

## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Housing Appeals Panel                                 **Date:** Thursday, 24 November 2005

**Place:** Civic Offices, High Street, Epping                     **Time:** 4.00 - 7.01 pm

**Members Present:** Mrs J Davis (Chairman), D Stallan (Vice-Chairman), K Angold-Stephens (for items 40 and 41 only) and Mrs P K Rush

**Other Councillors:** (none)

**Apologies:** Ms S Stavrou and Mrs R Gadsby (substitute for Ms S Stavrou)

**Officers Present:** Graham Lunnun (Democratic Services Manager) and Alan Hall (Head of Housing Services)

### 35. MINUTES

#### RESOLVED:

That the minutes of the meetings of the Panel held on 31 August and 22 September/3 October 2005 be taken as read and signed by the Chairman as a correct record.

### 36. SUBSTITUTE MEMBERS

It was noted that there were no substitute members present at this meeting.

### 37. DECLARATIONS OF INTEREST

Councillor D Stallan declared a personal interest in agenda item 8 (Appeal No 20/2005) by virtue of being a member of the Council's Conservative Group whose Leader was the Chairman of the Primary Care Trust. He also advised that one of the appellant's advisers was the mother of another Conservative Councillor on the Council. He had determined that his interests were not prejudicial and that he would remain in the meeting for the duration of the consideration of the appeal.

### 38. EXCLUSION OF PUBLIC AND PRESS

#### RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the items of business set out below as they will involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A of the Act indicated:

Agenda Item No.	Subject	Exempt Information Paragraph Number
6	Appeal No 18/2005	9

7	Appeal No 19/2005	3
8	Appeal No 20/2005	3

### 39. APPEAL NO.18/2005

The Panel gave consideration to an appeal against a decision of the Area Housing Manager acting under delegated authority concerning a request to purchase an area of Council-owned land. The appellant attended the meeting to present his case. Mr N Taylor, Area Housing Manager, attended the meeting to present the Council's case. Mr A Hall, Head of Housing Services, attended the meeting to advise the Panel as required on details of the national and local housing policies relative to the appeal.

The Chairman introduced the members of the Panel and officers present to the appellant and outlined the procedures to be followed in order to ensure that proper consideration was given to the appeal.

The Panel had before them the following documents which were taken into consideration:

- (a) a summary of the appeal, together with the facts of the case forming part of the agenda for the meeting;
- (b) a copy of a plan showing the land in question and the immediate locality;
- (c) a copy of a photograph showing the land in question; and
- (d) a copy of the application to the Housing Appeals Panel by the appellant dated 13 August 2005.

The Panel considered the following submissions in support of the appellant's case:

- (a) the land was overgrown with bushes and trees and had not been maintained for several years;
- (b) it was a wind-trap for rubbish;
- (c) if the land was purchased, the bushes and trees would be cut back, grass would be sown and a small wall would be erected around the area;
- (d) the Council had advised that there was a 14-month wait for cutting back the trees;
- (e) the land was currently a blot on the landscape and the proposals of the appellant would make the area more attractive;
- (f) reference by the Council to its new cleaning schedule for the estate was not understood, as litter picking had not taken place in relation to the land.

The appellant answered the following questions of the Area Housing Manager and the Panel:

- (a) what will be the height of the wall which you propose to construct? – waist height;

(b) is it not your wish to purchase the land in order to build a double extension to the side of your property? – I understand the previous owner of the property received planning permission for an extension and I have made enquiries of Planning Services about building an extension;

(c) was the previous planning application made on the basis of the Council retaining the land, which you are now seeking to acquire? – yes;

(d) where is your current boundary fence in relation to the land? – the appellant indicated the position of his fence on the circulated plan;

(e) do you still hope to build an extension at some time in the future? – yes at some time;

(f) reference is made in the facts of the case to the previous occupier of the property seeking to construct a dropped kerb to a parking area nearby which would allow them to drive a car across the public footpath and on to the land that you seek to purchase where they wished to construct a hardstanding – are you aware of this application and is it something that you might wish to pursue? – that application was not made by the previous occupier, it was made by my wife and myself in my wife's maiden name; a crossover is no longer required as I now have access to a garage;

(g) where is your garage? – the appellant indicated the position of his garage on the circulated plan.

