

92. APPEAL NO. 4/2006

The Panel gave consideration to an appeal against a decision of the Assistant Head of Housing Services (Operations) acting under delegated authority regarding the appellants' application for a management transfer. The appellants attended the meeting to present their case. Mr R Wilson (Assistant Head of Housing Services (Operations)) attended the meeting to present his 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 the officers present to the appellants 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 letter dated 13 August 2005 from the appellants to the Council's Housing Services;
- (c) a copy of a letter dated 2 September 2005 from the appellants to the Council's Assistant Head of Housing Services (Operations);
- (d) a copy of a letter dated 12 September 2005 from the Assistant Head of Housing Services (Operations) to one of the appellants;
- (e) a copy of a letter dated 1 September 2005 from the Epping Forest PCT to the Council's Housing Needs Section;
- (f) a copy of a letter dated 9 November 2005 from one of the appellant's General Practitioner to the Council's Housing Services;
- (g) a copy of a letter dated 3 February 2006 from one of the appellant's General Practitioner to the Council's Housing Services;
- (h) a copy of the application to the Housing Appeals Panel by the appellants dated 26 February 2006 together with a copy of a letter dated 26 February 2006.

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

- (a) the appellants had moved into their current property on the understanding that they would be moved into alternative accommodation within a period between three months and one year;
- (b) the appellants had been on the Council's Housing List as a couple since 2003; one of the appellants had been placed on the list originally in 1998, she had come off the list in 2002 but had gone back on the list in 2003 with her partner as they could not afford a mortgage after their daughter had been born;
- (c) in 2003 the appellants had said that they wanted a two-bedroom house or bungalow;

(d) in 2005 the appellants were due to be made homeless and had been prepared to go to the Council's Homeless Persons' Hostel; however, a two-bedroom maisonette had become available and had been offered to the appellants on a temporary basis;

(e) the appellants had moved into the maisonette on 14 February 2005; since moving in the appellants had suffered problems with their neighbours; had been the subject of a break-in and another attempted break-in;

(f) the maisonette had been broken into on the day before the appellants had been due to move in, when they had been decorating it; a squatter had broken in through the front door and one of the appellants had found the squatter's belongings in a first floor room; as a result she had suffered flashbacks and nightmares and would not now open the door when her partner was not present; she had been seeing a counsellor who had advised that the appellant needed to move in order to get better; one of the appellant's General Practitioner had made similar representations;

(g) the appellants' daughter had been sleeping in the same room as her parents since the two bedrooms in the maisonette were on different floors and the appellants had been concerned they would suffer another break-in;

(h) the appellants had said that they would move anywhere in the District but wanted a house or bungalow with a garden;

(i) the layout of the maisonette was unsuitable with the living room upstairs and the kitchen and toilet downstairs; constant use of the stairs was bad for one of the appellants;

(j) the Council's Assistant Head of Housing Services (Operations) had written to the appellants advising that he could not put them forward for a management transfer as they did not meet the criteria; when the appellants had met the criteria subsequently they had been advised that the Council no longer arranged management transfers;

(k) the appellant had been misled by officers about the availability of accommodation; the appellants had always sought a house or a bungalow not a maisonette.

The appellants answered the following questions of the Assistant Head of Housing Services (Operations) and the Panel:

(a) if you are successful with your appeal what type of accommodation would you find acceptable? - a house or a bungalow with a garden;

(b) if you are successful with your appeal are there any areas in the District where you would not want to move to? - yes, Epping;

(c) if you are successful with your appeal but cannot be offered a house or a bungalow would you want to move or would you prefer to stay where you are now? - probably stay where we are now;

(d) your letters refer to difficulties with neighbours whilst at the property, when did they start? - about 14 months ago;

- (e) what is your main reason for wanting to move from your maisonette? - the flashbacks suffered by one of the appellants as a result of the break-in by a squatter;
- (f) the break-in was 14 months ago, is it still the main reason? - yes, she has only recently started going out again on her own;
- (g) have the neighbour issues been resolved? - they are still an issue as there were problems at the recent Easter weekend;
- (h) the letter from the Epping Forest PCT states that you surprised a squatter who had broken into your property, did you confront the squatter? - he was not present when we returned to the property to find his belongings; we called the Police and they attended; while they were speaking to a neighbour the squatter returned and the Police arrested him; the previous night one of the appellants had been decorating the property on her own so had been vulnerable;
- (i) the letter dated 9 November 2005 from your General Practitioner states that you were burgled, is that correct? - no, the squatter broke in but we did not lose any possessions;
- (j) what is the layout of your maisonette? - the living room and main bedroom are on the first floor and the other bedroom is on the ground floor; currently we are only keeping toys and clothes in the bedroom on the ground floor;
- (k) would you consider another maisonette if both bedrooms were on the same floor? - we have not considered such accommodation but we need a garden; we are expecting another child and it is not fair to keep children cooped up indoors; we have to take our daughter to her grandmothers in order for her to enjoy a garden;
- (l) which officer said you would be transferred to another property between 3 months and 1 year? - a Housing Officer (named);
- (m) you have said that the squatter was not present when you established the break-in but that he had left his belongings in the maisonette, were you expecting him to come back? - yes, we understand someone had told him the maisonette was empty; when the Police arrested him they took his belongings away;
- (n) do you have written evidence of the statement you allege the Housing Officer made about a transfer to another property between three months and one year? - no, we accepted her word;
- (o) you were offered, as a gesture of goodwill, another maisonette on the same estate, why did you not accept this offer? - it was unsuitable because it had the same layout with two bedrooms on different floors and it was too close to our existing maisonette;
- (p) since the incident with the squatter, have you fitted any security devices at the property? - no, only locks on the door;
- (q) is there a communal landing outside of your front door? - yes;
- (r) have you considered installing CCTV on the landing? - it would be vandalised if we did;
- (s) are you sure you understood the Housing Officer correctly when she was referring to the likely timescale for moving to another property? - yes, we kept going

