RESIDENTIAL PROPERTY TRIBUNAL

Midland Rent Assessment Panel

BIR/17UD/HMV/2010/0001

DECISION

On an Application under Schedule 5 paragraph 31(1) of the Housing Act 2004 ('the Act')

Appellant	: Mr Louis Williams
Respondent	: Chesterfield Borough Council
Property	: Ashgate Lodge, 21-23 Ashgate Road, Chesterfield S40 4AE
Date of HMO Licence	: 18th May 2010
Date of Application	: 15 July 2010
Date of Inspection	: 23rd September 2010
Members of the Tribunal	: Mrs A J Rawlence MRICS (Chairman)
	Mr T F Cooper BSc FRICS FCIArb
Date of Determination	: 2010

DETERMINATION : The Licence of house in multiple occupation (HMO) dated 18th May 2010 is confirmed as shown in the Appendix to this Determination

Introduction

1. This is an appeal to the Residential Property Tribunal under subpara 31(1)(b) Part 3 Schedule 5 Housing Act 2004 ('the Act') (the terms relating to a licence) by Louis Williams ('the Appellant') who is the person to whom a Licence dated 18th May 2010 ('the Licence') has been granted subject to conditions by Chesterfield Borough Council ('the Respondent') in respect of Ashgate Lodge, 21-23 Ashgate Road, Chesterfield S40 4AE ('the Property'), a house in multiple occupation ('HMO'). The appeal relates solely to the conditions/terms of the Licence requiring, at para C3 of Schedule 1 of the Licence: provision of enlarged/additional dining facilities on the ground floor.

2. The application was made to the Tribunal on 15th July 2010 - nearly two months after the date of the Licence. Under subpara 33(1) Part 3 Schedule 5 the Act the time limit for an appeal is 28 days but, under subpara 33(3), the Tribunal may allow an appeal out-of-time provided it is satisfied there is good reason for delay. By its ruling 20 July 2010 the Tribunal allowed the Appellant's request for permission to appeal out-of-time.

Inspection

3. The Tribunal inspected the ground floor of part of Ashgate Lodge on 23rd September. Present during the inspection were the Appellant and Mrs Jane Thomas for Chesterfield Borough Council.

4. The Property comprises two 3 storey houses and it is common ground that the accommodation provides 8 bedsitters with occupation under the Licence limited to 12 persons by the existing sanitary facilities. The kitchen on the ground floor of No 23 is used solely for catering and kept locked outside meal preparation and serving times. A snack kitchen is located on the ground floor of No 21 Ashgate Road.

5. Bedsit No 1 - the room which the Respondent contends, in the Licence, shall provide additional dining facilities - was inspected and the Dining Room was also inspected and measurements were taken. The floor area of the Dining Room is 15.72m2 or thereabouts.

6. It was clarified that the Licence requires Bedsit No 1 to be adapted to form a second dining room by removing the shower and providing a new access to No. 21, as per para 4.1 in the 'Room By Room Schedule' in the Licence.

The Applicable Law

7. Section 61 of the Act requires every HMO to be licensed by the local housing authority, subject to certain exceptions. It is common ground between the parties that the Property is an HMO which requires a licence.

8. Section 64(2) of the Act permits the local housing authority to grant a licence if it is satisfied as to the matters mentioned in subsection (3):

"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) ...

(c) ...
(d) ...
(e) ... "

9. Section 65 provides:

"(1) The local housing authority cannot be satisfied for the purposes of section 64(3)(a) that the house is reasonably suitable for occupation by a particular maximum number of households or persons if they consider that it fails to meet prescribed standards for occupation by that number of households or persons.
(2) But the authority may decide that the house is not reasonably suitable for occupation by a particular maximum number of households or persons even if it does meet prescribed standards for occupation by that number of households or persons.
(3) In this section "prescribed standards" means standards prescribed by regulations made by the appropriate national authority.
(4) The standards that may be so prescribed include-
(a) ...
(b) standards as to the number, type and quality of other facilities or equipment which should be available in particular circumstances."

