FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	HAV/29UC/HML/2026/0002
Property	:	20 Mead Way, Canterbury, CT2 8BB
Applicants	:	Kabir Singh
Representative	:	Mr D Jeremy (Counsel) Instructed by Law Lane Solicitors
Respondent	:	Canterbury City Council
Representative	:	Ms V Kaye (Counsel) Instructed by Peter Kee, Principal Lawyer
Type of Application	:	Application relating to Licensing of Houses in Multiple Occupation (HMOs) – Schedule 5, para 31(1) Housing Act 2004
Tribunal Members	:	Tribunal Judge David Gethin Mr M Williams, FRICS
Date and venue	:	18 June 2026, Ashford Tribunal Hearing Centre
Date of Decision	:	10 September 2026

DECISION

DECISION

(1) The Tribunal confirms the decision of the Respondent dated 10 October 2025, to Refuse to Grant an HMO Licence for the Property at 20 Mead Way, Canterbury, CT2 8BB.

(2) The Tribunal finds that, notwithstanding serious procedural defects in the Respondent's decision-making process, the Applicant has not demonstrated that the Respondent reached the wrong substantive decision when concluding that he was not a fit and proper person to hold an HMO licence within the meaning of sections 64 and 66 Housing Act 2004.

REASONS

Background

1. The Applicant seeks to appeal against a decision by the local housing authority refusing to grant a licence for the subject property deeming the Applicant not a fit and proper person to be the licence holder.

2. This case concerns an HMO licence application made under Part 2 of the Housing Act 2004 ("the 2004 Act") for the Property at 20 Mead Way, Canterbury, CT2 8BB. The Property is a two-storey semi-detached dwelling comprising five non-self-contained letting rooms and had previously operated as a licensed HMO under the former owner. The freehold of the Property is owned by "*Mr Mrs Realty Ltd*" following a Transfer dated 30 July 2025 [78-83]. The Applicant is the sole director of Mr Mrs Realty Ltd.

3. The licence application received by the Respondent local authority on 3 August 2025 was sent by the Applicant's agent, Jovi Gill of Nicholas Humphreys ("the Agent") [57-77]. At all material times, there were 5 students living in the Property.

4. Following inspection on 16 September 2025 by officers of the Respondent, formal Notice of Refusal to grant the licence was sent to the Applicant by Simon Barrett, Housing Standards Surveyor, on 10 October 2025 [21-23] with further reasons for the refusal given on 17 October 2025 [24-26], stating that the Applicant was not a fit and proper person to hold a licence because:

    (a) there were ongoing proceedings regarding fly tipping and other waste offences in connection with the Applicant's businesses;
    (b) Trading Standards had investigated the Applicant on multiple occasions concerning practices involving the serving of minors

and seizure of illicit vape products from the Applicant's businesses;

(c) the Respondent's licensing department had, in light of concerns raised by Kent Police, questioned the Applicant's suitability to run licensed premises; and

(d) taken together, the Respondent was not assured that the Applicant would provide a safe environment for HMO occupants if named as a licence holder.

5. Both the Notice of Refusal and the subsequent reasons relied upon refer to Part 3, in particular section 89, rather than Part 2 and section 66 HA 2004. The tests under sections 66 and 89 are broadly similar, but clearly this was an error in law.

6. The Applicant filed an application with the Tribunal appealing the Notice of Refusal on 7 November 2025 [2-16] and the Applicant set out his grounds for the application in a supporting statement dated 7 November 2025 [17-20].

7. Initial directions were issued by the Tribunal to the parties on 30 March 2026 [27-32].

8. A paginated pdf bundle of 148 pages was provided by the Respondent. References in [ ] in this decision are to the pdf pages taken from the Hearing Bundle unless otherwise specified.

9. Skeleton arguments were provided by both parties on 15 June 2026. Mr Jeremy sought to submit a supplementary skeleton argument on the morning of the hearing. Permission to do so was refused.

