



## Determination by Private Rented Housing Committee

### Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

Ref PRHP/RP/16/0199

Property at Northfield Farm House, Auldgirth, Dumfries, DG2 0TR being part of the subjects described in Disposition in favour of Thomas William Kennedy recorded GRS (Dumfries) 19<sup>th</sup> May 1926 (Search Sheet 3608) ('the Property')

David Matthews and Claire Matthews both residing at Blackwood House, Auldgirth, Dumfries, DG2 0UA ('the Landlords')

Michael Hunter residing at Northfield Farm House, Auldgirth, Dumfries, DG2 0TR ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and George Campbell (Surveyor Member).

#### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

#### Background

1. The Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").

2. The application stated that he considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. He advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order; the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and The Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

In particular the application stated:-

- 2.1. The access road is in poor condition particularly at the bottom where it is shared three ways.
- 2.2. The central heating boiler needs to be serviced as it is cutting out.
- 2.3. The front and back doors need to be replaced as they are rotten.
- 2.4. A roofer is required to fix slates.
- 2.5. The tin shed/barn has rotting wood and the tin is blowing off in bad weather.
- 2.6 Damp is coming in.
- 2.7 Smoke, heat and CO detectors required.

3. On 24<sup>th</sup> May 2016, the Convenor of the Private Rented Housing Panel, having considered the application, comprising documents received on 23<sup>rd</sup> May 2016, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Committee members were Jacqui Taylor (Chairperson) and George Campbell (Surveyor Member).

6. The President of The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenant, dated 24<sup>th</sup> June 2016.

7. The parties provided written representations. The Tenant's solicitor wrote advising that notice to quit had been served on the Tenant. The Tenant provided details of works he had carried out to the Tenancy over the years. The Landlords' agent provided details of the works done to the Property and also the works scheduled to be done.

8. The Committee attended at the Property on 2<sup>nd</sup> August 2016. The Tenant and his solicitor, Stephen Whitelaw, were present at the inspection. The Landlord was not present at the inspection and he was not represented.

The Property is a detached farmhouse in a rural location. The accommodation comprises three bedrooms, living room, dining room, kitchen, workshop, external store and other outbuildings. The Property is accessed by a private access road.

The Committee inspected the alleged defects and found:-

8.1. The access road is in poor condition particularly at the bottom where it is shared three ways.

The access road was in a reasonable condition. The Tenant explained that the Landlords had scraped the access road about three weeks previously.

8.2. The central heating boiler needs to be serviced as it is cutting out.

The Tenant explained that the oil fired central heating boiler had been serviced approximately five weeks previously and it was now working satisfactorily.

8.3. The front and back doors need to be replaced as they are rotten.

The Committee inspected the wooden front door and back door of the Property. They found that the front door was stiff to open and close and did not operate easily. The back door had two broken wooden panels at the bottom of the door and the lock did not work properly.

8.4. A roofer is required to fix slates.

The Tenant advised that a roofer had spent two weeks repairing the slates on the roof recently. The Committee noted that new mortar had been fitted between the junction of the roof of the outbuilding which adjoins the farmhouse and the north west gable.

8.5. The tin shed/barn has rotting wood and the tin is blowing off in bad weather.

The Committee saw that sheeting was missing from the side of the shed the Tenant uses for storing wood located in the south east corner of the Property.

8.6 Damp is coming in.

The Tenant showed the Committee five areas of the Property that are affected by dampness:

- Kitchen  
He explained that there is dampness in the area of the wood panels which were located below the floor mounted kitchen units. The surveyor member of the Committee tested this area with a damp meter but no dampness was detected.
- Rear Porch  
The Tenant showed the Committee the area of damp in the rear porch where there is a hole in the lined wall. The surveyor member of the Committee tested this area with a damp meter and confirmed that this area was damp.

The Tenant also pointed out that the Electricity Consumer Unit is located in the rear porch and the Committee noted that it was hanging off the wall and was loose and dangling by the electrical wire.

