



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

Case Reference : MAN/00BY/HPO/2026/0001

Property : 7 Adelaide Road, Liverpool, L7 8SG

Applicants : Sure Move Estates Ltd &
Proud House Properties Ltd

Respondent : Liverpool City Council

Respondent Representative : Matthew Simpson, Liverpool City Council

Type of Application : Housing Act 2004 – Schedule 2, para. 7(1)

Tribunal Members : Judge M Steer
Mr H Thomas BSc FRICS FCABE MEWI

Date of Decision : 13 July 2026

DECISION

Decision

The Tribunal orders that the Prohibition Order dated 22 December 2025 in relation to 7 Adelaide Road, Liverpool, L7 8SG be quashed pursuant to schedule 2, part 3, paragraph 11 of the Housing Act 2004.

The appeal made by the Applicants is therefore allowed.

Reasons for Decision

The Application

1. On 03 February 2026, the Applicant appealed against the making of a Prohibition Order dated 22 December 2025. The Prohibition Order was made under s21 of the Housing Act 2004 by the Respondent in respect of 7 Adelaide Road, Liverpool, L7 8SG (“the Property”).
2. The Applicants are i) the managing agent for the Property (Sure Move Estates Ltd) and the freeholder of the Property (Proud House Properties Ltd). The Respondent is the local authority responsible for the area in which the Property is situated.
3. Directions were issued on 18 March 2026. Neither party requested an oral hearing and the matter proceeded by way of a paper determination following an inspection of the Property by the Tribunal on 28 May 2026. The Tribunal inspected the Property in the presence of Mr Lee Rothwell from Sure Move Estates Ltd. The Tribunal viewed the communal living room and kitchen on the ground floor of the Property and Bedroom 3 at the rear of the first floor of the Property which is the subject of the Prohibition Order.

Background

4. The Property is a, mid terrace, 6-bedroom House in Multiple Occupation (“an HMO”). The Property comprises of a living room, kitchen with extended breakfast bar/dining area to the rear of the ground floor and 6 bedrooms with either ensuite or shared bathroom facilities. An HMO Licence pursuant to the Housing Act 2004 Part 2 and Schedule 5(7)(2)(b) was granted to the owner of the Property by the Respondent in respect of the Property on 18 December 2020. The licence allowed the Property to be occupied by not more than 6 persons in 6 households.
5. On 22 December 2025, the Respondent served on the Applicants a Prohibition Order pursuant to section 21 of the Housing Act 2004 following an inspection of the Property on 17 November 2025. Part I of the Housing Act 2004 sets out a regime for assessment of housing conditions and a range of powers for local authorities to enforce housing standards. Housing conditions are assessed by the application of the Housing Health and Safety Rating System (“HHSRS”). This includes category 1 and category 2 hazards. A hazard is a risk of harm to the health and safety of an actual or potential occupier of accommodation that arises from the deficiency in the dwelling, building or land in the vicinity. Health includes mental health.
6. During the inspection, a category 2 hazard of ‘crowding and space – Hazard 11’ was identified by a representative from the Respondent due to the size of one of the bedrooms at the Property (“Bedroom 3”). The Respondent detailed in the Prohibition Notice that Bedroom 3 did not meet the national minimum bedroom size which is 6.51 m² which is detailed in the Licensing of Houses in Multiple occupation (Mandatory Conditions of Licences) (England) Regulations 2018 (“the 2018 Regulations”). Measurements were taken of Bedroom 3 at the time of the inspection on 17 November 2025 which indicated that the floor area of Bedroom 3 was 4.57 m². The Respondent disregarded a portion of the floor area of Bedroom 3 namely the

entrance area to the bedroom and the ensuite on the basis that it was not useable space.

7. The Prohibition Order is the subject of this appeal and became operative on 26 January 2026. It imposed the following prohibition: *Bedroom 3 of the property which is to the rear of the first floor of the property is not to be used for sleeping accommodation by any persons*. The Prohibition Order was considered the most appropriate form of action by the Respondent in all of the circumstances. It contained details of the nature of the hazard identified at Schedule 1 of the Order and also provided a statement of reasons for making the Prohibition Order in accordance with section 8 of the Housing Act 2004.