The Panel considered the following submissions in support of the case of the Area Housing Manager:

(a) the appellant made an application to the Council's House Sales and Leasehold Section to purchase a piece of land adjacent to his home on 6 May 2005;

(b) an application had been made in April 2001, to construct a dropped kerb to a parking area nearby which would allow the occupants to drive a car across the public footpath and on to the land in question, where the occupants wished to construct a hardstanding; that application was refused at that time because of the loss of parking space in the road, the distance involved in travelling across Council-owned land and the fact that the piece of land in question was still in the Council's ownership;

(c) the appellant had indicated that he had recently spoken to Planning Services with a view to building a double extension to the side of his property; in order to do so he needed to purchase the area of land to the side of his property; the piece of land in question was marked on the plan circulated and was approximately 23 square metres in size;

(d) the land formed an integral part of the landscaping feature within this area; there was a presumption by officers not to sell land unless it was in the interests of the Council to do so; in this case there was no such interest;

(e) the land presently has shrubs on it as well as two trees; in the past there had been an issue with litter picking and shrub bed maintenance in this area; the area was now included on the new cleaning schedule introduced by the Council for this residential estate; this included an eight-weekly cleaning of shrub beds.

The appellant and the Panel advised that they had no questions to ask the Area Housing Manager. The Chairman with the approval of both parties agreed to allow a

member of the Panel the opportunity to ask a further question of the appellant. The appellant was asked why he needed to acquire the land in question in order to build the proposed extension to his property. The appellant stated that if the land was acquired his current boundary fence would be taken down and there would be no privacy in his kitchen due to the position of the kitchen window. The Chairman further agreed with the consent of both parties to the Head of Housing Services asking a question seeking clarification of the circulated plan. As a result, the parties agreed that the plan had been incorrectly drawn and the land, which the appellant was seeking to purchase, was, therefore, correctly identified at the meeting.

The Chairman asked the appellant if he wished to raise any further issues in support of his case. The appellant advised that in his opinion the area would be enhanced if he purchased the land and was responsible for its maintenance.

The Chairman asked the Area Housing Manager if he wished to raise any further issues in support of his case. The Area Housing Manager advised that he did not consider the appellant's proposals would enhance the estate and that if the appellant was allowed to purchase this land it would set a precedent for others on the estate.

The Chairman indicated that the Panel would consider the appeal in the absence of both parties and that the applicant and the Area Housing Manager would be advised, in writing, of the outcome. The appellant and the Area Housing Manager then left the meeting.

The Panel discussed the reasons given by the appellant for wanting to purchase the land. The Panel noted that if the appellant wished to proceed with the erection of an extension to this property it was not necessary to acquire the land. Members were unable to identify any benefit to the Council of selling the land, other than a small capital receipt. Some concern was expressed about the Council's cleaning arrangements for the estate.

**RESOLVED:**

(1) That, having taken into consideration the information presented by the appellant and the Area Housing Manager, orally and in writing, the appeal be dismissed and the decision of the Area Housing Manager not to sell the land be upheld for the following reasons:

(a) on the evidence submitted it is considered that the land is not being maintained to an unreasonable standard;

(b) the land forms an important open landscaping feature and visual amenity within the locality; enclosing the land, even with a low-level wall, would detract from that amenity;

(c) the benefit to the Council of selling the land is minimal; and

(2) That the Area Housing Manager requests the Council's Environmental Services to ensure that the land is maintained in accordance with the approved Maintenance Schedule.

**40. APPEAL NO.19/2005**

Councillor K Angold-Stephens, who had not been present at the commencement of the meeting, joined the Panel to consider this appeal.

The Panel gave consideration to an appeal against a decision of the Assistant Housing Needs Manager (Homelessness) acting under delegated authority regarding the appellant's homelessness application. The appellant was not in attendance at the meeting and had elected for the appeal to be determined on the basis of written representations.

The Head of Housing Services confirmed to the Panel that he had not previously been involved in this case and would be able to advise members on housing policy and legislation relevant to the appeal. He confirmed that, in addition to the submitted written statements, the relevant housing file was available if required by the Panel. He emphasised that the decision of the Panel had to be based on the representations before it.