- Ground floor Bedroom  
The Tenant showed the Committee the area to the right of the window where the wall paper is loose. The surveyor member of the Committee tested this area with a damp meter but no dampness was detected.
- Main Bedroom (Upper floor)  
The Tenant showed the Committee the dormer haffits and explained that they are damp. The surveyor member of the Committee tested this area with a damp meter and confirmed that this area is damp and the readings are particularly high.
- Second Bedroom (Upper floor)  
The Tenant showed the Committee an area of dampness to the ceiling of the second bedroom on the north west gable. The surveyor member of the Committee tested this area with a damp meter and confirmed that this area is damp and the readings were also particularly high.

#### 8.7 Smoke, heat and CO detectors required.

There are no hard wired smoke and heat detectors or carbon monoxide alarms in the Property.

Photographs were taken during the inspection and are attached as a Schedule to this report.

9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Auldgirth Village Hall, DG2 0XG.

The Tenant, his solicitor, Stephen Whitelaw, and Nick Wright, the Landlords' agent, attended the hearing.

In respect of the matters in the application they advised as follows:

9.1. The access road is in poor condition particularly at the bottom where it is shared three ways.

The Tenant confirmed that the access road had been satisfactorily repaired about a week previously.

9.2. The central heating boiler needs to be serviced as it is cutting out.

The Tenant confirmed that the central heating boiler had been satisfactorily serviced and it now worked correctly.

9.3. The front and back doors need to be replaced as they are rotten.

The Tenant explained that the doors are not secure.

Nick Wright advised that he had a joiner lined up to carry out the necessary repairs.

9.4. A roofer is required to fix slates.

Nick Wright advised that a roofing contractor from Lockerbie had carried out extensive works to the roof in June. The repairs included repairing the slates of the dormer roof, pointing of the gable, repair to the gutters and the ridge tiles of the roof above the dormer had also been repaired.

The Tenant explained that we will not know how good the repair is until there is a period of heavy rain.

9.5. The tin shed/barn has rotting wood and the tin is blowing off in bad weather.

Nick Wright queried whether or not the tin shed/ barn was included in the subjects that had been leased to the Tenant. Stephen Whitelaw referred the Committee to the terms of the 1989 lease which states:

*'We hereby offer to let to you the dwellinghouse known as Northfield Farm House, Auldgirth, Dumfries together with any garden ground and outhouses pertaining thereto..'*

9.6 Damp is coming in.

- Kitchen  
The Tenant accepted that the damp meter did not record any dampness but explained that there is probably dampness behind the wooden panels which had been installed approximately 33 years ago.
- Rear Porch  
The parties acknowledged that there was dampness in the rear porch.
- Ground floor Bedroom  
The Tenant accepted that the damp meter did not record any dampness in the areas where the wall paper was coming away from the wall.
- Main Bedroom (Upper floor) and Second Bedroom (Upper floor)  
Nick Wright explained that the dampness may be residual dampness following the repairs carried out to the roof that had not yet dried out.

9.7 Smoke, heat and CO detectors required.

Nick Wright explained that he had instructed an electrician to install the required detectors.

Stephen Whitelaw asked the Committee to include the condition of the electrical consumer unit in the application. The Chairperson of the Committee explained that this was not possible as this matter had not previously been included in the application and it had not been intimated to the Landlords. However the Decision would include a recommendation to have the electrical unit repaired.

**Summary of the issues**

10. The issues to be determined are:-

10.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the said dampness in the Property results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

10.2 The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

Whether the access road, front and back doors of the Property, the slates on the roof and the tin shed/barn are in a reasonable state of repair and proper working order.

10.3 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the central heating boiler is in a reasonable state of repair and proper working order.

10.4 That the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (Section 13(1)(f) and (g) of The Housing (Scotland) Act 2006).

Whether the Property has satisfactory provision of smoke, heat and CO2 detectors.

### **Findings of fact**

11. The Committee found that:

11.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The area of dampness in the rear porch results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation. The Committee accepted that the necessary repairs to the roof had been completed in respect of the dampness found in the two upper bedrooms and considered that the above normal levels of dampness found in these rooms was due to the fact that the drying out of these areas was ongoing.

