



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

**Case reference** : **CAM/00KG/HMD/2025/001**

**Property** : **25 Windermere Avenue, Purfleet, RM19  
1PZ**

**Applicant** : **Mrs Ebunoluwa Olugbodi**

**Respondent** : **(1) Thurrock Council  
(2) Mr Jide Olugbodi**

**Type of application** : **Appeal in respect of refusal to vary an  
HMO Licence**

**Tribunal  
member(s)** : **Judge Adcock-Jones  
Mr O N Miller BSc**

**Date of hearing and  
venue** : **28 August 2025 by CVP**

**Date of decision** : **01 September 2025**

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**DECISION**

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**Decision of the Tribunal**

1. The Application is dismissed.

**The Hearing**

2. The hearing was held on 28 August 2025 by CVP and was attended by the Applicant in person. The First Respondent was represented by Connor Austen Private Rented Housing Officer of Thurrock Council. The Second Respondent was not in attendance nor was he represented. The Tribunal proceeded in his absence.
3. The Tribunal was provided with significant papers entitled Bundles A and B and additional correspondence from the Respondents.

## **Background**

4. The Application is dated 7 August 2024 although it was sent to the Tribunal on the 6 August 2024. The Application was to appeal a decision of the First Respondent to serve an HMO declaration although the Tribunal understood it was intended and was treated as such for the purposes of this decision to appeal a refusal by the First Respondent to vary an existing HMO licence for the property.
5. The Applicant sought a variation of the licence to allow her to manage the property. The First Respondent's decision to refuse the request was communicated by notice dated 11 July 2024 explaining that the licence holder had been notified of the request and had installed his own manager Everest Estates.
6. The Second Respondent was added to the proceedings by way of the directions referred to below and the parties were encouraged to communicate with each other to try and reach an agreement or narrow the issues and whether it might be possible for parties to agree on a suitable independent manager to ensure that any proper costs are paid.
7. The Property is described as a three-storey house with five rooms, four toilets and three bathrooms, one kitchen, one utility room and one living room.
8. The HMO Licence was granted on 05 July 2023 and provided for a term of five years from 30 October 2022.
9. On 6 June 2024, the Applicant applied to be appointed as manager for the property as a fit and proper person and notice of the application was served by the First Respondent upon the Second Respondent inviting representations.
10. On 11 July 2024, the First Respondent confirmed in writing that representations received had been duly considered and a decision to vary the licence to appoint the Applicant as manager had been refused. The reason given for refusing to vary the licence was that the licence holder, the Second Respondent, had rejected the request for the Applicant to be appointed as manager and had proposed to install his own manager.
11. By way of correspondence on the same date, the First Respondent stated that under section 69 of the Housing Act 2004, it was necessary to vary the licence to appoint Everest Estates as the manager.
12. On 12 August 202, the First Respondent sent further correspondence confirming again that representations have been duly considered and it had not changed its decision in respect of the manager appointed and that the manager was deemed to be a fit and proper person for the purposes of management of the Property.

## **Directions**

13. Directions were issued on the 13 March 2025 by Judge David Wyatt which made provision the exchange of documentation and for bundles to be prepared to assist the Tribunal at the final hearing.
14. Further directions issued on 09 April 2025 and 08 May 2025 regarding provision of bundles and noting that filing piecemeal correspondence at the Tribunal was not appropriate.

## **Inspection**

15. The Directions issued did not provide for an inspection of the Property and no request for an inspection was made by the Parties. The Tribunal did not consider an inspection to be necessary or proportionate to the issue.

## **Issues**

16. In accordance with Schedule 5 of the Housing Act 2004, as set out below, the appeal is to be by way of re-hearing, but may be determined having regard to matters of which the council were unaware.

## **The Applicant's Case**

17. The Applicant stated that she and the Second Respondent jointly own the Property subject to a mortgage with Birmingham Midshires but she and the licence holder, the Second Respondent, are divorcing and he now lives in Nigeria. She stated that he is collecting rent from the tenants at the Property but not paying the mortgage and other costs and/or utilities.
18. In addition to the Tribunal's consideration of her documentation filed, the Applicant stated that her main concern was the well-being of the tenants and the property, compliance with law and ensuring that all bills and the mortgage was paid. The Applicant and Second Respondent had shared responsibility and had access to a business account since 2007 and that this account was the recipient account for all of the rent paid by direct debit by the tenants at the Property.
19. She had frequently attended to the tenants' welfare and request for assistance when the Second Respondent was in Nigeria and unresponsive to their contact.
20. On or around 1 March 2024, the Second Respondent withdrew rental payments from the business account and diverted them to his personal accounts which meant that the Applicant had to borrow at higher interest rates and had difficulty in meeting the mortgage payments.

