



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

Case Reference : **MAN/00DA/HMV/2021/0008**

Property : **RAILWAY HOUSE, BALM ROAD, HUNSLET,
LEEDS**

Applicant : **DONCASTER PROPERTY INVESTMENTS
LIMITED**

Respondent : **LEEDS CITY COUNCIL**

Type of Application : **Appeal against refusal of HMO licence: Housing
Act 2004, Schedule 5, paragraph 31**

Tribunal Members : **A M Davies
A Hossain, MRICS**

Date of Decision : **16 October 2024**

DECISION

The Respondent is directed to grant a licence for the use of Railway House, Balm Road, Hunslet, Leeds (“the Property”) as a House in Multiple Occupation on the following terms:

1. The licence is for a 5 year term commencing on 27 April 2023.

2. The maximum number of occupants permitted by the licence shall be 9. The maximum number of households permitted to occupy the Property shall be 9.
3. By no later than 15 April 2025 the Applicant shall complete alterations to the kitchens in the Property (“the alterations”) strictly in accordance with Planning Permission 24/01624/FU dated 4 June 2024 (“the Planning Permission”) and any relevant Building Regulations. The provision of laundry facilities shall be completed by no later than 16 November 2024. During the alterations so far as possible the kitchen, dining and laundry facilities available to the occupants shall, as a minimum, be maintained at the standard that was available to them on 27 April 2023.
4. The Respondent’s draft HMO Licence Conditions a copy of which is appended to this Decision shall apply to the licence subject to the matters set out at paragraph 5 below (“the Licence Conditions”).
5. The Licence Conditions shall include the following:
 - (a) There shall be included a requirement that the Applicant complies strictly with the Planning Permission;
 - (b) The Applicant shall ensure that the requirements imposed by the Licence Conditions are fully complied with by no later than 15 November 2024 save for Licence Conditions 36 b) i. - ix.
 - (c) Licence Conditions 36 b) i. – ix. shall take effect no later than 15 April 2025;
 - (d) The spaces provided for the storage of food and kitchen and cooking utensils (Licence Conditions 36 b) v. and vi.) may include drawers and must be capable of being individually locked by the occupant to whom they are allocated;
 - (e) The laundry facilities in the area designated for such on the plans referred to in the Planning Permission shall be provided no later than 15 November 2024; and
 - (f) Where the Licence Conditions state “from the date of commencement of this licence” that date shall be 16 October 2024.

REASONS

1. On 27 April 2023 the Tribunal reversed the Respondent's refusal to grant the Applicant an HMO licence in respect of the Property and issued a draft decision, inviting the parties to propose appropriate licence conditions on the basis that the Property would be licensed as a category A HMO with 9 occupiers comprising 9 different households.
2. On 30 May 2023 the Respondent filed proposals which included the draft Licence Conditions appended to this decision.
3. The Applicant obtained leave to delay its response to those proposals while it applied for planning permission for internal alterations to the Property. On 4 June 2024 planning permission was granted for the work required by the Tribunal's determination that the Property was to be licensed for 9 occupiers with increased shared kitchen and dining facilities and a laundry room. The Applicant responded to the Respondent's proposals on 26 July 2024. In its response the Applicant confirmed that it would "adhere to any minimum requirements contained in the relevant guidelines". The Respondent's guidelines for HMO licence holders are set out in the Licence Conditions and the document "Advisory Notes for Licensed Houses in Multiple Occupation" issued in March 2022.
4. On 26 September 2024 the Respondent filed further submissions.
5. The issues remaining between the parties are (a) whether the Tribunal can and should direct the order in which alterations to the Property are carried out and (b) the start date for a 5 year HMO licence.
6. The Applicant has not objected to the Respondent's proposed timescales for alterations to the Property. Provided that the facilities available to the occupiers as seen by the Tribunal on its inspection on 27 April 2023 are maintained while the alterations are being carried out (save to the extent that this is impossible) the Tribunal does not direct how or in what order the work to the Property should be addressed.

