

Appendix 4 Case studies from additional HMO within the current Designation

Case Study 1 – Nottingham Road

The property on Nottingham Road has been operated as a HMO for many years. The first application for an additional HMO licence was received for the property in November 2014. This licence was refused in 2016 after significant interventions as the proposed manager was determined to be not fit and proper. This decision was made due to the links with the freeholder of the property who has previously been prosecuted by this department for Housing Offences. It was also deemed that the proposed licence holder was not the most appropriate person to be the licence holder, because it was believed he was not managing or in control of the property.

The refusal of the licence was challenged to the First Tier Tribunal and before the hearing a consent order was agreed directing that the freeholder was not to have any involvement in the property. The proposed licence holder was to complete training if landlord training had not been completed in the previous three years and that the property was to be inspected by the licence holder every four months. It was agreed that if there were no breaches in the conditions outlined within the period the licence was in force then these conditions would not be added onto any renewals.

Following the receipt of the consent order it was agreed that a licence would be issued, but only for 12 months. The licence was then granted in January 2017 and expired in December 2018. During the period of this licence being in force a compliance inspection was carried out in May. The inspection highlighted various issues and disrepair and an improvement notice was served. The licence was allowed to expire. The improvement notice was not complied with and works in default of the notice were carried out by the council and the costs recovered. The property remained under investigation and a case was built for a criminal hearing in the Courts.

A further application for an additional HMO licence was then received on April 2019. This application was refused as the proposed licence holder had pleaded guilty at Court in July 2019 for 'Acting contrary to regulations 11 and 13 of the Consumer Protection from Unfair Trading Regulations, for 'Failing to comply with the duties imposed under regulation 7(4) of the Management of Houses in Multiple Occupation (England) Regulations 2006, contrary to section 234(3) and (5) of the Housing Act 2004' and for 'acting contrary to regulations 8 and 13 of the Consumer Protection from Unfair Trading Regulations 2008. Also, on the 24th July 2019 the proposed licence holder was served a notice under section 80 of the Environmental Protection Act 1990. Due to this it was deemed that they were not fit and proper and the decision was made to refuse to grant a HMO licence.

The authority continued to seek to licence the property during the pandemic and the freeholder advised that an independent managing agent was taking over the management of the property and that they would have full management control of the day to day running of the property and that neither they nor any of their family would have any involvement in the rented property. The managing agent would have full authority to carry out repairs that were deemed threatening to life.

In February 2022 a duly made application was received from the new managing agent. As part of processing the HMO application it was decided that a pre-licence visit was needed before a decision was made. The visit was carried out and during the visit various issues were found. The issues included breaches of management regulations 4, 5, 7, 8 and 9. These included issues such as the property being in a poor decorative state and there not being sufficient bins provided. There were also hazards which would fall under HHSRS for hazards of fire, due to damaged fire doors, falls on stairs due to issues like missing handrails. There were some deficiencies found which were dealt with through additional conditions being added onto the licence, for example there was no fridge/freezer in the property. This inspection led to a schedule of works being issued. The managing agent advise that they had serve section 21 notices on all of the tenants requiring them to vacate the property, to enable the property to be improvement and works safely completed.

Due to the history of the property, it was decided that the council would issue a further 12 month licence. The property would have a compliance visit within that 12 month to satisfy the authority that the management arrangements are satisfactory and that all work had been completed to a satisfactory standard. It has been agreed that if at the time of the inspection officers are satisfied with the management of the property that the licence will be varied up to 5 years from the duly made date.

As you can see this intervention has been complexed and going on over several years. One of the benefits of licensing is that the authority can continually monitor and inspect the licenced properties. This is a positive outcome and shows how the Council has tried to work with the property owners to ensure the safe management of the property. This shows the value of licensing in preventing a person with a criminal record from letting and managing a property in Nottingham City.

Case Study 2 – Harrington Drive

The property previously held a licence and during the previous licence term the property was inspected by an officer of the HMO licensing team. These inspections highlighted continuous breaches of licence conditions as well as a systemic lack of adequate property management amounting to continuous breaches of HMO management regulations. Enforcement action in the form of a Civil Penalty was considered. However, due to the COVID-19 pandemic outbreak, the team decided to take a pragmatic approach as specified in Government Guidance for Local Authorities and instead issue a formal written warning. This warning letter explained that any future breaches of relevant legislation mentioned above could result in enforcement action.

