



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY) AT 10
ALFRED PLACE, WC1E 7LR**

Case reference : **LON/00AT/HPO/2020/0017**

HMCTS code : **V: VIDEOREMOTE**

Property : **54 Cambridge Road, Hounslow,
Middlesex TW4 7BS**

Applicant : **Mr Pankaj Dhir**

Representative : **N/A**

Respondent : **London Borough of Hounslow**

Representative : **Mr Stephen O'Brien, Housing
Enforcement Officer**

Type of application : **Appeal against a Prohibition Order**

Tribunal members : **Judge Tagliavini
Ms S Coughlin MCIEH**

Date of hearing. : **30 June 2021**

Date of decision : **15 July 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote paper hearing which has been consented to by the parties. The form of remote hearing was V: VIDEOREMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined in a remote hearing. The documents that the tribunal was referred are contained in the applicant's bundle, pages 1 to 7 and the respondent's bundle pages 1 to 81.

The tribunal's summary decision

- (1) The tribunal refuses the applicant's appeal and confirms the Prohibition Order in respect of the prohibition on using the loft space at 54 Cambridge Road, Hounslow, Middlesex TW4 7BS for residential purposes and human habitation.
 - (2) The tribunal determines that the applicant is required to pay the fee of £410 incurred by the respondent in respect of the preparation and service of the Prohibition Order.
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The application

1. This is an appeal by the applicant against a Prohibition Order dated 3 February 2020. This Prohibition Order prohibits the use of the loft space at 54 Cambridge Road, Hounslow, Middlesex TW4 7BS ('the premises') for residential purposes and human habitation and was made by the respondent under section 20 and Part 1, Chapter 2 of the Housing Act 2004.
2. This appeal is heard by the tribunal by way of a re-hearing in accordance with Schedule 2 of the Housing Act 2004, at which Mr O'Brien represented the respondent and the applicant/appellant acted in person. No issues were raised by either in respect of the timing of the service of the Prohibition Order or its content and the timing of the appeal made by the applicant to the tribunal. Further, no issue was taken by the applicant in respect of service of the Prohibition Order on those who may be affected by it.

The respondent's case

3. The tribunal was referred to the witness statement of Mr O'Brien (undated) and its 18 exhibits and which Mr O'Brien adopted as his evidence-in-chief. This statement set out the background to the Prohibition Order being made and the correspondence between the parties. The premises comprise a house which has been converted into two flats known as 54 Cambridge Road and 54A Cambridge Road of which the latter is not the subject of this appeal.

4. The premises comprise an open plan reception room and kitchen on the ground floor with three bedrooms and bathroom/w.c. and separate w.c. on the first floor with a loft space on the second floor. Having initially investigated 54/54A Cambridge Road as an unlicensed house in multiple occupation (HMO) due to complaints of fly tipping outside the building. Mr O'Brien made a mutually agreed inspection on 4 December 2019. The loft space, which was accessed from a carpeted staircase up from the first floor did not appear to have been constructed with Building Control approval, or to an adequate safety standard. The inspection of the loft space also revealed two category 1 Hazards (fall on loft stairs and excess cold) and three category 2 Hazards (fire, damp & mould, crowding & space) under the Housing Health and Safety Rating System (HHSRS).
5. A number of photographs of the loft space and stairs taken on 4 December 2019 were also provided to the tribunal. These showed a skylight had been installed (date unknown); a rug positioned on the carpeted floor of the loft area with cushions around; exercise mats; children's games and soft toys; a computer and charging points plugged into sockets on the wall; a clock on the wall; a bin with paper waste inside; a number of bags and items of clothing and a clothes-drying rack with clothes arranged on it. The photographs also showed a steep winding and unguarded staircase leading from the first floor to the loft space with no landing area outside the loft area inadequate natural and/or artificial light and undersized stairs of less than 1,000mm width.
6. Subsequently, correspondence was entered into by the parties in which Mr O'Brien set out the reasons for the Prohibition Order being made in a lengthy statement/email to the applicant as to why it was necessary to make a Prohibition Order as the loft space was only used for storage. The applicant queried the respondent's request that he pay the £410 fixed fee in respect of the cost of preparing and serving the Prohibition Order as stated in the documentation served with it.
7. In questioning by the tribunal and cross-examination by the applicant, Mr O'Brien accepted he had not taken into account the fixed radiator in the loft space which appeared in his photographs and had not opened up the walls to assess the degree of insulation provided. Notwithstanding this oversight, Mr O'Brien confirmed that nevertheless the Prohibition Order was required as no other form of enforcement order would be sufficient in preventing the obvious fall and space hazards this loft area presented. Mr O'Brien estimated that the useable floor area of the loft was about 3.5 square meters and was of the view that a full loft conversion with Planning Permission and Building Control approval would be needed to remedy the hazards identified of falls on stairs and the lack of space.