21. In February 2024, she had removed him as director of the company they shared and he had entered into separate tenancy agreements with the tenants, which she described as secret.
22. The Tribunal was informed that a number of tenants had resided in the Property for around four or five years and one tenant around 5 or 6 months. She was concerned about the tenants' well-being and so she did not push the issue of the new tenancy agreements however she did inform the tenants that she did not agree to them.
23. The Tribunal was referred to various council tax bills, utility bills and enforcement notices relating to unpaid accounts for gas and water. The mortgage instalment is £1233.88 per month and rental income is £3200 to £3400 per month. Therefore there was no reason why the mortgage should be in arrears given the rental income that the Second Respondent would be receiving.
24. The Tribunal was referred to messages from the tenants who had been in contact with the Applicant as a reliable point of contact if there were any issues with the Property.
25. It was confirmed that whilst Birmingham Midshires had threatened possession proceedings, no possession proceedings had yet been commenced.
26. Birmingham Midshires wrote to the Applicant and Second Respondent on 5 February 2025 and 5 April 2025 to confirm that they withdrew their consent to the Property being let with the reason cited being that they, as borrowers, were on a payment holiday and were in arrears on the mortgage.
27. The Applicant stated that Birmingham Midshires always contacted her and she had contacted the First Respondent to say that the licence was going to be withdrawn because they did not have the mortgagor's consent to let the Property.
28. She referred to bank statements produced in the separate financial matrimonial proceedings which demonstrated that the Second Respondent was spending a significant sum on expensive luxury items rather than prioritising the mortgage and debts. She has sought advice from the police and been provided with a crime reference number as her name has been added to various utility accounts for the purposes of billing without her consent which she considered to be fraudulent behaviour on the part of the Second Respondent.
29. She considered that she should have been appointed as manager because she recognised the ongoing commitment and reliability that the tenants needed and noted her proximity of living approximately 1 minute away from the Property.

30. In answering the Tribunal's inquiries, the Applicant confirmed that she had not appointed herself as licence holder originally due to being the primary carer for their children and it being more reasonable for her to deal with their needs and for the Second Respondent to deal with the Property. Their relationship broke down at the end of 2022.
31. The Applicant considered herself to be the most relevant person under section 255 of the Housing Act 2004 and did not think that Everest Estates were an appropriate party to be appointed as manager. She referred the Tribunal to difficulties that she had personally experienced with Everest Estates in the past relating to a solely owned property and a jointly owned property relating to a deposit provided by a tenant which was not receipted and poor communication with vulnerable tenants.
32. She also did not consider it appropriate for a paid manager to be appointed as the money was best put towards payment of the mortgage and the bills and utility arrears. When asked whether she would be looking to take over as licence holder upon expiry of the licence in October 2027, this could not be answered at this stage given that the Property was subject to the ongoing financial matrimonial proceedings.
33. The Tribunal queried how practically the relationship between her as manager and the Second Respondent as licence holder would work given that they were going through a very acrimonious divorce and had difficulties in communication.
34. The Applicant stated that this would not create any issues and that she would collect rent fairly but could not at this point because she had been restricted access. She repeated her concern that the licence holder was out of the country and that her appointment would render it more efficient for her to pay the outstanding mortgage and bills.
35. The Applicant was referred to the briefing note from the First Respondent dated 21 May 2025 in which it was stated that they took no issue with Everest Estates and that the tenants were content with them.
36. The Applicant repeated the previous concerns she had that it was not appropriate for a paid manager to be appointed given that they were not sending her sums owed and the Second Respondent being out of the country.
37. The Applicant stated that they did not pay use the money to pay the outstanding sums, although the Tribunal noted that a managing property agent would not ordinarily be involved in such matters which would be the sole responsibility of the owners of the Property and to those account holders of the various utilities and creditor accounts and subject to the mortgage conditions.
38. The Applicant reiterated that she took issue that Everest Estates were not paying her although again the Tribunal noted that a managing property agent would not be involved in such particular disputes

between owners of the Property. Instead, there would be a right of recourse for a disgruntled owner to seek an account of any sums due to them through the County Court or indeed, as appeared to be taking place, through matrimonial proceedings and financial remedies proceedings.

39. In respect of contact, the Applicant stated that she does have direct contact with the Second Respondent and heard emailed him. Although he had not responded to her latest e-mail, she knew it had been received as she had not received a bounce back and she was able to send messages and also messages through their solicitors. The Tribunal expressed concern that there did not appear to be open channels of communication and again questioned the practicality of how her proposal to be appointed as manager would work. The Applicant stated that there would be no problem with communication.

### **The First Respondent's Case**

40. The Tribunal was referred to the briefing note of 21 May 2025 and its contents listed therein insofar as an inspection had taken place on the 14 April 2025.
41. During the visit the Property was found to be a reasonable state of repair with all fire protection measures working effectively. Utilities were working as required and an escape route was adequately protected with correct operation of fire doors.
42. A couple of tenants were present at the time of the visit and spoken to about the running of the Property. All said they were satisfied with their living conditions and had experienced no issues regarding cutting off of utilities or repairs not being undertaken. They were paying rent as required and were content.
43. The First Respondent had also spoken to Everest Estates and they confirmed they visit the property once a month and had no issues with non-payment of bills or payment from the Second Respondent for their services.
44. Accordingly, the First Respondent deemed the Second Respondent as being a fit and proper person for the purposes of holding an HMO licence. As he was not always present in the country, he had appointed Everest Estates as manager who were also considered to be a fit and proper person with no previous convictions. The First Respondent therefore did not consider that there were any grounds upon which they were to revoke or vary the HMO licence from its current terms.
45. The Tribunal queried whether the mortgage company's withdrawal of consent to let the Property would have an impact on the licence or licence holder. Mr Austen noted that the variation to the licence had been made prior to receiving that information in February and April this year and

that the council's opinion was this was a matter between the mortgagees and the mortgage company.

46. The First Respondent had written to all interested parties as part of the application and given 14 days for representations to be made including those by Birmingham Midshires who did not oppose the variation.
47. The Tribunal inquired whether if a mortgage company confirmed that consent was not given to let the property whether this would be a reason to refuse the licence and Mr Austen confirmed that this was not necessarily a reason to refuse the licence as it would ultimately be a question for the local council to decide upon. It would be a separate matter if the mortgage company took possession action against the mortgagees for breach of the mortgage.
48. The Tribunal noted that if the security of the tenants was at risk, then as part of any possession proceedings, the mortgage company was obliged to inform the local authority of a potential homelessness situation and that the tenants would also have a right of redress against their landlords in such circumstances.
49. In terms of recent action, unannounced visits had been attempted on the 22 and 27 August 2025; however, there was no response and access had not been gained. They had been unable to speak to any of the occupants.
50. These unannounced visits were not prompted by any concerns with the Property; it was more to seek an additional update if possible in light of the present proceedings before the Tribunal. There had been no further contact with Everest Estates.
51. Everest Estates had passed the First Respondent's fit and proper person test and no issues had been raised. The Tribunal inquired about the contents of this test and was referred to the First Respondent's licencing policy in which investigations were made into any unspent convictions or refusal of an HMO licence amongst other criteria. Declarations had to be made in the application by the licence holder and by the appointed manager who completed their own form. The contents are cross referenced and given information received, they made checks with Colchester Council as they were made aware that the licence holder held another licenced property under that council's jurisdiction.
52. Mr Austen noted that concerns the local authority would have with the manager would usually relate to complaints from a member of public, disrepair at the Property, any report from a tenant occupying the HMO or from any referral from a third-party service emergency service.
53. Everest Estates appears to be a trading name of Everest and Co limited under Companies House Number 06936983.