10. Schedule 3 of the *Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions)(England) Regulations* 2006 (as amended by *Licensing and Management of Houses in Multiple Occupation (Additional Provisions)(England) Regulations* 2007) (The '2006 *Regulations*') prescribes the standards for the purposes of Section 65 of the Act. But the *Regulations* do not prescribe standards for dining facilities which is the issue before us.

11. Section 67(1) of the Act provides that

"A licence may included 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."

12. Section 67(2) goes on to provide
"(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;
(b) ....
(c) conditions requiring facilities and equipment to be made available in the house for the purpose of meeting standards prescribed under section 65;
(d) ....
(e) conditions requiring, in the case of any works needed in order for any such facilities or equipment to be made available or to meet any such standards, that the works are carried out within such period or periods as may be specified in, or determined under, the licence;
(f) ...."

13. Under subpara 31(1) Schedule 5 of the Act:

"The applicant or any relevant person may appeal to a residential property tribunal against a decision by the local housing authority on an application for a licence-

(a) to refuse to grant the licence, or
(b) to grant the licence"

And under subpara 31(2):

"An appeal under sub-paragraph (1)(b) may, in particular relate to any of terms of the licence".

14. Under subpara 34(1):

"This paragraph applies to appeals to a residential property tribunal under paragraph 31 or 32.
(2) An appeal –
(a) is to be way of a re-hearing, but
(b) may be determined having regard to matters of which the authority were unaware.
(3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
(4) On an appeal under paragraph 31 the tribunal may direct the authority to grant a licence to the applicant for a licence on such terms as the tribunal may direct."

Standards adopted by the Respondent

15. Although the 2006 *Regulations* prescribe the factors which should be taken into consideration they do not actually specify the required floor area of the dining facilities in relation to the number of occupiers and the mode of occupation of the HMO. The Respondent, in common with other Housing Authorities in East Midlands, has adhered to a document entitled *Housing Act 2004 Guidance Amenities & Space in HMOs a Landlord's Guide* ('the DASH document') produced by Decent & Safe Homes (DASH) East Midlands - a project funded by the Government Office of the East Midlands. The document specifies minimum room sizes for dining rooms. A copy of this is reproduced in part in the Respondent's submission.

16. It is understood that the DASH document is based largely upon a code of practice published by the Institution of Environmental Health officers (now the Chartered Institute of Environmental Health – CIEH) in 1994 entitled *Amenity Standards in Houses in Multiple Occupation* ('the CIEH Document').

Tribunal's determination

17. The Tribunal is satisfied as a matter of law that its role as an appellate expert tribunal is, as required by subpara 34(2) Schedule 5 of the Act, to be by way of a re-hearing. It is for the Tribunal to make its own decision on the Appellant's application and not merely to act as a tribunal of review of the Respondent's decision.

18. The Tribunal is satisfied that the effect of sections 64-67 (and the 2006 *Regulations*) is to empower the Local Authority to set its own standards. We find and hold that while the Respondent's standards cannot be regarded as prescriptive - because the *Regulations* are not prescriptive in relation the dining facilities - the Respondent's standards are not inconsistent with what may reasonably be required as suitable for occupation. It cannot be said that within those standards the existing Dining Room in question is reasonably suitable for occupation by 12 persons. With the Tribunal's general knowledge and experience it also finds that the size of the existing

Dining Room is not within a band of what may reasonably be argued as reasonably suitable for occupation by 12 persons.

19. Under the powers conferred upon it by subpara 34(3) Schedule 5 of the Act the Tribunal order that in respect of the Property the Licence is confirmed. A copy of the Licence dated 18 May 2010 is annexed to this Determination.

20. In making its determination the Tribunal has regard to its inspection of the property, the submissions of the parties, the evidence presented, the relevant law and its general knowledge and experience as an expert tribunal, but not any special or secret knowledge.

