



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

Case References : **LON/00AE/HBA/2022/0002**

Applicant : **London Borough of Brent**

Respondent : **Mr Jaydipkumar Rameshchandra Valand**

Application : **Application for Banning Orders under s.16
Housing and Planning Act 2016**

Members of Tribunal : **Ms H C Bowers MRICS BSc MSc
Mr A Harris LL.M FRICS FCI Arb
Mr S Wheeler MCIEH CEnvH**

**Date and Venue of
Hearing** : **14 June 2023 at 10, Alfred Place, London, WC1E
7LR**

Date of Decision : **9 August 2023**

DECISION

The Tribunal makes a Banning Order against the Respondent, for a period of five years, in the terms set out in the Order that accompanies this decision.

Hearing Arrangements:

(A) This was a face-to-face hearing at 10, Alfred Place, London, WC1E 7LR. The Tribunal was referred to a Bundle from the Applicant of 395 pages. The Respondent did not submit a Bundle but relied on two emails dated 23 and 30 May 2023. Reference to any document in this decision in respect of the Bundle will be set out with a prefix A for the Applicant's Bundle with the relevant page number or will be noted as being one of the Respondent's emails.

Background:

1. There is an application brought by London Borough of Brent (“Brent”), seeking a Banning Order under section 15 Housing and Planning Act 2016 (“the 2016 Act”). The Order sought, is to ban Mr Jaydipkumar Rameshchandra Valand (Mr Valand) from letting housing in England, from engaging in property management work and from being involved in companies carrying out any such activity. Brent also seeks a provision in the Banning Order that Mr Valand is banned from being involved in any bodies corporate under section 18(1) of the 2016 Act and makes reference to Sri Sai Group Limited.
2. The application was dated 14 July 2022 and received by the Tribunal on the same date. Directions were initially issued on 21 February 2023. Those set out the timetable for the parties to prepare and for a hearing on 14 June 2023.
3. The draft of the Banning Order sought is at **[A64]**. It is proposed that the ban is for a period of five years.

Statutory Provisions and Guidance

4. The statutory provisions relating to Banning Orders are contained within Chapter 2 of Part 2 of the 2016 Act and, to the extent relevant, are set out in Appendix 1 to this decision.
5. In summary, a local housing authority (LHA) may apply to this Tribunal for a Banning Order against a person who has been convicted of a Banning Order offence and who was a residential landlord or a property agent at the time the offence was committed.
6. Section 14 of the 2016 Act provides that a Banning Order means an order banning a person from:
 - (a) letting housing in England;
 - (b) engaging in English letting agency work;
 - (c) engaging in English property management work; or
 - (d) doing two or more of those things.
7. Section 15 requires the LHA to give the person a notice of intended proceedings before applying for a Banning Order:
 - (a) informing the person that the authority is proposing to apply for a Banning Order and explaining why;
 - (b) stating the length of each proposed ban; and
 - (c) inviting the person to make representations within a period specified in the notice of not less than 28 days.

8. The LHA must consider any representations made during that notice period and must wait until the notice period has ended before applying for a Banning Order. Notice of intended proceedings may not be given after the end of the period of six months beginning with the day on which the person was convicted of the offence to which the notice relates.
9. Section 16 provides that in deciding whether to make a Banning Order against a person, and in deciding what order to make, the Tribunal must consider:
 - (a) the seriousness of the offence of which the person has been convicted;
 - (b) any previous convictions that the person has for a Banning Order offence;
 - (c) whether the person is or has at any time been included in the database of rogue landlords and property agents; and
 - (d) the likely effect of the Banning Order on the person and anyone else who may be affected by the order.
10. Section 17 provides that a ban must last at least 12 months but may contain exceptions to the ban for some or all of the period to which the ban relates. The exceptions may also be subject to conditions. In addition, a person who is subject to a Banning Order that includes a ban on letting may not make an unauthorised transfer of an estate in land to a prohibited person. Nor can a banned person hold an HMO licence or a licence under Part 3 of the Housing Act 2004 in respect of a house. In addition, an HMO licence or Part 3 licence must be revoked if a Banning Order is made against the licence holder. Interim and final management orders may be made in cases where a Banning Order has been made and a property has been let in breach of the Banning Order.
11. Section 14(3) defines a “Banning Order offence” as an offence of a description specified in regulations made by the Secretary of State. The relevant regulations are the Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018 (“the 2018 Regulations”) which sets out the Banning Order offences in the Schedule to the Regulations. The 2018 Regulations only apply to offences committed after the coming into force of the regulations, on 6th April 2018.
12. For the purposes of this application, the following offences, in Item 3 of the above mentioned Schedule, constitute Banning Order offences, unless the sentence imposed on the person convicted of the offence is an absolute discharge or a conditional discharge:
 - (a) offences in relation to licensing of Houses in Multiple Occupation under section 72(1), (2) and (3) Housing Act 2004; and

(b) offences in relation to failure to comply with management regulations in respect of Houses in Multiple Occupation under s.234(3) Housing Act 2004.