The Panel had before them the following documents which were taken into consideration:

- (a) a summary of the appeal together with the facts of the case forming part of the agenda for the meeting;
- (b) a copy of a letter dated 8 August 2005 from the Assistant Housing Needs Manager (Homelessness) to the appellant's former employers;
- (c) a copy of a letter dated 10 August 2005 from the appellant's former employers to the Assistant Housing Needs Manager (Homelessness);
- (d) a copy of a report of an interview of the appellant by a Housing Officer;
- (e) a copy of a letter dated 25 August 2005 from the Assistant Housing Needs Manager (Homelessness) to the appellant's former employers;
- (f) a copy of a letter dated 31 August 2005 from the appellant's employers to the Assistant Housing Needs Manager (Homelessness);
- (g) a copy of a letter dated 16 September 2005 from the Assistant Housing Needs Manager (Homelessness) to the appellant;
- (h) a copy of the application to the Housing Appeals Panel by the appellant dated 2 September 2005.

The Panel considered the following submissions in support of the appellant's case:

- (a) officers had relied on the information provided by the appellant's former employers; they had been very selective in the information that they had provided;
- (b) the property provided by the appellant's former employers would not have continued to be made available, even if the appellant had not been dismissed; following the appellant's dismissal the property had been handed back to the landlord and other employees of the company had been moved closer to the company's centre of operations; such a move would have been impossible for the appellant because of his son's schooling and his former employers were aware of that fact; the appellant's former employers had no work in North London and the house had originally been rented for staff working on a North London contract – the appellant's dismissal had been for financial reasons; as there was no longer any work in North London, the appellant had become a liability to his former employers; the rent on the property had been in the region of £1,200 plus per month and the appellant would have had a fuel bill of approximately £160 per week for commuting to Maidstone, the

location of the new contract; if the former employers had been prepared to allow the appellant to commute from Kent to London – housed in alternative two-bed accommodation as per his contract with them – the bill to the former employers would have been in excess of £1,000 per month; it was possible that the former employers had been misleading the local Council in relation to Council Tax;

(c) the appellant had received an e-mail from his former employers' pay office, asking for his time sheets for the weeks ending 8 July and 15 July 2005; however, one of the main reasons for his dismissal had been that incorrect hours had been recorded by him for the week ending 8 July; time sheets were usually submitted the following week for the previous week; the former employers had been in such a hurry to get rid of the appellant that the appellant had not had an opportunity to submit a time sheet for that week and he could not, therefore, have been dismissed for booking hours that he was not given an opportunity to book in the first place;

(d) the letter from the former employers referred to misdemeanours concerning other members of staff, but the way in which the letter was written it implied that the appellant had been involved in those issues;

(e) the former employers' reasons for dismissing the appellant had been very non-specific and general; the exception had been an incident involving a piece of company equipment; a misdemeanour that at the very most would have warranted a written warning; the piece of equipment had not been lost and it had been recovered after a few hours intact; the equipment had been a piece of underground survey apparatus that was actually designed to be left in place, sometimes for long periods and it had been left in the road with full signing and guarding in accordance with the Highways Act;

(f) the number of applicants on the Council's housing waiting list were noted but this was not an issue for the appellant;

(g) the accommodation provided by the appellant's former employers was part of a package and was certainly not cost free, since his salary took account of this provision;

(h) a formal appeal had been made against the appellant's dismissal, but his former employers had not replied to it;

(i) great emphasis had been placed on one letter from the appellant's former employers and unsigned minutes of a general discussion which had taken place on 4 July 2005; if the appellant's former employers had a grievance with his work ethic then it should have been put to him personally at a confidential disciplinary meeting with a witness of his choosing present; contrary to the former employers' record of the meeting on 4 July 2005, many points had been raised, for instance the appellant had asked about the possibility of more work in London being secured by the company; these points had been met with vague reassurances and the focus of the discussion had moved on to the company's forthcoming golf day out; the record of that meeting was a complete sham;

(j) the word of the appellant's former employers could not be relied upon; this had not been a matter of conduct but one of finance and cost and the appellant and his son had been victims of contractual cost cutting;

(k) had the appellant been a female single parent in very similar circumstances, his case would have been looked at in a very different manner; his son's education

was at a critical stage and if he was forced to leave the Epping Forest District the consequences on his progress would be devastating.

