

THE SHIFT

#RIGHT2HOUSING

25th June 2021

Dear Mr Reynolds,

The Shift is an international organisation and movement dedicated to securing the human right to adequate housing globally. The Shift is headed by Leilani Farha, the former United Nations Special Rapporteur on the right to adequate housing.

We write to you to express our concerns with regards to the ongoing situation on Wordsworth Drive and Sugar Hill Close, Oulton, Yorkshire ('the estate'), and to outline how the actions of Pemberstone Ltd ('Pemberstone') may be contradictory to international human rights law and norms with regard to the right to adequate housing. On this basis, we call upon you to take immediate action to protect the homes and community of those living on the estate, in line with your human rights obligations.

The facts in this matter, as we understand them, are:

The estate was originally constructed in the 1950s as a short-term solution to the local lack of affordable housing for miners. It comprises a number of prefabricated homes that were constructed for the use of the miners and their families. The estate was formerly owned by the National Coal Board before being sold privately in the 1980s. It passed between different developers and was purchased by Pemberstone in 2004. Today it remains home to a close-knit community of around 70 families, comprising about 250 people, some of whom have lived in their homes for decades. A number of children also live on the estate, attending schools nearby.

At the end of 2017, Pemberstone informed residents, by putting a leaflet through their letterboxes, that they intended to hold a meeting regarding the future of the estate. At the meeting, Pemberstone notified residents of its plan to, over a period of years, evict all families to allow for the demolition of their homes, replacing the 70 homes currently there with 70 high-end, modern properties. The justification for this decision was that the homes on the estate were in poor condition and were coming to the end of their lives. Whilst residents have accepted that their homes are in need of maintenance and repairs, they reject the notion that they are fit only for demolition, as Pemberstone has suggested. Due to the method used to notify them about the plans and meeting, and the fact that engagement only took place once the plans had been fully drawn up, many households feel that they were not afforded with adequate information about these plans or the opportunity to put forward their perspectives. Whilst planning permission for the development was initially refused, as of January 2021 Pemberstone's appeal of this refusal was granted, allowing it to progress with the eviction and demolition.

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Most of the new homes to be built under the plan will be available to purchase, with around 14% being retained for affordable housing. Estimates by residents suggest that the cost of the new housing units will put them wholly out of their reach, while the number of allocated affordable housing units is not sufficient to house the 70 families who are currently living on the estate. By contrast, the plan, as it is currently understood, will likely generate significant profits for Pemberstone.

According to information received, Pemberstone is working to assist 10 families living on the estate under secure tenancies to obtain new housing. There have been few attempts, however, to assist the remaining 60 families so that they may remain in their homes or find housing proximate to the estate. Whilst it is understood that Pemberstone has contacted some housing associations to discuss the possibility of them purchasing the site, it has been noted that the site is likely to be far too expensive for these organisations at any rate. Pemberstone has also failed to offer the families compensation. Consequently, the community now has to face the prospect of being separated, as a severe lack of affordable housing locally means that those families who are evicted will be required to leave the area. As well as being forced away from their support networks and local services, many adults will also risk losing their jobs, and children will have to leave their schools.

Whilst families facing eviction have been promised priority spaces on social housing waiting lists, current estimates suggest that they will have to wait between one and three years to be allocated a housing unit. Even if families are allocated social housing in years to come, there is no guarantee that these will be within Oulton, Rothwell or the surrounding area. Consequently, many families on the estate, if evicted, will find themselves in a situation of homelessness and displacement from their community.

The actions of Pemberstone, in seeking to evict residents and demolish their homes without meaningful consultation, has had a hugely detrimental impact on the well-being of the community, which contains many young, elderly and vulnerable people. As a result, residents have been placed under enormous levels of stress and anxiety as they await their fate. Consequently, the effects of Pemberstone's actions on the estate are antithetical to its property arm's mission statement which seeks to *build communities*. According to its current residents, should Pemberstone's plans be realized, the community on Wordsworth Drive and Sugar Hill Close will be destroyed.

