



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

Case Reference : **CAM/34UF/HNA/2019/0007**

Property : **57 Victoria Road, Northampton NN1
5EQ**

Applicant : **Mr Raj Sharma**

Respondent : **Northampton Borough Council**
Representative : **Mr James Chadwick, Senior Solicitor**

Dates of Application : **11th April 2019**

Type of Application : **Appeal against a financial penalty –
Section 249A & Schedule 13A to the
Housing Act 2004**

Tribunal : **Judge JR Morris**
Mrs M Wilcox BSc MRICS
Mr N Miller BSc

Date of Directions : **13th May 2019**

**Date of Hearing
& Decision & Order** : **17th September 2019**

DECISION & ORDER

Decision

The Tribunal by consent of the parties, orders that:

1. The Appeal is dismissed, and
2. There is no order for costs.

Reasons

Background

- 1) The application relates to 57 Victoria Road, Northampton NN1 5EQ (the Property) and is in respect of a financial penalty issued to the Applicant by the Respondent under section 249A of the Housing Act 2004 for

failure to licence a house in multiple occupation (HMO) contrary to section 72(1) of the Housing Act 2004. The total amount of the penalty is £4,750 being £4,000 penalty and £750.00 costs.

- 2) Following investigations that were completed on 8th August 2018 a Notice of Intent was issued on 25th January 2019 giving the Applicant an opportunity to make representations by 26th February 2019.
- 3) The Applicant made representations on 8th March 2019 stating that the Property consisted of two flats, a two-bedroom flat on the ground floor and a four-bedroom flat on the first and second floors. As the Property was two properties, neither more than two storeys, he did not require an HMO licence.
- 4) The Respondent found from the evidence adduced that notwithstanding the representations made by the Applicant, the Property came within the meaning of a “house in multiple occupation” under section 254 of the Housing Act 2004.
- 5) A Final Penalty Notice was issued on 12th March 2019 and the Applicant applied to the Tribunal on 11th April 2019.
- 6) The appeal was to be by way of a re-hearing of the Respondent’s decision to impose the penalty and/or the amount of the penalty, but it may be determined having regard to matters of which the Respondent was previously unaware. Further details were contained in the Annex on the last page of the directions.
- 7) Immediately prior to the hearing on 17th September 2019, which was attended by the Applicant and Mr James Chadwick, solicitor for the Respondent, the parties reached an agreement as set out below.

The Parties CONSENT that the Tribunal:

1. UPON considering the Applicant’s appeal under section 249A of the Housing Act 2004 in respect of a Financial Penalty imposed by one final penalty notice dated 25th January 2019;
2. AND UPON the Applicant admitting the facts stated in the aforementioned notice, including the conduct to which it relates, being conduct within the meaning of section 72(1) and 234(3) of the Housing Act 2004;
3. AND UPON the parties having reached agreement in full and final settlement of the appeal;
4. AND UPON the Respondent agreeing, in consideration of the Applicant’s admission, in the exercise of its power under paragraph 9 of Schedule 13A to the Housing Act 2004, to reduce the total amount of the

aforementioned penalty of £4,750.00 and more particularly to reduce the penalty for the Applicant's conduct:

Under Section 72(1) of the Housing Act 2004 to £3,750;

5. AND UPON the Applicant agreeing to pay the aforementioned penalty by consecutive monthly instalments of £1,250.00 by direct debit, the first such instalment being payable on 25th October 2019 and thereafter on the 25th day of each of the following months until the penalty is paid;
6. AND UPON the Respondent, and without prejudice to its right to enforce the aforementioned penalty upon default of the above payment agreement, agreeing to accept the above payment;
7. AND UPON the Applicant agreeing, in consideration of the above that this appeal should be dismissed.
8. AND Upon hearing the Applicant and Solicitor for the Respondent

Orders that:

- 1. The appeal is dismissed**
- 2. There is no order for costs.**

Judge JR Morris

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.