FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	LON/00AG/HMV/2026/0005
Property	**:**	36 Iverson Road, London, NW6 2HE
Applicants	**:**	Nir Zamek trading as Zamek Estates
Representative	**:**	Mr Yusuf Jaffar, Gowerlane Group
Respondent	**:**	London Borough of Camden
Representative	**:**	Mr Nick Ham (Counsel) Instructed by Mutahir Ahmed, Legal Services
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 D Gethin Ms S Coughlin, MCIEH
Date and venue	**:**	18 November 2026, 10 Alfred Place, London WC1E 7LR
Date of Decision	**:**	23 November 2026

DECISION

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DECISION

(1) The Tribunal confirms the decision of the Respondent dated 10 November 2025 to Grant an HMO Licence subject to the stipulation that there is no permitted occupation of Studio Flats 2 and 4 for the Property at 36 Iverson Road, London, NW6 2HE.

REASONS

Background

1. The Applicant seeks to appeal against a decision by the local housing authority granting a licence for the subject property subject to the stipulation that there is no permitted occupation of Studio Flats 2 and 4.

2. This case concerns an HMO licence application made under Part 2 of the Housing Act 2004 ("HA 2004") for the Property at 36 Iverson Road, London, NW6 2HE. The Property is a 3-storey terraced dwelling comprising eight self-contained letting rooms which had previously operated as a licensed HMO under the same owner. The freehold of the Property under title number 20912 is owned by Nir Zamek registered as the proprietor on 13 January 1997 [R70-R71]. The Applicant is a sole trader trading as Zamek Estates. The first licence was granted in February 2018 when the Respondent did not have any specific space standard for self contained units. In December 2020, the Respondent adopted a Space Standard for self contained flats and studios within Houses in Multiple Occupation [R 87].

3. The licence application to renew received by the Respondent local authority on 15 May 2023 was sent by the Applicant's agent, Gowerlane Ltd ("the Agent") [A7-A52].

4. Following inspection on 4 April 2025 by Owain Evans, an Environmental Health Officer, formal *Notice of Proposal to Grant an HMO Licence* was sent to the Applicant under cover of a letter from Thaher Miah of the Respondent's Private Sector Housing team, on 9 May 2025 [R159-R162] enclosing a copy of the Proposed Licence and Conditions [R148-R158] together with a waiver for Studio Flats 2 and 4 found to be below the Respondent's minimum required space standard of 12m^2.

5. Following an internal review of the proposed grant, and a further inspection by Mr Evans of Studio Flat 2 on 1 August 2025, a formal *Notice of proposal to modify a Licence for a House in Multiple Occupation* was sent to the Applicant under cover of a letter from Aisha George, HMO Licensing Officer, on 6 August 2025 [R165-R166] enclosing a copy of the Proposed Modified

Licence and Conditions [R167-R177] stipulating that there would be no permitted occupation of Studio Flats 2 and 4 due to those rooms falling below the Respondent's minimum required space standard.

6. The Applicant filed an application with the Tribunal appealing the Notice of Grant on 3 December 2025 [A84-A99] and the Applicant set out his grounds for the application in a supporting undated statement sent in June 2026 [A1-A6].

7. Initial directions were issued by the Tribunal to the parties on 10 April 2026 [not included in the bundles provided by the parties].

8. A paginated pdf bundle of 100 pages was provided by the Applicant. A paginated pdf bundle of 373 pages was provided by the Respondent. The Applicant provided a 3-page Reply to the Respondent's Statement. References in [A001], [R001] and [AR001] in this decision are to the pdf pages taken from the two Bundles and the Applicant's Reply respectively unless otherwise specified.

The Law

9. Section 64, HA 2004 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 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;*
> *…*
> *(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.

(3) 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.

10. Section 67, HA 2004 deals with the power to include conditions a local authority consider appropriate for regulating the management, use and occupation of the property and its condition and contents if deciding to grant an HMO licence. The relevant sections are:

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;

...

(3) A licence must include the conditions required by Schedule 4.

...

(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.

11. 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.

12. On an appeal against the terms on which a licence has been granted, 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.

13. 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.

14. Exhibited to the witness statement of Mr Evans dated 29 June 2026 [R3-R11] was an extract from the *Housing Health and Safety Rating System (HHSRS): Case studies* published by the Ministry of Housing, Communities and Local Government ("MHCLG") on 23 June 2026. Mr Evans accepted that he had not and could not have had regards to case study example *D18.1 Pre-1920 Ground Floor Studio Flat (Non-HMO)* when making his decision in November 2025. We explained to the parties that we would disregard the document.

15. 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.

16. 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*".

Hearing

17. The hearing took place in person at 10 Alfred Place, London WC1E 7LR. The Tribunal was addressed by Mr Yusuf Jaffar, Property Manager at Gowerlane Group on behalf of the Applicant, and by Mr Nick Ham, Counsel on behalf of the Respondent. Also in attendance was Mutahir Ahmed of the Respondent's Legal Services.

18. Mr Jaffar, also attended as witness on behalf of the Applicant. Mr Owain Evans, Environmental Health Officer and the original decision maker, and Mr

Ian Pringle, Operations Manager for HMO Licensing, attended as witnesses on behalf of the Respondent.

19. As this was a re-hearing of the Respondent's decision to grant an HMO Licence subject to the stipulation that that there is no permitted occupation of Studio Flats 2 and 4, the Respondent was invited to present its case first.

The Respondent's Case

20. Mr Evans gave oral evidence explaining the circumstances whereby he had originally been minded to grant a proposed licence with a waiver for Studio Flats 2 and 4, but then on review and a further inspection had recommended the grant of an HMO licence with the stipulation that neither studio flat could be occupied.

21. Mr Evans also explained what was meant by the wording that flats below the space standard would be considered on a "*case by case basis*". He referred to a room that might surpass the space standard but would still not be permitted to be occupied due to the layout, or otherwise would be smaller than the space standard but might have exclusive use of additional storage space outside of the room and so granted a licence.

22. The first inspection on 4 April 2025 had involved measuring Studio Flat 2 using a laser measure. Mr Evans explained that access to Studio Flat 4 had been more difficult due to the tenant at the time being obstructive, and Mr Evans observed the tenant make scathing comments regarding the Applicant.

23. Mr Evans candidly admitted that his initial view to consider a waiver had been arrived at because he had not paid as much attention to the space standard as he should and that his notes from the visit of the Property, together with another property on Iverson Road on that same day, were not as detailed as they could have been.

24. No representations were received on the proposed HMO licence. That is unsurprising given the LA's initial view had been to grant the HMO licence with a waiver for Studio Flats 2 and 4.

25. An internal review, and subsequent meeting with Mr Pringle, had led to the Respondent undertaking a second inspection on 1 August 2025 in order to confirm the room measurements were accurate as well as to re-visit the question of whether there was any additional living or storage space within the Property that might justify a departure from the LA's published "*Minimum floor area for room where kitchen facilities are located within the room*" of 12m^2 [R89]. Mr Evans had been able to secure access to Studio Flat 2 but not Studio Flat 4 at this second inspection.

26. Mr Evans said that any discrepancy in the floor area arrived at from the room measurements achieved using a laser measure or a steel measure were down to the difficulties in achieving accurate calculations where there are alcoves or nooks present. Mr Evans said that the floor plans provided by the Applicant [R140-R147] on which he had made his own notations [R163-R164] were not completely accurate representations of the rooms themselves or the layout of the kitchenette within the room.

27. Following the second inspection, the LA had received the Applicant's representations dated 11 August 2025 [R178-R209] as prepared by Landlord Licensing & Defence on behalf of the Applicant. Those representations were responded to at the time [R211-R245].

28. Mr Evans confirmed that despite his concerns regarding the space, he had not undertaken a Housing Health and Safety Rating System ("HHSRS") risk-based assessment of either studio flat.

29. Mr Evans said that the reason for upholding the space standard as set by the Respondent was that in studio flats with no other available living space, any reduction will have a psychological impact on the tenant and increase the risk of an accident within the studio flat.

30. When asked whether his mind had been closed to upholding his initial view at the second inspection, Mr Evans said it was not. Mr Evans confirmed that he has, on occasion, granted waivers such as in circumstances where the tenant had exclusive use of a large wardrobe situated in a hallway. When asked whether he had considered alternative, less stringent, conditions he said that there was potential for the partition wall between Studio Flat 2 and the adjacent room to be moved so that both rooms would meet the space standard, but that generally he did not see it as his responsibility to advise landlords of possible conditions or modifications.

31. Given Mr Pringle had never visited the Property, we do not record his witness evidence at length.

32. Mr Pringle confirmed that as a local authority, the Respondent seeks to robustly maintain the space standard. Any departure would, in his view, lead to potentially inconsistent application of the policy by different officers based on their own life experiences and views on what might be considered adequate accommodation. In the case of s.257 HMOs with self-contained rooms and an absence of compensatory features, Mr Pringle's view was that every square metre below that set by the Respondent would "*not just be a loss of sleeping accommodation, but have a magnifying effect on food preparation, circulation space or storage*".

33. Mr Jaffar asked Mr Pringle why, if that was the case, the LA had allowed a notice of proposed grant to be issued with a waiver where the floor area was below 12m². Mr Pringle explained the procedure as one where the officer inspects and drafts the notice to grant or refuse a licence, and this goes to colleague to check although on this occasion neither a principal officer nor manager had undertaken that check. The notices are authorised by the HMO Licensing Manager whose role it is to prepare and serve documentation rather than to review their contents.

34. On this occasion, there had been a review of the notice of proposed grant. Mr Pringle confirmed that was not a standard procedure for all notices with proposed waivers or because of a particular concern about the Property, but because a colleague had raised the issue with him and it was decided to hold a meeting the outcome of which was for Mr Owens to re-inspect.

35. Mr Pringle confirmed that some London borough LAs have a minimum floor area that is less than that adopted by the Respondent, whilst others have set it at 13-13.5m². Mr Jaffar asked why Mr Pringle had not proposed conditions such as the use of the studio flats by students. Mr Pringle replied that there was a representation period, the Property is the Applicant's asset and that it was for the Applicant to suggest proposals which might justify bringing the units into use. That could be done during a site inspection, informally in conversations with officer prior to the grant of a notice or through the representation period.

36. Mr Pringle recognised that until the tenancy in force at the time ended, there was no requirement for the Applicant to take any steps, and the studio flats could continue to be used. He pointed to an example of a 15-unit s.257 HMO with undersized *en suites* where the landlord had told Mr Pringle that it would wait until all units were empty and then take the entire building take back to brick and refurbish to an entirely different specification.

37. Mr Ham submitted that the reference to the studio standards of other local authorities in cross examination is not relevant; the Respondent had established a policy with 12m² as a minimum, and whilst it was not bound to follow its policy that policy had been consulted on, adopted and the Tribunal should therefore give it appropriate weight. Mr Ham acknowledged that it was possible to depart from the policy in certain circumstances, such as if the policy was unlawful or applied inflexibly.

38. Mr Ham submitted that both of the Respondent's witnesses had evidenced that matters were considered on a "*case by case basis*". There was greater flexibility when considering s.254 HMOS with shared communal spaces, but even for studio flats in a s.257 HMO, other space such as other rooms, garden

space or storage space could be considered. Where the room size was slightly smaller and be marginal or fall within a margin of error, Mr Ham submitted that the Respondent might be more willing to apply the discretion. In the present case, the Respondent had reflected on whether there were any factors that would justify departing from 12m².

39. Mr Ham relied upon *Clark v Manchester City Council* [2015] UKUT 029 (LC) §49 and *Nottingham City Council v Parr and another* [2018] UKSC 51 §25 ("*Parr*") as authority for the position that the Respondent can have regard to additional facilities when deciding whether to depart from 12m² and here, there were none. The Respondent did not invite us to consider any other conditions or modifications to the HMO licence that might allow us to determine either or both studio flats should be permitted to have one occupant.

The Applicant's Case

40. The only witness evidence available came from Mr Jaffar, the Applicant's representative. The written statement did not add a great deal to the documentary evidence. The parties agree that the floor area for Studio Flat 2 is 10.73m² and at the hearing, given the lack of further measurement of Studio Flat 4 due to no access at the second inspection, the Respondent was content to rely on the position that the floor area was no more than 11m².

41. Neither party had requested an inspection in advance, nor invited us to undertake one when we asked at the hearing if the parties wished us to inspect. We therefore did not consider one necessary.

42. The Applicant submits that the Respondent had applied a blanket policy in place of an individual assessment, and that both studio flats significantly exceed the statutory minimum of 6.51m² for a room used as sleeping accommodation by one person aged over 10 years provided for in para. 1A(2)(a), Sch. 4, HA 2004.

43. The Applicant relies on the proposition that the Respondent's 12m² threshold is policy guidance rather than a binding requirement, and that the Tribunal must assess actual suitability and usability rather than applying a numerical threshold mechanically.

44. Mr Jaffar submitted that the waiver in the proposed HMO licence had noted that the studio flats "*have good layouts with all floor space usable*" [R149] and that there had been no physical change to either studio, no change in layout and no change in facilities since the first inspection that warranted a change of position. Mr Jaffar submitted that the studio flats had been in place since 1996 and that there had been no incident or injury in that time.

45. Although not previously raised nor evidenced, Mr Jaffar submitted that the rooms have space saving furniture that maximises the available space. We note that no photographic evidence of the rooms had been provided to support submissions regarding useability of the available space.

46. The Applicant submits that a marginal shortfall of less 1.3m² does not justify treating a studio as unoccupiable, that less restrictive conditions could have been imposed and that complete prohibition is disproportionate. At the hearing, Mr Jaffar submitted that a requirement for a fire suppression system, as had been applied for Studio Flat 6, or to restrict occupation to students as provided for in *Parr*, were examples of conditions we could consider rather than not permitting occupation.

The Tribunal Decision

47. The Tribunal first addresses the Respondent's conduct in giving notice of a proposed grant of an HMO licence subject to the waiver of the minimum space standard, and then later changing its position.

48. We do not consider the Respondent was prevented from changing its position, albeit we recognise that the Applicant might have anticipated a favourable outcome. The Applicant was given further opportunity to make representations following the amended proposed licence which he availed himself of, and the Respondent's decision does not prevent the Applicant from continuing to let the studio flat to a tenant that was in place at the date of this decision. We note that the delay between the Applicant making the original application and the Respondent's final, amended, decision was regrettable, but this has caused no prejudice to the Applicant.

49. Even if we are wrong and there has been a procedural failing that might void or render voidable the Respondent's decision, if this was an application for judicial review, the remedy might be to quash the final notice of November 2025 and for the decision maker to remake its decision.

50. However, this appeal is not a judicial review. The statutory scheme under para. 34, Sch. 5, HA 2004 already provides that an appeal is to be way of a re-hearing in which the Tribunal is required to determine the substantive question itself rather than simply quashing the decision because the process might be defective. As part of the re-hearing mechanism, the Applicant has been afforded the opportunity to make further representations as to matters it knew or could have known as of November 2025 when the decision was made; in short, other than the time to reach a fully reasoned decision, there is no prejudice to the Applicant.

51. We regard the Applicant's submissions that the floor area exceeds that of the statutory minimum laid down for sleeping accommodation in para. 1A(2)(a), Sch. 4, HA 2004 to be a red herring. That is a statutory minimum for which there can be no discretion to fall below. The Respondent is entitled to impose a higher standard through its licensing regime and has chosen to do so.

52. We do not consider what other local authorities choose to set as the appropriate floor area for a studio flat to be instructive or helpful. The relevant question is what weight we should afford the Respondent's adopted space standard, whether the shortfall below the 12m² standard materially affects suitability, and whether there are matters that would justify departing the Respondent's policy.

53. Turning to the Respondent's space standard set at 12m², it is not submitted by the Applicant that the policy is unlawful in any way. The Respondent was entitled to set a higher standard, and we are satisfied that was arrived at in 2020 following consultation. Whilst Mr Pringle acknowledged in cross examination that some local authorities have set a lower standard such as Westminster City Council, he pointed to Hammersmith & Fulham Council where it has been set at 13m² and others where it is set at 13.5m².

54. The Applicant is in the unfortunate position that two rooms in the Property, which had been in use since 1996 and for which an HMO licence had been previously granted, now fall below that threshold. We have sympathy for the Applicant's position which has arisen through no fault of its own.

55. However, we find that we should give the Respondent's policy due weight and that the *starting* point should be to not grant a licence where the floor area of the room is below the threshold. We find that the intent and purpose of the policy is to ensure living conditions within the Respondent's borough that promote physical and mental wellbeing and that the figure of 12m² had been arrived at in an appropriate way following consultation.

56. Based on Studio Flat 4 as being no more than 11m² and Studio Flat as 10.73m², the two rooms are between 8.3-10.5% below the space standard. That may not appear to be a large reduction, but given this is below a *minimum* threshold we find that to a be a significant margin below. We accepted Mr Pringle's concerns that this does not simply affect the use of the room as sleeping accommodation. That margin will impact all daily living activities including food preparation, circulation space and availability for storage as well as socialising. The shortfall is therefore significant not just in numerical terms but in the daily impact it has on the tenant.

57. We then turn to whether there are any reasons to depart from the Respondent's space standard. We find that the purpose of Mr Evans' second

inspection was to confirm the room measurements in case the floor area had been measured too small, but also to expressly look for any other matters that might justify departing from the policy such as separate storage areas. None had been identified and the Applicant has not submitted that is wrong.

58. We also find that this is evidence that the Respondent had approached the matter on a "*case by case basis*" and that Mr Evans' mind had not been closed to the possibility that there might be other factors that would warrant a departure from the policy.

59. We gave little weight to Mr Jaffar's submissions regarding the furniture in the rooms. There was no evidence of the useable space gained as a result that would permit or encourage us to depart from the policy.

60. We finally turn to the question of whether there are any other conditions that could be employed. With regards to fire suppression, that might make the room safer for the tenant, but we note that the kitchenette layout has already been accepted by the Respondent. We do not see how fire suppression addresses the lack of available room.

61. As to the grant of a licence subject to use of Studio Flats 2 and 4 by students in keeping with *Parr*, the current circumstances are readily distinguished. The property in *Parr* was wholly used by students "*where cohesive living is envisaged*" with a "*level of shared activity and social interaction*", §12. The Supreme Court had upheld the Court of Appeal's decision in which on appeal it had varied the licence to include two further conditions:

> "*(i) that the communal space on the ground floor, comprising a kitchen/diner and living room area, be kept available for communal living space only;*
>
> *(ii) that no bedrooms may be let to persons other than students in full-time education.*"

62. We do not consider occupation of Studio Flats 2 and 4 by students to be a satisfactory variation. There would not be any communal living space in the Property, and there was no evidence that all occupants in the Property intended to engage in cohesive living with shared activity and social interaction.

63. We expressly invited the parties to propose variations at the hearing, but we were not invited to vary the licence to include a condition regarding communal living space that might have permitted occupation of one of the two studio flats.

64. We therefore have not exercised our powers under paras. 34(3)-(4), Sch. 5, HA 2004 to direct the Respondent to vary the licence and include further conditions.

65. 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.