The Panel considered the following submissions in support of the case of the Assistant Housing Needs Manager (Homelessness);

(a) the appellant had made a homeless application to the Council on 3 August 2005; as part of the application he had included his dependant son, aged 15;

(b) at the time of the application being made, the full provisions of the Housing Act 1996, Part VII, as amended had been applied to the case and the appellant had been given interim accommodation at the Council's homeless hostel from 8 August 2005;

(c) during the course of an initial interview, the appellant had stated that he had to leave tied accommodation in London as he had been dismissed from his employment; he had shared this accommodation with other staff members;

(d) as a result of the application, enquiries had been immediately pursued to decide on homelessness, eligibility, priority need, intentionality and local connection;

(e) to assist in deciding homelessness, a letter had been sent to the appellant's former employers; a comprehensive response had been received from the appellant's former employers on 10 August 2005; the Council had been concerned about the response from the appellant's former employers and had decided to conduct a further interview with the appellant; this further interview had taken place on 18 August 2005; a decision had then been taken to contact the appellant's former employers again in order to confirm how the loss of the accommodation had been linked to his employment; a further letter had been sent to the appellant's former employers on 25 August 2005 and a copy of their response had been received dated 31 August 2005;

(f) the appellant was eligible for assistance as he was a British citizen; a priority need for accommodation existed as he had a dependant child who normally resided with him;

(g) after full consideration of all the facts of the case a decision of intentionality had been made;

(h) Section 202 of the Housing Act 1996, Part VII as amended by the Homelessness Act 2002 gave a homeless applicant the right to request a review of decisions made under the provisions of the Act; in this case it was the decision that the appellant was intentionally homeless that had prompted the request for the review;

(i) when making homeless decisions, the Council had regard to the Code of Guidance which was used by local authorities to assist with the interpretation of the Act;

(j) the Code of Guidance stated that Section 191 provided that a person became homeless or threatened with homelessness intentionally, if they had ceased to occupy accommodation (or there was a likelihood of that person being forced to leave accommodation) as a consequence of a deliberate action by that person;

(k) examples of acts which might be regarded as deliberate included where someone left a job with tied accommodation and the circumstances indicated that it would have been reasonable for that person to have continued to occupy the accommodation;

(l) officers were satisfied that there was a definite link between the appellant's actions and the loss of the accommodation;

(m) on account of the acts of misconduct by the appellant, he had been dismissed from his employment, which in turn had led to the loss of the accommodation;

(n) the appellant had suggested that the loss of his employment was for financial reasons; however, the appellant's former employers had been quite explicit in confirming that the dismissal had been on account of misconduct;

(o) the appellant had also suggested that other information had been given by his former employers, but this had not been the case;

(p) in the event of the appeal being dismissed, it was suggested that the appellant be referred to the Child and Family Support Team for them to seek to provide assistance under the terms of the Children Act 1989;

(q) in the event of the appeal being allowed, the issue of local connection would have to be decided by the Housing Needs Section.

The Panel concluded that they needed to have sight of the appellant's full letter of dismissal, since only an extract had been provided by his former employers. and the notes of the meeting held on 4 July 2005 before coming to their decision. The Panel also considered that the appellant should be asked whether he had made an appeal to an Employment Tribunal or if he had not pursued such an appeal, why not.

**RESOLVED:**

(1) That consideration of the appeal be deferred and the appellant requested to provide a copy of his full letter of dismissal and a copy of the notes of the meeting held on 4 July 2005 together with details of his appeal to an employment tribunal or his reasons for not pursuing such an appeal;

(2) That in the event of this additional information being obtained prior to the next meeting of the Panel on 28 November 2005, further consideration be given to this appeal at that meeting; and

(3) That in the event of the additional information not being received by 28 November 2005, the appellant be asked to agree for an extension of time for the Council to determine the appeal in accordance with Homelessness Regulations and that the matter be considered further at a meeting to be arranged for 13 December 2005 at 6.00 p.m.

**41. APPEAL NO. 20/2005**

The Panel gave consideration to an appeal against a decision of the Assistant Housing Needs Manager (Homelessness) acting under delegated authority that the appellant had become homeless intentionally. The appellant attended the meeting to present her case, accompanied by Ms R Poulter of the Epping Citizens' Advice Bureau and Mrs N D'Souza of the Child Protection Team – Essex Social Care. Mr R Wallace, Assistant Housing Needs Manager (Homelessness) attended the



meeting to present the Council's case. Mr A Hall, Head of Housing Services, attended the meeting to advise the Panel as required on legal issues and details of the national and local housing policies relative to the appeal.

