

Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL

Reference: RPT/0067/10/25

In the Matter of: 12 Lombard Street, Neath, Neath Port Talbot,
SA11 1BE

In the matter of: An appeal under the Housing Act 2004

APPELLANT: Mr David Breach

RESPONDENT: Neath Port Talbot Council

TRIBUNAL: Tribunal Judge Kelly Byrne
Mr Hefin Lewis, Surveyor Member
Mr Dean Morris, Lay Member

DATE and VENUE: 15th June 2026 at Neath Port Talbot Civil
Justice Centre

DECISION

The Tribunal, for reasons set out within this decision, determines that the

Background

1. On 16 October 2025, Mr David Breach, as the owner (“the Appellant”) lodged an appeal with the Tribunal in respect of 12 Lombard Street, Neath, SA11 1BE (“the Property”), pursuant to the Housing Act 2004.

2. The appeal concerns an Improvement Notice served by Neath Port Talbot County Borough Council (“the Respondent”), dated 16 September 2025. The Improvement Notice was issued under sections 11 and 12 of the Housing Act 2004 (“the 2004 Act”) in respect of Category 1 and Category 2 hazards identified at the Property.

The Inspection

3. The Tribunal panel inspected the property on the morning of 1st June 2026. The panel was accompanied by the applicant and Mr. David John, Environmental Health Officer representing Neath Port Talbot County Borough Council.
4. The Property is located in a predominantly residential area within the south Wales town of Neath/Port Talbot. It comprises of a traditional mid terrace house constructed of masonry walls under a pitched, tile clad roof. The accommodation is arranged over two floors including a two storey and single storey rear wing.
5. The inspection was substantially restricted to the external fabric only. Whilst not to be considered exhaustive, the Tribunal panel was able to establish:
 - The front elevation appeared well presented in a condition generally consistent with other properties in the immediate vicinity.
 - The roof over the main two storey structure had been renewed.
 - The roof over the rear two storey structure was missing/fire damaged.
 - The tiled roof over the rear single storey rear wing is in poor condition.
 - Missing and boarded up window frames to all ground floor windows of the rear elevation.
 - Large areas of missing damaged cement render to the rear elevation
 - Decayed or fire damaged external joinery.
 - Considerable debris to rear yard/garden area.

6. The property was not inspected internally due to health and safety concerns. However, upon request, the applicant agreed to open the front door so that the interior could be observed from the pavement without entering the property. From this limited inspection, the Tribunal observed catastrophic fire damage which had effectively destroyed the whole of the interior including floors, partitions, ceilings and all services.
7. In view of Health and Safety concerns, the property was not inspected internally.

The Hearing

Preliminary issues

8. The Appellant submits that the Respondent's enforcement action was disproportionate and represented an unnecessary escalation from earlier correspondence concerning Japanese knotweed at the Property. He contends that, despite efforts to address that issue, the Respondent proceeded to undertake a Housing Act 2004 inspection and subsequently served the Improvement Notice.
9. The Appellant also relies upon comparative evidence relating to neighbouring properties, including No. 9A and No. 11, which he says are in a similar or worse condition but have not been subject to equivalent enforcement action. He contends that this demonstrates inconsistent and targeted enforcement.
10. More generally, the Appellant alleges a pattern of enforcement action directed towards him, referring to previous unsuccessful prosecution proceedings involving another property. He submits that the present enforcement action has been pursued by the same senior management team and contends that the decision to serve the Improvement Notice was not the product of a fair and impartial assessment of the circumstances.
11. During the hearing, it was explained to the Appellant that the Tribunal's role is to determine whether the service of an Improvement Notice was the appropriate course of action under the Housing Act 2004, or whether an alternative form of

enforcement action would have been more appropriate. It was further explained that the Tribunal was not concerned with allegations of targeted enforcement or other complaints regarding the Respondent's conduct, save insofar as such matters were relevant to the issues arising in the appeal. The Appellant was advised that, if he considered that he had been treated unfairly by the Respondent, those concerns could be pursued through the Respondent's corporate complaints procedure or any other appropriate channel. He was advised that such matters are outside the jurisdiction of the Tribunal.

The Applicants' case

12. The Appellant has provided a Statement of Case dated 3 March 2026 and gave oral evidence to the Tribunal.

13. It is the Appellant's case that the Respondent has not selected the most appropriate form of enforcement in accordance with its statutory duty under section 5 of the Housing Act 2004 ("the 2004 Act"). The Appellant contends that the appropriate course of action would have been the making of a Prohibition Order rather than the service of an Improvement Notice.