11.2 The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

The Landlords had carried out the necessary repairs to the access road and the roof and therefore the access road and the slates on the roof are in a reasonable state of repair and proper working order.

The Committee acknowledged that the tin shed/barn is part of the Property leased to the Tenant as it is included in the subjects defined in the lease. They determined that the missing sheeting of the tin shed/barn results in it NOT being in a reasonable state of repair and proper working order.

Also the said condition of the front and back doors of the Property results in them NOT being in a reasonable state of repair and proper working order.

11.3 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

The Committee accepted the evidence of the Tenant to the effect that the central heating boiler had been serviced recently and it is now working properly and accordingly it is in a reasonable state of repair and proper working order.

11.4 That the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and the Property does not have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (Section 13(1)(f) and (g) of The Housing (Scotland) Act 2006).

The Committee acknowledged that the statutory guidance requires:

- One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
- One functioning smoke alarm in every circulation space, such as hallways and landings.
- One heat alarm in every kitchen.

- All alarms should be interlinked.
- One CO detector in every space containing a fixed combustion appliance.

The Committee determined that the absence of the required smoke, heat and CO detectors results in the Property NOT having satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and also the Property does NOT have satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

### **Decision**

12. The Committee accordingly determined that the Landlords had failed to comply with the duties imposed by Sections 13 (1)(a); 13(1)(b); 13(1)(f) and 13(1)(g) of the Act, as stated.

13. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

14. The Committee strongly recommends to the Landlords that the electrical consumer unit is inspected and repaired by a suitable qualified electrician.

15. The decision of the Committee was unanimous.

### **Right of Appeal**

**16. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

### **Effect of section 63**

17. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed .....  
Chairperson

**J Taylor**

..... Date 11<sup>th</sup> August 2016

V. Taylor

**Photographs taken at Northfield Farmhouse, Auldirth DG2 0TR on 2 August 2016  
(PRHP/RP/16/0199)**



01 - Front house elevation



02 - Front elevation



03 - Rear house elevation



04 - Rear elevation



05 - Shed (wood store) with missing sheeting



06 - GF bedroom - loose wallpaper



07 - Rear porch - dampness and defect



08 - Upstairs bedroom - dampness on NW gable



09 - NW gable of house



10 - NW gable of house



11 - Oil-fired boiler in workshop



12 - Main electrics board at inspection



13 - Dampness at dormer haffit



14 - External view of 13 (from front)



15 - Kitchen



16 - Front door



17 - Rear door





## Repairing Standard Enforcement Order

### Ordered by the Private Rented Housing Committee

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David Matthews and Claire Matthews both residing at Blackwood House, Auldgirith, Dumfries, DG2 0UA ('the Landlords')

Michael Hunter residing at Northfield Farm House, Auldgirith, Dumfries, DG2 0TR ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and George Campbell (Surveyor Member).

#### NOTICE TO

#### The said David Matthews and Claire Matthews

Whereas in terms of their decision dated 11th August 2016, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlords have failed to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) is in a reasonable state of repair and in proper working order; the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire and The Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

The Private Rented Housing Committee now requires the Landlords to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the Landlords to:-

1. Repair or replace the front and back doors (including the locks) to render them in proper working order.
2. Repair or replace the side sheeting of the barn used as a wood store located on the south east corner of the Property to render it in proper working order.
3. Eradicate the dampness in the rear porch.
4. Install:
  - 4.1 One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
  - 4.2 One functioning smoke alarm in every circulation space, such as hallways and landings.
  - 4.3 One heat alarm in every kitchen.
  - 4.4 All alarms should be hardwired and interlinked and
  - 4.5 One CO detector in every space containing a fixed combustion appliance.

The Private Rented Housing Committee order that these works must be carried out and completed By 30<sup>th</sup> November 2016.

**A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **J Taylor** ..... Date 11<sup>th</sup> August 2016  
Chairperson

.....witness: KEIRSTEN BYRNE, 65, High Street, Irvine