10. Both Counsel provided written closing submissions with permission of the Tribunal. Those were received by the panel on 18 June 2026 for the Respondent and on 15 July 2026 for the Applicant. The Tribunal apologises for the delay in issuing its Decision due to the availability of the panel over the Summer to consider the parties' written submissions before drafting its decision.

11. Mr Jeremy sought to include the supplementary skeleton argument with the closing submissions. No case management application had been made to rely on this which was received after the deadline in paragraph 28 of the Directions dated 30 March 2026 [27-32]. To reiterate, permission to rely on the supplementary skeleton argument has not been given and we disregarded this document.

<u>The Law</u>

12. Section 64 of the 2004 Act deals with the power to grant or refuse an HMO licence. The relevant sections are:

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….

(3) The matters are—

(a) that the house is reasonably suitable for occupation….
….
(b) that the proposed licence holder—
(i) is a fit and proper person to be the licence holder, and
….
(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….

13. Section 66 of the Act (as amended) details the test for deciding whether a person is a fit and proper person to be a licence holder or manager and provides:

66 Tests for fitness etc. and satisfactory management arrangements

(1) In deciding for the purposes of section 64(3)(b) or (d) whether a person ("P") is a fit and proper person to be the licence holder or (as the case may be) the manager of the house, the local housing authority must have regard (among other things) to any evidence within subsection (2) or (3).

(2) Evidence is within this subsection if it shows that P has—

(a) *committed any offence involving fraud or other dishonesty, or violence or drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (c. 42) (offences attracting notification requirements);*
(b) *practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business;*
(c) *contravened any provision of the law relating to housing or of landlord and tenant law; or*
(d) *acted otherwise than in accordance with any applicable code of practice approved under section 233.*

(3) *Evidence is within this subsection if—*

(a) *it shows that any person associated or formerly associated with P (whether on a personal, work or other basis) has done any of the things set out in subsection (2)(a) to (d), and*
(b) *it appears to the authority that the evidence is relevant to the question whether P is a fit and proper person to be the licence holder or (as the case may be) the manager of the house.*

(3C) *A person is not a fit and proper person for the purposes of section 64(3)(b) or (d) if a banning order under section 16 of the Housing and Planning Act 2016 is in force against the person.*

14. The licence holder, or any relevant person, may appeal to the First-tier Tribunal (Property Chamber) against a decision by the local housing authority to refuse, vary or revoke a licence, under Part 3 of Schedule 5 to the Act.

15. On an appeal against a refusal to grant a licence, the Tribunal has power under paragraph 34(3) and (4) of Schedule 5 to confirm, reverse, or vary the decision; or to direct the local authority to grant the licence to the applicant on such terms as the Tribunal may direct.

16. The Tribunal must only have regard to those matters that were before the Respondent when reaching its decision, or could have been placed before the Respondent at that time. The Tribunal must disregard matters which have arisen since the date of the Respondent's decision. Both parties sought to bring to our attention matters that arose after the reasons for the refusal dated 17 October 2025. We reminded Counsel that those were irrelevant considerations, and we disregarded such matters.

17. In *McCool v Rushcliffe BC* [1998] 3 All ER 889, the High Court confirmed, in an analogous licensing context involving taxi licences, that licensing authorities may rely upon conduct proved on the civil standard and are not confined to criminal convictions. Evidence may include material that would not necessarily satisfy the criminal standard of proof

18. In *Marshall v Waltham Forest LBC* [2020] UKUT 35 (LC) at [61-62], the Upper Tribunal reversed the decision of the First-tier Tribunal ("FTT") on the basis that the FTT had not found the authority was "*wrong*" having failed to give due weight to the authority's internal policy. That is distinguished from the present case where the Respondent had no internal policy at the time of the decision making.

19. In *Hussain v Waltham Forest LBC* [2020] EWCA Civ 1539, the Court of Appeal confirmed that, notwithstanding spent convictions, underlying conduct may in appropriate circumstances be considered in licensing determinations.