The Chairman introduced the members of the Panel and officers present to the appellant and her advisers and outlined the procedures to be followed in order to ensure that proper consideration was given to the appeal.

The Panel had before them the following documents which were taken into consideration:

- (a) a summary of the appeal together with the facts of the case forming part of the agenda for the meeting;
- (b) extracts from the Homeless Prevention Officer's records;
- (c) a copy of a letter dated 11 July 2005 from the Assistant Housing Needs Manager (Homelessness) to the appellant's former landlord;
- (d) a copy of a note of a telephone conversation between a Housing Officer and the appellant's former landlord;
- (e) a copy of a letter dated 18 July 2005 from the Assistant Housing Needs Manager (Homelessness) to the appellant;
- (f) a copy of a file note made following the failure of the appellant to attend for an interview on 21 July 2005;
- (g) a copy of a letter dated 8 August 2005 from the Assistant Housing Needs Manager (Homelessness) to the appellant;
- (h) a copy of a letter dated 5 September 2005 from the Assistant Housing Needs Manager (Homelessness) to the appellant;
- (i) a copy of a letter dated 17 October 2005 from the Council's Hostel Management Team to the appellant;
- (j) a copy of the application to the Housing Appeals Panel by the appellant dated 5 October 2005;
- (k) a copy of a letter dated 7 November 2005 from the Epping Citizens' Advice Bureau together with submissions made on behalf of the appellant.

The Panel considered the following submissions in support of the appellant's case:

- (a) the appellant had become homeless after a fire at her privately rented accommodation on 27 June 2005; she had made a homeless application to the Council and had been placed with her two year old son in temporary accommodation at the Council's homeless hostel;
- (b) on 5 September 2005 the Council had found the appellant homeless intentionally; on 23 September 2005 the appellant requested a review of the Council's decision and it had subsequently been agreed that the appellant and her son could remain at the homeless hostel during the review period;

(c) on 31 October 2005, the appellant had been evicted from the homeless hostel and the Council had been unwilling to offer her any further temporary accommodation;

(d) at present, the appellant's son was living with the appellant's mother; Social Services would be seeking an interim care order for the appellant's son;

(e) the Council's Section 184 Notice dated 5 September 2005 stated that the appellant was homeless intentionally because she "deliberately acted in an anti-social manner whilst residing at (her privately rented accommodation); during these acts of anti-social behaviour a fire occurred at this property; as a consequence of these acts (she) had to leave this accommodation as it was no longer habitable; had it not been for these deliberate acts the accommodation would have been available and reasonable for (her) to continue to occupy;" the Notice went on to say that the appellant's landlord had confirmed that the appellant's behaviour was totally appalling and that she had received many complaints from neighbours;

(f) in response to the Section 184 Notice, the appellant stated that her landlord did not make her aware of any complaints whilst she was resident there; the appellant said the fire occurred by accident when she was out and her sister and her sister's boyfriend were baby sitting the appellant's son; her sister had been cooking when the appellant's son had distracted her and she had forgot about the cooker being on and the fire had resulted; the fire had been an accident and the appellant had not been present at the property at the time; the appellant admitted that some of her behaviour had been unreasonable but her former landlord had never made her aware of any complaints about her behaviour;

(g) in the Section 184 Notice, the Council did not give any evidence (details of incidents, dates and times) of the anti-social behaviour of which the appellant was accused, nor were the landlord's complaints described;

(h) following the appellant's eviction from the homeless hostel, the Citizens' Advice Bureau sought details of why she had been evicted; it appeared that the final incident which led to the eviction resulted from complaints of noise and loud music over the weekend of 22/23 October 2005; the appellant stated that she was not at the homeless hostel that weekend as she was staying at her brother's home;

(i) the appellant was a vulnerable young woman aged 20 experiencing severe problems at present; her son had been placed on the child protection register on 15 September 2005 as a result of a case conference following the appellant's admission to hospital having taken an overdose in August 2005; since then the appellant had been receiving support from the Child Protection Team; she was also receiving assistance from Waltham Abbey Community Mental Health Team, the Health Visiting Service and Social Services; the appellant was also known to CDAT in Harlow due to an alcohol problem and was due to undertake a rehabilitation programme through them;

(j) despite various personal problems, the appellant was now trying to co-operate with the various services helping her and was trying to get her life back on track; in order for her to achieve this she needed to be in a stable environment and secure accommodation;

(k) an interim care order had been made in respect of the appellant's son on 10 November 2005 and although he was currently with the maternal grandmother it was possible that he would be adopted.

The appellant answered the following questions of the Assistant Housing Needs Manager (Homelessness) and the Panel:

(a) you have been accused of anti-social behaviour whilst at your privately rented property, why did you continue with anti-social behaviour at the Council's homeless hostel? – my behaviour is affected by alcohol;

(b) when you were at your privately rented property did you receive any complaints from the landlord or neighbours? – no, and I got on well with all of my neighbours;

(c) were you present at the Council's homeless hostel on the weekend of 22/23 October 2005? – no, I was at my brother's accommodation;

(d) is it possible that anyone else could have gained access to your room over that weekend? – no, the room was locked and I had the keys with me;

(e) is the appellant's son currently with the appellant's mother? – yes, a fostering assessment is being undertaken as the appellant's mother is the only other person that the appellant's son has known; she is willing to look after him at present but there are a lot of issues to be considered;

(f) you say you were not present at the homeless hostel over the weekend of 22/23 October 2005, but does not the letter dated 17 October 2005 submitted as part of your representations indicate that you were present? – no, that relates to an incident on 15 October 2005;

(g) were you aware of complaints from other residents at the homeless hostel? – yes, I received complaints about loud music and I turned the music down when I received these complaints;

(h) was there any problem as a result of the other residents of the homeless hostel speaking to you about their complaints? – no.

The Panel considered the following submissions in support of the case of the Assistant Housing Needs Manager (Homelessness):

(a) following a referral from the Council's Homeless Prevention Service, the appellant had made a homeless application to the Council on 1 July 2005; at the time of the application being made, the full provisions of the Housing Act 1996, Part VII, as amended, were applied to the case; as part of the application, the appellant wished to include her dependant child aged under two years;

(b) during the initial interview, the appellant confirmed that she had been living in privately rented property occupied under an Assured Shorthold tenancy; the appellant had advised that she had been out in the evening of 26 June 2005, leaving her sister, who had just turned 16 years of age, and her sister's boyfriend to look after the appellant's son; as the appellant's son would not settle, the appellant's sister and boyfriend had taken him out in his pushchair, forgetting that she had left the frying pan on the gas; there had been a major fire and the Fire Brigade had been called by a neighbour; the appellant and her sister had met and were walking back to the flat when they had seen the fire; the flat had been rendered uninhabitable;

(c) following the application, enquiries were pursued to decide on homelessness, eligibility, intentionality, priority need and local connection and the appellant was

admitted to the Council's homeless hostel on 4 July 2005 pending the outcome of the enquiries;

(d) to assist in deciding homelessness, contact was made with the appellant's former landlord; on account of the issues raised by the landlord a decision was made to re-interview the appellant; on the day of the interview, the Deputy Manager at the homeless hostel reminded the appellant of the time of her appointment but the appellant failed to attend the interview; a further letter was sent to the appellant giving her another appointment and again the appellant failed to attend the interview as requested; a decision was therefore made on the facts available;

(e) the appellant was eligible for assistance as she was a British citizen; a priority need for accommodation existed as the appellant had a dependant child who normally resided with her;

(f) a decision of intentionality was made on 8 September 2005;

(g) Section 202 of the Housing Act 1996, Part VII as amended by the Homelessness Act 2002 gives a homeless applicant the right to request a review of decisions made under the provisions of that Act; the decision that had been made finding the appellant intentionally homeless had prompted this request for a review;

(h) when making decisions, the Council must have regard to the Code of Guidance which was issued to local authorities to assist with the interpretation of the Act; the Code of Guidance provides that a person becomes intentionally homeless if she ceases to occupy accommodation as a consequence of deliberate action by her; the Code includes in the examples of acts which might be regarded as deliberate when someone was evicted because of anti-social behaviour such as nuisance to neighbours, harassment, etc;

(i) it was quite apparent from the evidence, particularly the contents of a telephone conversation with the appellant's former landlord on 14 July 2005, that whilst in occupancy at the privately rented property, the appellant had behaved in a totally unacceptable manner; this irresponsible attitude had resulted in the fire occurring and as a result of the fire the accommodation was no longer available to the appellant;

(j) a further disturbing issue was that whilst the appellant had been accommodated pending the outcome of this appeal at the Council's homeless hostel she continued to behave in a similarly irresponsible manner; an initial warning had been issued because of accommodation charge arrears and she had allowed guests to remain at the homeless hostel who had been behaving in a totally unacceptable manner; a final warning had been issued on 17 October 2005 against the appellant and following a further occurrence she had been evicted from the hostel; in the event of the appeal being dismissed, the Panel was invited to seek the appellant's agreement to the case being referred to Social Care to ascertain what assistance could be given under the terms of the Children Act 1989;

(k) in weighing up the evidence, the Panel were invited to accept the evidence of the appellant's former landlord as there was no reason to doubt that it was reliable;

(l) unlike some other authorities, this Council continued to provide accommodation pending determination of a review as this was considered to be reasonable; in response, applicants normally were receptive; however, in this case the appellant seemed determined to cause mayhem and it was necessary to issue several warnings before the stage was reached where it was considered there was

no option but to evict her from the homeless hostel; as a housing authority the Council was responsible for providing accommodation but if that accommodation was abused it was reasonable to withdraw it.

The Assistant Housing Needs Manager (Homelessness) answered the following questions of the appellant and the Panel:

(a) was the decision of intentionality based on anti-social behaviour or the fire? – the anti-social behaviour had been linked to the fire – the way in which the appellant had conducted the tenancy had contributed to the fire;

(b) do you have evidence that the fire was not accidental? – it occurred as a result of anti-social behaviour and reflected the way in which the tenancy had been conducted; if there had been different circumstances the situation would have been viewed differently but in this case the fire would not have occurred if the appellant had been more responsible;

(c) did the appellant's former landlord provide you with details of complaints of anti-social behaviour? – we did not ask her for such information;

(d) the appellant has admitted to behaving unacceptably at the Council's homeless hostel but were you aware that her behaviour was as a result of an alcohol problem? – we were aware of problems in her life; we have experience in dealing with very vulnerable people but if someone continues to breach the terms of occupation they make it very difficult for us;

(e) in relation to the incident over the weekend of 22/23 October 2005, do you have evidence that the appellant was present? – I am satisfied that she was present; staff do not write letters if they are not sure of the facts;

(f) do you have CCTV evidence of the appellant being present at the homeless hostel that weekend? – I am not aware of any CCTV evidence; the appellant had breached her licence on a number of occasions;

(g) which final incident led to the appellant's eviction from the homeless hostel? – an incident on 20 October 2005, although reference was also made in the eviction letter to complaints of noise and loud music coming from the appellant's room over the weekend of 22/23 October 2005;

(h) are you suggesting the fire was a deliberate act and, if not, can you clarify why you believe acts of anti-social behaviour led to the fire occurring? – in view of the background it was not reasonable for the appellant to leave her sister baby-sitting;

(i) in your letter to the appellant's former landlord you asked whether the appellant had kept a clear rent account up to the time of the fire – did you receive a response to this question? this has not been answered but it was understood that there had been an issue with the payment of rent;

(j) did the appellant change rooms whilst accommodated at the homeless hostel? – yes, she was moved to a higher floor in order to discourage visitors from jumping out of the window of her room;

(k) there appear to be different versions of the fire, can you clarify? – it is clear that a chip pan caused the fire but what was being cooked is not known.

With the agreement of both parties, the Chairman allowed a member of the Panel to ask additional questions of the appellant and her representatives.

In response, the appellant stated that she did not attend the interviews which were arranged for her because of depression and on one occasion she had been in hospital following an overdose. The hostel staff had been aware that she was in hospital at the time. The Assistant Housing Needs Manager (Homelessness) advised the Panel that the appellant had not notified staff of her reasons for not attending. The appellant said that she felt her sister was very grown up for her age and was a responsible person to baby sit. The Panel was advised that the decision to remove the appellant's son from her had been as a result of negligence of the son. The appellant had not been meeting his basic needs and irrespective of the availability of accommodation, the son would have been removed.