Signed A J Rawlence Chairman

Dated 27th September 2010

Licence attached

File Copy.

AL 32

015

HOUSING ACT 2004 Section 64

Licence of house in multiple occupation (HMO)

The Chesterfield Borough Council ("the Authority")

hereby grant to Mr. Louis Williams

of	Ashgate Lodge 21-23 Ashgate Road Chesterfield S40 4AE	and	Ponderosa Lodge 91-93 Derby Road Chesterfield S40 2EP

A licence under section 64 of the Housing Act 2004, subject to the conditions set out in the schedules attached, in respect of premises situate at :

Ashgate Lodge, 21-23 Ashgate Road Chesterfield S40 4AE – House in Multiple Occupation

The Authority has decided that the house is reasonably suitable for occupation by not more than the maximum of [8 households] [and] [12 persons].

This Licence is granted this [18th] day of [May] **2010**

It shall come into force on the [18th] day of [May] **2010**, and shall remain in effect for a period of five years from that date, unless previously revoked.

Dated: 18th May 2010

Signed

Head of Housing
The officer appointed for this purpose

See attached Schedules for conditions

NON-TRANSFERABLE

Printed by Chesterfield Borough Council, S40 1LP
under licence from Shaw & Sons Ltd (01322 621100).
Copyright Shaw & Sons

HMO Licensing Conditions – Chesterfield Borough Council

Schedule 1: Conditions Specific to This Property

A. Limits on Occupation

A1. Second Floor Rear Office – this room is for the exclusive use of the landlord or manager and must not be occupied by any person who has no other home or who is a paying guest.

A2. Maximum Occupancy – the maximum number of occupiers at the property (excluding the landlord) who do not have access to an ensuite WC is **10 persons.**

ie. the total number of permitted occupiers using Bedrooms 1,2,3,4,6,7 and 9 is 10 persons

This limitation also assumes the creation of an additional shared dining room (see section C3 below)

A3. Bedrooms
The occupancy limit on individual bedrooms is listed below.

	Maximum Number of Persons
Ground Floor Rear Bedroom 1 (no 23 Ashgate Rd)	1
First Floor Front Bedroom 2 (no 23 Ashgate Rd)	2
First Floor Rear Bedroom 3 (no 23 Ashgate Rd)	2
First Floor Rear Bedroom 4 (no 21 Ashgate Rd)	2
First Floor Front Bedroom 5 (no 21 Ashgate Rd)	2
Ground Floor Front Bedroom 6 (no 21 Ashgate Rd)	3
Ground Floor Rear Bedroom 7 (no 21 Ashgate Rd)	2
Second Floor Bedroom 9 (no 23 Ashgate Rd)	1

B. Conditions on Use of Rooms

B1 **Second Floor Front Office 'Kitchen'** (no 21 Ashgate Rd)
Cooking appliances must not be installed in this room because it provides a means of escape from the remaining attic bedrooms.

C. All work on the attached schedule to be completed by the dates specified below

C1. The works specified in the Housing Act 2004 s12 Improvement Notice which was served on you on 30th March 2010 **to be completed within the timescales specified on the notice.** If you appeal to the Residential Property Tribunal then all works must be completed in accordance with the determination of the Tribunal.

C2. **Ventilation, Repairs & the Provision of Amenities – all works to be completed by 31st July 2010**
(See Sections 1,2,3,5,6,7,8,9 on the Room by Room Schedule)

C3. **Provision of Dining Facilities – to be completed by 31st October 2010**
(see Section 4 on the Room by Room Schedule)

The existing common room does not meet the Council's adopted standards for a shared dining kitchen for 6- 10 persons. To accommodate more than 5 people a second dining room is required. The rear ground floor bedsit to 23 Ashgate Rd could be made suitable for this purpose by removing the existing shower and partition wall and creating a new entrance from this room into no 21 Ashgate Rd. The new door and frame must be of half hour fire resisting construction, fitted with combined cold and intumescent smoke seals and a hydraulic closing device.

