



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

Case Reference : **LON/00AC/HML/2017/0003**

Property : **11 Richmond Road,
London N2 8JT**

Appellant : **Julia Black**

Respondent : **London Borough of Barnet**

Type of Application : **HMO appeal**

Tribunal Members : **Judge Nicol
Ms S Coughlin MCIEH**

**Date and venue of
Hearing** : **25th April 2017
10 Alfred Place, London WC1E 7LR**

Date of Decision : **26th May 2017**

DECISION

Decision of the Tribunal

The conditions attached to the licence issued by the Respondent in respect of the subject property shall be varied only to the following extent:

- (1) The maximum number of permitted households shall be increased to four.
- (2) It is clarified that the smallest room may be used for sleeping by a member or guest of a household occupying one or more of the other rooms but not as a single occupancy.

The appeal

1. The Appellant rents out the subject property, the former family home, as a house in multiple occupation. Following her application for a licence, Mr Kevin Gray, an environmental health officer, inspected the property on 11th October 2016. He issued the licence on 15th November 2016 but the Appellant objected to some of the conditions attached to the licence and appealed to this Tribunal. The appeal was heard on 25th April 2017 when the Appellant attended on her own behalf and the Respondent was represented by Mr Underwood, accompanied by Mr Gray and a fellow officer, Ms Livesey.
2. The subject property sits on the corner of Richmond Road and Chamberlain Road. It is a two-storey house with a rear garden and a covered storage area to one side. There are two reception rooms and a kitchen on the ground floor and three rooms and a bathroom/WC on the upper floor. The Tribunal inspected the property at midday on 18th May 2017.
3. The licence issued by the Respondent has the following relevant conditions:
 - (a) The maximum number of persons allowed to occupy the property is 5. This is due to the fact that the property has only one bathroom, not due to the sizes of the rooms discussed further below. The Appellant did not object to this limitation.
 - (b) The maximum number of households allowed to occupy the property is 3. This reflected the use being made by the four tenants when Mr Gray inspected. One of the rooms downstairs and the two larger rooms upstairs were used as bedrooms, one being occupied by a couple and the other two tenants having their own bedrooms. The smallest room, on the upper floor, measured by Mr Gray at 5.3m², was being used as a spare guest bedroom. The remaining downstairs room was being used as a common room. The Tribunal on inspection noted a similar pattern of use.
 - (c) The maximum occupancy of each room was specified as two for each of the rooms being used as bedrooms, save for the smallest room which was specified as zero.
4. The Appellant told the Tribunal that the smallest room was her bedroom when she used to live at the property with her family. She objected to the maximum occupancy for that room being specified as zero because she thought it could be used by one of a number of flat sharers, as had happened once in the past – on that occasion, to overcome the limitations of space, a chest of drawers had been placed on the landing outside the room door. She pointed out that such an arrangement allowed one member of a group of flat-sharers to pay a lower rent, a valuable commodity in the expensive London rental market. In particular, she wanted to give her renters the flexibility to

decide their own arrangements, as to whether there should be a communal room and, if so, which room that would be, and which rooms to use as bedrooms.

5. The Respondent's objection to the Appellant's proposals was simply that the smallest room is too small to let to a separate household. Mr Gray pointed to the Respondent's adopted standards which specified a minimum room size of 8.5m² – the smallest room is only 62% of that area. He explained in his witness statement that he did not regard the standards as conclusive but stated that he and Ms Livesey, "concluded that the boxroom was too undersized to be separately occupied, regardless of the other compensatory features in the property such as the size and availability of communal space elsewhere in the house, the size and condition of the house, that it was a shared house with the occupiers on a single tenancy agreement and that there would only be a maximum of four occupants." In relation to the argument that it would be a matter of choice for the occupant of that room, Mr Gray said in evidence that that would not necessarily be the case. He gave as an example when a flat sharer moves out and the person coming in is offered the smallest room as their only option. He said the room was too small to be used for all the things an occupier should expect from their own private space.
6. The Respondent did modify their position from when the licence was issued. So long as the smallest room was not used for a single occupancy, the Respondent has no objection to its use by a household occupying one of the other rooms, such as its current use as a guest bedroom or for a child. Also, they do not insist that one of the rooms be used as communal space so that the room currently used for that purpose may be used as a bedroom. On this basis, the Respondent accepted that the maximum number of households may be increased to four. The Appellant accepted in return that this change to the licence would be better than no change at all.
7. Having inspected the property, the Tribunal agrees with the Respondent's analysis, and for the same reasons. The licence should remain as it is, subject to an increase in the number of maximum permitted households to four and clarification that the smallest room may be used for sleeping but only by a member of or guest of a household occupying another room.

Name: NK Nicol

Date: 26th May 2017