14. The Appellant submits that the Property is a fire-damaged shell and has been officially recorded by the Valuation Office Agency ("VOA") as derelict since 5 November 2017. He states that all essential utilities, namely gas, water and electricity, are disconnected and that the Property is, both legally and physically, incapable of occupation as a dwelling.

15. The Appellant further states that a relatively new main roof has been installed to ensure that the structure remains watertight and to protect the integrity of the party walls adjoining neighbouring properties. He submits that these works demonstrate his proactive commitment to preventing damp, nuisance or other adverse effects upon neighbouring properties.

16. The Appellant states that the rear annex currently lacks a roof, whilst the main structure remains protected. He contends that the Category 1 internal hazards identified by the Respondent can only be remedied through extensive structural

reconstruction and do not constitute “improvements” within the meaning contemplated by section 11 of the 2004 Act.

17. The Appellant further submits that the Property is fully enclosed and secure, maintains a presentable external appearance consistent with the surrounding residential street, and does not present as a blighted or derelict property to members of the public.
18. The Appellant argues that the Respondent has sought to extend the scope of sections 11 and 12 of the 2004 Act beyond their intended purpose. He submits that these provisions are safety measures designed for dwellings and are not intended to compel the complete reconstruction of a fire-damaged shell. The Appellant further contends that, by including both Category 1 and Category 2 hazards within the Improvement Notice, the Respondent has imposed an onerous and economically irrational burden in relation to a property that has been delisted by the VOA and is incapable of residential occupation.
19. It is also the Appellant’s case that the Statement of Reasons accompanying the Improvement Notice is deficient. The Appellant submits that the Respondent has relied upon generic and standardised wording, rather than providing reasons tailored to the particular circumstances of the Property. He contends that the Statement of Reasons is, in effect, a template document which fails to identify property-specific evidence or to recognise the unique condition, history and structure of the Property.
20. The Appellant further submits that, by relying upon a standard form of wording, the Respondent has failed to demonstrate that it has properly considered the specific facts and circumstances of this case when determining that the service of an Improvement Notice was the appropriate enforcement action. The Appellant contends that the reasons provided do not adequately explain why an Improvement Notice was preferred to other available enforcement measures, including the making of a Prohibition Order.

Respondent's case

21. The Respondent submits that the Improvement Notice served on the Appellant pursuant to sections 11 and 12 of the Housing Act 2004 was lawful, proportionate and represented the most appropriate enforcement action available on the facts known to the authority at the time. The Respondent accordingly invites the Tribunal to dismiss the appeal and confirm the Notice without variation.
22. The Respondent rejects the Appellant's contention that a Prohibition Order under section 20 of the 2004 Act ought to have been made instead. It is contended that the statutory scheme does not establish a hierarchy of enforcement options. Rather, the local housing authority is required to select the course of action it considers most appropriate having regard to the hazards identified. The Respondent therefore submits that there is no basis for the Tribunal to substitute the Appellant's preferred enforcement option for the authority's lawful exercise of discretion.
23. In relation to the status of the property, the Respondent accepts that the premises have been deleted from the council tax list by the Valuation Office Agency but contends that this is irrelevant to the exercise of housing enforcement powers. The Respondent submits that council tax valuation and deletion criteria concern rating and valuation matters only and do not determine habitability, housing conditions or the applicability of enforcement powers under Part 1 of the Housing Act 2004.
24. The Respondent further submits that the Housing Health and Safety Rating System ("HHSRS") applies to premises intended to be occupied as a dwelling, including vacant dwellings. The absence of occupation at the date of inspection does not preclude hazard assessment. The authority contends that category 1 and category 2 hazards may arise notwithstanding vacancy and may require intervention in order to protect actual or potential occupiers and visitors.
25. It is the Respondent's case that vacant or fire-damaged premises are capable of presenting serious hazards, including those relating to structure, fire spread,

dampness and security. Where such hazards are identified, the authority is under a statutory obligation to consider appropriate enforcement action.