over it, she was more like a friend to us and we had no reason to doubt what she was saying;

- (t) when do you expect your second child? - I am nearly three months pregnant;
- (u) have you advised Housing Services that you are pregnant? - yes, they said we should approach them again when our second child is born.

The Panel considered the following submissions in support of the case of the Assistant Head of Housing Services (Operations):

(a) the appellants were joint secure tenants of their maisonette; their tenancy had commenced on 14 February 2005 and they lived at the property with their daughter who would be three years of age in June 2006;

(b) Housing Services visit all new tenants within 12 weeks of their tenancy commencement date to answer any questions they might have and to explain matters such as Conditions of Tenancy and rent payment arrangements; on 22 February 2005, the Housing Management Officer had undertaken a new tenant home visit to the appellants; the Housing Management Officer had noted the following on the Visit Report Form:

"want to go straight onto the transfer list because worried that squatter will come back (...) is'nt sleeping and keeping daughter upstairs with them ..."

(c) the Housing Management Officer had explained to the appellants the process for registering for a transfer to alternative accommodation;

(d) the reason for the appellants' concern had been that following the commencement of the tenancy they had decided to leave the property unoccupied whilst they were decorating; during this time someone had gained access and stayed the night; the next morning the appellants had come back to continue decorating and found that the front door had been broken down and there had been a sleeping bag in the lounge; the appellants had explained that this experience had been disturbing them ever since;

(e) on 6 April 2005, the Council had received a transfer application from the appellants; the reason stated for wanting a move was "stressed, not sleeping properly, on edge as have been broken into"; they had stressed on their application that they would be prepared to accept an offer in a number of areas but would only accept a house;

(f) on 25 August 2005, the Council had received a letter from the appellants which had explained about the break-in that had taken place and the way it was making them feel; that letter had also stated that instead of going to the Council's Homeless Persons' Hostel, they had moved into the maisonette after being told that they would be transferred to a house or bungalow within a period between three months and one year; the Housing Needs Section had no knowledge or record of any such statement being made;

(g) on 2 September 2005, the appellants had complained about the fact that they were not being moved; the Assistant Head of Housing Services (Operations) had reviewed the case and had concluded that the appellants were asking for a priority move or a "management transfer";

(h) the Assistant Head of Housing Services (Operations) had concluded that there was no evidence to suggest that the appellants had been notified that alternative accommodation would be offered within three months and one year; especially as waiting times for transfers were often measured in years; he had further stated that the appellants' neighbours had been moved due to them being in Band One;

(i) a "management transfer" had been refused as these were only granted rarely on safety grounds and in exceptional circumstances; however, as it was noted that the appellants had difficulty living in their accommodation, as a goodwill gesture, an offer of like-for-like accommodation had been made elsewhere on the same estate; this offer had been refused by the appellants;

(j) the Council had received letters from the appellants' Primary Care Therapist and General Practitioner supporting the transfer request; the Council's Medical Adviser had considered the evidence and as a result a moderate degree of preference on health grounds had been applied to the appellants;

(k) on 21 November 2005, the appellants had stated that they had been experiencing noise issues from a neighbour who had moved in during September 2005; Housing Management began to take action against the neighbouring tenant who had since vacated the property voluntarily and left the District;

(l) the Council would be undertaking a major £4m Improvement Scheme on the estate where the appellants resided, starting early 2007; this would include re-roofing, over cladding, resurfacing of balconies and replacing heating systems; furthermore, under the Decent Homes Programme many properties on the estate would be provided with new kitchens, bathrooms and improved ventilation;

(m) the appellants had been registered for a transfer on the Housing Register since 6 April 2005 and were currently in Band Four (of seven bands) of the Council's Allocation Scheme as they had two or more categories of housing need including "moderate" degree of medical preference, living above ground floor with a child under five and had no garden for a child under 15 years of age; the position of the appellants on the list in three example areas was drawn to the attention of the Panel;

(n) since 1 April 2005, the Council had had 27 two bedroom houses and 12 two bedroom bungalows available for offer; it was extremely rare for applicants in Band Four to be offered houses, only two applicants in Band Four had been offered houses in the last three years, both of whom had been on the list for many years;

(o) as there was no evidence to suggest that a priority move for safety reasons was appropriate, the appellants only had "moderate" medical priority and bearing in mind that there were approximately 3,700 applicants on the Housing Register, the Panel were asked to dismiss the appeal;

(p) in relation to the appellants' letter dated 26 February 2006, their interpretation of the statement made about management transfers was incorrect; the appellants had sought a priority transfer and whilst these were rarely granted they were still available but only in exceptional circumstances.

