



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

TRIBUNAL

Property	32A Windsor Lane, Knaresborough, North Yorkshire, HG3 8DX
Applicants	Mr Michael Hassall
Respondents	North Yorkshire Council
Case number	MAN/36UD/HPO/2024/0004
Date of Application	7 March 2024
Type of Application	Appeal against Prohibition Notice Housing Act 2004 – Schedule 2 Paragraph 7(1)
Tribunal Members	K M Southby (Judge) W Reynolds (Valuer Member)
Date of Hearing	6 November 2025
Date of Decision	25 November 2025

DECISION

1. This is a decision by the Tribunal in relation to an appeal by Mr Michael Hassall (“the applicant”) against the decision by North Yorkshire Council (“the respondent) to serve a Prohibition Order, dated 7 February 2024 on him in relation to 32A Windsor Lane Knaresborough.

Background

2. The applicant is the owner and Landlord of property registered under title NYK232423. This property was originally a single house known as 32 Windsor Lane. The part of the property which is the subject matter of these proceedings was converted by Mr Hassall as an extension of number 32 by virtue of planning consent reference 03610/FUL issued by Harrogate Borough Council on 8th October 2001 which permitted “Conversion of attached workshop to form additional living accommodation with first floor extension and single storey rear extension (revised scheme)”. The property is referred to by both the Applicant and Respondent as 32A.
3. The Tribunal notes that the description of the proposed development contained within the planning application submitted by the Applicant and his agent identifies this to relate to ‘kitchen extension and conversion of domestic workshops into domestic activity areas’ with the plans accompanying the application showing two doors between No 32 and No 32A (one from the kitchen at No 32), a staircase and new entrance door (both in a different position on the plans to those now on site) and each of the ground and first floor areas simply identified as ‘Activity Room’.
4. However, the applicant has historically let the property for occupation as 3 individual bedrooms with shared use of a kitchen and bathroom all accommodated within No 32A as a self-contained property. One of the bedrooms is at ground floor level accessed via the kitchen. A stairway off the kitchen area leads to a first floor area created within the eaves of the building and therefore having steeply sloping walls. The first floor comprises a small landing area beyond which two rooms have been created, one to the front and one to the rear. The rear room has a window in the gable end of the property and two velux rooflights whilst the fenestration to the front room is confined to two velux roof lights. The property has therefore been occupied as an un-licensable House in Multiple Occupation.
5. The Respondent’s involvement stems from a complaint from a tenant of 32A and following an investigation the Respondent served upon Mr Hassall a Prohibition Order, an Improvement Notice and a Hazard Awareness notice. Over the following year it is common ground that Mr Hassall undertook works at 32A such that on 6 February 2025 the Respondent revoked the Improvement Notice and much of the Prohibition Order relating primarily to fire safety matters.
6. The applicant appealed pursuant to paragraph 10(1) of Schedule 1 and paragraph 7(1) of Schedule 2 of the Act by an application dated 7 March 2024. By reason of the preceding sequence of events, this appeal remaining for determination before the Tribunal therefore only concerns the

remaining part of the Prohibition Order which relates to the two upper bedrooms.

7. The Category 1 hazards at 32A Windsor Lane were identified as 'Crowding and Space'. The Prohibition Order states

'Both bedrooms on the first floor have apex ceilings and have very restricted head height, which means that the useable floor space is extremely small. The useable floor space in the first floor back bedroom measures at approximately 3.76m², when measuring from a head height of 1.9m (any lower ceiling, the HHSRS operating guidance suggests would be "low"). The Housing Act 1985, Part X, specifies that any room less than 4.6m² should not be occupied. In addition, the Technical Housing Standards state that in order to provide one bed space, a single bedroom has a floor space of at least 7.5m².

The first-floor front bedroom has a useable floor space of 6.47m² a 1.9m ceiling height. The Housing Act 1985, Part X, specifies that any room less than 4.6m² should not be occupied. In addition, the Technical Housing Standards state that to provide one bedspace, a single bedroom has a floor space of at least 7.5m².