Without wishing to prejudice the accuracy of the facts detailed above, we would like to express our sincere concern that Pemberstone's planned eviction of the residents of Wordsworth Drive and Sugar Hill Close, and the demolition of their homes, may be contrary to international human rights law and norms, and put the company in breach of the human right to adequate housing. We consequently call upon Pemberstone to ensure due consideration is given to the human rights of

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tenants on the estate, and that the plans for the estate are duly modified in order to avoid breaching those rights.

The human right to adequate housing is established in law under Article 11.1 of the International Covenant on Economic, Social and Cultural Rights. As per General Comment No. 24, business entities have direct human rights responsibilities to respect and fulfil human rights, including the right to housing. This means that Pemberstone should refrain from taking any actions that will cause harm to tenants as well as taking positive steps to ensure the realization of the right to housing. Under General Comments No. 4, of the Committee on Economic, Social and Cultural Rights, the right to adequate housing does not simply mean the provision of a roof over one's head, but rather necessitates that all people have a home which provides them with security and dignity. For housing to be compliant with human rights, it must, amongst other things, be affordable and ensure tenants with adequate security of tenure, including protection from forced eviction. In accordance with General Comment No. 7 of the Committee, no eviction should lead to any person being made homeless. Furthermore, as reflected by Articles 3.1 and 27.3 of the Convention on the Rights of the Child, the right to housing is a specific consideration that should be taken into account when children are involved, and in taking such decisions regarding housing and children, the best interest of the child should take primacy.

In addition to Pemberstone's human rights law obligations, a number of other authoritative documents have established well-accepted norms relating to the behaviour of private actors with regards human rights. The United Nations Guiding Principles on Business and Human Rights, for example, have been endorsed by the UN Human Rights Council and represent the global authoritative norm for all States and companies to prevent, mitigate and address negative impacts on human rights caused by business activities. Under the UN Guiding Principles, businesses are required to, inter alia: "avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur" and must also "seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts." (Guiding Principle 13). Similarly, the Guiding Principles call on all corporate actors to undertake human rights due process in all of their activities in order to ensure that these are capable of respecting and fulfilling human rights. In undertaking human rights due process, the UN Guiding Principles require business enterprises to engage in meaningful consultation with affected groups and other relevant stakeholders (Principle 17) and to conduct human rights impact assessments (Principle 19).

Further to the UN Guiding Principles, we would also like to draw your attention to the Basic Principles and Guidelines on Development-based Evictions and Displacement, which note that where development of housing areas takes place, and prior to eviction notices being issued, "[a]ll potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have the right to relevant

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information, full consultation and participation throughout the entire process, and to propose alternatives that authorities should duly consider.” (para. 38) Equally, the Basic Principles hold that where evictions must take place as a result of development, the parties responsible for that eviction, must provide “just compensation and sufficient alternative accommodation, or restitution when feasible...” (para. 52). Furthermore, they affirm that evictions should never render anyone homeless, or leave them exposed to other violations of their human rights. When evictions do take place due to development, States should utilise the maximum of their available resources to ensure that other adequate housing is made available to those evicted. This “should be situated as close as possible to the original place of residence and source of livelihood of those evicted.” (para. 43) The Basic Principles and Guidelines also underline that business enterprises must respect the human right to adequate housing, including the prohibition on forced evictions, within their respective spheres of activity and influence. (para. 73)

I further call your attention the report on the financialization of housing and the right to adequate housing (A/HRC/34/51), written by our Global Director during her tenure as Special Rapporteur on the right to adequate housing, which contains several recommendations to address increased unaffordability and displacement of residents caused by those investing in residential real estate.

We once again express our serious concern regarding the impacts of Pemberstone’s planned eviction and demolition on the lives and livelihoods of the community at Wordsworth Drive and Sugar Hill Close and call on you to take immediate action, in line with your international obligations, to respect and protect the human right to housing for all residents in full.

We remain at your disposal should you wish to discuss this matter further and look forward to hearing from you with regards to our concerns. We intend to publish this letter publicly on 16th July 2021. Should we hear from you before this date we will publish both our letter and your response together upon receipt. If your response reaches us on or after 16th July 2021, we will publish it on the date of receipt.

Yours faithfully,

The Shift