13. The Tribunal has also had regard to the guidance from MHCLG entitled Banning Order Offences under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities, published in 2018 [MHCLG Guidance].

Hearing.

14. The hearing on 14 June 2022 was attended by Ms T Robson, the Chief Lawyer for the London Borough of Brent; Ms M Thakkar, a Private Sector Housing Enforcement Surveyor with the London Borough of Brent; Mr J Philip, a Senior Enforcement Officer from the London Borough of Brent and two observers from Brent, Ms Finnegan and Mr T Jemmot. The Respondent did not attend the hearing and was not represented. The Respondent's representative, LMS Solicitors, had informed the Tribunal by email on 23 and 30 May 2023 that the Respondent would not attend the hearing but was happy for the case to proceed on the basis of the Applicant's Bundle and on the statements made in the two emails.

Issues for the Tribunal

15. Given the Respondent's limited participation in this case, there have been no significant concessions. It may be taken from the Respondent's comments that he accepts that he was a residential landlord or property agent. Therefore, the issues for the Tribunal are whether the Respondent was convicted of a Banning Order offence and whether the Tribunal should exercise its discretion under section 16 of the 2016 Act to make a Banning Order and if so what Banning Order should it make?

Applicant's Case

16. The Applicant took the Tribunal through the various prerequisites for the making of a Banning Order. The Notice of Intent (the Notice), as required by section 15 of the 2016 Act, was given on 8 April 2022 [A185]. The Notice sought to prevent the Respondent from letting housing in England, engaging in English letting agency work, engaging in English property management work or doing two or more of those things. The Notice set out the reasons for the application and stated that the length of the Banning Order being applied for was 5 years. The Notice included provisions for the Respondent to make representations in respect of the Notice by 10 May 2022, being a period of not less than 28 days from the date of the Notice. It is stated that the Respondent did not make any representations [A49].

17. It was stated that the relevant offences committed by Mr Valand were:

That on or about 25 June 2021 at 75, Wembley Hill Road, Wembley, HA9 8BU:

- a) That contrary to section 234 of the Housing Act 2004, Mr Valand failed to comply with Regulation 4 of the Management of Houses in Multiple Occupation (England) Regulations 2006 (the 2006 Regulations),
- a. in that he failed to take all measures as are reasonably required to protect the occupiers of the HMO from injury in that all smoke alarms in bedrooms, common parts and kitchen had been covered.
 - b. in that he failed to take all measures as are reasonably required to protect the occupiers of the HMO from injury in that the ground floor kitchen fire door was broken and unable to provide protection in event of a fire.
 - c. in that he failed to take all measures as are reasonably required to protect the occupiers of the HMO from injury in that there was no BS5839 fire safety certificate on the date of inspection.
 - d. in that he failed to take all measures as are reasonably required to protect the occupiers of the HMO from injury in that there was no evidence of an emergency plan in place for tenants to follow in case of a fire.
 - e. in that he failed to ensure that all means of escape from fire in the said premises were free from obstruction in that the first-floor mezzanine hallway was obstructed with the internet router and a safety hazard for occupiers in the bedroom.
- b) That contrary to section 234 of the Housing Act 2004, Mr Valand failed to comply with Regulation 6 of the 2006 Regulations,
- a. in that he failed to take all measures as are reasonably required to protect the occupiers of the HMO from injury in that there was no valid electrical safety certificate at the time of the inspection.
- c) That contrary to section 234 of the Housing Act 2004, Mr Valand failed to comply with Regulation 3 of the 2006 Regulations,
- a. In that he failed to provide is information to the occupier in that
 - i. his name, address and any telephone contact number were not made available to each household in the HMO and/or
 - ii. such details were not clearly displayed in a prominent position in the HMO.
- d) That contrary to section 234 of the Housing Act 2004, Mr Valand failed to comply with Regulation 7 of the 2006 Regulations,
- a. in that he failed to ensure that common parts of the HMO were maintained in good and clean decorative repair in that there were old

appliances in the rear garden and this can attract and create pest infestation.

