FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00DA/HPO/2025/0601**
Property	**:**	**FLAT 1, 1 CRANBROOK AVENUE, LEEDS, LS11 7AX**
Applicant	**:**	**MOHAMMED ABID ZAMAN**
Respondent	**:**	**LEEDS CITY COUNCIL**
Type of Application	**:**	**Appeal against Prohibition Notice, paragraph 7, schedule 2 to the Housing Act 2004**
Tribunal Members	**:**	**Tribunal Judge A Davies** **Tribunal Member J Jacobs**
Date of Decision	**:**	**8 October 2025**

DECISION

The Prohibition Order dated 19 December 2024 is quashed.

REASONS

BACKGROUND

1. The Applicant is the freehold owner of a three storey end-terrace house known as 1 Cranbrook Avenue, Beeston, Leeds. Prior to the Applicant's ownership the property was converted to 4 residential units. For some 20 years until August 2025 the ground floor front room ("Flat 1") was let to the same tenant. Flat 1 has a splay bay window and measures 14.7m2 or thereabouts. Within Flat 1, the Applicant provided a kitchen area.

2. Flat 1 was not self-contained, in that it had no bathroom. The tenant had the use of a bathroom ("the bathroom") containing bath, wash basin and WC which was located at the top of the first flight of stairs. There was no lock on exterior of the door of the bathroom and therefore the tenant of Flat 1 was not the only person to have access to it.

3. On 8 July 2024 Mr Frost, a Housing Standards Officer (at the time, Housing Officer) employed by the Respondent, carried out an HHSRS inspection with a colleague, and measured Flat 1 at about 14.4m2. The Respondent identified a Category 1 hazard in Flat 1, namely lack of space. Since it was deemed impossible to remedy the hazard without undertaking major building work the Respondent, after observing all statutory and internal procedures, issued a Prohibition Order in respect of Flat 1 on 19 December 2024.

4. The order was issued as a Suspended Prohibition Order, to take effect in January 2026 or on the tenant vacating Flat 1 if earlier. By the time of the Tribunal's inspection and decision Flat 1 was unoccupied and the Prohibition Order had come into effect.

5. The Applicant appealed against the Prohibition Order. His appeal was heard on 8 October 2025. The Tribunal inspected Flat 1 on the previous morning.

INSPECTION

6. The Tribunal were accompanied on the inspection by the Applicant and, for the Respondent, Ms Vodanovic of counsel, the Respondent's solicitor Ms Lloyd-Henry, Mr Frost and an observer, Ms Giles. Two of the Applicant's tenants were also present.

7. The building dates from before 1920 and is built of brick under a slate roof. In addition to Flat 1 and bathroom there is, on the first floor, a one bedroomed flat (Flat 3) and access to Flat 4 which is situated on the first and second floors. Flat 2 is situated at the rear of the building with a separate entrance and has no internal access to the rest of the building. The dwellings in the building have separate electricity meters and are serviced by a single boiler, which is situated in the bathroom.

8. At the time of the inspection the Applicant was in the course of carrying out alterations to Flat 1. The kitchen area and the chimney breast had been removed. A shower-room/WC had been installed in the internal corner of the room. The bathroom was

being converted to a kitchen. The Tribunal were not concerned with any of these alterations, the issue being to consider the Prohibition Order issued in respect of Flat 1 as it was in July 2024.

THE LAW

9. Paragraph 7 at Part 3 of Schedule 2 to the Housing Act 2004 enables a landlord to appeal to the Tribunal against a Prohibition Order.

10. Paragraph 11 provides that the appeal shall be by way of a re-hearing but may be determined having regard to matters which were existing when the order was made but of which the local housing authority was unaware at that time. Paragraph 13(2) provides that the tribunal may by order confirm, quash or vary the decision of the housing authority.

THE HEARING

11. At the hearing the Applicant was unrepresented and the Respondent was represented by Ms Vodanovic of counsel. The Tribunal had the benefit of a comprehensive bundle of documents from the Respondent, including a CAD drawing of Flat 1, the measurements taken by Mr Frost, and the HHSRS guidance and codes of practice relied upon by the Respondent in assessing risk to health and safety. The Applicant's documents were not presented in a single bundle but consisted of his representations to the Respondent dated February 2025 and subsequent written statements – with supporting documents – sent to the Tribunal.

THE APPLICANT'S CASE

12. The Applicant presented his case as a layman and admitted that he found the Housing Act 2004 ("the Act") somewhat challenging to understand. He was clear, however, that 1 Cranbrook Avenue was an HMO as defined at section 254(4) of the Act. His objections to the Prohibition Order were as follows.

