



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

Case reference	:	LON/00BE/HMV/2025/0009
Property	:	16 Culmore Road, London SE15 2RQ
Applicant	:	Acquire Estate Agents Ltd
Respondent	:	London Borough of Southwark
Type of application	:	Appeal against licence variation
Tribunal members	:	Judge Nicol Mrs L Crane MCIEH
Date and Venue of Hearing	:	2nd June 2026; By remote video conference
Date of decision	:	2nd June 2026

DECISION

- (1) The Tribunal determines that the Applicant’s licence in respect of 16 Culmore Road, London SE15 2RQ shall be varied to state:**

Maximum occupancy is four people in four households on the condition that that the larger cupboard located on the second-floor landing is fitted with a lock and allocated for the exclusive use of the occupant of Bedroom 3.

- (2) There is no order as to reimbursement of fees.**

Relevant legislation is set out in the Appendix to this decision.

Reasons

1. The subject property is a 3-storey terraced house with 4 bedrooms, a living room, a kitchen, a bathroom/WC and a ground floor WC. The Applicant lets it as a house in multiple occupation (“HMO”).

2. The Applicant applied for an HMO licence in 2024 for the property. The Respondent granted a licence on 17th June 2024 to permit a maximum occupancy of 2 persons from 2 households. On 25th March 2025, the Applicant made a complaint to the Respondent about this limit.
3. On 22nd April 2025, a notice of proposed variation was issued, increasing the maximum occupancy to 4 people in 3 households. On 30th June 2025 the Respondent notified the Applicant that they had decided to confirm this. The Applicant has appealed.
4. The Tribunal heard the appeal on 2nd June 2026 by remote video. The attendees were:
 - Aaron Nguyen Lu, director of the Applicant;
 - Miriam Shalom, counsel for the Respondent; and
 - The Respondent's witness, Laura Wilkinson, one of the Team Leaders in the Private Sector Housing Enforcement Team.
5. The documents before the Tribunal consisted of:
 - Applicant's bundle of 160 pages;
 - Respondent's bundle of 1,104 pages;
 - Applicant's Reply of 6 pages; and
 - Skeleton arguments from both parties.
6. The main basis for the Applicant's challenge was that the Respondent had behaved inconsistently. The licence for next door, number 14, a very similar property, allowed for 5 people in 5 households according to the Respondent's website (Ms Wilkinson confirmed the limit was, in fact, 5 persons in 4 households). Similarly, 2 other properties in the same terrace, numbers 4 and 12, apparently allowed 3 in 3 and 5 in 4 respectively.
7. However, while the Applicant's frustration is understandable, there is nothing to suggest that the provision for number 14 is the standard by which the subject property should be measured as opposed to the other way around. The Respondent has explained, both in a formal complaints resolution decision on 11th April 2025 and in these proceedings, the conditions on number 14's licence were mistaken and they intend to correct the mistake when it is due for renewal.
8. The Tribunal cannot reach a decision on the grounds of perpetuating a mistake. The subject property must be considered on its own merits in accordance with statute and relevant guidance and standards.
9. Schedule 4 of the Housing Act 2004 provides for mandatory national minimum sleeping room sizes:
 - (a) 6.51 m² for one person over 10 years of age.
 - (b) 10.22 m² for two persons over 10 years.
 - (c) 4.64 m² for one child under the age of 10 years.

10. The bedroom room sizes at the property according to the Applicant's licence application are:
 - (a) Ground floor front – 7.39 m²
 - (b) First floor front – 11.23 m²
 - (c) Second floor back – 6.6 m²
 - (d) Second floor front – 11.14 m²
11. The Respondent has adopted local room size standards which exceed the national minimum requirements. Their justification is that these standards have been developed based on research and consultation to ensure the health, safety, and well-being of tenants within their jurisdiction, that they reflect the higher living costs and denser living conditions in the region, particularly in urban areas such as Southwark, and are consistent with other guidance such as the Mayor's London Plan. They provide that:
 - (a) A single room in an HMO with no separate living room should measure 10 m².
 - (b) A double room in an HMO with no separate living room should measure 14 m².
 - (c) A single room in an HMO with a separate living room should measure 8 m².
 - (d) A double room in an HMO with a separate living room should measure 12 m².
12. The Respondent does not apply its standards rigidly and can consider alternative solutions. For example, officers have the power to allow rooms which differ by up to 10% from the space measurements. Also, if there is sufficient communal space and a suitably located storage cupboard for the exclusive use of the occupier (large enough to make up for the shortfall in the room) could be provided elsewhere in the property, the Respondent may take this into consideration.
13. In fact, the Respondent has done so. An officer (not Ms Wilkinson) inspected the property on 14th April 2026. They re-measured the rooms and looked at the storage mentioned by the Applicant in its Reply. As a result, by letter dated 26th May 2026, the Respondent has proposed varying the licence further, by agreement, increasing the maximum occupancy to 4 people in 4 households on condition that the larger cupboard located on the second-floor landing at the property is fitted with a lock and allocated for the exclusive use of the occupant of a particular room, Bedroom 3.
14. Mr Lu, on behalf of the Applicant, maintained that the maximum occupancy should still be raised to 5 people in 5 households. He pointed out that, on the measurements he used, one of the rooms was within 10% of the minimum size for two occupants and that the living room and kitchen were generously sized. He also emphasised that the Respondent's standards were higher than the statutory minimum and urged the Tribunal to depart from them, as it has the power to do.

