



Epping Forest District Council

HOUSING APPEALS AND REVIEW PANEL Thursday, 22nd June, 2006

Place: Civic Offices, High Street, Epping
Room: Committee Room 1
Time: 5.00 pm
Democratic Services Officer Graham Lunnun, Research and Democratic Services
Tel: 01992 564244 Email: glunnun@eppingforestdc.gov.uk

Members:

Councillors Mrs P K Rush (Chairman), Mrs R Gadsby (Vice-Chairman), Mrs P Richardson, Mrs P Smith and J Wyatt

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 3 - 20)

To agree the minutes of the meetings of the Panel held on 7 March and 20 April 2006 (attached).

3. SUBSTITUTE MEMBERS

(Head of Research and Democratic Services) To report the attendance of any substitute members for the meeting.

4. DECLARATIONS OF INTEREST

To declare interests in any item on the agenda.

5. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
6	Appeal No. 5/2006	1 and 2

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

6. APPEAL NO.5/2006 (Pages 21 - 42)

To consider a restricted report.

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee:	Housing Appeals Panel	Date:	Tuesday, 7 March 2006
Place:	Civic Offices, High Street, Epping	Time:	4.00 - 6.05 pm
Members Present:	Mrs J Davis (Chairman), D Stallan (Vice-Chairman), K Angold-Stephens, Mrs P K Rush and Ms S Stavrou		
Other Councillors:	(none)		
Apologies:	(none)		
Officers Present:	G Lunnun (Democratic Services Manager) and R Wilson (Assistant Head of Housing Services (Operations))		

81. SUBSTITUTE MEMBERS

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

82. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor Mrs J Davis declared a personal interest in item 5 of the agenda (Application Number 24/2005) by virtue of being acquainted to the applicant. She determined that her interest was prejudicial and that she would leave the meeting for the consideration of that matter.

83. TERMS OF REFERENCE

The Panel reviewed their terms of reference in relation to the attendance at meetings of substitutes and the Chairman/Vice-Chairman.

Members noted that at present each political group represented on the Panel was required to nominate one substitute member at the Annual Council Meeting to cover for any member of the Panel who was unavailable at a meeting. One of the other regulatory committees of the Council currently provided for any political group having more than one member on that committee to be entitled to nominate the equivalent number of substitutes. Members considered applying this to the Housing Appeal Panel in view of the fact that three members were required for a meeting to be quorate.

The Panel also considered the requirement that no meetings could be held in the absence of both the Chairman and Vice-Chairman. It was noted that there had been an occasion when it had been necessary to defer consideration of a review because the Vice-Chairman had not been present and the Chairman had declared a prejudicial interest when she had realised on seeing the applicant that she was acquainted to her. Members questioned the need for either the Chairman or Vice-Chairman to be present at a meeting. Members suggested that in the absence of the Chairman and Vice-Chairman at a meeting a Chairman could be appointed from the members present bearing in mind that all members and substitutes received training in relation to the processes.

In accordance with Section 100(A)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council's Procedure Rules, the Chairman had permitted on grounds of urgency, consideration of this item in order to meet the timescale for implementing any changes at the Annual Council Meeting.

RESOLVED:

That the Overview and Scrutiny Constitutional Affairs Panel be asked to consider the following changes to the terms of reference of this Panel in time for the Annual Council Meeting in May when the Panel for 2006/07 will be appointed:

(a) the requirements regarding substitutes to be amended to read:

"Each political group represented on the Panel shall be required to nominate the equivalent number of substitutes to cover for any member of the Panel who is unavailable";

(b) the reference to meetings not being held in the absence of both the Chairman and Vice-Chairman of the Panel be removed; and

(c) the insertion of a requirement that in the absence of the Chairman and Vice-Chairman, a Chairman be appointed from the members (not substitutes) present at the meeting.

84. HOUSING NEEDS MANAGER

The Panel noted that Marion Pearce, the Housing Needs Manager would be retiring shortly and that the current Assistant Housing Needs Manager (Homelessness) had been appointed Housing Needs Manager.