54. The Tribunal inquired whether the nature of the Applicant and Second Respondent's relationship would give any cause any concern to the council.
55. Mr Austen confirmed materially they would require clear lines of communication between the parties in order to ensure that the Property was kept in a proper and managed condition.
56. The tribunal inquired as to what other checks were made to ensure that someone was a proper and fit person under the Housing Act 2004 and were advised that various searches were made including Land Registry, council tax databases, Equifax, electoral services, trading standards database and the rogue landlord database.
57. Whilst the First Respondent would wish to ensure that bills were paid, it was not for them to enforce and would only be a cause for concern if it impacted upon the security of the tenants in the HMO. At this stage, the mortgage company has not commenced any possession proceedings nor had any creditors commenced action which would threaten that security.
58. Potentially such information could constitute a material change of circumstances to be considered under section 69 of the Housing Act 2024 when the licence was up for renewal but at this stage, the information provided by the Applicant would not result in a revocation or variation of the licence.
59. The principle concern for the council was who had control of the property and in this case it was clearly the Second Respondent as the party in receipt of rent and the manager appointed being Everest Estates.
60. The Applicant was given an opportunity to respond and noted that whilst letters were sent to both her and the Second Respondent, Birmingham Midshires only appeared to contact her and if that she did not have the mortgage company's permission to let the property out, she would have to serve notices to quit on the tenants in order to prove to the mortgage company that she was doing all that could be done but arrears had been outstanding on the mortgage for one and a half years.
61. She repeated that a manager was needed as someone who would not put the tenants at risk by having utilities cut off and that the Second Respondent as a licence holder was no longer a fit and proper person. Accordingly, the next person to be considered was her and she should therefore be so appointed as manager.

### **The Second Respondent's Case**

62. As noted above, the Second Respondent was not in attendance or represented at the hearing.

63. The Tribunal however took into account the various correspondence filed with the Tribunal with his position, which in summary, was that the application was objected to on the basis that the variation to the licence was appropriate and given that he was frequently in Nigeria, he had appointed Everest Estates as his manager to deal with the Property.

## **The Applicable Law**

### **Housing Act 2004**

#### **67 Licence conditions**

(1) A licence may include such conditions as the local housing authority consider appropriate for regulating all or any of the following–

- (a) the management, use and occupation of the house concerned, and
- (b) its condition and contents.

(2) Those conditions may, in particular, include (so far as appropriate in the circumstances)–

1. (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;
2. (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house;
3. (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;
4. (d) conditions requiring such facilities and equipment to be kept in repair and proper working order;
5. (e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;
6. (f) conditions requiring the licence holder or the manager of the house to attend training courses in relation to any applicable code of practice approved under section 233.

(3) A licence must include the conditions required by Schedule 4.

(4) As regards the relationship between the authority's power to impose conditions under this section and functions exercisable by them under or for the purposes of Part 1 ("Part 1 functions")–

(a) the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce category 1 or category 2 hazards in the house by the exercise of Part 1 functions and not by means of licence conditions;

(b) this does not, however, prevent the authority from imposing licence conditions relating to the installation or maintenance of facilities or equipment within subsection (2)(c) above, even if the same result could be achieved by the exercise of Part 1 functions;

(c) the fact that licence conditions are imposed for a particular purpose that could be achieved by the exercise of Part 1 functions does not affect the way in which Part 1 functions can be subsequently exercised by the authority.

(5) A licence may not include conditions imposing restrictions or obligations on a particular person other than the licence holder unless that person has consented to the imposition of the restrictions or obligations.

(6) A licence may not include conditions requiring (or intended to secure) any alteration in the terms of any tenancy or licence under which any person occupies the house.

## **69 Variation of licences**

(1) The local housing authority may vary a licence–

1. (a) if they do so with the agreement of the licence holder, or
2. (b) if they consider that there has been a change of circumstances since the time

when the licence was granted.

For this purpose "change of circumstances" includes any discovery of new information.

(2) Subsection (3) applies where the authority–

(a) are considering whether to vary a licence under subsection (1)(b); and (b) are considering–

1. (i) what number of households or persons is appropriate as the maximum number authorised to occupy the HMO to which the licence relates, or
2. (ii) the standards applicable to occupation by a particular number of households or persons.

(3) The authority must apply the same standards in relation to the circumstances existing at the time when they are considering whether to vary the licence as were applicable at the time when it was granted. This is subject to subsection (4).

(4) If the standards—  
(a) prescribed under section 65, and  
(b) applicable at the time when the licence was granted,  
have subsequently been revised or superseded by provisions of regulations under that section, the authority may apply the new standards.

(5) A variation made with the agreement of the licence holder takes effect at the time when it is made.