The smoke detector in this room would also need to be replaced with a heat detector with combined fixed temperature and rate of rise elements and linked to the main fire detection and alarm system in accordance with BS5839

Continued overleaf.....

D. Room By Room Schedule

No 23 Ashgate Road

1.0 Second Floor Bedroom

Amenity

1.1 Install a wash hand basin complete with tiled splash back, an instantaneous supply of hot and cold running water and connected to mains drainage.

2.0 First Floor Front Bedroom 2 (no 23)

Amenity

2.1 Provide a door to separate the bedroom from the adjoining shower room. Ensure that the door fits flush to the frame and can be bolted shut from the inside.

Repairs

2.2 Repair the hot tap to the wash hand basin. The tap cannot be switched on stressing the joint with the supply pipe.

3.0 First Floor Rear Bathroom (no23)

Amenity

3,1 Provide a tiled splash back to the sink

Repairs

3.2 Make good the missing render around pipework to the external wall near the sink to provide a smooth washable surface that can be easily cleaned.

4.0 Ground Floor Rear Bedroom Rm 1 (no23)

4.1 Create a second shared dining room by

4.1.1. removing the existing shower and shower room partition and,

4.1.2. creating a new entrance to connect this room with the ground floor to no 21 Ashgate Road. The entrance to be fitted with a half hour fire resistant door and frame (FD30S) with combined cold and intumescent smoke seals and a hydraulic closing device (see general specification).

4.1.3 Properly disconnect the water supply and drainage and make good to all disturbed surfaces. All work to be carried out in accordance with current Building Regulations.

To supplement the existing small snack kitchen it is recommended that a drink making facility with a sink, work top and access to a kettle is provided in this room.

4.1.4 If the room is fitted with a smoke alarm connected to the main BS 5839 fire detection and alarm system, replace the smoke alarm with a combined rate of rise and fixed element heat detector.

4.2 **If this room is retained as a bedroom and a second dining room is provided elsewhere the following works are required.**

Ventilation

4.2.1 Install suitable mechanical extract ventilation (preferably humidistat controlled) to the shower room. The fan should be linked to a fused power supply and capable of delivering at least 3 air changes an hour.

Amenity

4.2.2 Install a wash hand basin complete with tiled splash back, an instantaneous supply of hot and cold running water and connected to mains drainage.

No 21 Ashgate Road

5.0 Second Floor Front Office Kitchen

Ventilation

5.1 Either provide mechanical ventilation to this room or install an openable ceiling light. The fan should be linked to a fused power supply and capable of delivering at least 3 air changes an hour

6.0 First Floor Front Rm 5 (21)

Ventilation

6.1 Install suitable mechanical extract ventilation (preferably humidistat controlled) to the shower room. The fan should be linked to a fused power supply and capable of delivering at least 3 air changes an hour.

Amenity

6.2 Provide a door to separate the bedroom from the adjoining shower room. Ensure that the door fits flush to the frame and can be bolted shut from the inside.

7.0 First Floor Rear bedroom 4 (no21)

Amenity

7.1 Install a wash hand basin complete with tiled splash back, an instantaneous supply of hot and cold running water and connected to mains drainage.

8.0 First Floor Shared WC (no 21)

Ventilation

8.1 Install suitable mechanical extract ventilation (preferably humidistat controlled). The fan should be linked to a fused power supply and capable of delivering at least 3 air changes an hour.

8.2 Install a wash hand basin complete with tiled splash back, an instantaneous supply of hot and cold running water and connected to mains drainage.

9.0 Ground Floor Front Bedroom Rm 6 (21)

Amenity

9.1 Install a wash hand basin complete with tiled splash back, an instantaneous supply of hot and cold running water and connected to mains drainage.

Specifications:

Half Hour Fire Resisting Doors

All half hour fire resisting doors should be installed and maintained in accordance with BS 8214:1990

Fire doors must be well fitted with a maximum gap between door and frame of 3 mm. Combined intumescent (heat activated) and smoke seals to the back edge, stile and head of the door leaf or frame) are required to control the spread of smoke and maintain the integrity of the door.