A renewal HMO application was submitted for this property at March 2021 for a HMO licence for four persons and four households.

During this application process the officer contacted the landlord asking for evidence to demonstrate that the issues highlighted in the previous licence term had been remedied. The landlord confirmed that all issues highlighted by the HMO licensing

team had been resolved. The landlord also advised that we were welcome to inspect the property.

A pre licensing inspection was subsequently undertaken. During this inspection the council observed defects and deficiencies, some of which are listed below;

-The first floor middle bedroom had a crack in the outer pane, compromising the windows thermal efficiency and this would allow water ingress.

-In the ground floor living room fire door which leads into the hallway did not completely self-close into the frame without assistance. This means it was unable to overcome the latch and sticking on the door frame, compromising the escape route.

-In the ground floor rear kitchen, the extractor fan only had an isolator switch at the top of the wall next to the ceiling. There was no on/off switch or pull cord to this isolator that the tenants could use compromising the operability of the unit.

-In the cellar, plaster had fallen away from the ceiling below the stairs, leaving gaps where smoke or hot gases could escape into the floors above, should there be a fire. There was also some waste being stored in the cellar, plus a bike and Hoover on the steps.

-In the rear garden of the property, there was no exterior lighting or security lighting and three steps down into the yard from the back door, which had no guarding or handrail. These steps also vary in treads and riser's measurements, and this would increase the risk of a fall.

-In the ground floor hallway, there was no management information displayed

The defects listed above include defects which were highlighted as continuous breaches of HMO management regulations in 2019 as well as defects & deficiencies relevant to HHSRS which were also highlighted in the previous licence term.

Some of these defects are shown on the photos below



Further action

The defects observed above amounted to defects that had been raised by the HMO licence team and have not been remedied by the landlord on 3 occasions now. Therefore, further enforcement action was considered and a Civil Penalty Notice for £3,900 was issued for the continuous breaches of HMO management regulations.

A HHSRS rating conducted by the officer highlighted category 2 hazards. A Housing Act 2004 Part 1 enforcement Notice has also been served on the property in order to deal with defects & deficiencies relevant to HHSRS.

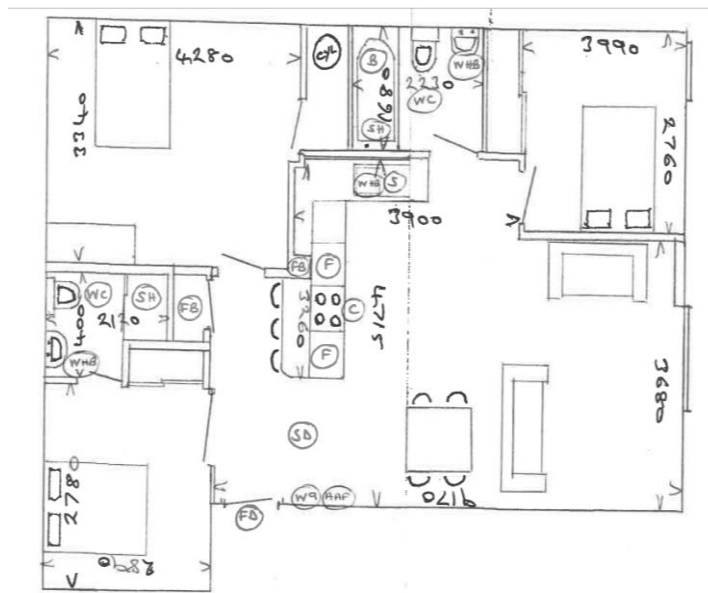
With regards to the HMO licence, the HMO licensing team have proposed to Refuse the HMO Licence due to unsatisfactory management arrangements.

Case Study 3 – The Habitat Building

Property Details: This property is a 3-bedroom, ground floor flat. It has a large kitchen, dining and living room area with one bathroom and three bedrooms off the common areas. Although the property has no protected escape route the flat (as well as the building) is covered by a building wide sprinkler system.

