



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

Case reference : **LON/00BE/HML/2018/0019 & 0023**

Properties : **(1) 134 Brayards Road, London, SE15 2BU
(2) 19 Relf Road, London, SE16 4JS**

Applicant : **Mr Trevor Hadjimina**

Representative : **In person**

Respondent : **London Borough of Southwark**

Representative : **Mr Beglan of Counsel**

Type of application : **Appeal against a refusal to grant an HMO licence under paragraph 31(1) of Schedule 5 to the Housing Act 2004**

Tribunal members : **Judge I Mohabir
Mr C Gowman BSc MCIEH**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **27 September 2018**

DECISION

Decision of the Tribunal

- (1) The decision made by the London Borough of Southwark on 16 July 2018 in respect of 134 Brayards Road, London, SE15 2BU and on 6 June 2018 in respect of 19 Relf Road, London, SE16 4JS not to grant a licence for a house in multiple occupation is confirmed. The appeals made by the Applicant are, therefore, dismissed.

Reasons for the Tribunal's decision

Introduction

1. The Applicant is the freehold owner of 134 Brayards Road, London, SE15 2BU and 19 Relf Road, London, SE16 4JS (“the properties”), both of which are houses in multiple occupation.
2. Since 2016, the Applicant has had a long history of involvement with the Respondent concerning the properties regarding various structures he had erected unlawfully from time to time in breach of planning requirements and also in relation to the level of occupation by the tenants.
3. A chronology of those events, which was helpfully prepared by Counsel for the Respondent, is annexed to this decision. At the hearing, the Applicant confirmed that there was no factual dispute about those matters. It is, therefore, not necessary to set out the relevant factual circumstances here again.
4. On 4 September 2017, the Applicant submitted an application to the Respondent for an HMO licence in respect of 19 Relf Road. On 5 September 2017, he made a similar application in respect of 134 Brayards Road.
5. On 6 June and 16 July 2018 respectively, the Respondent refused to grant a licence for the properties on the basis that the Applicant was deemed not to be a fit and proper person for the purposes of section 66 of the Housing Act 2004 (“the Act”) and had also been convicted of two offences under section 32 of the Act in 2014 (failure to comply with the terms of prohibition) regarding 19 Relf Road.
6. By applications dated 29 June and 6 August 2018, the Applicant sought to appeal the Respondent’s decision not to grant him an HMO licence for the properties. Both applications are based on the ground that his conviction will be deemed spent on 25 May 2019.

The law

7. Paragraph 34 in Part 3, Schedule 5 to the Act provides that:

“(2) An appeal –

(a) is to be by way of a re-hearing

(b) ...

(3) The Tribunal may confirm, reverse or vary the decision of the local housing authority”.

8. The discretion afforded to the Tribunal is a very wide one and is not subject to any prescribed statutory criteria set out in the Act. It is suggested, therefore, that the Tribunal must have regard to all the circumstances of any appeal on a case by case basis.

Hearing

9. The hearing of both appeals took place on 26 September 2018. The Applicant appeared in person. The Respondent was represented by Mr Beglan of Counsel.
10. The Applicant during the course of the hearing made a number of vague and irrelevant assertions or submissions as to the reasons why he did not appeal the prohibition orders made against him and speculated as to what the outcome might have been if he had done so.
11. The Tribunal heard evidence from Ms Baldiviezo, a Principal Enforcement Officer employed by the Respondent, as to the reasons why it had refused to grant him an HMO licence for the properties. She explained that the refusal to do so was based on her lengthy dealings with the Applicant (as set out in the chronology annexed hereto) and his history of non-compliance generally. The refusal was not just based on his conviction for failing to comply with the prohibition orders.
12. Having considered the Applicant's undisputed and long standing conduct, as set out in the attached chronology, regarding his non-compliance with planning requirements and the occupation generally of the properties, the Tribunal had little hesitation in concluding that he was not a fit and proper person within the meaning of section 66 of the Act to be granted an HMO licence for the properties.
13. Accordingly, the Tribunal confirmed the Respondent's decisions refusing to grant the licences.

Name: Judge I Mohabir

Date: 27 September 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

20.6.17	Site visit at Relf Road. H is advised to find a person who is fit and proper to apply for the necessary licenses. Initial deadline extended on multiple occasions, but no application forthcoming from a fit and proper person.	WS/16 WS/16-20
5.9.17	H submits application for licence re Brayards Road. Attached plans indicate 7 of the 8 rooms were being let, in breach of the Overcrowding Notice	WS/41
7.2.18	Site visit at Brayards Road. Rooms 7 and 8 are being let in breach of the Overcrowding Notice. H is living in room 5.	WS/42
21.5.18	Decision – proposed refusal to grant licence for Brayards Road and Relf Road	WS/44 C:48-55
16.6.18	H makes representation on proposed refusal	WS/44 C:58-59
9.5.18	Decision – refusal to grant licence for Brayards Road The decision notes that in addition to previous matters, H had committed a further offence by not declaring his convictions on the application form.	WS/45 153-163
29.6.18	Appeal received – 134 Brayards Road	
16.7.18	S refuses to grant licence for Relf Road	C:60-64
6.8.18	Appeal received - 19 Relf Road	

The Chronology

Date	Event	References
2016 - 2017	<p>H engages in further operational development above the extension – by creating a timber structure he calls a “caravan”.² He applies for retrospective planning permission, but that is refused. He appeals, and the appeal is ultimately dismissed. He refuses to remove it until injuncted³ under s.187B TCPA 1990.</p> <p>The judge identifies the breaches as flagrant. [85/15.1]. He concludes “<i>In the absence of an order I am concerned that [H] will continue to ignore planning controls in the most blatant way . . . the breaches [save one] . . . are both flagrant and prolonged</i>”.</p>	<p>WS/32-36</p> <p>C:83-84</p> <p>C:85/15.1 – 15.2</p>
1.12.08 c.	<p>Enforcement Notice (planning) served on H in relation to Relf Road, requiring him to remove parapet walls to each elevation of an extension</p>	WS/29
1.3.12 c.	<p>Enforcement Notice (planning) served on H in relation to Relf Road</p>	WS/29
1.3.12 c.	<p>S uses its powers to take direct action to remedy the breaches of planning control identified in the Enforcement Notices</p>	WS/31

¹ *Waltham Forest LBC v Khan* [2017] UKUT 153 (LC)

² HHJ Bird sitting as a DHCJ rejected that argument: 84/9-10. Photos appear at C:68-73

³ The injunction order is at C:74-79

1.3.12 after	H rebuilds the parapet walls that were the subject of direct action	WS/31
30.3.12	Six Prohibition Orders served re 19 Relf Road	C1-7 C8-14
19.5.14	App is convicted on three counts. Two relate to a failure to comply with terms of Prohibition Orders by allowing occupation of Bedsits 5 and 6 at the premises The third relates to a failure to comply with regulation 6 of the Management of HMO (England) Regs 2006 App appeals to the Crown Court but ultimately on 24.7.14 abandons his appeals [C:17]	WS/9, C:15 – XB/2 WS/11
13.11.14	Overcrowding Notice served re 134 Brayards Road	WS/37 D:88-92 - XB/22 -
19.1.15	Improvement Notice served re 19 Relf Road. The notice identifies x3 category 1 hazards (excess cold, crowding and space, and falls associated with baths) and a further x6 category 2 hazards	C:20a-20i - XB/6
23.1.15	FTT hears appeal against Overcrowding Notice	WS/38
27.2.15	FTT dismisses appeal against Overcrowding Notice in relation to rooms 6, 7 and 8 [D:106]	WS/39 D:105-120
24.9.15	Site visit at 19 Relf Road. Rooms 5 and 6 still occupied. Partition wall still present. Continuing breach of Prohibition Orders. H is notified of this continuing breach by email dated 25.9.15	C:18 – XB/4
2.10.15	S letter warning of risk of further prosecution	
7.6.17	App given from this date until 4.9.17 to arrange applications for a fit and proper person to be licensed	