26. The Respondent contends that the Improvement Notice was served upon the correct person and in accordance with the requirements of the Act. It relies upon the statutory powers contained in sections 11 and 12 which expressly authorise the service of Improvement Notices requiring works to remove or reduce category 1 and category 2 hazards.
27. The Respondent disputes the Appellant's characterisation of the Notice as requiring "total reconstruction". It submits that the relevant statutory test is whether the works specified are necessary to remove or reduce the hazards identified. The extent of the works required must be judged by reference to the nature and severity of the hazards present. The Respondent contends that where a property is in a significantly deteriorated condition, extensive remedial works may properly be required.
28. The Respondent relies upon the witness evidence of Mr David John, Consultant Environmental Health Officer, concerning the inspection of the premises, the hazards identified, the HHSRS assessment undertaken and the decision-making process leading to the service of the Notice.
29. The Respondent further contends that the Statement of Reasons accompanying the Notice complies with the requirements of section 8 of the Act. It is submitted that the Statement adequately explains the basis upon which the authority concluded that service of an Improvement Notice was the appropriate form of enforcement.
30. In response to the Appellant's argument that a Prohibition Order would have been a more economically sensible option, the Respondent submits that the relevant guidance does not require prohibition whenever remedial works may be financially burdensome. Rather, the authority is required to consider all relevant circumstances, including the seriousness of the hazards, the feasibility of remediation and the objective of achieving a long-term reduction in risk.

31. The Respondent submits that it considered the hazards identified, the condition of the property, the practicability of remedial works and the objective of securing lasting hazard reduction. Having done so, it concluded that an Improvement Notice was the most effective, rational and proportionate response.
32. The Respondent rejects the suggestion that the inspection and enforcement process constituted an improper escalation from concerns relating to Japanese Knotweed. It submits that local authorities have a statutory power and duty to inspect premises where appropriate and that an investigation initiated by one concern may lawfully lead to consideration of wider housing conditions and hazards.
33. The Respondent also disputes the assertion that it was obliged to offer grants, loans or other financial assistance before taking enforcement action. It submits that no such statutory requirement exists. Whilst financial assistance may be available in appropriate circumstances, it is discretionary and not a pre-condition to the exercise of enforcement powers where serious hazards are identified. The Respondent further notes that the possibility of a home improvement loan was discussed with the Appellant but that no application was subsequently made.
34. The Respondent rejects the Appellant's reliance upon conditions at neighbouring properties as evidence of unfairness or bias. It submits that enforcement decisions are property-specific and must be assessed according to the circumstances existing at the premises under consideration. The authority is not required to take simultaneous action at all properties exhibiting potential defects, and resource prioritisation does not render an otherwise lawful decision unlawful.
35. In support of that submission, the Respondent relies on the authorities of *Waltham Forest LBC v Hussain* [2023] EWCA Civ 733 and *Manaque Company Ltd v London Borough of Lambeth* [2025] UKUT 97, which it says confirm that the lawfulness of an Improvement Notice is to be assessed by reference to the facts and circumstances known to the authority at the time the notice was issued, while giving appropriate weight to the authority's role as statutory decision-maker.

36. The Respondent further submits that allegations of bias, historic disputes and improper motive are unsupported by evidence and are irrelevant to the statutory question before the Tribunal. The use of an external Environmental Health Officer under a short-term contract is said to reflect the need for specialist expertise and staffing requirements rather than any targeted action against the Appellant.
37. Finally, the Respondent maintains that it is entitled, pursuant to Schedule 13 of the Housing Act 2004, to recover its reasonable expenses incurred in connection with the service of the Improvement Notice. It contends that the sum claimed reflects the work undertaken in identifying hazards, carrying out the HHSRS assessment, preparing and serving the Notice and undertaking the associated administrative functions. The charges are said to have been calculated in accordance with the authority's adopted policy and fee schedule and to be reasonable and comparable with those imposed by other local authorities.
38. Accordingly, the Respondent's position is that the Improvement Notice was lawfully issued, that serious hazards were properly identified, that the correct statutory test was applied, that the chosen enforcement action was proportionate and appropriate, and that the costs claimed are recoverable in full. The Respondent therefore invites the Tribunal to dismiss the appeal and confirm the Improvement Notice unvaried.

Evidence and Submissions

39. We heard evidence from the Respondent's principal witness was Mr David John, Consultant Environmental Health Officer.
40. Mr John explained that he had inspected the property externally but had not entered the premises because the Appellant himself had advised that the building was unsafe. He stated that, notwithstanding the absence of an internal inspection, sufficient information was available from the external condition, visible internal areas, the known fire damage, and the circumstances of the property to allow

hazard assessments to be undertaken under the Housing Health and Safety Rating System ("HHSRS").

