



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

Case reference : **LON/OOBE/HML/2022/0008**

Property : **7 Middleton House, Lawson Estate,
Burbage Close, London, SE14EP**

Applicant : **Dilipkumar Patel**

Representative : **In person**

Respondents : **London Borough of Southwark**

Representative : **Mathew Feldman**

Type of application : **Appeal against license conditions**

Tribunal : **Judge Shepherd
Chris Gowman MCIEH**

Date of Decision : **7th June 2023**

Decision

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1. This is an appeal brought by Dilipkumar Patel (“The Appellant”) pursuant to Housing Act 2004, Schedule 5 . The appeal concerns the premises at 7 Middleton House, Lawson Estate, Burbage Close, London, SE14EP (“The

premises”). The premises consist of a split-level ground floor maisonette with four bedrooms, lounge, bathroom and WC. The Appellant is the leaseholder of the premises and has sublet them to separate households. The Respondents to the appeal are The London Borough of Southwark (“The Respondents”).

2. The appeal concerns a House In multiple Occupation (HMO) license renewal issued on 8th August 2022. The license limits occupation at the premises to three persons. The Appellant has let the premises to four people with effect from 6th July 2022. The reason for the limitation to three people is the size of one of the rooms – the First Floor rear bedroom. The room is 6.399 sqm which is below the room size requirements adopted by the Respondents. The Appellant alleges that the room size could be increased by moving the door. Previously the premises had a license for four people (License dated 23/9/16 which expired on 31/12/20).

3. The Respondents served a Notice of Intention to grant a license on 3rd May 2022. The draft property license attached to the notice limited occupation to 3 people and indicated that the first floor rear bedroom was 6.399 sqm and could not be occupied. The Appellant made representations. Amongst other things he stated that the room was 6.43sqm and the size could be increased to 6.54 sqm by moving the door. In response the Respondents said that the previous license allowed four occupants because the Appellant had promised to increase the size of the living room. They also stated that the room in question fell below 6.51 sqm and could not therefore be occupied according to the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018 and the fact that greater communal space could be provided was no longer relevant. The license was issued on 8th August 2022.

4. The Respondents inspected the premises on 13th April 2022 and the First Floor Rear Left bedroom was measured at 6.399 sqm. They maintain that moving the door would not have increased overall room size because rooms

are measured to include the whole floor area from wall to wall where the ceiling is higher than 1.5 m.

The law

5. The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licenses) (England) Regulations 2018 impose mandatory license conditions, one of which is to ensure that the floor area of any room in the HMO used as sleeping accommodation by one person aged over 10 years is not less than 6.51 square meters.

The hearing

6. The Appellant attended the hearing on the telephone and the Respondents attended on line. The Respondents were represented by Matthew Feldman of counsel. Evidence was given by Xenia Baldiviezo, Anne Marie Carty and Toyin Calfor for the council .
7. The Appellant maintained that he could increase the size of the room by moving the door. He also said that other local authorities had waived the mandatory requirement in relation to room size. He said the council were happy with the works he had done to increase the size of the lounge. He also challenged the measurements carried out by the council. Anne Marie Carty was not aware of other authorities waiving the room size requirement but was clear that Southwark could not do this as it would be breaking the law. She said room measurements were taken by laser from wall to wall.

Determination

8. The appeal must be dismissed. The room size requirements are mandatory. The room in question was below the mandatory requirement – we accept the

council's measurements. The Appellant did not satisfy us that moving the door would increase the size of the room such that it was no longer below the mandatory limit. There was no cogent evidence of this. In fact it seems likely that moving the door would have no effect on the room size when measured wall to wall.

Judge Shepherd

7th June 2023

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.