The Inspection

8. The Tribunal inspected the Property in the presence of Mr Lee Rothwell from Sure Move Estates Ltd on 28 May 2026. The Tribunal noted that the parts of the Property inspected had been completed to a good standard and were clean, tidy and well decorated. The Tribunal viewed the parts of the Property detailed below and made the following observations during the inspection:-
 - a) Communal living room – situated on the ground floor towards the rear of the Property containing a 4 seater sofa and large tv. Room of a reasonable size.
 - b) Communal kitchen/dining area – situated on the ground floor at the rear of the Property was a well-equipped kitchen including a 5-ring hob, integrated cooker, washing machine, two fridge-freezers and a gas central heating boiler. There was a small extension to the rear of the kitchen with a breakfast bar/dining area.
 - c) Bedroom 3 – situated at the rear of the first floor of the Property. The Bedroom was small but was functional in its current configuration and the room could accommodate the furniture within it. It is essentially a small square box room with an ensuite incorporated into a corner of the room. The bedroom contains a single bed, a bed-side table, a double wardrobe, a desk and a chair. There was limited open floor space but there was room to move between the bed and the furniture to access the entrance to the room and the ensuite. The ensuite comprised of a shower, toilet and washbasin. The entrance door to the bedroom and the door to the ensuite both opened into the room but did not overlap or collide when both opened together. Nor did the door to the entrance of the bedroom collide with any of the furniture in the bedroom. There were no height restrictions in the bedroom with regards to eaves or sloping roofs and the Tribunal did not observe what could be described as a ‘narrow corridor’ within the bedroom. This is a single bedroom and the Tribunal could not see how the occupier would endanger or hit anybody else when opening either door.

The Law

9. The legislation concerning Prohibition Notices is set out in the Legal Annex attached.

The Applicants’ Position

10. In their application and 'statement of appeal', the Applicants state that they do not agree with the way that the Respondent has calculated the floor area of Bedroom 3. In particular, that the entrance area of Bedroom 3 ("the Excluded Area") should not be excluded from the floor area calculation. They state that if the Excluded Area was included in the calculation, the floor area would be above the national minimum bedroom size of 6.51 m², and therefore no longer a category 2 'crowding and space' hazard, and in turn there would be no basis to serve the Prohibition Order.
11. Further, the Applicants claim that the definition of usable space within the Prohibition Notice itself is not relevant to the Excluded Area of Bedroom 3. In Schedule 1 of the Prohibition Order it states:-

"For the purposes of calculating the 'useable space' to determine the floor area of a room certain areas of the floor space may not be counted for the purposes of calculating useable space e.g the space occupied by the alcoves either side of a chimney breast or the space needed to open a door in a narrow corridor."

The above wording is extracted from Liverpool City Council 'Houses in Multiple Occupation - Standards and Management' guidance dated February 2022 (paragraphs 14.1 and 14.2) ("the Guidance").

The Applicant's state that although the Excluded Area does allow access for doors, it cannot be defined as a 'narrow corridor'. Also, that the doors opening into the Excluded Area are only using part of the space and are only used by the occupier of Bedroom 3 meaning that the space can sometimes be used for everyday activities such as dressing, eating and recreation.

12. The Applicants provide a floor plan which includes the Excluded Area and calculate a total floor area of 6.57 m² plus the ensuite area. The Applicants also provide 3 photographs of Bedroom 3 showing the current furniture configuration and the end of a single bed now being placed into the Excluded Area.

The Respondent's Position

13. The Respondent provided a very helpful 112 page bundle which the Tribunal have considered. The Respondent's submissions in support of their grounds of opposition to the Applicants' appeal are:-
 - a) During an inspection of the Property on 17 November 2025, all rooms in the Property were inspected. Bedroom 3 at the rear of the first floor of the Property was inspected and considered to be unsuitable for occupation by a person as sleeping accommodation. This was due to the fact that the usable size of the room was calculated to be less than 6.51 m². Following a Housing Health and Safety Rating System (HHSRS) calculation, this hazard was categorised as Category 2 hazard. A Prohibition Notice dated 22 December 2025 was subsequently served on the Applicants;
 - b) The Prohibition Notice detailed that the usable space for Bedroom 3 is below the required size and is not suitable to be used as sleeping accommodation by any persons;

- c) The total area of Bedroom 3 is not agreed between the parties. The total area of Bedroom 3 is not useable and only an area of approximately 4.57 m² is useable due to the fact that there is a narrow entrance lobby into Bedroom 3 which is not deemed as usable space by the Respondent.
14. A witness statement dated 20 March 2026 was provided by Mr Paul Sloan on behalf of the Respondent. It was Mr Sloan who carried out the inspection of the Property on 17 November 2025 and he made the following observations at paragraph 9 of his witness statement:-
- a) Access to Bedroom 3 from the first-floor landing of the property was through a narrow corridor;
 - b) At the time of the inspection, he felt that this narrow corridor could not be considered as useable space as it would not allow for the effective placement of furniture (bed, wardrobe, desk) and it would not be practical space for everyday activities, such as dressing, eating and recreation as anyone using the space would be at risk of injury due to collision with the doors that opened into the corridor;
 - c) The Guidance states that useable space is space that can be used for everyday activities, such as dressing, eating and recreation. The amount of useable space required will depend on whether or not communal living space is available;
 - d) Certain areas of floor space may not be counted for the purposes of calculating useable space e.g the space occupied by the alcoves either side of a chimney breast or the space needed to open a door in a narrow corridor;
 - e) The national minimum bedroom size for HMO's where separate living space (lounge/living room) is provided (1 person aged over 10) is 6.5 m² - taking into account useable space in the room;
 - f) Measurements were taken at the time of the inspection which indicated that the floor area of the room was below 6.51m².