Fire doors should be hung on three 100 mm mild steel butt hinges and fitted with a steel or brass lever door handle and mortice latch which engages in a keep for a minimum 10 mm when the door is closed.

Fire doors must also be fitted with a suitable surface mounted overhead door closer complying with BS EN 1154 1997. Power type 3 is usually suitable for half hour fire resisting doors. If already fitted, existing 'Perkomatic' double chain concealed door closer (R85) complying with BS 476:Part 22:1987 may be retained where they are still in good working order

Architraves and door frames must be sound and well fitted with no gaps between the frame and the wall.

All vision panels must be of half hour fire resistant glazing.

Schedule 2: General Conditions Which Incorporate The Mandatory Requirements

Gas safety

1. If gas is supplied to the house, the license holder shall ensure that the Gas Safety (Installation and Use) Regulations 1998 (or any Regulations which subsequently replace these) are complied with.

1.2 In particular the licence holder shall ensure that an annual safety check is carried out by a Gas Safe registered engineer on each gas appliance/flue in the house.

1.3 The licence holder shall submit to the Council a gas safety certificate obtained within the last 12 months in respect of the house before the date of the licence application and annually thereafter for their inspection.

Safety of electrical appliances

2. The license holder shall ensure that the Electrical Equipment (Safety) Regulations 1994 (or any Regulations which subsequently replace these) are complied with.

2.1 The license holder shall ensure that electrical appliances made available in the house by them are kept in a safe condition and proper working order.

2.2 The license holder shall ensure that all electrical appliances made available in the house by them are inspected visually for defects (e.g. frayed wiring, badly fitting plugs etc) at the beginning of each occupancy, regularly thereafter and in any event every two years.

2.3 The license holder shall ensure that earthed equipment (class 1) e.g. kettles and irons and the associated leads and plugs, made available by them are tested at the point of supply and at least every two years thereafter (more often if deemed necessary by a risk assessment undertaken by the licence holder). This test shall be undertaken by a person competent in the use of the testing equipment and who has the appropriate electrical knowledge and training (i.e. a competent electrician or other person in possession of a City and Guilds Certificate 2377).

2.4 The license holder shall ensure that unsafe electrical appliances are removed from the house.

2.5 The license holder shall ensure that a record of visual inspections and tests is maintained.

2.6 The licence holder shall submit to the Council on demand the record of visual inspections and tests.

2.7 The licence holder shall on demand submit a declaration, to the Council as to the safety of electrical appliances.

Furniture and Furnishings (Fire safety)

3. The licence holder shall ensure that the Furniture and Furnishings (Fire Safety) Regulations 1988 (or any Regulations which subsequently replace these) in respect of any upholstered furniture supplied by them, including chairs, sofas, children's

furniture, beds, upholstered head boards, mattresses, scatter cushions, seat pads, pillows and upholstered garden furniture are complied with.

3.1 The licence holder shall ensure that the furniture made available by them is kept in a safe condition.

3.2 The licence holder shall on demand, submit to the Council a declaration as to the safety of such furniture.

Smoke Alarms / Fire Detection Systems

4. The licence holder shall ensure that at all times a smoke alarm / fire detection system designed in accordance with BS 5839-6:2004 (or any British Standard which subsequently replaces this) is installed in the house and is maintained in proper working order.

4.1 The license holder shall ensure that the fire alarm system in the house is inspected tested and serviced in accordance with BS 5839 - part 1:2002, sections 6 and 7 (or any British Standard which subsequently replaces this). In particular (where relevant) the following shall be carried out:-

- every 6 months checks on the system shall be carried out in accordance with clause 45.3
- every 12 months checks on the system shall be carried out in accordance with clause 45.4

Where provided independent smoke alarms shall be cleaned periodically in accordance with supplier's instructions.