RESOLVED:

(1) That the best wishes of the Panel be conveyed to Marion Pearce for a long and healthy retirement; and

(2) That the congratulations of the Panel be conveyed to Russell Wallace on his promotion.

85. DATE OF NEXT MEETING

The Panel noted that as there were no outstanding cases to be considered, the meeting scheduled to take place on 23 March 2006 had been cancelled.

86. 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 item of business set out below as it would involve the likely disclosure of exempt information as defined in the Paragraphs of Part 1 of Schedule 12A of the Act indicated and it is considered that the exemption outweighs the potential public interest in disclosing the information:

Agenda Item Number	Subject	Exempt Information Paragraph Number
5	Application Number 24/2005	1 and 2 (formerly 3)

(Councillor Mrs Davis left the meeting. Councillor D Stallan, Vice- Chairman took the chair).

87. APPLICATION NO. 24/2005

The Panel considered an application for a review of a decision of the Assistant Housing Needs Manager (Homelessness) acting under delegated authority regarding the applicant's homelessness application. The applicant attended the meeting to present her case, accompanied by Ms D Thompson, Epping Citizens' Advice Bureau, and Ms V Mitchell, Support Worker from the Waltham Abbey Community Mental Health Team. Mr R Wallace (Assistant Housing Needs Manager - Homelessness) attended the meeting to present his case. Mr R Wilson (Assistant 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 application.

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

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

- (a) a summary of the application together with the facts of the case and the decision taken by the Assistant Housing Needs Manager (Homelessness) forming part of the agenda for the meeting;
- (b) a copy of the licence to occupy accommodation at the Council's Homeless Persons' Hostel signed by the applicant;
- (c) a copy of a letter dated 12 September 2005 from the Hostel Manager to the applicant;
- (d) a copy of a letter dated 26 September 2005 from the Hostel Manager to the applicant;
- (e) a copy of a letter dated 29 September 2005 from the Hostel Manager to the applicant;
- (f) a copy of a letter dated 3 October 2005 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
- (g) a copy of a report dated 15 November 2005 prepared by the Hostel Manager;
- (h) a copy of the notes of an interview of the applicant by a Housing Officer dated 6 October 2005;
- (i) a copy of a letter dated 10 October 2005 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
- (j) a copy of the applicant's completed application to the Panel dated 8 November 2005;

(k) a copy of a letter dated 20 February 2006 from the Epping Citizens' Advice Bureau to the Council's Democratic Services Manger together with a copy of the submissions made on behalf of the applicant;

(l) a copy of a letter dated 28 February 2006 from the applicant's psychiatrist to the Epping Citizens' Advice Bureau; and

(m) a copy of a letter dated 9 December 2005 from the Assistant Housing Needs Manager (Homeless) to the applicant.

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

(a) the applicant applied as homeless to the Council on 8 June 2005; her application included her daughter, then aged 18;

(b) the Council accepted a full housing duty to the applicant due to her long-term depressive illness; temporary accommodation was provided for the applicant and her daughter;

(c) although the applicant's daughter had been 18 at the time and could be considered an adult in her own right, the applicant had been asked to sign a licence for accommodation at the Council's Homeless Persons' Hostel on behalf of herself and her daughter; as such she became responsible for any breaches of the licence committed by her daughter.