7. The Applicant requests that the HMO licence should take effect as from the date of this decision, ie final determination of the relevant licence conditions. It points to the Respondent's initial delay in dealing with the licence application and to the expense it has incurred in complying with the requirements of the Respondent and the Tribunal.
8. The Respondent argues that, the licence having been applied for originally on 2 October 2018, the agreed 5 year term should begin on that date. The reasoning is that the Applicant has had the benefit of letting 11 rooms in the Property since 2018, including a 17 month period since the Tribunal determined that the number of occupants should be limited to 9. Further, the Respondent says that it would be unfair to the Respondent and other HMO licence holders if the Applicant obtained, in effect, a licence for a total of 11 years having paid only one licence fee calculated on the basis of a 5 year term. Alternatively, the Respondent proposes that the licence should start on 20 April 2021 when it issued notice of intention to refuse the HMO licence application. That notice of intention has been deemed, with the consent of the parties, to be the date of actual refusal, which was reversed by the Tribunal on 27 April 2023 with the effect, the Respondent says, that the licence was granted on 20 April 2021.
9. The Tribunal notes that the delays in reaching this final determination have not been caused by the Applicant. Between April 2021 and the decision in *Waltham Forest LBC v Hussain [2022] UKUT 241 (LC)* the parties believed that the Applicant had an HMO licence for 11 occupants. The application for planning permission which has resulted in a 17 month delay between the Tribunal's interim decision of 26 April 2023 and this final determination of the licence conditions was necessitated by the Tribunal's requirement for internal alterations to the Property to reduce the number of occupants to 9 and improve the kitchen facilities. The Applicant appears to have dealt with the planning application expeditiously.
10. While it is true that the Applicant has the benefit of 2 additional rents pending implementation of this decision, the number of permitted occupants was not known prior to the Tribunal's interim decision of 27 April 2023. The licence is granted as from that date.

11. The Tribunal has noted previously that one reason for the occupants of the Property being reluctant to use the shared kitchens is likely to be their inability to store food and kitchen equipment securely. Storage of food in the occupants' rooms reduces the living space available in those areas. Secure storage in the shared kitchens is therefore provided for in the amended Licence Conditions.

APPENDIX

LICENCE CONDITIONS

Leeds City Council, being the Local Housing Authority, attaches the following conditions to the House in Multiple Occupation ("HMO") licence by virtue of s67 of the Housing Act 2004. The person having control of or managing an HMO shall not knowingly permit another person to occupy the HMO if the other persons occupation results in the house being occupied by more households or persons than is authorised by this licence. The maximum number of persons permitted by this licence is **9**. The maximum number of households permitted by this licence is **9**.

The Licence Holder and (if appropriate) a person on whom restrictions or obligations under a licence are imposed, is required:

Room Sizes

1. To ensure that:

- a) 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 metres;
- b) the floor area of any room in the HMO used as sleeping accommodation by two persons aged over 10 years is not less than 10.22 square metres;
- c) the floor area of any room in the HMO used as sleeping accommodation by one person aged under 10 years is not less than 4.64 square metres;
- d) any room in the HMO with a floor area of less than 4.64 square metres is not used as sleeping accommodation.
- e) Where any room in the HMO is used as sleeping accommodation by persons aged over 10 years only, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence;
- f) where any room in the HMO is used as sleeping accommodation by persons aged under 10 years only, it is not used as such by more than the maximum number of persons aged under 10 years specified in the licence;
- g) where any room in the HMO is used as sleeping accommodation by persons aged over 10 years and persons aged under 10 years, it is not used as such by more than the maximum number of persons aged over 10 years specified in the licence and the maximum number of persons aged under 10 years so specified. Any part of the floor area of a room in relation to which the height of the ceiling is less than 1.5 metres is not to be taken into account in determining the floor area of that room

2. To notify the local housing authority of any room in the HMO with a floor area of less than 4.64 square metres.

General

3. Where gas is supplied to the property, to produce to Leeds City Council annually for their

inspection, a gas safety certificate obtained in respect of the property within the last 12 months.

4. To keep any electrical appliances that are made available by the Licence Holder in the property, in a safe condition and to supply on demand a declaration as to the safety of such appliances.

5. To keep all electrical installations in the property, in a safe condition and to supply on demand a declaration as to the safety of such installations.

6. To keep any furniture that is made available by the Licence Holder in the property, in a safe condition and to supply to Leeds City Council, on demand, a declaration as to the safety of such furniture.

7. To supply to all the occupiers of the property, a written statement of the terms on which they occupy the property.

8. To notify Leeds City Council of any changes in circumstances relating to the property that may affect the validity and/or terms of the licence For example, these include changes as to the ownership or management of the property; a change in the person who is managing it (eg. the managing agent); anything that may affect the fit and proper person status of the Licence Holder or Manager, or any structural alterations etc.

9. To ensure that a copy of the whole of this licence including its conditions is displayed in a prominent position at the property, throughout the duration of the licence.