41. In relation to the hazard calculations, Mr John explained that the HHSRS requires assessment of the risk of harm occurring during the twelve months following occupation of the premises and that vacant properties are assessed on the basis of potential occupation. He stated that hazards such as excess cold, damp and mould growth, falling between levels, food safety and fire safety had been assessed using the methodology prescribed within national guidance and by reference to assumptions regularly employed where complete information is unavailable.
42. Mr John accepted that some aspects of the assessment involved estimation because access was unavailable. He nevertheless maintained that the property displayed extensive fire damage, lacked essential services and facilities, remained open to the elements in parts, and would continue to deteriorate if no remedial action was undertaken. He stated that an Improvement Notice was selected because it provided a mechanism for requiring works to reduce hazards and facilitate the property's return into occupation, whereas a Prohibition Order would merely formalise an already vacant position and would not address the underlying deficiencies.
43. During cross-examination, the Appellant challenged the lawfulness and reliability of hazard assessments based on a non-internal inspection, the generic nature of the Statement of Reasons, the absence of property-specific reasoning for rejecting alternative enforcement options, and the relevance of housing supply considerations to what he maintained ought to be a health and safety decision. Mr John maintained that the Notice was justified and proportionate.
44. In response to questions from the Tribunal, Mr John stated that consideration had been given to alternative enforcement tools, including an Empty Dwelling Management Order. However, he considered that option impractical because of the extensive cost of works required and the difficulty of recovering such expenditure. He reiterated that the defining factor in favour of an Improvement

Notice was the objective of preventing further deterioration and securing eventual reoccupation of the property.

45. The Appellant then gave evidence. He described the premises as a fire-damaged shell which had been maintained insofar as possible to avoid nuisance to neighbours. He stated that he had undertaken some external works, including roofing and pest prevention measures, and had long-term intentions to restore the property. He accepted, however, that significant reconstruction remained necessary and that the cost of such works would likely exceed six figures.
46. The Appellant explained that caring responsibilities for elderly parents, together with commitments relating to other properties, limited his ability to undertake the substantial works presently required. While he accepted that the premises were unsuitable for occupation and contained category 1 and category 2 hazards, he contended that the Improvement Notice imposed unrealistic timescales and exposed him to potential criminal sanctions despite there being no risk to actual occupiers because the property was vacant and incapable of habitation.
47. The Appellant's evidence was that a Prohibition Order would achieve the relevant health and safety objective by preventing occupation whilst avoiding what he regarded as disproportionate reconstruction obligations. He stated that he intended either to restore the property in due course or, if necessary, sell it to enable future redevelopment.
48. During cross-examination, the Appellant accepted that the property should not presently be occupied and that category 1 and category 2 hazards existed if occupation were to occur. He accepted that the building remained substantially incomplete nine years after the fire but maintained that an Improvement Notice was being used to pursue housing policy objectives rather than to address genuine risks to health and safety.
49. In closing submissions, counsel for the Respondent argued that the existence of significant hazards was no longer disputed and that the sole issue was whether an Improvement Notice represented the most appropriate enforcement tool. He submitted that alternative measures, including a Prohibition Order or Empty Dwelling Management Order, would not achieve meaningful progress toward

remedying the hazards or returning the property to use. It was submitted that the Appellant had undertaken only limited works since the fire in 2017 and could provide no timetable for completion of the necessary repairs. The Respondent therefore contended that the Improvement Notice was lawful, proportionate and necessary.

50. The Appellant submitted that the property had lost its essential character as a dwelling and was, in substance, a structural shell incapable of habitation. He argued that the Respondent lacked jurisdiction to proceed under Part 1 of the Housing Act 2004, that the hazard assessment was fundamentally flawed because no internal inspection had occurred, that the Statement of Reasons was generic and failed to explain why a Prohibition Order had been rejected, and that the Improvement Notice imposed an oppressive and economically unrealistic burden. He invited the Tribunal to quash the Notice and substitute a Prohibition Order.

Decision and Reasoning

51. The Tribunal has given full and careful consideration to all the oral evidence, the contents of the hearing bundle and the representatives' oral and written submissions.

52. The Tribunal rejects the Appellant's submission that the Property falls outside Part 1 of the Housing Act 2004. Although the Property is presently incapable of occupation and requires extensive works, it remains a residential building intended ultimately for use as a dwelling. The Tribunal accepts the Respondent's submission that vacancy and deletion from the Council Tax list do not remove premises from the scope of the Housing Health and Safety Rating System. Accordingly, the Respondent had jurisdiction to consider hazards and take enforcement action under Part 1 of the Act.