(d) the applicant's daughter had committed breaches of the Licence as alleged by the Assistant Housing Needs Manager (Homelessness); the applicant did not contest that these incidents did occur and she could only seek the mercy of the Panel about these issues; warning letters regarding the breaches had been issued to the applicant on 12 September 2005, 26 September 2005 and 29 September 2005 and on 3 October 2005 the applicant's licence to occupy had been terminated;

(e) the applicant had not herself committed any breaches of the licence agreement; she had taken the warning letters very seriously and had done everything possible to prevent her daughter (who had occupied a separate room) from continuing to breach the licence; she had remonstrated with her daughter several times and had warned her of the likely consequences of her actions; the daughter had taken no heed; the applicant had not been present at the hostel at the time of the second incident;

(f) the Panel should consider whether the applicant should be penalised for the actions of a wayward 18 year old; the applicant should have signed one licence and her daughter another; it could be argued that the applicant signed the licence under duress; it was not appropriate for a vulnerable person to sign a document accepting responsibility for another adult;

(g) the applicant's daughter no longer lived with the applicant; she had been housed by Nacro; the applicant's daughter's behaviour would no longer impact, therefore, on Council Officers or other residents;

(h) the Council had accepted that the applicant was a vulnerable person on grounds of mental health; she remained a vulnerable person and would be at risk if made homeless which could result in another admission to hospital;

(i) the applicant's psychiatrist had stated that the applicant's first contact with the Psychiatric Service had been when she was about 22 years old when she had suffered her first episode of depression; over the years the applicant had received regular outpatient follow-ups and care from the Community Mental Health Team; she had been an in-patient at St Margaret's Hospital and had been discharged on 22 February 2005; since that time she had been seen on a few occasions in follow-up clinics but her attendance had been rather sporadic; she had suffered from recurrent episodes of nervous breakdown for a considerable length of time; she was still very vulnerable to relapses into depressive episodes; she was currently supported by the Community Mental Health Team through a CPN and Support Worker; her mental illness and nervous breakdowns might have contributed to some unacceptable behavioural patterns; it was possible she had a dependent personality and without this might be vulnerable to self-neglect with some risk factors; it was not acceptable for her to remain homeless;

(j) since the applicant's eviction from the Homeless Persons' Hostel she had been housed in bed and breakfast accommodation by the Council and there had been no incidents;

(k) the Panel was requested to reinstate a full duty to house the applicant.

The Chairman apologised to the Assistant Housing Needs Manager (Homelessness) that he had not previously sought his agreement to the letter from the applicant's psychiatrist being considered as it had been submitted late. The Assistant Housing Needs Manager (Homelessness) stated that he had no objection to the letter being taken into account.

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

(a) can you confirm that at the interview on 6 October 2005 you said that you had fully understood that you were responsible for abiding by the terms and conditions of the licence and that you were responsible for the behaviour of members of your household and visitors? - yes, but I did not understand why I had to sign for my daughter because we had separate rooms and she was over 18 at the time;

(b) you said you were away when one of the incidents occurred at the Homeless Persons' Hostel, did you inform the Hostel staff that you would be absent? - yes, I went to Kent for a approximately seven days for a family wedding; originally I had planned to be away for two days but had stayed longer; I have nothing in writing about this absence.

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

(a) the applicant had made a Homeless Application to the Council on 8 June 2005; as part of the application she had wished to include her daughter as part of the assessment process, then aged 18;

(b) at the time of the application being made, the full provisions of the Housing Act 1996 Part VII as amended by the Homelessness Act 2002 had been applied to the case;

(c) the applicant had left private rented accommodation as she could no longer afford to remain; enquiries had been completed and a decision had been made to

accept a full housing duty to the applicant because of her long-term depressive illness;

(d) the duty on the Council was to ensure that temporary accommodation was made available to the applicant to occupy with her daughter;

(e) the Council fulfilled its duty in this respect by providing accommodation at its Homeless Persons' Hostel; the applicant had moved into the Hostel on 13 June 2005; the licence agreement detailed the obligations of the landlord to the licensee and the responsibilities of the licensee whilst in occupation;

(f) shortly after moving into the Homeless Persons' Hostel, the applicant had started to breach the terms of her Licence to Occupy;

(g) on 12 September 2005, a letter had been sent to the applicant as associates of her daughter had been behaving in an unacceptable manner;

(h) breaches of the licence had continued to occur; a further letter had been sent to the applicant on 26 September 2005 about her daughter allowing guests to stay overnight;