4.1.2 Throughout the period of the licence, inspection and servicing certificates in the format recommended by BS 5839 - part 1:2002 (Annex G 6), [shall be submitted to the Council within 1 month of each check] [~~shall be submitted to the Council upon demand~~].

4.1.3 The above mentioned checks shall be carried out by a competent person. A competent person in this respect includes NICEIC enrolled contractors or ECA members who are familiar with all British Standards relating to automatic fire detection systems, regularly inspect fire detection systems, are qualified to inspect fire detection systems and whose work is subject to regular assessment.

Other contractors will be asked to demonstrate their competence to the Council before acceptance of the certificates.

4.3 The licence holder shall on demand, submit to the Council a declaration as to the condition and position of any smoke alarms /detectors in the property.

Written Agreements

5. The licence holder shall supply to the occupiers of the house a written statement of the terms on which they occupy it.

5.1 The licence holder shall on demand submit a copy of the written statement to the Council.

Schedule 3 : Discretionary Licence Conditions To Be Applied On All Licences

HMO Management Regulations and Approved Codes of Practice

1. The licence holder shall comply with the Management of HMOs (England) Regulations 2006 - or any Regulations which subsequently replace these - and any Approved Code of Practice issued under section 233 of the Housing Act 2004.

Safety of Electrical Installations

2. The licence holder shall ensure that the electrical installation in the house is kept safe and in proper working order.

2.1 The license holder shall ensure that a periodic inspection of the electrical installation in the house is undertaken in accordance with BS 7671 (or any British Standard which subsequently replaces this) at intervals of no more than 5 years.

2.2 The license holder shall on demand submit the latest periodic inspection report in the format recommended in Appendix 6 of BS 7671 to the Council.

2.3 The license holder shall ensure that this report is issued by a competent person. A competent person in this respect includes NICEIC enrolled contractors or ECA members who regularly inspect, and are qualified to inspect domestic electrical installation systems and whose work is subject to regular assessment.

Environmental Management/Amenity of the Neighbourhood

3. The licence holder shall ensure that the exterior of the house is maintained in a reasonable decorative order and in reasonable repair.

4. The licence holder shall ensure that gardens and yards are maintained such that they are not considered to contravene the requirements of Section 215 of the Town and Country Planning Act 1990 and as such do not adversely affect the amenity of the neighbourhood. To that extent the licence holder shall ensure that at all times gardens, yards and other areas within the curtilage of the house are kept in a reasonably clean and tidy condition and free from rodent infestations.

5. The licence holder shall ensure that suitable and adequate provision for refuse storage and collection is made at the house. This shall include a closable bin(s) of suitable capacity as specified by the Council. Arrangements shall be immediately made for the proper collection and disposal of any rubbish additional to that within the dustbins and such rubbish shall be stored at the rear of and within the curtilage of the dwelling. The licence holder shall ensure that all refuse containers are returned within the curtilage of the property on the same day that they are emptied by the Council.

Landlord and Tenant issues

6. The licence holder shall ensure that notification in writing is given to all occupants at the beginning of their occupancy of the arrangements in place to deal with emergency and other repairs.

7. The licence holder shall ensure that all relevant landlord and tenant legislation is complied with.

8. The licence holder shall ensure that all reasonable and practical steps are taken to prevent or reduce anti-social behaviour by persons occupying or visiting the house.

8.1 The licence holder shall ensure that each occupier is made aware of any conditions imposed by the Council relating to the behaviour of occupants, and that compliance with any such conditions is made a condition of occupancy. Those conditions are that occupants shall:-

- Not cause nuisance and annoyance to other occupants or to neighbouring residents.
- Comply with arrangements made by the manager for the storage and disposal of refuse.
- Not cause damage to fixtures, fittings, fire precautions or premises.
- Not use abusive or threatening behaviour.
- Allow access to the agents/landlord to maintain communal areas and with reasonable notice to carry out works within the occupant's own accommodation.