53. The central issue in this appeal is not whether hazards exist at 12 Lombard Street, as the Appellant accepts that, if occupied, the property presents Category 1 and Category 2 hazards. Instead, the dispute concerns whether the Respondent chose the correct enforcement action under the Housing Act 2004

54. The appeal therefore requires the Tribunal to determine whether, having regard to the condition of the property, the nature and severity of the hazards, and the statutory framework in Part 1 of the Housing Act 2004, the Respondent properly exercised its discretion in serving an Improvement Notice or whether a Prohibition Order would have been the more appropriate enforcement option.
55. The Tribunal accepts that the absence of an internal inspection limited the information available to Mr John and required certain assumptions to be made. However, the Tribunal is satisfied that the condition of the premises, the visible fire damage, the Appellant's own evidence regarding the internal condition, and the inability safely to enter the premises provided a sufficient evidential basis to conclude that Category 1 and Category 2 hazards existed.
56. Section 5 of the Housing Act 2004 requires a local authority, where it identifies a Category 1 hazard, to take the "appropriate enforcement action". The available actions include, Improvement Notice, Prohibition Order, Hazard Awareness Notice, Emergency Remedial Action, Emergency Prohibition Order, Demolition Order; and Clearance Area provisions.
57. The Tribunal has had regard to the Welsh Government's Enforcement Guidance for Local Housing Authorities: Housing Act 2004, Part 1 Housing Conditions, issued under section 9 of the Housing Act 2004. In particular, paragraph 5.11 recognises that a Prohibition Order may represent the most satisfactory course of action where remedial works are not an economic proposition and where occupation of the premises should not occur.
58. The Tribunal is satisfied that the Respondent was required to take formal enforcement action in respect of the hazards identified at the property. However, having considered the available enforcement options and the Welsh Government Enforcement Guidance, the Tribunal concludes that an Improvement Notice was not the most appropriate course of action in the particular circumstances of this case

59. Whilst the Tribunal has given appropriate respect to the Respondent's expertise and discretionary judgment, as required by Hussain and Manaque, it is not persuaded that the objectives relied upon by the Respondent, namely securing the property's return to occupation and preventing further deterioration, justified the use of an Improvement Notice in circumstances where a Prohibition Order would have achieved immediate risk reduction and where the remedial works required amounted in substance to extensive reconstruction.
60. The property was vacant, had been severely damaged by fire, lacked essential services and facilities, and was accepted by both parties to be incapable of occupation in its current condition. The evidence further demonstrated that substantial works would be required before the premises could reasonably and safely be returned to residential use.
61. The Appellant's uncontested evidence was that the cost of the necessary works was likely to exceed six figures, whilst Mr John accepted that the property lacked basic amenities and remained substantially affected by fire damage.
62. The Tribunal is satisfied that the scale of the required works extends beyond ordinary repair or improvement and approaches substantial reconstruction. Whilst cost alone cannot determine the appropriate enforcement response, the Tribunal considers it to be a relevant factor when assessing proportionality and the practicality of the available options. The Welsh Government guidance recognises that a Prohibition Order may be appropriate where occupation should cease or should not occur and where remedial works are not a realistic or economic proposition in the short to medium term.
63. In the present case, a Prohibition Order would have achieved an immediate and complete reduction of the risk arising from occupation whilst formally recognising the property's uninhabitable condition. By contrast, the Improvement Notice imposed extensive works and compliance timescales directed towards eventual reoccupation rather than the immediate management of risk.

64. The Tribunal considers that the Respondent placed significant weight on the objective of bringing the property back into use and preventing further deterioration. Whilst those may be legitimate policy considerations, they are not the primary purpose of Part 1 of the Housing Act 2004, which is directed towards the protection of health and safety from residential hazards.
65. Whilst the Statement of Reasons adopted standard wording commonly used by the Respondent, the Tribunal is satisfied that it complied with the statutory requirements. The Tribunal's decision does not turn on any defect in the Statement of Reasons but on the appropriateness of the enforcement option selected.
66. Having regard to the property's condition, its longstanding vacancy, the absence of any realistic prospect of occupation, the substantial cost and scope of the works required, and the guidance indicating that prohibition may be appropriate where repair is impractical or disproportionate, the Tribunal finds that a Prohibition Order would have represented the more suitable and proportionate enforcement response.
67. The appeal is therefore allowed on this aspect. Therefore, the improvement Notice is quashed.
68. Although the Tribunal has determined that a Prohibition Order would have been the more appropriate enforcement measure, it is satisfied that the Respondent acted properly in taking formal enforcement action in respect of the hazards identified at the property. The costs incurred in investigating the property and preparing enforcement action were reasonably incurred. The Appellant's appeal against the fee of £248.21 is therefore dismissed

A handwritten signature in dark ink, appearing to be 'KLR' followed by a stylized flourish.

Tribunal Judge K Byrne

Dated this 28th day of August 2026