- b. in that he failed to ensure that common parts of the HMO were maintained in good and clean decorative repair in that the ground floor kitchen oven glass door was broken.
- c. in that he failed to ensure that common parts of the HMO were maintained in good and clean decorative repair in that all three shared kitchens on each floor were dirty and unclean.
- d. in that he failed to ensure that common parts of the HMO were maintained in good and clean decorative repair in that the first-floor kitchen sink has a leak and water is overflowing onto the workspace and washing machine.
- e. in that he failed to ensure that the common parts of the HMO were maintained in good and clean decorative repair in that the second-floor kitchen has broken doors and drawers.

18. The memorandum of entries showing the relevant convictions at the Willesden Magistrates' Court as at 20 January 2022 is provided at **[A169]**. The details are as set out in paragraph 17 above. Mr Valand pleaded guilty to all twelve offences and that was taken into account in imposing sentence. The total fine was £30,000 plus costs of £3,157.50 and a victim surcharge of £190.

19. There is a second memorandum of entries at Willesden Magistrates Court for 25 August 2022 for a further offence to which Mr Valand pleaded guilty. The fine was £5,000 with costs and 'fund victim services' of £1,190.

20. That offence was:

- a. That on 17 March 2022, contrary to section 238 of the Housing Act 2004, that Mr Valand supplied false or misleading information by stating that *'I don't act concerning letting of properties and property management in Brent or anywhere else'* in connection with Brent's functions under section 19 of the Housing Act 2004 (a section 19 Notice).

21. It was explained that this offence arose when Brent served a section 19 Notice on 25 February 2022. In his response to Brent, Mr Valand stated that in relation to unincorporated business of other type of property management, that he did not act in the letting of property and property management in Brent or anywhere else in the UK **[A183]**. However, Companies House records indicated that he was the secretary and director of Sri Sai Group Ltd from August 2019 **[A183]**. Although it is not a Banning Order offence, the conviction was unspent. The attendance note from that hearing stated Sri Sai Group Ltd was a real estate management company.

22. Mr Philip is a Senior Enforcement Officer. His witness statement is dated 24 March 2023 and is at **[A213]**. He gave evidence in relation to Mr Valand's conduct at 1, Napier Road, London, HA0 4UA.
23. It was accepted that Mr Valand was not the owner of the Napier Road property but was the manager. In 2013 and 2014 there had been complaints about overcrowding in the property with 30-35 people living in the property, which had 11 small rooms. A Notice of Entry was served on 9 September 2014 and an inspection took place eight days later. The officer inspecting did not see all the occupiers but had met a tenant who had been told to leave the property for a few days before the inspection.
24. The Private Housing Services Team received a referral from the UK Border Agency on 7 July 2016. There had been an inspection of the property and it was noted that there were "*4 to 5 bunk beds in each room*" and that these were beds made up of wood beams rather than bunk beds. It was stated that the officers had to withdraw as there was "*around 40 persons present*" and "*the occupiers were living in awful conditions*". It was also stated that there were only two bathrooms for over 40 people.
25. Mr Philip made an unannounced visit at 6:00am on 21 July 2016, under the provisions of sections 239 and 240 of the Housing Act 2024. He describes 1 Napier Road as a semi-detached house built in the 1920s. The house has a single storey extension to the rear main elevation and a lean to/shed in the rear garden. There were seven bedrooms on the ground floor (including the outside structure) and four bedrooms on the first floor. There was a kitchen on the ground floor and a bathroom with WC on the ground floor and another on the first floor. There is a rough sketch plan in the bundle that shows one room on the ground floor could only be accessed from another room used as a bedroom. The configuration of the accommodation would have meant that under the additional HMO licensing scheme the maximum persons allowed would be five persons or three households. Mr Philip and his colleagues spoke to twenty occupiers at the visit. All tenants confirmed that Mr Jay (aka as Mr Valand) was their landlord. There are details of who was in attendance during the inspection. The comments from the occupiers who were interviewed suggested that the house was shared between 23 and 27 occupiers who were not related. Some of the rooms had four to six bedspaces/mattresses and the list of the occupants indicated that in a few rooms there were four people in occupation. The photographs show cramped living conditions with limited storage and luggage, personal items, toiletries, microwaves and food were stored in the bedrooms. There was a lean to/shed in the garden, that could only be accessed by the back door. This seems to be of a timber/tarpaulin construction. It was occupied by a lady who had moved in four days prior to the inspection. On 4 August 2016 the UK Border Agency provided a list of 11 occupiers, who were not seen by Brent during their inspection on 21 July 2016. There had been follow up telephone calls to a couple of occupiers, who had been told to vacate the property.
26. The various issues relating to poor management included the manager's details were not made available to the occupiers and were not displayed at the property; items of luggage and furniture were located at the bottom of the stairs which obstructed the

means of escape from the first floor; part of the ground floor smoke detector was missing; the first floor smoke detector was not working; there was no notice indicating the means of escape in case of fire; room 4 was an inner room with inadequate fire separation and means of escape was through another bedroom; there were electrical items such as microwaves and fridge freezers in the inner room; no fire doors in the kitchen and some of the bedrooms; the locks on the bedrooms had 'hasp and staple' locks; no heat detection in the kitchen and no smoke detectors in the bedrooms; there was a reliance on extension cables increasing the fire risk; no firefighting equipment in the kitchen; the lean to/shed was of plywood/tarpaulin construction which was inadequate for fire protection and no electrical power and was reliant on an extension lead for power and a portable heater for heat; the fire escape for the lean to/shed had; there was by the kitchen and there was no fire hazard warning system; an operational washing machine was in the rear garden next to the lean to/shed, this was in a recess but was open to the rain at the front; there was a hole in the kitchen ceiling allowing fire to spread in the event of an outbreak; the cistern lid to the WC in the ground floor bathroom was missing and there was an accumulation of rubbish in the rear garden.

27. From interviews with the occupiers, it appears that none of the tenants had written tenancies, rent books or rent receipts. On 5 August 2016, Mr Valand stated that the property licence was not under his name and no documents exist with his name. At a PACE interview, Mr Valand admitted he collected the rent from the tenants and paid the rent to Property Hub Ltd. There was a further PACE interview with Mr Valand on 15 September 2016. At that interview, Mr Valand explained that he provided food to the tenants at the property and there were 25 tenants, most of whom paid £60 a week, four tenants paid £65 per week and one paid £70 per week. He collects the rent in cash and pays Property Hub £2,900 and the remaining rent of £3,600 per month is for utility bills and food. He paid £850 to the owner, Mr Shah, every six months for council tax. In response to the news of Brent's inspection, Mr Shah instructed the property be vacated and the keys returned. All of the tenants had moved out on 26 and 27 July and the keys were returned to Mr Shah on 31 July 2016. Mr Valand stated, but not under caution, that he lives and manages 99 Swinderby Road, London, HA0 4SE. He shared the property with 15 people (five couples and five children). He collected £3,000 per month and pays the licence holder £1,500 per month. The licence on display at the property, states that Mr Valand is the manager of 99 Swinderby Road.
28. The Mayor of London's Rogue Landlords and Agent Checker was checked on 22 March 2023 and it is the Applicant's position that Mr Valand is listed on that database, but that his name does not currently appear on the Public Register **[A316]**.
29. Ms Thakkar, whose role is in Private Sector Housing Enforcement has provided a witness statement dated 20 March 2023. Her witness statement sets out the background to the convictions relating to 75, Wembley Hill Road, Wembley, HA9 8BU. It was explained that the freehold owner of the property was Jagtar Singh Viridi, Navdeep Singh Viridi, Kamaljit Kaur Viridi and Jaspreet Kaur Ruprah. An application for a licence (presumably a HMO licence) was made by Mr Jagtar Singh Viridi but no

mention was made of Mr Valand's involvement. Ms Thakkar inspected the property in June 2021. Mr Valand was not present, but she was informed that Mr Valand was the agent/manger. Several breaches of the Management of Houses in Multiple Occupation (England) Regulations 2006 (the 2006 Regulations) were observed. In an email dated 28 June 2021, Mr Viridi confirmed that he let the property on an AST basis to Mr Valand [A143]. Mr Valand collected the rent and paid some utilities and bills. On 22 July 2021 Mr Valand confirmed that he collected between £3,300 and £3,900 per month and pays £2,500 to the landlord and pays the utility bills. All the tenancies to the occupiers are verbal.

30. In submissions, Brent considers that the convictions for 75 Wembley Hill Road were of sufficient seriousness to justify a Banning Order. For this property there were 12 offences with a fine of £30,000 and costs of £3,157.
31. There has been a history of poor property management as shown by the circumstances surrounding 1 Napier Road. This was an unlicensed HMO and occupied by over twenty people (and potentially up to 40 people living) living in cramped conditions with insufficient facilities, including a person living in a plywood and tarpaulin lean to/shed. The gross rent from the property could have been between £78,000 to £112,320. In addition to the significant overcrowding there were numerous breaches of the management regulations. It was submitted that despite the convictions being spent, that following Hussain and Others v LB Waltham Forest [2019] UKUT 339 (LC) the Tribunal could take account of the conduct. In the event that Mr Valand refutes the assertions made in respect of 1, Napier Road, Brent has indicated that it may make an application under section 7(3) of the Rehabilitation of Offenders Act 1974.
32. It is submitted that due to the various breaches of the management regulations at 75 Wembley Hill Road, that the level of harm to the occupiers was high and continuous. In particular with regard to the fire safety hazards. The lack of fire protection and other breaches of management regulations would have resulted in harm to the occupiers. Mr Valand has no regard to the welfare of the tenants. In addition, the Applicant's position is that because the tenants did not have written agreements, they were more exposed to illegal evictions and were not able to exercise their full rights. A Banning Order will protect future tenants from such poor management.
33. A Banning Order is appropriate for an individual who lacks the capability to properly manage residential property and has a lack of concern for his tenants' welfare.
34. Despite the history of the poor management at 1, Napier Road in 2016, Mr Valand was still employing the same management methodology in 2021 in relation to 75 Wembley Hill Road. The previous defects were drawn to Mr Valand's attention, and he still committed similar breaches of the management regulations. Mr Valand has provided false information in a response to a section 19 notice to the extent that he is involved with any incorporated or unincorporated business dealing with residential property management. Given his conviction of the section 19 offence, there is no evidence that Mr Valand will change his practices. It is submitted that a Banning Order for five years will be a powerful deterrent from Mr Valand offending again.

35. The imposition of a Banning Order would also send a clear message to other landlords about the expected standard of behaviour. This should deter others from committing similar offences.
36. Dealing with the points raised on the behalf of Mr Valand, it is noted that he has had legal representations. If it is said that he will no longer be involved in residential letting, then there will be no prejudice caused to him by the imposition of a Banning Order. However, it will provide some comfort to Brent that Mr Valand's poor management practices will cease.

Respondent's Case:

37. The Respondent, by his representatives, ML Solicitors, indicated that he did not wish to submit a Bundle but relied on two emails dated 23 and 30 May 2023. Those emails also indicated that he did not intend to attend the hearing nor be represented. Despite the Tribunal seeking clarity, the Respondent did not seek an adjournment of the hearing but was happy for the matter to proceed in his absence and with the benefit of the Applicant's Bundle and the two emails referred to above.
38. In the emails dated 23 and 30 May 2023 from ML Solicitors it stated that Mr Valand would not attend the hearing, that he had had medical treatment in India and provided a document showing treatment in April 2023. In relation to property management, it is stated that he no longer carries out any activities in relation to the letting and management of any property and he was only involved in managing one property, 75, Wembley Hill Road, and he is no longer involved in letting and management. Due to his level of English, he did not understand the questions that were put to him about his involvement in a company and had no intention of misleading the Local Authority. It is claimed that he has not persistently been managing sub-standard properties, that he is not a Rogue Landlord or a serious offender for whom the legislation is intended and as such the application should be dismissed. In the email of 30 May 2023, the Respondent's representative confirmed that he did not have any documents to submit in a Bundle.

Discussion and Determination:

39. Before a Tribunal makes a Banning Order, it must be satisfied that a number of conditions have been met. Those conditions are:
- a. that the Respondent has been convicted of a banning order offence;
 - b. that the Respondent is a 'residential landlord' or a 'property agent' at the time the offence was committed; and
 - c. that the Local Housing Authority has complied with Section 15 of 2016 Act, this required:
 - i. give the Respondent a notice of intended proceedings that the LHA proposes to apply for a banning Order and the reasons why;
 - ii. inform the Respondent of the proposed length of the proposed ban;
 - iii. invite the Respondent to make representations within a period, being not less than 28 days;

- iv. the LHA to consider any representations made under iii above;
- v. the LHA to wait until the period detailed in iii before applying for a Banning Order and
- vi. that the notice of intended proceedings under i, may not be given after the end of six months beginning with the day on which the Respondent was convicted of the offence to which the notice applies.

40. The Tribunal finds that all twelve convictions from 20 January 2022 in relation to 75, Wembley Hill Road, Wembley, HA9 8BU, were Banning Order offences as prescribed by the Housing and Planning Act 2016 (Banning Order Offences) Regulations (SI2018/216). Namely section 234 of the Housing Act 2004 - Failure to comply with management regulations in respect of Houses in Multiple Occupation.

41. The Tribunal finds that Mr Valand is either a residential landlord and/or a property agent at the time the offences were committed. There is an Assured Shorthold Tenancy (AST) [A143] that shows the landlord as Mr J Viridi and the tenant Mr Valand of 75, Wembley Hill Road. This seems to be a rent-to-rent agreement, whereby Mr Valand has a tenancy but then lets the property out to the occupiers. There is an email from Mr Viridi [A141] enclosing the relevant AST and a copy of Mr Valand's passport. That email confirms that Mr Valand collects the rent. There is also an email from Mr Valand [A165] that states he collects the rent.

42. The Tribunal accepts the evidence of the Applicant that Brent has complied with section 15 of the 2016 Act. The relevant Notice was served on 8 April 2022, and this was given within six months beginning with the day on which Mr Valand was convicted of the relevant offences, namely within six months from 20 January 2022. The Notice informed Mr Valand that Brent intended to apply for a Banning Order and explained why. It also stated that the period sought for the Banning Order was five years and invited the Respondent to make representations within a period, being not less than 28 days. We accept the Applicant's statement that there were no representations made by the Respondent. The period for any representations ended on 10 May 2022 and the application to the Tribunal, was made after this date (made on 14 July 2022).

43. Paragraph 3.3 of the MHCLG Guidance addresses the factors that a LHA should consider when deciding whether to apply for a Banning Order, and when deciding on the proposed duration of any order. The statutory requirements in s.16(4) are listed and in relation to section 16(4)(d) when considering the likely effect of an Order on the person who is to be the subject of the order, and anyone else that may be affected by it, regard should be had to:

- (a) harm caused to the tenant;
- (b) punishment of the offender;
- (c) deterring the offender from repeating the offence; and
- (d) deterring others from committing similar offences.

44. S16(4) sets out the factors which we **must** take into account. However, we do not consider this is an exclusive list and we consider that the Tribunal may take other factors into account. The Guidance is not binding but the Tribunal may take the Guidance into account and indeed the Tribunal attaches significant weight to its contents. Paragraph 1.7 of the Guidance states that Banning Orders are aimed at *“Rogue landlords who flout their legal obligations and rent out accommodation which is substandard. We expect banning orders to be used for the most serious offenders”*.
45. When considering the evidence in this case we need to consider the impact of the Rehabilitation of Offenders Act 1974 (the 1974 Act). We note that the convictions for 75, Wembley Hill Road were dated 20 January 2022 and were due to be ‘spent’ on 20 January 2023. However, the evidence is that Mr Valand had been convicted on 25 August 2023 for the section 19 offence. As such given the provisions of section 6(4) of the 1974 Act the 20 January 2022 convictions remained unspent until the 25 August 2022 convictions are spent on 25 August 2023. Accordingly, the Wembley Hill Road convictions are unspent as at the time of this decision.
46. Mr Valand has not made any submissions on the circumstances surrounding the activities at 1 Napier Road and has not refuted the account of the conduct as set out in Mr Philip’s witness statement. As such the Applicant has no need to rely on section 7(3) of the 1974 Act. Following the Upper Tribunal’s decision in Hussain, the Tribunal may and does take into account the evidence of Mr Philip in relation to the conduct at 1 Napier Road.
47. Under 16(4)(a) the seriousness of the offence of which the person has been convicted must be considered. Because of the section 19 conviction on 25 August 2022, the 20 January 2022 are unspent. We are satisfied that the seriousness of the January 2022 offences committed by Mr Valand is sufficient for the making of a Banning Order. The twelve offences did lead to a significant fine and this was no doubt reduced to reflect the Respondent’s guilty plea. However, it is the nature of the offences that has caused us concern. There were significant breaches of the 2006 Regulations. Healthy and Safety matters and in particular issues relating to fire safety are very important in multi-let properties. We are mindful of and are in full agreement with the Upper Tribunal in Aytan v Moore [2022] UKUT 27 (LC) where fire safety precaution deficiencies were regarded by the Upper Tribunal as a very serious matter. There were also issues relating to the repair and condition of the property that would have impacted on the quality of the lives of those who resided in the property.
48. There is no evidence of any previous unspent convictions as anticipated by 16(4)(b). However, as set out above, we are able to consider the conduct surrounding the circumstances at 1 Napier Road and Mr Valand’s involvement. The details provided by Mr Philip and uncontested by Mr Valand is a worrying set of circumstances. This is a property that if it had been licensed would have allowed the occupation by five persons or three households. The evidence is that there were in excess of 25 people in the property and may have been a significantly higher number of tenants. The described breaches of the management regulations are concerning, particularly

because of the overcrowding and cramped conditions and the fire safety risk to the occupiers. The occupation of the lean to/shed by a lady with access to electricity from an extension lead and heating by a portable heating is of high concern. These are serious issues. We note that the convictions in relation to 75 Wembley Hill Road, have similarities to the conduct of Mr Valand in 2016. It appears that Mr Valand has not taken any serious steps to review and improve his property management activities.