(i) a further letter had been sent to a number of residents, including the applicant, on 29 September 2005 regarding incidents that had occurred at the Homeless Hostel;

(j) despite these repeated warnings, the applicant had continued to allow breaches of her licence agreement; as a result the Hostel staff had been left with no option but to terminate her licence to occupy;

(k) on 6 October 2005, a further interview had been held with the applicant with her case officer in order to clarify the reasons for the eviction; after full consideration of all the facts on this case, a decision had been taken to discharge the temporary duty to accommodate;

(l) as a result of this decision, the Council no longer had a duty to provide temporary accommodation but arranged bed and breakfast accommodation for 28 days following eviction from the Homeless Persons' Hostel to allow the applicant time to make alternative arrangements; this period had been extended, pending the outcome of this review; it was acknowledged that the applicant's daughter no longer lived with her mother and had made her own arrangements for housing;

(m) Section 202 of the Housing Act 1996, as amended, gave the 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 applicant had become intentionally homeless from temporary accommodation made available for her occupancy that had prompted the request for the review;

(n) in making homeless decisions, the Council needed to have regard to Code of Guidance which was used by local authorities to assist with the interpretation of the Act; the Code stated that under Section 193(6), the housing authority would cease to be subject to the duty under Section 193 if the applicant became homeless intentionally from accommodation made available to her under Section 193;

(o) it was quite evident from all the detail provided that the applicant had repeatedly breached the terms of her licence to occupy; in making this decision, consideration had been taken of the fact that the applicant had a history of

depression; crucially however, at the time of the interview on 6 October 2005 the applicant had said that she had fully understood the terms and conditions of her licence to occupy; she had also stated that she had been aware that she was responsible for members of her household;

(p) in the event of the application being dismissed, reasonable notice should be given to the applicant to vacate the bed and breakfast accommodation which she currently occupied.

(q) the applicant was in arrears to the Council in respect of a former Council accommodation, the Homeless Persons' Hostel and the bed and breakfast accommodation.

At this stage the Assistant Housing Needs Manager (Homelessness) tabled copies of a letter dated 9 December 2005 sent to the applicant regarding her behaviour whilst at the bed and breakfast accommodation provided by the Council. The Chairman adjourned the meeting to enable the Panel to consider whether it would take this letter into account. The applicant, her advisers and the Assistant Housing Needs Manager (Homelessness) left the meeting. The Panel expressed concern at the late introduction of this letter bearing in mind its date. Members agreed that by tabling the letter, the Assistant Housing Needs Manager (Homelessness) had attempted to introduce a completely new issue in respect of which the applicant and her advisers had no opportunity to consider a detailed response. The parties were recalled to the meeting and the Chairman announced that, after due consideration, the Panel had decided to disregard the letter dated 9 December 2005 and he asked the Assistant Housing Needs Manager (Homelessness) to make no further reference to it or to any incidents which might have occurred whilst the applicant had been housed at the bed and breakfast accommodation provided by the Council.

The Assistant Housing Needs Manager (Homelessness) answered the following questions of the applicant, her advisers and the Panel:

(a) you have said that the applicant was fully prepared not to comply with the terms of her licence and that she deliberately allowed her daughter to breach the terms; on reflection, do you not consider these words are too strong, bearing in mind that on one of the occasions the applicant had not been present? - I stand by my words;

(b) do you consider that these were deliberately planned actions? - officers are fully aware that they are dealing with vulnerable people at the Hostel and we give them every opportunity by way of warnings but if warnings are not heeded I am of the opinion that incidents are deliberate;

(c) would it not have been better to give the applicant's daughter her own licence? - the application completed by the applicant had included her daughter as part of the household so it was not appropriate to grant separate Licences;

(d) would it have been possible to give them separate licences? - yes, if at the time of the application the applicant had made an application in her name only, and the daughter had made a separate application in her name only;

(e) bearing in mind that the applicant was vulnerable, was she made aware that separate applications could be made? - it was the applicant's choice to include her daughter and a duty to house the applicant was accepted; there was no reason at that time to think there might be a breakdown between the applicant and her daughter;