Discretionary licence conditions to be applied as appropriate in the circumstances

Emergency Escape Lighting

1. The license holder shall ensure that the escape lighting in the house is inspected, tested and serviced generally in accordance with clause 12 of BS 5266 – 1: 1999 (or any British Standard which subsequently replaces this). In particular the following shall be carried out:-

    - every six months checks on the system shall be carried out in accordance with clause 12.4.4

    - every three years checks on the system shall be carried out in accordance with clause 12.4.5

    - for self contained luminaires with sealed batteries, after the first three yearly test, the three yearly test shall be carried out annually in accordance with clause 12.4.6

2.1 Throughout the period of the license, periodic and test certificates in the format recommended by BS 5266 – part 1:1999 (Annex C) [shall be submitted to the Council within 1 month of each check] [shall be submitted to the Council upon demand].

2.2 The above mentioned checks shall be carried out by a competent person. A competent person in this respect includes NICEIC enrolled contractors or ECA members who are familiar with all British Standards relating to emergency escape lighting systems, regularly inspect emergency lighting systems, are qualified to inspect emergency lighting systems and whose work is subject to regular assessment.

Other contractors will be asked to demonstrate their competence to the Council before acceptance of the certificates.

Restrictions or prohibitions on the use or occupation of particular parts of the house by persons occupying it.

3. The licence holder shall ensure that the following schedule of restrictions and prohibitions on the use or occupation of the house by persons occupying it is complied with.
    - The tenants to comply with the restrictions placed on occupancy detailed in Schedule 1-iv.

Notes:
"These notes are intended as general information to the recipient(s) of this notice. The notes are not intended to be definitive and the recipient should refer to the full version of the Housing Act 2004".

Schedule 5, Part 1, paragraph 1

Requirements before grant of licence
(1) Before granting a licence, the local housing authority must -

(a) serve a notice under this paragraph together with a copy of the proposed licence, on the applicant for the licence and each relevant person, and

(b) consider any representations made in accordance with the notice and not withdrawn

"licence" means a licence under Part 2 or 3 of the Housing Act 2004.

"relevant person" in relation to a licence under Part 2 or 3 of the Housing Act 2004 means any person (other than a person excluded by sub-paragraph (3) -

(a) who, to the knowledge of the local housing authority concerned, is -

(i) a person having an estate or interest in the HMO or Part 3 house in question, or
(ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or

(b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).

Right to appeal against refusal or grant of licence
Schedule 5, Part 3, paragraph 31(1)

31 (1) The applicant or any other relevant person may appeal to a residential property tribunal against a decision by the local housing authority on an application for a licence -
(a) to refuse to grant a licence, or
(b) to grant a licence

(2) An appeal made under sub-paragraph (1)(b) may, in particular, relate to any of the terms of the licence.

Time limits for appeals

33 (1) Any appeal under paragraph 31 against a decision to grant, or (as the case maybe) to refuse to grant, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7 or 8 as the date on which the decision was made.

(3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Powers of residential property tribunal hearing appeal

34 (1) This paragraph applies to appeals to a residential property tribunal under paragraph 31 or 32.

(2) An appeal -

(a) is to be by way of a re-hearing, but
(b) may be determined having regard to matters of which the authority were unaware.

(3) The tribunal may confirm, reverse or vary the decision of the local housing authority.

(4) On an appeal under paragraph 31 the tribunal may direct the authority to grant a licence on such terms as the tribunal may direct.

Advice:
If you do not understand this notice or wish to know more about it, you should contact the Local Authority. If you want independent advice about your rights and obligations, you should go to a Citizens' Advice Bureau, Housing Aid Centre, Law Centre or Solicitor. You may be able to obtain help with all or part of the cost of legal advice from a solicitor under the Legal Aid Scheme. If you do not know whether you could apply for Legal Aid you can see a solicitor who may be prepared to give you half an hour of legal advice for a small fee. If you want to know more about the works the Local Authority require you to do, you may wish to consult a surveyor.