The property falls within the Additional Licensing Scheme. There is also no licensing history relating to this property being used as a HMO.

The sketch plans provided with the application are below;



The HMO licensing team picked up the application in January 2022. As part of correspondence with the applicant it was established that the flat only had one bedroom with an openable window (the bedroom on the far right) and that the other two bedrooms had no external facing windows. In order to provide light in those bedroom there were a glass door and wall which allowed borrowed light from the living room / kitchen area to illuminate the bedrooms. Attached is a photo of one of the glass doors and wall.

In April 2022 the HMO licensing team inspected the property which confirmed the layout set out above. The main concern with the property was the lack of windows present in two of the three bedrooms which meant the occupant had no natural light, and only artificial light coming from the bedroom light and diffused light coming from the glass doors. Privacy and ventilation was also a consideration.

Under the Housing Health and Safety Rating System (HHSRS) a rating was conducted for the hazard of lighting which resulted in a high Category 2 Hazard scored in band D.

It was decided that the layout of the property would be unsuitable for use as a HMO. However, as the property was currently occupied as a HMO the office decided to take the pragmatic approach and allow the landlord the wind down the HMO use of the property in a timely manner.

The HMO licensing team has granted a short licence which would run until the end of the existing tenancy (Summer 2023). At which point, the landlord would be expected to have wound down the HMO into a single-family dwelling use. In order to ensure that this happens the HMO licensing team has also serving a suspended prohibition order under Part 1 of The Housing Act 2004 which would restrict the occupation of the property to a single family unit (1 household). This prohibition would come into force on the same date that the HMO licence expires.

Without the HMO Additional Licensing Scheme in place, the council would not have been aware of this property and the psychological hazards present meaning that the landlord would have been able to continue to let the property in its current guise without consequence.

Case Study 4 – External Compliance

Background -Whilst conducting an external compliance inspection on HMO property in Nottingham, I noticed an issue that needed addressing for the safety of the tenants and visitors to the property. The property did not have a handrail fitted to the front steps and there was also an unguarded drop from the raised front yard area.

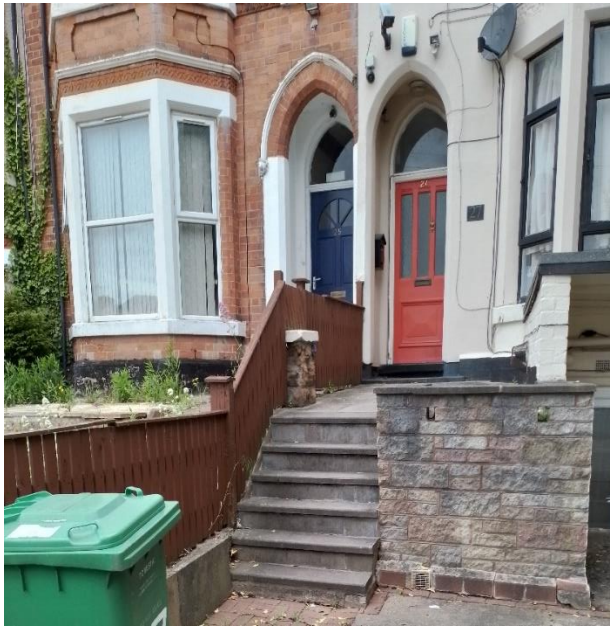
There are two pieces legislation that I considered The Housing Act 2004 Part 1 Housing Health and Safety Risk Assessment (HHSRS) and The Management of Houses in Multiple Occupation (England) Regulations 2006. Whilst on the visit I took photographs for evidence and contacted the License Holder to discuss and an unsatisfactory letter was sent.

Property Standards Improved – Without this work being completed, this could have potentially been a fall's on stairs and between levels hazard under HHSRS and a Management Regulations breach. I used my ask and warn enforcement tools and I was able to ensure that the HMO Licence Holder took immediate action in response to the Unsatisfactory External Inspection.

After contacting the License holder, a time frame for the work to be completed was agreed informally. The License Holder then completed the work in the time frame

agreed and sent photographs of completed works. For the occupiers and visitors to the property, the fall hazards are now reduced, and an accidental fall is less likely.

Before



After