Reasons for Decision

15. The Tribunal considered the documentation received from both parties, the relevant legislation and Liverpool City Council's Guidance when making their decision. The Tribunal's inspection of the Property, and in particular viewing Bedroom 3, has been of great assistance to the Tribunal.
16. The Applicants have challenged the Prohibition Order on one ground. Namely, the way in which the Respondent has calculated the floor area of Bedroom 3. This has resulted in the Respondent establishing that a hazard exists in the Property and, in turn, the service of a Prohibition Order. In the Prohibition Order, the Respondent states that the floor area of Bedroom 3 is 4.57 m². A proportion of the floor area which the Respondent measured at 1.96m² (1.35m x 1.45m) being the entrance area to Bedroom 3 ("Excluded Area") was excluded from the Respondent's floor area calculation for the reasons detailed at paragraphs 13 and 14 above. The Applicant states that the floor area of Bedroom 3 is 6.57m² and that the Excluded Area should be used in the overall floor space calculation for the reasons detailed at paragraphs 10 to 12 above. The Applicants calculate the Excluded Area at a marginally higher measurement than the Respondent of 2.03m². It is noted that when using either

parties' measurements for the Excluded Area, when added to 4.57 m² (the floor area calculated in the Prohibition Order), the total floor area of Bedroom 3 is in excess of the national minimum standard of 6.51m² as detailed in the 2018 Regulations.

17. In making its HHSRS assessment of the Property following the Respondent's inspection on 17 November 2025, the Respondent appears to attach considerable weight to its own definition of useable space when assessing room sizes as detailed at paragraphs 14.1 to 14.3 of the Guidance which states:-

"14 Usable Space

14.1 Useable space is space that can be used for everyday activities, such as dressing, eating and recreation. The amount of useable space required will depend on whether or not communal living space is available. Where no communal living space is available via a Lounge/Living room, additional size requirements are to be provided in sleeping rooms to take account of the recreational space required.

14.2 Certain areas of the floor space may not be counted for the purposes of calculating useable space e.g. the space occupied by the alcoves either side of a chimney breast or the space needed to open a door in a narrow corridor.

14.3 Any floor area which does not have a minimum floor to ceiling height of 1.5m such as with a sloping ceiling will normally be discounted from the room area calculation."

18. The views of the Respondent are relevant and merit respect; but once the Tribunal carried out its own inspection and considered all of the characteristics of the subject Property, including the size and layout of Bedroom 3 and the other shared amenities in the Property, it was in a position to make its own assessment of the hazard of crowding and space in the Property.
19. The Guidance provides three express examples of floor space which may not be counted as usable space at paragraphs 14.2 and 14.3 and a more general example at paragraph 14.1. During the inspection and as a finding of fact, the Tribunal observed a small but fully functional bedroom as detailed at paragraph 7 above. Notably, part of the single bed was placed in the Excluded Area making it 'usable' and there was room to move between the single bed and the furniture within the room. There were no height restrictions in the room, there was nothing unusual about the shape or configuration of the room and there were no alcoves either side of a chimney breast in the room. Although both the bedroom door and the ensuite door opened into the Excluded Area, they did not collide when they were both opened nor did they collide with any furniture in the room. The Tribunal does not agree that the Excluded Area could be defined as a 'narrow corridor' as described at paragraph 14.2 of the Guidance. Further, the Excluded Area could be used for some everyday activities such as dressing notwithstanding the positioning of the doors.
20. It is important to note that The Tribunal make their decision as at the date of the decision and so in the circumstances that pertain now, rather than at the date that the Prohibition Order was made by the Respondent. The Tribunal have noted from the parties' evidence that the configuration of the furniture has changed significantly

between the Prohibition Order being made and the inspection by the Tribunal. The newly configured furniture appears to have freed up some additional floor space thereby making the room more usable as the re-positioning of the single bed has resulted in the bed now being placed in part of the Excluded Area making it 'usable'. When making our decision, the Tribunal also accounted for the fact that the communal areas of the Property, being a lounge and a kitchen/dining area, were available for use by any occupier of Bedroom 3 and were both of a reasonable size to accommodate 6 adults.

21. In the circumstances, the Tribunal disagree with the Respondent's floor area calculation of Bedroom 3 and agree with the Applicants that the Excluded Area is in fact useable space and should be included within the floor area calculation. Irrespective of which parties Excluded Area measurements are used, the Tribunal conclude that the total floor area is equal to or more than the national minimum of 6.51m² as set out in the 2018 Regulations. It follows that the Tribunal agree with the Applicants that the Respondent were wrong to conclude that a category 2 hazard of 'crowding and space' exists at the Property meaning that there was no legal basis to serve the Prohibition Order on the Applicants. Therefore, the Tribunal has decided to quash the Prohibition Order and allow the Applicants appeal.

Tribunal Judge M Steer
13 July 2026

ANNEX – RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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 being within the time limit.
4. 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.