10. To attend within 6 months from the date of commencement of this licence (or by such later time as is agreed with the written consent of Leeds City Council), a training course approved by Leeds City Council and to produce on demand written evidence of such attendance.

11. The Manager of the property, if different to the Licence Holder, shall attend an approved course within 6 months from the date of commencement of this licence (or by such later time as is agreed with the written consent of Leeds City Council) and to produce on demand written evidence of such attendance.

12. To take all reasonable and practicable steps to prevent or reduce antisocial behaviour (ASB) by persons occupying or visiting the house, including, but not exclusively:

i. To put in place a written procedure that indicates how complaints relating to ASB will be dealt with. A copy of the procedure shall be supplied to the occupier(s) upon the commencement of their tenancy and to the Council on demand.

ii. To keep a written record of complaints received relating to ASB. The record shall include details of the complaint, together with the action taken to resolve the matter, and shall be retained for the term of this licence.

iii. Where ASB is sustained, regular or more than one occurrence (even if months apart), the Licence Holder shall take all reasonable and practicable steps to ensure it is effectively dealt with, up to and including eviction.

13. To ensure that:

a) the premises have suitable and sufficient provision for the storage and collection of waste arising from the household occupying the property, including the correct type and number of waste bins.

b) all waste collected from the premises complies with the Council's Waste Policy for the collection of waste from domestic premises.

Fire Safety

14. To ensure that smoke alarms are installed in the property within 1 month from the date of commencement of the licence and to supply to Leeds City Council, on demand, a declaration by the Licence Holder, as to the condition, positioning and safety of such alarms.

15. To supply to the authority, on demand, with a declaration by the Licence Holder as to the condition and positioning of any such alarm in condition 14

16. To ensure that a carbon monoxide alarm is equipped in any room in the house which is used wholly or partly as living accommodation and contains a fixed combustion appliance (excluding gas cookers) within 1 month from the date of commencement of the licence and to keep any such alarm in proper working order.

17. To provide a Fire Detection System, meeting the minimum requirements of a Type LD2 Grade

A Automatic Fire Detection System, within 3 months from the date of commencement of this licence.

18. To supply to Leeds City Council, on demand, a declaration by the Licence Holder, as to the condition and positioning of the Type LD2 Grade A Automatic Fire Detection System.

19. To ensure that the Type LD2 Grade A Automatic Fire Detection System is kept in repair and proper working order.

20. To provide a minimum 30 minute fire protected route of escape with FD30S doors with selfclosing devices to all rooms opening onto the route of escape (except for bathrooms and toilets containing no fire risk) within 6 months from the date of commencement of this licence.

21. To ensure that walls and partitions comprising the protected route are maintained in good repair to ensure a minimum 30 minute fire resistance can be achieved.

22. To ensure the fire protected route of escape is kept clear of any obstruction.

23 To provide a manually operated fire alarm system within 3 months from the date of commencement of this licence.

24. To undertake an annual routine visual and operational check of the electrical installation and to supply on demand to Leeds City Council a copy of this.

25. Unoccupied Basements

To provide 30 minute fire separation between the basement and that part of the ground floor which comprises the route of escape, including the staircase, soffit and spandrel with a selfclosing FD30S door fitted at the head of the basement stairs within 6 months from the date of commencement of this licence.

Occupied Basements

To provide a 30 minute fire separation between the ground floor and the basement including the staircase soffit and spandrel with a self-closing FD30S door fitted at the head of the basement stairs within 6 months from the date of commencement of this licence. **AND;**

To provide appropriate means of escape from all habitable basement rooms within 6 months from the date of commencement of this licence.

Shared Washing and Sanitary Facilities

26. Where all or some of the units of living accommodation in an HMO do not contain bathing and toilet facilities for the exclusive use of each individual household, to provide at least one bathroom with a fixed bath or shower and a toilet (which may be situated in the bathroom) where there are four or fewer occupiers sharing those facilities **AND** to ensure full compliance with this condition within 6 months from the date of commencement of this licence.

27. Where all or some of the units of living accommodation in an HMO do not contain bathing and toilet facilities for the exclusive use of each individual household;

a) to provide at least one separate toilet with wash hand basin with appropriate splash back for every five sharing occupiers; and

b) to provide at least one bathroom (which may contain a toilet) with a fixed bath or shower for every five sharing occupiers

28. To ensure full compliance with condition 27 within 6 months from the date of commencement of this licence.

Individual Washing and Sanitary Facilities

29. To provide every unit of living accommodation with a wash hand basin with appropriate splash back (except where kitchen facilities are provided for the exclusive use of the individual household and the kitchen facilities include the supply of a sink) and to ensure full compliance with this condition within 6 months from the date of commencement of this licence.

