



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

**Case Reference** : BIR/00CS/HPO/2023/0010

**Property** : 13 High Street, Rowley Regis, West Midlands, B65 0DT

**Applicant** : Zakir Shah

**Respondent** : Sandwell Metropolitan Borough Council

**Represented by** : Mohammed Abdul-Jabbar, Solicitor, Sandwell MBC  
Jayne Leonard, Enforcement Officer, Sandwell MBC

**Type of Application** : Appeal against the Respondent's refusal to vary or revoke  
a Prohibition Order under the Housing Act 2004

**Tribunal Members** : I.D. Humphries B.Sc.(Est.Man.) FRICS  
P. Wilson BSc (Hons) LLB MRICS MCIEH CEnvH

**Date and Venue of  
Hearing** : 16 April 2024 at the First-tier Tribunal Offices, City Centre  
Tower, 5-7 Hill St., Birmingham, B5 4UU

**Date of Decision** : 23 April 2024

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**DECISION**

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1 The Tribunal dismisses the Appeal.

## REASONS

### Introduction

2 13 High Street, Rowley Regis is a House in Multiple Occupation ('HMO').

3 On 16 March 2023 the Council issued an Emergency Prohibition Order ('EPO') under section 43 of the Housing Act 2004. Clause 3 of the Order states:

'The Council with immediate effect prohibits the use of the residential parts of the Premises, namely rooms A-D, for the following purposes: **Sleeping or residing**. (Bold print as Order).

4 On 13 July 2024 The Council refused to revoke or vary the EPO as all the remedial works outlined in Schedule 2 of the Order had not been completed.

5 On 7 September 2023 the Council issued a second Notice refusing to vary or revoke the Order.

6 On 16 October 2023 the Applicant appealed to the Tribunal against the Council's refusal to vary or revoke the Order.

7 On 13 November 2023 the Tribunal issued Directions instructing the Council to submit its case by 4 December 2023 and Mr Shah to submit his case by 18 December 2023. The Applicant made no submission. The timetable stated there would be an oral Hearing at the Tribunal Office in Birmingham.

8 The case was listed for Hearing on 16 April and the parties were notified.

9 On 12 April 2024 (Friday) the Council applied to the Tribunal requesting postponement of the Hearing on the ground that it was minded to vary or revoke the EPO to an Improvement Notice but before doing so would need to inspect the property, which was not considered possible as there was only one working day before the Hearing. The request was copied to Mr Shah.

10 On 15 April 2024 (Monday) the Tribunal contacted Mr Shah who advised that he had been unable to consider the request but would reply to the Tribunal by 17.00 the same day. No reply was received by 17.00.

11 On 16 April 2024 (Tuesday morning), the Tribunal received an email sent by Mr Shah at 19.41 pm the previous evening, 15 April, advising that he would agree a postponement on condition that the Council changed the EPO to an improvement notice, failing which he asked for the Hearing to proceed as arranged at 13.00 on 16 April 2024.

12 On 16 April 2024 the Council's representatives attended the Hearing at 13.00 as arranged. At 13.10 the Tribunal Clerk telephoned Mr Shah who asked for a postponement to 14.00.

13 As the Hearing had been convened at Mr Shah's request, he had not sent any submissions and then failed to contact the Tribunal by 17.00 on 15 April 2024 as he had stated he would, the Tribunal found the request for postponement to 14.00 unreasonable and proceeded on the evidence before it.

## **Submissions**

14 Applicant

No Submission was received from Mr Shah.

15 Respondent

The Council sent written Submissions in accordance with Directions. It was represented at the Hearing by Mr Abdul-Jabbar, Solicitor and Mrs Jayne Leonard, an Enforcement Officer within the Council's Private Rental Sector Team.

Mrs Leonard gave evidence that she had in fact been able to carry out a partial inspection of the property on the morning of the Hearing and found a number of serious issues including:

- 1 In contravention of the EPO, two rooms were occupied, Flats A and B, and the occupiers had advised Mrs Leonard they had tenancy agreements.
- 2 The Fire Alarm panel was not working.
- 3 There were insufficient intumescent strips around internal doors to prevent fire and smoke transmission.
- 4 There were compartmentation issues, i.e. gaps between rooms where fire or smoke could pass.
- 5 A handrail was missing from the stairs.

## **Decision**

- 16 As the Applicant had not sent any Submissions in accordance with Directions, not replied to the Tribunal as offered by 17.00 on 15 April or attended the Hearing on 16 April at the pre-arranged time which had been convened at his request, the Tribunal proceeded to its Decision.
- 17 The Tribunal considers breaches of the EPO to be serious and particularly residential occupation in clear contravention of the Order without proper fire safety provisions in place. The other breaches add weight to the Council's case although they were only specimen breaches raised at the Hearing and not intended as an exhaustive list.
- 18 Having considered the evidence, the Tribunal refuses to grant the Appeal to revoke or vary the Emergency Prohibition Order.
- 19 This decision relates purely to the Application to appeal the Respondent's refusal to appeal or vary the EPO. Information available to the Tribunal on the occupation of the Property prior to the EPO being made is limited but given the content of the application to the Tribunal by the Respondent on the 12 April 2024 when seeking to postpone the Hearing, the Tribunal takes the opportunity to remind the Respondent of the licensing requirements set out in Section 55 of the Housing Act 2004 and the revised prescribed description in The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018

I.D. Humphries B.Sc.(Est.Man.) FRICS

## **Appeal Procedure**

In accordance with section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 51 of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, the Respondent may make further application for permission to appeal to the Upper Tribunal (Lands Chamber). Such application must be made in writing and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the First-tier Tribunal sent notice of this refusal to the party applying for permission to appeal. Where possible, an application for permission to appeal should be sent **by email** to [Lands@justice.gov.uk](mailto:Lands@justice.gov.uk). Alternatively, the Upper Tribunal (Lands Chamber) may be contacted at 5<sup>th</sup> Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710).