13. After he bought the building in 2000 he obtained a grant from the Respondent Council, which was used to re-roof, re-plaster, install central heating and new wiring and to carry out other refurbishments. This was all done, he said, in close communication with the Respondent and with their approval. At the same time he applied for planning permission for 4 flats in the building. This was refused because the building was not

big enough. He therefore kept the building configured as it had been before he bought it – with three flats and one let room (Flat 1) with separate bathroom as described above. The Respondent's housing officers were well aware of the arrangement, he said, and it had been acceptable to them for upwards of 20 years.

14. Council tax had been demanded and paid for each of the let units, including Flat 1 which was now said to be too small, both before and after the introduction of HHSRS and the Act in 2004.

15. His recent tenant had lived in Flat 1 and used the bathroom for some 20 years without accidents or mental health issues. The Applicant suggested that this in itself proved that Flat 1 was habitable.

16. Prohibiting residential letting of Flat 1 was disproportionate in that it would deprive him of income while subjecting him to a penalty rate of Council Tax. He had been willing to discuss alternative configuration of the building but had not had a positive response from Mr Frost and his colleague when they revisited in October 2024.

17. The Applicant further submitted that the legal space requirement for Flat 1 as a bedroom was 6.5m2 and that other recommended measurements were in the nature of guidance which could and should be disregarded in appropriate circumstances. With reference to the CAD drawing supplied by Mr Frost, which demonstrated the Respondent's preferred minimum size for a single occupancy room, he argued that the use of large furniture shown on that drawing (such as a double bed and sofa) was subject to the preferences of the tenant over which he had no control. He said that the room he provided at Flat 1 was large enough to contain all that was needed for healthy living by a tenant willing to furnish it appropriately.

18. The Respondent had imposed a financial penalty (being appealed) on the Applicant

because he had not applied for a licence for Flat 1 under the Respondent's Selective Licensing Scheme. The Applicant argued that it was contradictory and unfair that the Respondent should claim that Flat 1 was not to be let as a residence while at the same time insisting on its being licensed for residential letting.

19. In his written submissions the Applicant indicated that part of Flat 3 might be available for use as communal space. However at the hearing he confirmed that this was no more than a suggestion for possible future reconfiguration of the building.

20. Finally, the Applicant referred to the fact that the Prohibition Order incorrectly described Flat 1 as "self-contained". As it did not contain any bathroom facility, this was factually incorrect. However the Applicant did not argue that he had been misled as to the nature or purpose of the Prohibition Order as a consequence of this error.

THE RESPONDENT'S CASE

21. Mr Frost gave evidence in support of his witness statement. He explained that he had carried out the HHSRS assessment and found serious defects in Flat 1, namely inadequate size of (a) the living area (b) the sleeping area and (c) the recreational area in the room. In determining the likelihood of harm arising from the lack of space, he had adopted the worked example provided in the HHSRS Operating Guidance 2006 (reproduced at page 133 of the Respondent's hearing bundle) because he considered that the property described in that example was sufficiently similar to Flat 1. This comparable identified a serious lack of space for living, cooking, and sleeping, and calculated a one in 56 chance of harm to the occupant as a result.

22. Mr Frost did not refer to any other worked examples. He did refer to a recent determination of the Tribunal which had upheld a Prohibition Order relating to a basement room in Beeston, Leeds with kitchen alcove measuring, overall, approximately 15.7m2 together with a 1.57m2 shower-room. However he acknowledged that that property was distinguishable from Flat 1 in that it had, crucially, very little natural light.

23. Mr Frost confirmed that although he had had some discussion with the Applicant during his visits to 1 Cranbrook Avenue, the Applicant had not provided any drawings or other specific proposals for remedying the lack of space in Flat 1. Consequently, he said, he had had no reason to reconsider his intention to issue the Prohibition Order.

24. Summing up for the Respondent, Ms Vodanovic pointed out that the Tribunal had no other HHSRS assessment other than Mr Frost's, and said that even if that assessment merited some adjustment the likelihood was that the lack of space in Flat 1 would still

be classed under the rating system as a Category 1 hazard. She referred to the fact that it was the Respondent's policy, followed by Mr Frost, to take a nuanced and holistic approach to space and crowding issues, given the shortage of housing generally and the nature of lettings available in areas of Leeds such as Beeston. Mr Frost had, instead of simply applying the HHSRS assessment, considered whether Flat 1 allowed the occupant to achieve an appropriate separation of living activities with room to move around safely and had come to the conclusion that it did not.

25. Ms Vodanovic recommended the Tribunal to follow the methodology used by a differently constituted tribunal in the 2022 case *Levens Garth Holdings Limited v Leeds City Council*, a copy of which was included in the Respondent's hearing bundle. She also asked the Tribunal to consider the NDSS *nationally described space standard* and the expert report prepared (for general use) for the Respondent by Julia Park of Levitt Bernstein. These documents have been carefully considered by the Tribunal along with the representations of the parties both in writing and at the hearing.

FINDINGS

26. The Tribunal is required to consider the Prohibition Order in the light of national and local guidance on space standards, and to give respectful weight to the opinions of the Respondent's housing officers. It is also required to make an independent assessment of the property in question and its suitability or otherwise for residential use.

27. The Applicant's reference to a legal requirement for Flat 1 to measure not less than 6.5m2 is incorrect. This room size is referred to in relation to bedrooms in the 2018 regulations setting out mandatory conditions for licensable HMOs, and is regarded in any event by the Respondent as "barely adequate" (paragraph 5.1 of the Respondent's Crowding and Space Guidance).

28. The Prohibition Order describes Flat 1 as self-contained. This is incorrect, and the Respondent's HHSRS assessment was also carried out on the basis that the flat was self-contained. In view of the Tribunal's determination, no finding has been made as to whether this error in the Prohibition Order invalidates the Order.

29. The worked example relied on by Mr Frost is described as part of a converted property similar to 1 Cranbrook Avenue, but the room is not sufficiently similar to Flat 1 to be

helpful in determining what risks, if any, are attributable to that property. Flat 1 does not have an ensuite bathroom whereas the worked example does. Flat 1 is approximately 10% (1.7m2) larger and has a more spacious feel by virtue of having a bay window rather than flat walls. The Tribunal has not seen evidence that the space available in Flat 1 gives rise to a Category 1 hazard requiring enforcement action on the part of the Respondent. While the Tribunal accepts the Respondent's evidence that living in a space which is too small can cause harm to mental health, it has seen no grounds on which it can accept the Respondent's conclusion, ie that there is a one in 56 likelihood (or any substantial likelihood) that the size of Flat 1 will cause mental illness, falls or other harm to the occupant requiring medical treatment within the next 12 months.

30. At the time the Prohibition Order was issued, Flat 1 was not large enough to contain a double bed as well as other necessary furniture. The CAD drawing of the flat which was prepared by Mr Frost and produced at page 252 of the Respondent's hearing bundle shows the room with a single bed, as do Mr Frost's photographs taken while the flat was occupied. The Tribunal finds that the room as envisaged in the CAD drawing, which allows for the bed, the kitchen area, an easy chair, storage space and a dining table for 2 people, provides adequate living space for one person. The space is admittedly small but sufficient for sleeping and daily living functions to be separated, and also for the entertainment of a visitor. This finding takes into account the fact that the space is well lit by the bay window, and it reflects the Tribunal's assessment of the room based on common sense and experience.

31. A CAD drawing produced by Mr Frost and produced at page 253 of the hearing bundle shows a layout for an alternative room measuring 25m2, which is supplied as an example of the Respondent's preferred area for a one-person residential unit including kitchen. This allows for a double bed and also for a 2-seater sofa, a desk and chair and a coffee table none of which the Tribunal considers essential for healthy living.

32. The Tribunal has considered what alternative course of enforcement action was available to the Respondent following the officers' visit of July 2024. A hazard awareness notice is a notice advising the person on whom it is served of the existence of one or more category 1 or category 2 hazards caused by a deficiency or deficiencies on the premises. The notice identifies the remedial action which the local housing

authority considers it would be practicable and appropriate to take. The recipient of the notice is not obliged to take the recommended remedial action and there is no right of appeal against a hazard awareness notice. Paragraph 5.39 of the HHSRS Enforcement Guidance acknowledges that a hazard awareness notice might be a possible response to a category 1 hazard in circumstances where works of improvement, or prohibition of the use of the whole or part of the premises, are not practicable or reasonable. In relation to Flat 1, the Tribunal finds that an improvement notice would have been impracticable and unnecessary. The Prohibition Order was unnecessary for the health of the tenant, and was also unreasonable in that (a) it reduced the Applicant's rental income while increasing his liability to Council Tax, and (b) there was no alternative use for the room available short of reconfiguring the interior of the house. A hazard awareness notice could have recommended firstly that the room was only let with a single bed and secondly that the chimney breast be removed. This last alteration would be relatively easy to effect, and would have made a small but appreciable difference to the available living space.

33. The Tribunal's conclusion, therefore, is that the Prohibition Order issued in December 2024 was not necessary to protect the health and well-being of a single occupant of Flat 1, and that recommendations in the form of a hazard awareness notice would have sufficiently alerted the Applicant to the advisability of preserving or increasing the tenant's standard of living.