(f) did she know that she had a choice? - the Council's Homeless Prevention Officer had been working with the applicant and it was the applicant's choice to include her daughter as part of the application;

(h) can you clarify the reference you made to the applicant's arrears? - £2,678.36 from a previous tenancy of Council accommodation; £363.21 whilst in the Homeless Hostel and eligible charges whilst in bed and breakfast accommodation; I consider it reasonable to bring these matters to the attention of the Panel since if members are in any doubt about the case this shows how the applicant has conducted her tenancies;

(i) has there been any direct liaison between the Council and the applicant's daughter at any time? - no.

(j) can you confirm that the arrears you have drawn attention to were not mentioned in the submitted papers - yes

(k) do any of the alleged breaches of the licence relate to the applicant? - no, they all relate to her daughter and visitors only;

(l) the applicant's representatives have emphasised that the applicant has been penalised for the actions of her daughter; if the applicant had been the tenant of a Council house and her daughter had breached the terms of the tenancy could this have resulted in eviction? - yes, the Licence mirrors a tenancy agreement.

The Chairman asked the applicant and her representatives if they wished to raise any further issues in support of the applicant's case.

Ms Thompson advised that she had been unaware of the applicant's debts but suggested that the ability to pay should not be taken into account in determining the character of the applicant. The applicant was vulnerable and debts were capable of being managed. She requested that the Panel consider the matters carefully. The applicant said that she wanted the arrears investigated. She said that her former husband was responsible for the arrears from the former Council property. He had not paid anything and her daughter had not paid anything. She said that she had tried to contest the proceedings but had failed.

The Chairman asked the Assistant Housing Needs Manager (Homelessness) if he wished to raise any further issues in support of his case. He advised the applicant had been a former tenant of a Council property and was being pursued by the Council's Legal Services for the arrears. At the request of the Chairman he agreed to assist the applicant in getting the question of these arrears reviewed.

At this stage of the hearing the applicant broke down and left the meeting with her Support Worker.

The Assistant Housing Needs Manager (Homelessness) repeated that the applicant had included her daughter as part of the application and as a result had been responsible for her actions whilst at the Homeless Persons' Hostel. The daughter had breached the terms of the licence several times despite warnings. From the psychiatrist's report it was evident that she had not sought assistance on a regular basis. She had not conducted any of her tenancies or licences well.

The Chairman indicated that the Panel would consider the appeal in the absence of both parties and that the applicant and the Assistant Housing Needs Manager

(Homelessness) would be advised in writing of the outcome. The applicant's remaining adviser and the Assistant Housing Needs Manager (Homelessness) then left the meeting.

The Panel expressed concern about the actions of the Assistant Housing Needs Manager (Homelessness) in introducing the applicant's arrears of rent, licence fees etc when no details had been made of these in the submitted papers other than a reference to arrears of licence fees. The Panel agreed to disregard the comments which had been made about arrears in respect of the Council property and the bed and breakfast accommodation. They also agreed to simply note the reference in the submitted papers to the arrears of licence fees in respect of the Homeless Hostel but not to take this into account as a determining factor in relation to the review.

The Panel discussed the application process and the application completed by the applicant. The Panel agreed that by including her daughter as part of her application, the applicant had accepted responsibility for the behaviour of her daughter and her visitors at the Homeless Persons' Hostel. The applicant had fully accepted that her daughter had breached the terms of the Licence on several occasions.

The meeting was adjourned for five minutes to enable one of the members of the Panel to move her car. The meeting resumed.

The Panel concluded that for the applicant and her daughter to have had separate licences they would have needed to have completed separate applications. If that had happened it would not necessarily have led to both applications succeeding. An investigation would have been undertaken to establish whether there had been a housing duty to the daughter.