The applicant's case

8. The applicant provided the tribunal with a written statement and exhibits (undated) and gave oral evidence at the final hearing. In his statement the respondent focused on the issue of there having been an initial impression

formed by the respondent of the property being an HMO and the refusal of the Lawful Development Certificate for the conversion into two flats neither of which are issues before the tribunal in this current appeal.

9. The applicant asserted repeatedly that the loft area was only used for storage and drying clothes and that the computer/laptop was broken, the charging points could be found more easily if they were plugged into sockets and the clock was waiting to be mended. In addition, fans and Christmas decorations were stored in that space. On questioning by the tribunal, the applicant admitted that he had been responsible for converting the property into two flats (54 & 54A) although Mr O'Brien challenged him on this as having previously denied having done so to the respondent and this was new information to him. The applicant also asserted he did not understand why he was being asked to pay £410 and believed the respondent had already collected this sum from lots of other residents.
10. The applicant asserted that when he had bought the property the loft space already had a skylight and radiator installed and the carpeted stairs in situ and his solicitors had arranged an indemnity policy at the time of purchase in respect of the absence of Building Control approval. The applicant also accepted that he had not carried out any works to the subject premises since the service of the Prohibition Order. He also accepted that the size of the loft area could not be increased to a reasonable standard without carrying out significant conversion works to raise the ceiling height.

The tribunal's decision and reasons

11. The tribunal is satisfied and is sure that the loft space at the said premises presents a category 1 Hazard for reasons of fall on stairs and serious category 2 hazards in relation to fire and lack of space. The tribunal is also satisfied that the respondent was required by the Housing Act 2004 to take enforcement action and that other forms of enforcement would not alleviate these hazards and the service of a Prohibition Order was both reasonable and necessary as the tribunal finds that the loft space is being used for residential purposes and not just for storages as alleged by the respondent.
12. In reaching its decision the tribunal also took into account the rug and cushions positioned as is for use, the laptop/computer and the charging units plugged into the electrical sockets as well as the drying rack and the drying clothes. The tribunal is not satisfied that the loft space presents a hazard of excess cold due to the presence of a radiator which was overlooked by Mr O'Brien.
13. The tribunal finds the applicant to be a less than credible witness and a landlord who has little regard for planning requirements and building control permissions to ensure the safety and welfare of occupants in the building comprising 54 & 54A Cambridge Road.

14. The tribunal is satisfied that the Prohibition Order has been served correctly and is in the correct form and states the reasons why it has been made and the steps required to alleviate the identified hazards in order for the Prohibition Order to be revoked in respect of the hazards of falls, lack of space and fire. However, the tribunal is not satisfied that the category 1 hazard of excess cold has been correctly identified and therefore varies the Prohibition Order in so far as it removes references to excess cold and the remedy required to alleviate it. In conclusion, the tribunal refuses the appeal and confirms the Prohibition Order in respect of the category 1 hazard of fall on stairs and the category 2 hazards identified. The tribunal also determines that the applicant is therefore required to pay the respondent's fee of £410 incurred in respect of the preparation and service of the Prohibition Order.

Name: Judge Tagliavini

Date: 15 July 2021

Rights of appeal from the decision of the tribunal

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).