The Assistant Head of Housing Services (Operations) answered the following questions of the appellants and the Panel:

(a) will the proposed improvements to the estate affect the inside of our property?
- the improvements will benefit all tenants; some properties will have internal

improvements but at this stage I am unable to state whether the appellants' property will qualify for internal improvements;

(b) when the appellants' second child is born will they still be in Band Four? - yes, one of the children would need to be over five to make any significant difference but I would need to look at the Allocations Scheme in detail to advise further;

(c) what is the maximum number of residents you would expect to occupy a maisonette of the type occupied by the appellants? - it is a 2-bedroom maisonette but the number of occupants would depend on the male/female balance; if the appellants' second child was a daughter, the children could share a bedroom up to the age of 15 but the situation would likely to be different if the second child was a son.

The Chairman asked the appellants if they wished to raise any further issues in support of their case.

The appellants repeated that they had been advised that they would be moved within a period of between three months and one year into alternative accommodation. They had abided by all of the rules and had been misled by officers.

The Chairman asked the Assistant Head of Housing Services (Operations) if he wished to raise any further issues in support of his case. He advised that he did not wish to make any further comments.

With the consent of the Panel, the Head of Housing Services explained the Council's Allocations Scheme. In response to a further question from a member of the Panel, the appellants advised that it was not possible to get two beds into the bedroom on the ground floor of their maisonette.

The Chairman indicated that the Panel would consider the appeal in the absence of both parties and that the appellants and the Assistant Head of Housing Services (Operations) would be advised in writing of the outcome. The appellants and the Assistant Head of Housing Services (Operations) then left the meeting.

The Panel considered all of the evidence which had been placed before it. The Panel noted that the appellants were rather inflexible about the type of accommodation and areas which would be acceptable to them and felt that the main motivation for seeking a transfer was to obtain a house, not to move away from their current property. They took account of the limited steps taken by the appellants to improve security at their property following the break-in. Account was also taken of the medical evidence which had been submitted.

RESOLVED:

That, having taken into consideration the information presented by the appellants and the Assistant Head of Housing Services (Operations) in writing and orally, the appeal be dismissed and the decision of the Assistant Head of Housing Services (Operations) that the appellants' application be for a priority transfer be refused be upheld for the following reasons:

(a) management transfers are only granted in exceptional circumstances, for example where tenants are at high risk due to issues like domestic violence, threats from neighbours or where their lives are being endangered; it is not considered that the circumstances in this case are exceptional;

(b) conflicting evidence was presented by the appellants and the Assistant Head of Housing Services (Operations) regarding the advice given to the appellants by a Housing Officer about the timescale for moving into alternative accommodation; no written evidence was submitted to support the appellants' claim that an officer had stated a move would be between three months and one year; generally, waiting lists are such the times are measured in years rather than months and, on balance, it is considered that the appellants may have misunderstood what the officer had said; and this opinion is supported by the fact that it is clear from the appellants' letter dated 26 February 2006 that they misinterpreted the contents of a letter dated 12 September 2005 sent to them by the Assistant Head of Housing Services (Operations) regarding their application;

(c) whilst not satisfying the requirements for a management transfer, as a gesture of goodwill, and in recognition of the stress suffered by the appellants following a break-in at their maisonette by a squatter, they had been offered like-for-like accommodation elsewhere on the same estate but they had refused that offer;

(d) the appellants desire for a house with a garden is understood, but this is not a sufficient reason to justify a management transfer from a maisonette, and appears to be their main motivation for a transfer; and

(e) the medical evidence submitted in support of the appellants' case and the advice of the Council's Medical Adviser has been taken into account; whilst this allows a moderate degree of preference on health grounds it is not sufficient to justify a management transfer.

93. CHAIRMAN OF THE PANEL

The Chairman announced that this would be the last meeting of the Panel at which she would be attending as she was not seeking re-election on 4 May 2006. She thanked the other members of the Panel, substitutes and officers for the support they had provided during her period as Chairman of the Panel. The Vice-Chairman of the Panel, on behalf of the Panel, advised that Councillor Mrs Davis' presence would be missed on the Council, particularly on this Panel. On behalf of the Panel he presented Councillor Mrs Davis with a bouquet.

CHAIRMAN