) that would, (for example) prevent the use of the Property by house sharers.

81. Even if it did refer to “single”, there is no evidence before the tribunal that satisfies it that the Property was being used in breach of this covenant. A lessor is of course free to fit internal locks to his Property, which could be for security reasons.

82. In the light of the above the Tribunal is not satisfied that there is a breach of clause 2(12).

Clause 2(13)

83. Given the time taken for a Property to fall into disrepair and in the judgement and experience of the tribunal, the age of some of the defects, the Property has been in a state of disrepair for some years, including during the ownership of the Respondent.

84. There was however no evidence of any complaint from neighbours as to “nuisance, annoyance or injury” being caused to anyone by the condition of the Property, or concerns from the local council.

85. There was no dispute that the Property had become dilapidated and was in such a condition when the Respondent purchased it.

86. Given the findings as detailed in the inspection, the tribunal is satisfied that the Property would have stood out from the neighbouring properties and would have detracted from the area.

87. The tribunal is accordingly satisfied that the dilapidated condition of the Property may “tend to deteriorate the value of such neighbouring properties”.

88. The Tribunal is therefore satisfied that the Respondent is in breach of Clause 2(13).

Summary

89. Given the evidence before us the tribunal is satisfied that there has been a breach of covenants of clauses 2(4), 2(8) and 2(13) of the Lease.

Costs

90. The Applicants invited the Tribunal to order the Respondent to pay costs to the Applicants given the “Respondent’s prolonged failure to comply with the covenants in the Lease and the extensive period of non-engagement which has necessitated formal proceedings.” (P104).

91. Schedule 12, Paragraph 10 of the Commonhold and Leasehold Reform Act 2002 states:

“The tribunal may make an order requiring a party to pay to another party such sum (not exceeding £500) as the tribunal considers appropriate by way of compensation for costs incurred, if satisfied that (a) the application was dismissed because it was frivolous or vexatious or otherwise an abuse of process; or (b) a person has acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.”

92. The Tribunal determines having considered the above that the Respondent’s conduct or behaviour does not meet the threshold in this particular matter.

93. The major breaches of the lease relate to the condition of the Property and the disrepair were of longstanding prior to the ownership of the Respondent, (for example the poor condition of the garage, condition of the roof and render at the Property), given the freeholder notified the prospective purchasers of this prior to purchase.

94. Clause 2(5) of the lease provides the power for Lessor to inspect the Property and require the owner to “well and substantially repair and make good accordingly”.

95. The disrepair could have been notified to previous owner(s) and earlier action taken by the experienced Applicant who has owned the freehold since 1998 and according to his own statement has “purchased, administered, and sold well over one hundred freehold reversions”. (P10).

96. Progress in putting the Property back into good and substantial repair following the purchase of the Property by the Respondent has undoubtedly been slow, but in the opinion of the tribunal, the Respondent’s behaviour does not constitute acting frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.

97. Accordingly, the tribunal makes no order as to costs.

Dated this 29th day of July 2026

Tribunal Judge R Phillips