(6) Otherwise, a variation does not come into force until such time, if any, as is the operative time for the purposes of this subsection under paragraph 35 of Schedule 5 (time when period for appealing expires without an appeal being made or when decision to vary is confirmed on appeal).

(7) The power to vary a licence under this section is exercisable by the authority either—

(a) on an application made by the licence holder or a relevant person, or

(b) on the authority's own initiative.

(8) In subsection (7) “relevant person” means any person (other than the licence holder)—

1. (a) who has an estate or interest in the HMO concerned (but is not a tenant under a lease with an unexpired term of 3 years or less), or
2. (b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or
3. (c) on whom any restriction or obligation is imposed by the licence in accordance with section 67(5).

## **71 Procedural requirements and appeals against licence decisions**

Schedule 5 (which deals with procedural requirements relating to the grant, refusal, variation or revocation of licences and with appeals against licence decisions) has effect for the purposes of this Part.

### **SCHEDULE 5**

#### **LICENCES UNDER PARTS 2 AND 3: PROCEDURE AND APPEALS**

##### **PART 3**

##### **APPEALS AGAINST LICENCE DECISIONS**

### **32 Right to appeal against decision or refusal to vary or revoke licence**

(1) The licence holder or any relevant person may appeal to the appropriate tribunal against a decision by the local housing authority—

(a) to vary or revoke a licence, or

(b) to refuse to vary or revoke a licence.

(2) But this does not apply to the licence holder in a case where the decision to vary or revoke the licence was made with his agreement.

### **34 Powers of tribunal hearing appeal**

(1) This paragraph applies to appeals to the appropriate tribunal under paragraph 31 or 32.

(2) An appeal—

1. (a) is to be by way of a re-hearing, but

2. (b) may be determined having regard to matters of which the authority were unaware.

(3) The tribunal may confirm, reverse or vary the decision of the local housing authority.

(4) On an appeal under paragraph 31 the tribunal may direct the authority to grant a licence to the applicant for the licence on such terms as the tribunal may direct.

### **Reasons**

64. The Tribunal took into account all of the documentary evidence provided by the parties in advance of the hearing.

65. As findings of fact, the Tribunal was not satisfied of the evidence produced by the Applicant and notwithstanding her proximity to the property and previous assistance and interactions with the tenants, do not consider it appropriate for her to be appointed as manager to the Property.
66. The Applicant and the Second Respondent are clearly going through a very acrimonious divorce and their relationship has irretrievably broken down. Whilst the Applicant gave assurances that communication could be maintained between the two and this would not affect her management of the property, the Tribunal was not satisfied that practically her appointment would work, and that communication was clearly not open responsive.
67. The Tribunal noted the contents of the correspondence exchanged between the parties with the Tribunal in the present proceedings which gave an indication as to the level of discord between the parties and clearly demonstrated to the Tribunal that her proposal would not be feasible.
68. As the Tribunal noted, it does not have jurisdiction to consider any matters relating to unpaid mortgage instalments and special utilities or other creditor debts and that it would for an affected party to seek redress to account for any sums owed either by way contributions to outstanding bills or to account for their entitlement to rental income through the County Court or indeed through the Family Court through financial remedies in matrimonial proceedings.
69. The Tribunal also notes the Applicant's position that the mortgage had been in arrears for a year and a half and therefore Birmingham Midshires would have been aware of this at the time that they were consulted by the First Respondent for representations to the proposed variation and they did not in such circumstances oppose the variation.
70. The Tribunal was however satisfied that the First Respondent had carried out sufficient and detailed checks to establish that the Second Respondent was a fit and proper person for the purposes of holding an HMO licence. Given the practical difficulty that he was not present in the UK, he had sensibly appointed a manager being Everest Estates who had also been deemed by the council as a fit and proper person under the requirements of the Housing Act 2004.
71. The Tribunal therefore agreed with the First Respondent's submissions and accepted the evidence produced in support that there were no grounds upon which to revoke or vary the HMO licence from its current terms.
72. The Tribunal again repeats that given the irretrievable breakdown of the Applicant and Second Respondent's relationship, the appointment of an independent third party manager was an appropriate course of action.

## **Determination**

73. The Tribunal does not accept that the Applicant's various concerns amount to a sufficient reason for the licence to be varied as she proposes for the reasons set out above and therefore the application is dismissed.

**Name:** Judge Adcock-Jones

**Date:** 01 September 2025

### **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).