20. In *Waltham Forest LBC v Hussain* [2023] EWCA Civ 733, the Court of Appeal confirmed that the Tribunal must determine whether the authority should have reached a different decision at the date of the original decision, whilst according the appropriate and sufficient deference to the authority's evaluative judgment. The task of the Tribunal is "*to determine whether the decision under appeal was wrong at the time when it was taken*".

<u>Hearing</u>

21. The hearing took place in person at Ashford Tribunal Hearing Centre. The Tribunal was addressed by Mr Daniel Jeremy, Counsel on behalf of the Applicant, and by Ms Victoria Kaye, Counsel on behalf of the Respondent. Also in attendance was a paralegal from the Applicant's solicitors, Arbaz Omar, and a pupil barrister, Ms O Bond, from Mr Jeremy's Chambers, who was observing.

22. Mr Kabir Singh, Director of Mr Mrs Realty Ltd, attended as witness on his own behalf. Mr Simon Barrett, Housing Standards Surveyor of the Respondent and the original decision maker, attended as a witness on behalf of the Respondent.

23. As this was a rehearing of the Respondent's refusal to grant an HMO Licence, the Respondent was invited to present its case first.

The Respondent's Case

24. Mr Barrett gave oral evidence in which he confirmed that this was his first time refusing an HMO licence. Ms Kaye accepted the procedural deficiencies in the Respondent's decision making but submitted that the appeal proceeds by way of a rehearing in which the Tribunal must determine the substantive issue of fitness and propriety for itself. Consequently, it is submitted that there is no prejudice to the Applicant who would now be able to put forward the matters he would have had the opportunity to do, had he been properly invited to do so in October 2025. Ms Kaye submitted that we should not automatically allow the appeal because of the Respondent's procedural failings.

25. Ms Kaye submitted that the words "*among other things*" demonstrate that section 66(2) is non-exhaustive and that conduct relevant to the protection of vulnerable HMO occupants may properly be considered even where that conduct does not fall squarely within those matters described in sections 66(2)(a)-(d) which the decision maker must have regard to.

26. Ms Kaye further submitted that the Applicant's conduct demonstrates a general disregard for regulation, safeguarding and compliance and therefore undermines confidence in his suitability to hold an HMO licence.

The Applicant's Case

27. Mr Jeremy submitted that the appeal should be allowed because:

(a) the Respondent entirely failed to follow the mandatory Schedule 5 procedure;
(b) the Respondent relied upon the wrong statutory provisions;
(c) the matters relied upon by the Respondent fall outside the categories specified in section 66(2);
(d) there are no convictions falling within section 66(2); and
(e) experienced management arrangements existed through the Agent's prior management of the Property and that the Agent was proposed to be the Manager.

28. Mr Jeremy further submitted that the phrase "*among other things*" should not permit reliance upon allegations that do not fall within the specific statutory categories in section 66(2).

The Tribunal Decision

29. The Tribunal first addresses the Respondent's procedural failings.

30. The Respondent's conduct of the application process fell significantly below the standards required by Schedule 5 to the HA 2004. The failure to serve a "*minded to refuse*" notice under para. 5, Sch. 5, HA 2004 deprived the Applicant of an opportunity to respond to the Respondent's concerns before the decision was made. The references to the provisions of Part 3 rather than Part 2 HA 2004 throughout the correspondence were also incorrect, and the initial decision letter failed adequately to explain the reasons for refusal although this was corrected soon after.

31. If this was an application for judicial review, the remedy would be to quash the notices of 10 and 17 October 2025 and for the decision maker to remake its decision.

32. However, this appeal is not a judicial review. The statutory scheme under para. 34, Sch. 5, HA 2004 already provides a rehearing mechanism in which the Tribunal is required to determine the substantive question itself rather than simply quashing the decision because the process was defective. As part of the rehearing mechanism, the Applicant has been afforded the opportunity to make representations; in short, other than the time to reach a fully reasoned decision, there is no prejudice to the Applicant.

33. Turning to the matters that the decision should have regard to under s. 66, the Tribunal rejects the Applicant's submission that the categories identified in s. 66(2) are exhaustive; that is a list of the matters that the decision maker **<u>must</u>** have regard to.

34. The Tribunal accepts the Respondent's submission that the words "*among other things*" must be given effect. We find that the natural and ordinary meaning of the words "*among other things*" indicates that Parliament afforded the decision maker discretion to have regard to other matters; in other words, matters that the decision maker **<u>may</u>** have regard to in addition to those it must have regard to. Had Parliament intended section 66(2) to be exhaustive, the gloss of "*among other things*" would have not been necessary.

35. Neither Counsel for the parties, nor ourselves, have been able to find case law that provides authoritative guidance as to the type of matters that might fall outside of "*among other things*".

36. Para. 21 of Mr Jeremy's skeleton argument referred to *Darlington BC v Kaye* [2004] EWHC 2836 (Admin) which concerned an appeal as to whether an authority must not grant a taxi licence unless that are satisfied that the applicant is a fit and proper person to hold such a licence under section 51 of the Local Government (Miscellaneous Provisions Act) 1976. In that case, the authority successfully appealed the decision of a magistrates' court to allow

the appeal against an authority's decision to refuse to renew the respondent's hackney carriage driver's licence on the basis that he had failed the fit and proper person test.

37. The authority, following a public consultation, had introduced a requirement that a hackney carriage driver pass a Driving Standards Agency taxi test and provide a copy of such a pass certificate in accordance with s. 57 of the Town Police Clauses Act 1847 before it would consider renewing a hackney carriage licence. This was not a condition attached to the grant of a licence but a request for information as part of considering the application to renew. It was held on appeal that it was reasonably necessary for the authority to request such information in order to assess whether the respondent was a fit and proper person for a licence.

38. The Tribunal is further assisted by the reasoning in *McCool v Rushcliffe Borough Council* and *Hussain v Waltham Forest LBC*. Licensing authorities are required to make evaluative judgments concerning suitability and may rely upon conduct established on the balance of probabilities. They are not confined to criminal convictions.

39. In the present case, Mr Barrett acknowledged that he had only been in post for 5 months when the decision was taken, that this was his first time refusing a licence application, that he had done so on the basis of further information he had sought after colleagues brought the reporting in the local press of the allegations regarding the Applicant's conduct to his attention, and that he had subsequently learned that other local authorities have policies concerning the making of such decisions.

40. The Respondent did not have such a policy, and we make our decision in the absence of one accordingly. No doubt the Respondent will be considering whether to adopt such a policy if it has not already done so, but that is not a matter we need to concern ourselves with.

41. In his own words, Mr Barrett said that he had made his decision on the basis of a "*public moral conscience*" having regard to what the public impact might be, the level of risk, the potential backlash and reputational risk for the Respondent if he had allowed the application for the Applicant to be the licence holder. We find that Mr Barrett's wording might be clumsy, but it does not stray sufficiently far from the test he was required to make under s. 66 as to render his decision void.

42. We had regard for the fact that the purpose of the HMO licensing regime is protective since HMO occupiers are frequently vulnerable persons. We find that it would be inconsistent with that purpose if an authority was to be

prevented from considering highly relevant conduct simply because it did not fit squarely within one of the examples listed in s. 66(2) HA 2004.

43. The matters relied upon by the Respondent do not relate to housing law; indeed, there were no concerns identified about the Applicant's control or management of any other HMO or tenanted properties. However, at least some of the matters relate to the Applicant's interaction with vulnerable persons and the matters also touch on whether the Applicant has regard for local authority and regulatory obligations generally.

44. We find that the Respondent was entitled, in principle, to consider the evidence from Trading Standards and the Police. The next question is what weight to give those matters and whether the Respondent should nevertheless have reached a different conclusion.

45. The Tribunal attached considerable weight to the material produced by Kent Police and Trading Standards in relation to the Applicant's trading activities.

46. We are considering the evidence that was before Mr Barrett when he made his decision. We should not have regard for new matters raised subsequently. Equally, we should not disregard matters that were considered at the time. However, the Respondent chose not to submit the evidence that Mr Barrett considered concerning allegations of fly tipping.

47. The reasons as to why the Respondent chose not to include that evidence by the time of the hearing are irrelevant; those are matters that were not known to, or could not have been known to, the Respondent at the time of the decision making but absent that evidence, we are in a disadvantaged position. We consequently gave extremely limited weight to the allegations of fly tipping. Had we been required to do so, we may have considered these allegations to be too remote to the purpose of the licence applications to be relevant matters "*among other things*" other than to question the Applicant's general approach to breaching statutory requirements.

48. Kent Police and Trading Standards are reputable public enforcement bodies acting in the course of their statutory functions. Their concerns regarding the Applicant's sale of illicit tobacco and vapes in July 2024 [128] and sale of restricted items to underage persons were not isolated but formed part of a repeated pattern extending over a number of years.

49. Of particular concern is the evidence concerning:

(a) forfeiture of novel psychoactive substances in 2014 [130];
(b) failure of the Applicant or his staff to implement Challenge 25 on 15 November 2019 and 16 December 2019 [131] as well as on 14

December 2021 [133], inviting a minor to "*come find me and I'll look after you*" when the minor had tried to make an underage purchase on 17 February 2022 [133-134] and failed Challenge 25 test purchases in the week before 17 March 2025. The material indicates even with knowledge of the customer's age, the Applicant attempted to continue with transactions;

(c) sale of restricted items without notification on 8 January 2020 [131] and 25 January 2022 [133];

(d) discovery of 'prescription medical cannabis labels' in January 2020 [132].

50. Even if viewed in isolation, the Tribunal would regard any of the above incidents as highly relevant to the assessment of the Applicant's attitude towards safeguarding obligations. When that evidence is considered alongside repeated seizures of illegal vape products, illicit tobacco, counterfeit goods and concerns regarding compliance with regulatory obligations, the Tribunal is satisfied that the Respondent was entitled to conclude that the Applicant displayed a prolonged and persistent pattern of disregard for such obligations.

51. We also had regard for the Applicant's written [34-38] and oral evidence. The Applicant's written evidence was cursory in addressing the allegations above. In oral evidence, the Applicant demonstrated a lack of insight and proved evasive in accepting responsibility for the incidents, stating that he should not be held responsible for the failures of wholesalers who sold him counterfeit goods, that sales to minors were the fault of his staff rather than himself save for one occasion, and that he was generally a victim of harassment and persecution by statutory authorities. In short, he did little to dissuade us as to the veracity of the allegations or that he had changed his behaviour as a result. We did not find his evidence to be credible nor compelling in demonstrating that he is a fit and proper person.

52. The Tribunal accepts that there are no criminal convictions relied upon by the Respondent which fall directly within the matters listed in s. 66(2). However, for the reasons already given, we find that is not determinative. The conduct itself is sufficiently serious, sufficiently prolonged and persistent, and sufficiently well evidenced to be relevant to the statutory decision making of the Respondent.

53. The Tribunal has considered whether, in the alternative, a licence could appropriately be granted subject to conditions. Again, we were informed of matters concerning the management of the Property and its occupation but since these have occurred since the decision in October 2025, we have disregarded what we were told.

54. The Applicant proposed conditions involving a manager and training requirements and these may have been sufficient in different circumstances. Conditions are supplementary protections, but where we are satisfied that the Applicant is not a fit and proper person, we do not regard the proposed conditions as sufficient given the conduct of the Applicant to date and the paucity of evidence provided by the Applicant to rebut the allegations above which we are satisfied have been made out.

55. Standing back and applying the approach required by *Hussain*, the Tribunal is not persuaded that the Respondent should have reached a different decision in October 2025, notwithstanding the procedural deficiencies which occurred and the language Mr Barrett used in his oral evidence to describe his approach to the decision making.

56. The Applicant has therefore failed to discharge the burden of showing that the Respondent's substantive decision was wrong.

57. The appeal is dismissed.

Rights of appeal

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to rpsouthern@justice.gov.uk as this will enable the First-tier Tribunal to deal with it more efficiently.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.