Inspection

8. The Tribunal carried out an inspection of the property on 6 November 2025, which was attended by Mr Combe, Counsel for the Applicant and Mr Marcus Counsel for the Respondent. Mr and Mrs Hassall and a member of the Respondent's solicitors, Ms Butterfield also attended but remained outside for the duration of the inspection due to constraints of space.
9. It was common ground between the parties and apparent to the Tribunal upon inspection that all of the work listed in the improvement notice and prohibition order had been completed with, with the exception of the entry in respect of crowding and space which states

'Consult with the Council's planning department and the Council's Building Control team or an Approved Inspector listed on the Construction Industry Council Approved Inspectors Register. Obtain advice on the following works required to ensure that both first floor bedrooms comply with current Building Regulations and relevant planning permission. The bedrooms must provide an eye-level windows with reasonable view that is at least 1/10th of the floor area and minimum openable area of 1/20th of the floor area. One of the windows within each bedroom must meet the building regulations requirements for escape windows. The bedrooms must have a floor area that is at least 7.5m² and is at least 2.15m wide (when not taking into account any ceilings below 1.9m) that complies with current Building Regulations. Carry out all recommended work.'

The Law

10. The Housing Act 2004 (the Act") provides the framework for the assessment of the condition of residential properties and the remedies that can be used to enforce standards in respect of them.
11. The Housing Health and Safety Rating System (HHSRS) provides a rating system for hazards. The score will determine which category the hazard falls; a score over 1000 will be a Category 1 hazard and those below 1000 will be a Category 2 hazard.
12. Section 5(1) of the Act provides that if a Category 1 hazard exists then a local authority must take the appropriate enforcement action which can be an improvement notice, prohibition order, a hazard awareness notice, emergency remedial action, demolition order or declaring the area in which the premises are situate, a clearance area. The Act further provides that if only one course of action is appropriate, that course must be taken, or if there are two or more courses available, then the local authority must take the one deemed to be most suitable.
13. Section 12(2) requires the person upon whom the prohibition order is served to take remedial action in respect of any of the hazards that are specified.
14. Schedule 2, paragraph 7 (1) of the Act provides that a person upon whom a prohibition order has been served may appeal to the First-tier Tribunal within 28 days, beginning with the day upon which the improvement notice was served. The grounds for the appeal are set out in paragraph 8 of the Act. Paragraph 9 provides an appeal may be made against the decision by a local authority to vary or revoke a prohibition order.
15. Schedule 2, paragraph 11 provides for the First-tier tribunal to deal with any appeal by way of re-hearing, thus allowing it to consider the property at the date of the hearing and take into account matters of which the local authority may not have been aware at the date the notice was served. The Tribunal has the power to confirm, quash or vary the prohibition order.

The Hearing

16. The Hearing was attended by Mr Hassall, the applicant who was represented by Mr Combe of Counsel. The witness was Mr Entwistle, a partner with surveyors, Messrs George F White.
17. Mr Marcus of Counsel represented the Respondent, and their witnesses were Mr Mayers, Contract Supervisor who was a Private Sector Housing Officer with the Respondent at the relevant time and Ms Holden, the Respondent's Area Environmental Health Officer at the relevant time who

advised the Tribunal that she was now a Private Housing Standards team leader with the Respondent.

18. The Tribunal had the benefit of two bundles of documents, one from the Applicant containing their original and supplementary bundle comprising 153 pages and one from the Respondent containing the Respondent's original and supplementary bundle comprising 502 pages, and therefore page references within this decision refer to A for applicant's bundle and R for Respondent's. We also had the benefit of the skeleton arguments from Counsel for both parties. We considered the totality of the evidence in full even if we do not specifically refer to it.

Determination and Reasons

The Issues

19. There were three identified grounds of appeal upon which the Applicant based his application.

- a. No hazard re overcrowding or lack of space: R's approach to the calculation of space is wrong in principle
- b. R was wrong to issue a Prohibition Notice and not a Hazard Awareness Notice or Improvement Notice
- c. Notice relates to a property that does not exist

The Property does not exist

20. The Tribunal considered the third of these grounds initially.

21. It is stated on behalf of Mr Hassall that part of the property referred to by the Respondent as 32a was constructed by Mr. Hassall, pursuant to planning permission, as an extension of 32. It is submitted that '*title to and rights in real property are a question of hard-edged law and there is a single parcel of land known as 32, Windsor Lane. The Prohibition Notice is therefore a nullity and should be quashed on that additional ground*'.

22. Mr Hassall when questioned, gave oral evidence to the Tribunal that number 32 is one house and number 32A is another house, and that, they were in his view two separate properties.

23. It was explicitly accepted by both parties that 32A is a non-licensable HMO.

24. The Tribunal invited representations but was not provided with any reasons by those who represent Mr Hassall, as to why we should deviate from the definitions within the Housing Act 2004 which refers in s5 to a local housing authority taking the appropriate enforcement action it is considers that a category 1 hazard exists on any '**residential premises**'.

25. The Tribunal notes that within Part 1 of the housing Act 'residential premises' means:

- a. A dwelling

- b. An HMO
- c. Unoccupied HMO accommodation
- d. Any common parts of a building containing one or more flats

26. It being accepted by Mr Hassall that 32A is both a dwelling and an HMO, it follows that 32A is a residential premises for the purposes of the enforcement of housing standards under the Housing Act 2004. In our view any additional arguments about the payment of council tax, or the agreement or unevidenced conversations from former Council workers over a decade previously are both irrelevant and unpersuasive. 32A Windsor Lane is a residential premises within the definition of the Housing Act 2004 and therefore 'exists' for the purposes of the enforcement regime including the issuing of a prohibition order.

27. In our view this ground has no merit, and we do not consider it any further.

No hazard re overcrowding or lack of space: R's approach to the calculation of space is wrong in principle

28. 32A Windsor Lane was found by the Tribunal upon inspection to be a three-bedroom dwelling on two stories. There is one bedroom downstairs and two rooms upstairs in the eaves of the property which as a consequence have sloping ceilings. The shared bathroom is downstairs. The remainder of the downstairs is a long narrow room which has a kitchen area situated between the entrance to the property and the ground floor bedroom, which also accommodates a two-seater sofa within the through-way to the ground floor bedroom.

29. The Applicant submits that the correct approach to measurement of the upstairs rooms would be to use the 'Technical housing standards – nationally described space standard' (NDSS) and/or the RICS Code of measuring Practice which they say would lead to any area with a headroom of less than 1.5m being discounted and that by not doing so, and instead using 1.9m the Respondent has erred and that their approach is wrong in principle.

30. The Tribunal considered both the written and oral submissions of both parties. The Tribunal heard oral evidence in addition to having the benefit of written statements from Ms Holden Mr Mayers for the Respondent and Mr Entwistle for the Applicant. Mr Parkes was not available to provide oral evidence in support of his Witness Statement however, Mr Parkes Witness Statement primarily concerned the requirement for planning permission for any further external alterations to the property and the likelihood of approval thereof which the Tribunal did not consider to be significant to the matter at hand.

31. The actual measurements of the rooms in question are not in dispute however the applicability of those measurements is key. Within the

bundles, the Tribunal has been provided with measurements accompanying the Respondent's site notes; those taken on behalf of the applicants by Farrer Designs and Architecture 365 together with those referred to by Mr Entwistle, which were taken by his colleague and passed to him to form the basis of his report.

32. The Tribunal found the evidence of Ms Holden to be balanced and persuasive. Ms Holden was clear that her expertise was as an Environmental Health Officer tasked with implementing the Housing Health and Safety Rating System (HHSRS), and that her approach to measurement and sizing of rooms was unequivocally from this perspective rather from the perspective of a surveyor measuring according to RICS guidelines. Ms Holden sets out her rationale for using a threshold of 1.9m height in her witness statement, which we found to be a reasonable approach.
33. In contrast we note that whilst Mr Entwistle is a qualified RICS surveyor and therefore eminently well qualified to provide confirmation of the room measurements, and to appraise the property for valuation purposes he confirmed to the Tribunal that he did not have any professional expertise in HHSRS and had not visited 32A Windsor Lane prior to writing his report although he visited it subsequently. His report does not appear to consider the totality of the communal space for a tenant occupying one of the upstairs bedrooms, and this in our view, as confirmed by the oral evidence of Ms Holden, is a relevant factor when conducting an HHSRS assessment.
34. We are also unclear as part of a holistic assessment how he could reasonably have formed a view as to the angle of the roof in the rooms which he had not visited when writing his report, particularly from the point of view of the effect of the dimensions on the livability of the space and impact upon the tenant. Indeed, Mr Entwistle quite properly did not purport to have considered those risk-based evaluative aspects, which is wholly consistent with that not being his area of professional expertise.
35. We therefore accorded Mr Entwistle's evidence only limited weight in terms of the 'holistic' approach to which he refers in his report, both due to the limitations to his professional knowledge and expertise in HHSRS assessment and also having not visited the property before writing his report.
36. The Tribunal notes that whilst the Applicant submits at paragraph 9 of its skeleton that the Tribunal should have regard to paragraph f of technical requirement 10 of the NDSS it is silent in respect of paragraph i which states that
"the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area"

37. It is common ground across several different professionals who have measured the premises on behalf of the Applicant, and also Ms Holden, that this requirement is not met by either of the upstairs rooms at 32A Windsor Lane.

38. We reminded ourselves that the NDSS is government statutory guidance which sets a standard to deal with internal space within new dwellings. We were mindful that 32A Windsor Lane is not a new-build dwelling but we accept the evidence of Ms Holden that it is a reasonable standard which the Respondent can consider when undertaking HHSRS assessments. Indeed it is referenced within worked examples of HHSRS assessments contained within the HHSRS Operating Guidance and is a standard which the Applicant appears to invite the Tribunal to use in so far as it suits their purpose at paragraph f of technical requirement 10, but to disregard in respect of paragraph i.

39. We find the Applicant's arguments to be unpersuasive and to be an incomplete and imbalanced reading of the relevant guidance which the Respondent was entitled to take into account when exercising professional judgement.

40. We note that in any event the Respondent did not confine itself to the NDSS when carrying out the HHSRS assessment [A-146] and we accept the evidence of Ms Holden and Mr Mayers that the Respondent not only responded to a tenant complaint about the available space, but also considered Building Regulations 2010 Approved Document [A251] as well as the HHSRS Operating Guidance [A149]. In our view this is a reasonable and balanced approach and one which the Respondent was entitled to take. Indeed, it was in our view good practice to consider the actual reality of living and moving in these specific rooms, accounting for the steep slope of the roof, the very limited central 'corridor' or standing height.

41. We note that there was no specific challenge raised to the HHSRS assessment scoring [A149] in terms of the figure chosen by Ms Holden for Likelihood or the Class1-4 outcomes. It appears that the Applicant's dispute is with the underlying methodology for measurement, not the application of that methodology into the HHSRS scoring system. The rating calculated by Ms Holden was Band A with a score of 59982.

42. For the reasons set out above, we do not consider that the Respondent's approach to measurement was misconceived. Nevertheless, we also satisfied ourselves that the HHSRS assessment was appropriate in all other respects. We find that we are persuaded that the Respondent was correct to identify the hazard of overcrowding/lack of space and correctly calculated the risk by applying the HHSRS in a manner which was reasonable, balanced and which applied the principles of good practice including the psychological requirements, health effects and taking account of the number of persons who can be expected to share the spaces within a dwelling and whether or not they are expected to be part of the same household [A285]. We also accept that the difficulties presented by these

rooms in terms of space cannot be solved merely by joining the two rooms together as the minimum floor to ceiling height would still not be 2.3m for at least 75% of the Gross Internal Area and the psychological and health factors referred to above would still to a significant extent remain unresolved.

43. For these reasons we find that Ground 1 of the Applicant's application fails

44. Having concluded that a category 1 hazard exists at 32A Windsor Lane, and that it is of the severity calculated by the Respondent, we next considered whether the Respondent was wrong to issue a Prohibition Order.

45. We accept the Respondent's reason for serving a Prohibition Order as opposed other enforcement action, as it is not possible to carry out works at reasonable cost to remove or reduce the hazard in respect of space to an acceptable level within a timely manner. We note that the Respondent used lesser enforcement measures in respect of other hazards at the premises, but we find that a Prohibition Order was an entirely reasonable enforcement route given the serious nature of the hazard and the lack of any reasonable alternative in the foreseeable future.

46. For these reasons the Applicant has not persuaded us on any of the grounds of its application. **We find that the Prohibition Order should be upheld.**

47. **The appeal is dismissed.**