49. There has also been the 25 August 2022 conviction in relation to the section 19 notice. Although Mr Valand has provided an explanation for this conviction, this should have been taken into account at the time of the conviction or been the basis of an appeal, which it clearly wasn't.
50. With regard to section 16(4) (c), it is the Applicant's position that Mr Valand is listed on the Mayor of London's Rogue Landlords database, but that it is acknowledged that his name does not currently appear on the Public Register.
51. By section 16(4)(d) we must consider the impact of any Banning Order on the Respondent and upon anyone else who may be affected by the Order. Mr Valand's position is that he no longer carries out any activities in relation to the letting and management of any property. It is the Applicant's position that in those circumstances the making of a Banning Order would not have any effect on Mr Valand. We accept that submission. We also accept Brent's submissions that the making of an Order would have the positive effect of protecting potential tenants from Mr Valand's poor management practices.
52. The potential deterrent and punishment effect on the Respondent and the deterrent effect on other landlords/agents are factors that should be considered. We consider that the making of a Banning Order will act as a punishment to Mr Valand and that if he eventually returns to residential property management, that he will have a greater appreciation of his responsibilities and should ensure future compliance with the relevant housing standards and deter him from engaging in poor management practices in the future. By making this Banning Order we consider that it will send a strong message to other landlords/managing agents, that Brent takes a firm stance on poor and unsafe residential management practices. As such we consider that others will be deterred from similar poor practice.
53. Mr Valand has not provided any evidence nor made any submissions to rebut the case made by the Applicant. It is stated that due to his limited understanding of English he did not understand the questions that were put to him about his involvement in a company and had no intention of misleading the Local Authority. However, this is something that would have been taken into account on his conviction of the section 19 offence. He claims that he has not persistently been managing sub-standard properties, that he is not a Rogue Landlord or a serious offender. He seeks to have the application dismissed. Whilst Mr Valand makes these claims, we have no evidence from him that he is contrite or has taken any steps to review and improve his practices. We do not consider it appropriate to dismiss the application. Indeed, whilst we acknowledge that Banning Orders should be reserved

for the most serious offenders, we consider that this is such a case and as such we make a Banning Order in respect of the Respondent.

54. The Tribunal now goes onto determine the terms in which a Banning Order should be made. It is, of course, appropriate also to have regard to the proposals set out in the Notices of Intent served by Brent, but the Tribunal is not constrained by those proposals. Brent seek to ban the Respondent from residential letting, letting agency work and property management work. In consideration of all the circumstances of this case, we agree with the Applicant's position that Mr Valand should be banned from doing all three things.
55. As to the length of the order we note that the minimum period is 12 months but there is no upper limit. There may be circumstances when the relevant behaviour is so extreme that it would merit a significantly long or permanent ban on the activities. In this case Brent has proposed a ban for five years.
56. The proposal of five years needs to be measured against a scale of a minimum period of 12 months and a lifetime ban. In this case given the nature of the offences, the conduct of Mr Valand and his continuing offending in relation to the section 19 notice, we consider the issues are serious and warrant a Banning Order for a period of five- years is sufficient to ensure that the Banning Order will have the appropriate punitive effect on the Mr Valand and a real deterrent effect on him and other landlords/managing agents.
57. In conclusion, the Tribunal makes a Banning Order for a period of five years from the date set out in the Order. The Banning Order is attached to these reasons.

Tribunal Chair: Ms H C Bowers

Date: 9 August 2023

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).



**First-tier Tribunal
(Property Chamber)
Residential Property**

Tribunal Reference: LON/00AE/HBA/2022/0002
Applicant: London Borough of Brent
Respondent: Mr Jaydipkumar Rameshchandra Valand

**BANNING ORDER
(Section 16 of the Housing and Planning Act 2016)**

By this Order, JAYDIPKUMAR RAMESHCHANDRA VALAND of 99, Swinderby Road, Wembley, HA0 4SE

IS BANNED from:

1. Letting housing in England;
2. Engaging in English letting agency work;
3. Engaging in English property management work; or
4. Doing two or more of those things.