15. The Respondent had two principal objections:
 - (a) The Applicant had applied for a licence under the Respondent's additional licensing scheme which covers HMOs with up to 4 occupants. An HMO with 5 occupants is covered by the statutory mandatory scheme. Ms Shalom submitted that it is not possible to vary a licence so that it is covered by a different scheme.
 - (b) If 5 people were to occupy the property in 5 households, the living room would need to be used as a bedroom. Without a living room, the Respondent's larger room size standards would apply, removing a couple of the rooms from consideration and limiting the maximum occupancy to 3 people in 2 households.
16. In his submissions towards the end of the hearing, Mr Lu raised the possibility of permitting 5 people in 4 households. Ms Shalom objected on the grounds that this was the first time he had raised the possibility so that Ms Wilkinson had not had the opportunity to give her thoughts on it during her evidence.
17. When the Respondent re-measured the property on 14th April 2026, according to Ms Wilkinson they found the smallest bedroom was a little larger than the Applicant had allowed, making it easier to adjust to the 4 in 4 arrangement they were now proposing, but also that the largest was considerably smaller. This would mean that Mr Lu's suggestion of allowing 2 people in that larger bedroom would not be feasible.
18. More fundamentally, this highlights a flaw in Mr Lu's approach. He was urging the Tribunal to allow departures from the Respondent's standards as if all that mattered was a strict size measurement of a certain number of rooms. As Ms Wilkinson emphasised, there wasn't a strict list of criteria for such departures. Instead, each departure had to be separately justified on a case-by-case basis, assessing the entire house as a whole.
19. The fact is that the Respondent has assessed the house as a whole on the information provided at the time. The first assessment of 2 occupants in 2 households was the result of putting the information in the Applicant's licence application into its software which automatically produced a set outcome. When the Applicant provided more information during the complaints process, the Respondent re-assessed, noting that two rooms were within the 10% margin to allow a single occupant each. Further, when they found that the storage arrangements sufficiently compensated for the size of the smallest bedroom, they adjusted the maximum occupancy again. Each time, they demonstrated their flexibility based on the individual circumstances of the subject property.
20. It is not the Tribunal's job to second-guess the local authority's assessment of what the HMO standards should be in its area or how they apply to particular properties. The Tribunal does have the power to depart from a local authority's standards but only when justified on the

evidence. Despite Mr Lu's best efforts, he did not have the evidence and his arguments were not persuasive.

21. On the evidence available, the Tribunal is satisfied that the Applicant's licence should be varied on the formula now proposed by the Respondent, with a maximum occupancy of 4 people in 4 households, on condition that lockable storage is available in the common parts for the exclusive use of the occupant of Bedroom 3 as marked on the floor plans.
22. Mr Lu sought an order that the Respondent should reimburse the Applicant's Tribunal fees on the grounds that the eventual result is almost identical to what had been asked for on the original licence application. However, he has made it clear throughout that the Applicant's objective in continuing the proceedings has been to achieve a different outcome, allowing a maximum occupancy as high as 5 people in 5 households. That was always an unlikely objective which, ultimately, was not achieved. Even as late as the penultimate working day prior to the hearing, Mr Lu rejected the option to agree the Respondent's latest proposal and to withdraw his appeal in favour of seeing whether he could get something better from the Tribunal. In the circumstances, there is no basis on which to order reimbursement.

Name: Judge Nicol

Date: 2nd June 2026

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).

Appendix of relevant legislation

Housing Act 2004

64 Grant or refusal of licence

- (1) Where an application in respect of an HMO is made to the local housing authority under section 63, the authority must either—
- (a) grant a licence in accordance with subsection (2), or
 - (b) refuse to grant a licence.
- (2) If the authority are satisfied as to the matters mentioned in subsection (3), they may grant a licence either—
- (a) to the applicant, or
 - (b) to some other person, if both he and the applicant agree.
- (3) The matters are—
- (a) that the house is reasonably suitable for occupation by not more than the maximum number of households or persons mentioned in subsection (4) or that it can be made so suitable by the imposition of conditions under section 67;
 - (aa) that no banning order under section 16 of the Housing and Planning Act 2016 is in force against a person who—
 - (i) owns an estate or interest in the house or part of it, and
 - (ii) is a lessor or licensor of the house or part;
 - (b) that the proposed licence holder—
 - (c) that the proposed manager of the house is either—
 - (i) the person having control of the house, or
 - (ii) a person who is an agent or employee of the person having control of the house;
 - (d) that the proposed manager of the house is a fit and proper person to be the manager of the house; and
 - (e) that the proposed management arrangements for the house are otherwise satisfactory.
- (4) The maximum number of households or persons referred to in subsection (3)(a) is—
- (a) the maximum number specified in the application, or
 - (b) some other maximum number decided by the authority.
- (5) Sections 65 and 66 apply for the purposes of this section.

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)—
- (a) conditions imposing restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it;
 - (b) conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house;

- (c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;
 - (d) conditions requiring such facilities and equipment to be kept in repair and proper working order;
 - (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;
 - (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–
- (a) if they do so with the agreement of the licence holder, or
 - (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–
 - (i) what number of households or persons is appropriate as the maximum number authorised to occupy the HMO to which the licence relates, or
 - (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)—

(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

(b) who is a person managing or having control of the house (and does not fall within paragraph (a)), or

(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—

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

(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.