30. Where there are no adequate shared washing or sanitary facilities provided for a unit of living accommodation, to provide an enclosed and adequately laid out and ventilated room with a toilet and a bath or fixed shower, supplying adequate cold and constant hot water for the exclusive use of occupiers of that unit, either within the living accommodation or within reasonable proximity to the living accommodation and to ensure full compliance with this condition within 6 months from the date of commencement of this licence.

Washing and Sanitary Facilities - General

31. To ensure that all baths, showers and wash hand basins in the property are equipped with taps providing an adequate supply of cold and constant hot water.
32. To ensure that all bathrooms are suitably and adequately heated and ventilated within 6 months from the date of commencement of this licence.
33. To ensure that all bathrooms and toilets are of an adequate size and layout within 6 months from the date of commencement of this licence.
34. To ensure that all baths, showers, toilets and wash hand basins are fit for purpose and kept in proper repair and working order.
35. To ensure that all bathrooms and toilets are suitably located in, or within reasonable proximity to the living accommodation in the property.

Shared Kitchen Facilities

36. Where all or some of the units of accommodation within the HMO do not contain any facilities for the cooking of food, to provide the following;

- a) A kitchen suitably located in relation to the living accommodation and of such layout and size and equipped with such facilities so as to adequately enable those sharing facilities to store, prepare and cook food.
- b) Equipment listed below which must be fit for purpose and supplied in sufficient quantity for the numbers of those sharing the facilities.
 - i. One sink with an adequate supply of cold and constant hot water, draining board(s) and adequate waste drainage, for every three sharing occupiers;
 - ii. A cooker comprising of four rings or hot plates, an oven and grill, for every three sharing occupiers;
 - iii. 4 electrical sockets (2 doubles) plus an additional double socket for each additional household sharing the kitchen up to a maximum of 4 double sockets AND separate additional sockets for dedicated appliances, e.g. cooker or refrigerator;
 - iv. Worktops (0.5m² per user, up to a maximum requirement of 2m²) for the preparation of food;
 - v. Cupboards for the storage of all types of food (0.4m³ per user);
 - vi. Cupboards for the storage of kitchen and cooking utensils;
 - vii. Appropriate extractor fan, with extracted air vented to outside.
 - viii. Refrigerators with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers);
 - ix. Appropriate refuse disposal facilities;
 - x. Appropriate fire blanket sited away from the cooker.

37. To ensure full compliance with condition 36 (except for condition 36(b)(x)) within 6 months from the date of commencement of this licence.

38. To ensure full compliance with condition 36(b)(x) within 1 month from the date of commencement of this licence.

Individual Kitchen Facilities

39. Where a unit of living accommodation contains kitchen facilities for the exclusive use of the individual household, and there are no other kitchen facilities available for that household, to provide that unit with all of the following facilities/equipment:

- i. A sink supplied with an adequate supply of cold and constant hot water, adequate drainage and draining board(s);
- ii. A cooker comprising of two rings or hot plates, an oven and grill;
- iii. 4 electrical sockets (2 doubles);
- iv. Separate sockets for dedicated appliances e.g. cooker or refrigerator;
- v. Worktop (0.5m² per user, up to a maximum requirement of 2m²) for the preparation of food;
- vi. Cupboards for the storage of all types of food (0.4m³ per user);

- vii. Cupboards for the storage of kitchen and cooking utensils;
- viii. A refrigerator with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers);
- ix. Appropriate refuse disposal facilities and;
- x. Appropriate fire blanket sited away from the cooker.

40. To ensure full compliance with condition 39(except for condition 39(x)) within 6 months from the date of commencement of this licence.

41. To ensure full compliance with condition 39(x) within 1 month from the date of commencement of this licence.

Heating

42. To equip each unit of living accommodation with adequate means of space heating within 6 months from the date of commencement of this licence.

General

43. To ensure full compliance with all timescales specified in this licence and schedule (or by such later time as is agreed with the written consent of Leeds City Council).

44. To ensure that all facilities and equipment supplied in the property are fit for purpose and kept in repair and proper working order.

45. Without prejudice to any of the above conditions, to comply with all the requirements set out in the attached Schedule.