Mr Jaydipkumar Rameshchandra Valand **IS ALSO BANNED** from being involved in any body corporate that carries out any of the above activities. He may not act as

an officer of such a body corporate or directly or indirectly take part in, or be concerned in, its management.

This ban takes effect three months from the date of this Banning Order, namely they will last for a period of **FIVE YEARS** from 9 August 2023.

Signed: *H C Bowers*
Chair of the First-tier Tribunal
Date: 9 August 2023

NOTES:

- 1. A person who breaches a banning order commits an offence and is liable on summary conviction to imprisonment for a period not exceeding 51 weeks or to a fine or to both. Alternatively, a local housing authority may impose a financial penalty of up to £30,000 on a person whose conduct amounts to that offence.**
2. A person who is subject to a banning order that includes a ban on letting may not make an unauthorised transfer of an estate in land to a prohibited person. Any such transfer is void (see section 27 of the Housing and Planning Act 2016)
3. A breach of a banning order does not affect the validity or enforceability of any provision of a tenancy or other contract.
4. A person against whom a banning order is made may apply to the Tribunal for an order under section 20 of the Housing and Planning Act 2016 revoking or varying the order.
5. The expressions “English letting agency work” and “English property management work” have the meanings given to them by sections 54 and 55 of the Housing and Planning Act 2016 respectively.
6. The reasons for making this banning order are set out in a decision issued separately by the Tribunal.

APPENDIX 1

Statutory Provisions

Housing and Planning Act 2016

Chapter 2 – Banning Orders

Banning Orders: key definitions

14. “Banning Order” and “Banning Order offence”

- (1) In this Part “Banning Order” means an order, made by the First-tier Tribunal, banning a person from-
 - (a) letting housing in England,
 - (b) engaging in English letting agency work,
 - (c) engaging in English property management work, or
 - (d) doing two or more of those things.
- (2)
- (3) In this Part “Banning Order offence” means an offence of a description specified in regulations made by the Secretary of State.
- (4)

Imposition of Banning Orders

15. Application and notice of intended proceedings

- (1) A local housing authority in England may apply for a Banning Order against a person who has been convicted of a Banning Order offence.
- (2)
- (3) Before applying for a Banning Order under subsection (1), the authority must give the person a notice of intended proceedings-
 - (a) informing the person that the authority is proposing to apply for a Banning Order and explaining why,
 - (b) stating the length of each proposed ban, and
 - (c) inviting the person to make representations within a period specified in the notice of not less than 28 days (“the notice period”).
- (4) The authority must consider any representations made during the notice period.
- (5) The authority must wait until the notice period has ended before applying for a Banning Order.
- (6) A notice of intended proceedings may not be given after the end of the period of 6 months beginning with the day on which the person was convicted of the offence to which the notice relates.

16. Making a Banning Order

- (1) The First-tier Tribunal may make a Banning Order against a person who-
 - (a) has been convicted of a Banning Order offence, and
 - (b) was a residential landlord or a property agent at the time the offence was committed (but see subsection (3)).

- (2) A Banning Order may only be made on an application by a local housing authority in England that has complied with section 15.
- (3)
- (4) In deciding whether to make a Banning Order against a person, and in deciding what order to make, the Tribunal must consider-
 - (a) the seriousness of the offence of which the person has been convicted,
 - (b) any previous convictions that the person has for a Banning Order offence,
 - (c) whether the person is or has at any time been included in the database of rogue landlords and property agents, and
 - (d) the likely effect of the Banning Order on the person and anyone else who may be affected by the order.

17. Duration and effect of Banning Order

- (1) A Banning Order must specify the length of each ban imposed by the order.
- (2) A ban must last at least 12 months.
- (3) A Banning Order may contain exceptions to a ban for some or all of the period to which the ban relates and the exceptions may be subject to conditions.
- (4) A Banning Order may, for example, contain exceptions-
 - (a) to deal with cases where there are existing tenancies and the landlord does not have the power to bring them to an immediate end, or
 - (b) to allow letting agents to wind down current business.

18 Content of banning order: involvement in bodies corporate

- (c) (1) A banning order may include provision banning the person against whom it is made from being involved in any body corporate

that carries out an activity that the person is banned by the order from carrying out.

- (d) (2) For this purpose a person is “involved” in a body corporate if the person acts as an officer of the body corporate or directly or indirectly takes part in or is concerned in the management of the body corporate.