The Panel discussed the evidence submitted in respect of the applicant's depression. It was noted that the applicant had understood the warning letters about the breaches of the terms of the licence and had taken steps to try to prevent her daughter from committing further breaches. At the interview on 6 October 2005, the applicant had stated that she fully understood the terms and conditions of her licence to occupy. On balance, the Panel concluded that the applicant's depression had not made her unable to manage her affairs.

The Panel agreed that there had been no deficiency or irregularity in the original decision made by the Assistant Housing Needs Manager (Homelessness) or in the manner in which it had been made.

The Panel then discussed the manner in which the Assistant Housing Needs Manager (Homelessness) had presented his case. In particular members were critical of the attempts to introduce matters at the meeting which had not been previously mentioned in the written submissions.

RESOLVED:

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and the Code of Guidance on Homelessness, and having taken into consideration the information presented by and on behalf of the applicant and by the Assistant Housing Needs Manager (Homelessness) in writing and orally, the decision of the Assistant Housing Needs Manager (Homelessness) that the Council had discharged its duty to provide the applicant with temporary accommodation be upheld for the following reasons:

- (a) the applicant had included her 18 year old daughter in her homeless application;
 - (b) the applicant had confirmed that she fully understood the terms and conditions of her licence to occupy accommodation at the Council's Homeless Persons' Hostel and that she was aware that she was responsible for the conduct of her daughter who was also resident at the Hostel;
 - (c) whilst at the Homeless Persons' Hostel, the applicant's licence agreement had been breached as a result of her daughter causing nuisance or annoyance to other residents as a result of her visitors stealing items from a resident's refrigerator and allowing visitors to stay with her in her room over night on more than one occasion;
 - (d) the applicant had accepted that due to her daughter's unacceptable behaviour at the Hostel she had repeatedly been in breach of the terms of her licence to occupy and that despite several warnings about her daughter's behaviour the breaches had continued;
 - (e) had it not been for these deliberate acts, the accommodation at the Homeless Persons' Hostel would have been available and reasonable for the applicant to continue to occupy;
 - (f) account has been taken of the evidence of the applicant's history of depression but it is not considered that this made her unable to manage her affairs;
- (2) That no deficiency or irregularity has been identified in the original decision made by the Assistant Housing Needs Manager (Homelessness) or the manner in which it was made;
 - (3) That the Council continues to provide interim accommodation for a period of 28 days from the date of the letter notifying the applicant of the Panel's decision in order to allow the applicant reasonable opportunity to secure alternative accommodation;
 - (4) That, subject to the agreement of the applicant, the officers refer the applicant to Social Care to seek their assistance in helping the applicant find alternative accommodation; and
 - (5) That the Head of Housing Services discuss with the Assistant Housing Needs Manager (Homelessness) the concerns of the Panel about the manner in which this case was presented.

CHAIRMAN

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals Panel **Date:** Thursday, 20 April 2006
Place: Civic Offices, High Street, Epping **Time:** 4.00 - 5.05 pm
Members Present: Mrs J Davis (Chairman), D Stallan (Vice-Chairman), K Angold-Stephens, Mrs P K Rush and Ms S Stavrou
Other Councillors: (none)
Apologies: (none)
Officers Present: A Hall (Head of Housing Services) and G Lunnun (Democratic Services Manager)

88. MINUTES

RESOLVED:

That the minutes of the meetings of the Panel held on 22 December 2005, 19 January 2006 and 23 January 2006 be taken as read and signed by the Chairman as a correct record.

89. SUBSTITUTE MEMBERS

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

90. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillors D Stallan and Ms S Stavrou declared personal interests in agenda item 6 (Appeal No: 4/2006) by virtue of being members of the Council's Conservative Group whose Leader was the Chairman of the Primary Care Trust. They had determined that their interests were not prejudicial and that they would remain in the meeting for the duration of the consideration of that appeal.

91. 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 item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraphs Part 1 of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

Agenda Item Number	Subject	Exempt Information Paragraph Number
6	Appeal No: 4/2006	1 and 2

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

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank