



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

Case Reference : **MAN/32UD/HML/2024/0600**

Property : **219 MONKS ROAD, LINCOLN, LN2 5JS**

Applicant : **SPERICLE LTD**

Respondent : **CITY OF LINCOLN COUNCIL**

Type of Application : **Appeal against HMO licence conditions, Part 3 of Schedule 5 to the Housing Act 2004**

Tribunal Members : **Tribunal Judge A M Davies
Tribunal Member S Kendall MRICS**

Date of Decision : **12 November 2025**

DECISION

Schedule 5 to the HMO Licence granted in respect of the Property on 12 September 2024 is deleted and replaced by the following:

Property Specific Conditions

The licence holder shall alter the ensuite shower and toilet amenities of unit 4 ("the ensuite") by

- (1) installing a new wall not less than 900mm in length at a right-angle to the wall adjacent to the architrave of the entrance to unit 4,
- (2) removing the existing door and installing a door to the ensuite at a right-angle to the new wall and opening outwards into unit 4,
- (3) installing a suitable wash hand basin complete with a tiled splash-back, a hot and cold water supply, and a trapped waste pipe connected to the drainage system,

(4) providing and fixing a suitable water closet pan (not fitted with an integral wash hand basin) with a hinged lift up seat and connected to an efficient flushing cistern and soil drain,

all work to be carried out in compliance with current building regulations

all to be left in good working order and all disturbed surfaces to be made good.

The ensuite should provide space for

- the WC, an area of 800mm width and 600mm depth from the front lip of the WC pan and
- the wash basin, an area of 1100mm width and 700mm depth from the front of the wash basin

Overlap of work space in front of the amenities can take place by up to 150mm where two amenities are next to each other

All works to be completed within 2 months of the date of this order.

REASONS

1. The Applicant owns 219 Monks Road (“the Property”), an HMO over three floors containing 8 let units and, on the ground floor, a shared kitchen and dining space. The Property was licensed as an HMO in 2018, and following expiry of that licence a new HMO licence was issued to the Applicant on 12 September 2024. The new licence included conditions at Schedule 5 which required the Applicant
 - to remove the ensuite toilet and shower in unit 4,
 - to move the entrance door to unit 3 further back into the room, so that the former unit 3 ensuite (toilet and shower) could be accessed from the landing,
 - to provide a toilet with wash hand basin with access from the landing in the space previously occupied by the ensuite of unit 4.

As a result of these changes, the doors of both toilet facilities were to open on to the landing at the top of the first flight of stairs in the Property and the occupiers of units 3 and 4 would share those facilities.

2. On inspection of the Property prior to grant of the 2024 HMO licence, Mrs Cawthra, the Respondent’s Housing Standards and Enforcement Officer, considered the ensuite facilities for unit 4 to be so cramped as to represent a risk to the physical and mental health of the tenant. On checking the Respondent’s records, she and her colleagues decided to impose licence conditions in Schedule 5 to the licence, which they believed

would represent a return to the original configuration of units 3 and 4, with shared facilities, as set out in the 2018 HMO licence. The Respondent's current officers were not involved in the grant of the HMO licence in 2018 but discovered in 2024 that the Applicant had altered the Property so as to create ensuite facilities without informing the Respondent, contrary to the mandatory conditions of the licence.

3. The Applicant did not approach the Respondent with any alternative proposal on receiving a draft of the licence, but following grant of the licence it appealed to the Tribunal against the Schedule 5 conditions on the grounds (1) that tenants had a strong preference for ensuite facilities, (2) that the small ensuite in unit 4 had been used by various tenants without difficulty for some years, and (3) that the configuration of the rooms had been approved by the Respondent's planning department and by Building Control when the Applicant converted the building in 2018. The Applicant also referred to risks associated with doors from the two bathrooms opening on to the landing at the top of a flight of stairs.

INSPECTION

4. The Tribunal inspected the Property prior to the hearing on 12 November 2025. They were accompanied by Mr Vaddaram, director of the Applicant, the Applicant's property manager, Mrs Ward, solicitor for the Respondent, Mrs Cawthra and Mr Savage the Respondent's Housing Standards and Enforcement Team Leader.
5. The shared kitchen and dining area was inspected briefly, and the Tribunal then viewed units 3 and 4 with particular regard to the size of the unit 4 ensuite and potential alternative positions for the door to unit 3.
6. During the inspection, the Tribunal noted that unit 4, including the ensuite, was situated 2 steps up from the first landing at the top of the stairs, and was therefore at a higher level than unit 3 and its ensuite. The difference in floor levels and its significance had not previously been noticed by the Respondent's housing officers. It was unclear whether the floor of the unit 4 ensuite had originally been at the same level as unit 3 (as indicated in the floor plan prepared for the 2018 HMO licence) and had been built up to the level of unit 4 during building works after October 2018. The Tribunal noted that the Applicant had built an extension to the Property (which altered the shape of unit 4) and reconfigured the rooms in or soon after 2018 so that

the let units did not reflect the 2018 HMO licence plan. These alterations had the approval of Building Control but were not discussed with the Respondent's housing team. The alterations meant that each of the 8 let units in the Property was provided with an ensuite bathroom. Apart the issue with the ensuite at unit 4, the Respondent's housing team did not object to the unauthorized changes.

THE HEARING

7. The Applicant was represented at the hearing by Mr Vaddaram. Mrs Ward represented the Respondent, for whom Mrs Cawthra and Mr Savage gave evidence. In response to the Applicant's questions, they explained that the HMO licence conditions (including minimum space requirements) were determined under the provisions of the Housing Act 2004 and in accordance with the Respondent's HMO Licensing Adopted Scheme, which contained guidance for the use of landlords. Mrs Cawthra explained that although the Respondent's space standards were similar to the British Standard 6465 used by Building Control, the British Standard did not apply to HMO licensing. She said that HMO licensing was concerned not with construction standards but with the physical and mental safety of occupants, and that while individual officers might take slightly different approaches in any particular case, the Adopted Scheme was designed to ensure consistency so far as possible given that every property is different.
8. Mrs Cawthra explained in her written statement and at the hearing that in her view the small basin forming part of the WC in the ensuite was at best suitable for hand-washing, although there was insufficient space for a larger person to access it from the side of the WC. She considered that it was unsuitable as a bathroom facility for general washing, teeth cleaning, shaving etc. Further the room measured 1.2ms and was so cramped that there was no space for drying after a shower or dressing without opening the door. She concluded that there was a danger of injury through collision, strain and mental stress, as well as insufficient space for effective dispersal of steam from the shower. The heated towel rail, she thought, could also represent a hazard in the small space.
9. In response, Mr Vaddaram relied on the agreements he had reached with Building Control officials in 2018 when he had been configuring units 3 and 4. He had originally suggested that the unit 4 ensuite should be a wetroom to avoid the need for

a shower cubicle, but Building Control had rejected this and agreed to the current layout. No injuries had been reported since the room was occupied. All tenants, he said, preferred to have private toilet, shower and washing facilities. The Applicant's preference was to keep the unit 4 ensuite as it was.

DISCUSSION

10. In view of the discovery that the unit 3 and unit 4 bathrooms were on different levels, the Tribunal chose to consider with each of the parties a number of alternative scenarios which might be adopted if the Tribunal, after deliberations, were to agree with the Respondent that the ensuite at unit 4 was too small for safe use. The alternatives considered were as follows:

- (1) Units 3 and 4 would remain as they are but a separate wash hand basin would be provided in unit 4, outside the ensuite.

This was rejected on the grounds that a basin would further clutter a bedroom that is already very small, at 9.3ms. Mrs Cawthra thought that it might also add to the problem of humidity, and it did not address the lack of space in the ensuite for drying and dressing.

- (2) The door to unit 3 would be moved back into the room so that the current unit 3 ensuite could become a shared shower room. The shower would be removed from the unit 4 ensuite. providing sufficient room for a toilet and wash hand basin.

Mr Vaddaram strongly opposed any solution that would involve tenants sharing a shower room.

- (3) The current unit 4 ensuite would be accessed from the landing as proposed by the Respondent and the shower would be removed from it. The door to unit 3 would be moved back so that its ensuite could be accessed from the landing. Units 3 and 4 would share the two facilities.

In order to access the newly-created toilet two steps up from the landing would be required. The door would either have to be a concertina door, or to open out on

to the stair-head. The steps would not leave enough room for a WC and wash hand basin in the remaining space.

(4) The current unit 3 ensuite would be divided in half. Half would be converted to an ensuite toilet and wash hand basin with the creation of a new door into unit 3. The other half would contain a shower to be shared by units 3 and 4. The current unit 4 ensuite would have the shower removed.

Again, Mr Vaddaram was opposed to a solution which required tenants to share a shower. This solution would be expensive, and it was by no means clear that there would be sufficient space for the creation of a shower room and separate toilet by dividing the unit 3 ensuite.

(5) The ensuite in unit 4 would be enlarged by the removal of the door, the creation of a new wall and door to form an L-shaped ensuite which would provide room for a wash hand basin. Unit 3 would remain unaffected and there would be no sharing of facilities.

The Respondent's representatives carefully considered the effect this would have on unit 4 and on the space available generally in the Property. The proposal would work if the wardrobe, which the tenant had repositioned in the "corridor" ahead of the unit 4 entrance, was removed. Mr Vaddaram said that he planned to create inbuilt storage in the alcove area of the room where the wardrobe had originally been positioned. The Respondent thought that the proposal would reduce space in unit 4 to about 8.75ms plus the ensuite, including the narrow entrance area that would be created by the new wall. Given the small floor areas of other units in the Property, this would require a further compromise in terms of the size of the shared kitchen and dining area. The useable area there is affected by a partial division of the room, which limits seating space. After considering this, Mrs Cawthra and Mr Savage indicated that they were prepared to accept the proposal, if it was adopted by the Tribunal, as not ideal but, in view of the difference in floor levels which had now come to light, probably the best solution.

11. The only other option, suggested by Mr Vaddaram himself, would be to close off unit 4 as a lettable unit. The Respondent did not take up this proposal, which involves some difficulty in policing and enforcement.

FINDINGS

12. The Tribunal finds that the unit 4 ensuite is too small for safe use by the occupant. The size of the room is inadequate for personal hygiene, drying and dressing, and presents risks in terms of collisions, burns from the wall heater, physical strain and mental stress.
13. Of the proposals canvassed at the hearing following discovery of the difference in floor levels between the existing ensuites of units 3 and 4, the proposal described at paragraph 10(5) above appears to be the only practical solution. Consequently Schedule 5 of the HMO licence is replaced with the wording in this order. The Applicant's intention to provide adequate inbuilt storage in unit 4 is noted as part of the solution.