The Chairman asked the appellant and her representatives if they wished to raise any further issues in support of the appellant's case. The Panel was advised that the appellant accepted that her behaviour had been unacceptable and she apologised for her behaviour. The appellant was a very vulnerable person and the various services were making serious attempts to improve her situation. If the Council as a minimum could provide temporary accommodation until the appellant went into rehabilitation this would be of assistance.

The Chairman asked the Assistant Housing Needs Manager (Homelessness) if he wished to raise any further issues in support of his case. He advised that there were genuine issues of concern in relation to this case. The appellant had behaved irresponsibly both at the private rented property and at the Council's homeless hostel. He advised that this was the first occasion he could recall since working for the Council when the Council had ceased to provide accommodation pending a review decision. The Council was used to working with vulnerable people but the appellant had acted in a completely unreasonable manner and there would be concern if the Panel agreed to provide further accommodation pending any appeal.

The Chairman indicated that the Panel would consider the appeal in the absence of both parties and that the appellant and the Assistant Housing Needs Manager (Homelessness) would be advised in writing of the outcome. The appellant, her advisers and the Assistant Housing Needs Manager (Homelessness) then left the meeting.

The Panel discussed whether the appellant would have been able to continue to occupy the private rented property had it not been for the fire. Members concluded that she would have been able to continue to occupy the property because, although the landlord had referred to concerns, she had not commenced any possession proceedings at the time. Members considered whether the decision of the appellant to allow her sister to baby sit had been a deliberate act as a result of which she had ceased to occupy the accommodation. The Panel concluded that it had been reasonable for the appellant to ask her sister to baby sit. Members expressed the view that the legal minimum limit for baby sitting was 14 years of age (below the age of the appellant's sister) and that there was no evidence to suggest that the appellant's sister was not competent.

The Panel took account of the appellant's problems but concluded that she had not helped herself. They noted, however, that there had been no evidence submitted regarding arrears in relation to the private rented property.

The Panel then considered whether the Council had discharged its duty following the eviction of the appellant from the Council's homeless hostel. Members took account

of the warnings which had been given to the appellant whilst she had been accommodated there and were advised of the provisions of Section 193(6)(b) of the Housing Act 1996, as amended. The Panel concluded that the appellant had lost that accommodation as a result of her actions, and became homeless intentionally. Therefore, no further accommodation should be provided as the Council had discharged its duty.

**RESOLVED:**

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and having taken into consideration the Homelessness Code of Guidance and the information presented by and on behalf of the appellant by the Assistant Housing Needs Manager (Homelessness) orally and in writing;

(a) the decision of the Assistant Housing Needs Manager (Homelessness) to find the appellant intentionally homeless from her former privately rented property be not upheld for the following reasons:

(i) the appellant was accepted as homeless, eligible for assistance and in priority need;

(ii) the loss of the privately rented property was not as a result of any deliberate action or inaction by the appellant as a consequence of which she ceased to occupy the property; the evidence before the Panel suggests that the fire at the property which resulted in the appellant losing the property was an accident and it is accepted that the appellant was not present at the property at the time of the fire; it is further accepted that, on the evening of the fire, the appellant left her 16 year old sister and boyfriend at the property baby sitting the appellant's son; it is considered reasonable for the appellant to have arranged for her sister to baby sit her son as no evidence was submitted to question the competency of the appellant's sister;

(iii) references to apparent previous acts of anti-social behaviour by the appellant and her visitors at the privately rented property did not result in the landlord drawing the attention of the appellant to these matters or commencing possession proceedings and these are not considered, therefore, to have been a reason for the appellant losing the property;

(2) That, it is considered that the appellant lost the interim accommodation made available for her occupation pending the outcome of this appeal, due to persistent breaches of her licence to occupy a room at the homeless hostel, including anti-social behaviour resulting in police presence, unreasonable noise and accommodation arrears; account has been taken of the fact that the appellant accepts that she acted unreasonably whilst at the interim accommodation; accordingly, the Council's duty to secure accommodation in accordance with the Housing Act 1996 is discharged by virtue of Section 193(6)(b) of the Act;

(3) That account has been taken of the appellant's personal problems, but it is not considered that these were such to have affected her ability to manage her affairs or her actions; and

(4) That no deficiency or irregularity has been identified in the decisions made by the Assistant Housing Needs Manager (Homelessness) or in the manner in which they were made.

**CHAIRMAN**

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