



Epping Forest District Council

HOUSING APPEALS AND REVIEW PANEL Thursday, 25th January, 2007

Place: Civic Offices, High Street, Epping
Room: Committee Room 1
Time: 4.00 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, Mrs P Richardson, Mrs P Smith and J Wyatt

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 3 - 16)

To agree the minutes of the meeting of the Panel held on 23 November 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. 9/2006	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. APPLICATION NO. 9/2006 (Pages 17 - 38)

To consider a restricted report (attached).

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 23 November 2006

Place: Civic Offices, High Street, Epping **Time:** 4.00 - 6.55 pm

Members Present: Mrs P K Rush (Chairman), Mrs R Gadsby (Vice-Chairman), Mrs P Smith and J Wyatt

Other Councillors:

Apologies: Mrs P Richardson and T Farr (substitute for Mrs P Richardson)

Officers Present: A Hall (Head of Housing Services) and G Lunnun (Democratic Services Manager)

18. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 19 October 2006 be taken as read and signed by the Chairman as a correct record.

19. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillors Mrs R Gadsby and Mrs P Smith declared personal interests in agenda item 6 (Appeal No. 8/2006) by virtue of being members of the same political group as one of the appellant's representatives. They determined that their interests were not prejudicial and that they would remain in the meeting for the duration of the consideration of the appeal.

20. 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 the exemption is considered to outweigh the potential public interest in disclosing the information:

Agenda Item No.	Subject	Exempt Information Paragraph Nos.
6	Appeal No. 8/2006	1 and 2

21. APPEAL NO. 8/2006

The Panel considered an appeal against a decision of the Assistant Head of Housing Services (Operations) acting under delegated authority not to place the appellant in Band 1 of the Council's Allocations Scheme. Councillor D Bateman and his wife attended the meeting to present the appellant's case. The appellant was also in attendance accompanied by her partner. Mr R Wilson (Assistant Head of Housing Services (Operations)) attended the meeting to present his case assisted by Miss T Selley (Assistant Housing Needs Manager (Allocations)). 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) the case of the Assistant Head of Housing Services (Operations);
- (c) copies of documents submitted by the Assistant Head of Housing Services (Operations) namely:
 - (i) letter dated 14 March 2006 from the Assistant Housing Needs Manager (Allocations) to the appellant;
 - (ii) file note of a meeting held on 15 March 2006 between the Assistant Housing Needs Manager (Allocations) and the appellant;
 - (iii) letter dated 21 August 2006 from the Council's Medical Advisor to Housing Services;
 - (iv) letter dated 20 September 2006 from the Assistant Head of Housing Services (Operations) to the appellant;
- (d) a copy of the application to the Housing Appeals and Review Panel by the appellant dated 16 October 2006;
- (e) copies of the following documents submitted by the appellant:
 - (i) letter of submissions;
 - (ii) letter dated 18 October 2005 from the Rectory Lane Health Centre to the Council;
 - (iii) letter dated 7 December 2005 from an Acting Police Sergeant to the appellant's partner together with an explanation of the crime reference numbers quoted in that letter;
 - (iv) letter dated 7 February 2006 from the Rectory Lane Health Centre to the appellant's daughter's general practitioner;

- (v) letter dated 22 February 2006 from the Rectory Lane Health Centre to the appellant's daughter's general practitioner;
- (vi) letter dated 14 March 2006 from the Assistant Housing Needs Manager (Allocations) to the appellant;
- (vii) letter typed 30 March 2006 from the Child Development Centre, Harlow to the Assistant Housing Needs Manager (Allocations);
- (viii) letter typed 30 March 2006 from the Child Development Centre, Harlow to the appellant's daughter's general practitioner;
- (ix) letter dated 11 July 2006 from the Senior Paediatric Occupational Therapist, Epping Forest PCT to the Assistant Housing Needs Manager (Allocations);
- (x) letter dated 21 August 2006 from the Council's Medical Advisor to Housing Services;
- (xi) letter dated 23 August 2006 from the Assistant Housing Needs Manager (Allocations) to the appellant;
- (xii) letter dated 20 September 2006 from the Assistant Head of Housing Services (Operations) to the appellant;
- (xiii) letter dated 21 September 2006 from the Barking, Havering and Redbridge Hospitals NHS Trust to "Whom it may concern";
- (xiv) letter dated November 2006 from the appellant's daughter's class teacher and the Special Needs Co-ordinator at that school to "Whom it may concern";
- (xv) letter dated 28 February 2006 from the Child and Assessment Team to the Council;
- (xvi) photographs showing the results of anti-social behaviour on the estate where the appellant currently resided.

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

- (a) the appellant's first tenancy with the Council had commenced in 2001 and she had been joined in that property by her partner (now husband) in early 2003; during that time the appellant occupied the property without any problems;
- (b) since mid-2003, the appellant and her husband had suffered harassment by neighbours and had been moved three times by the Council to other properties; these moves had been necessary to escape situations not of the appellant's or her husband's making;
- (c) in early 2004, a Council tenant neighbour of the appellant had been found guilty of assaulting the appellant's husband but had not been evicted by the Council; if the neighbour had been evicted, the appellant would have had no reason to seek to leave her property; the appellant and her husband denied that the latter had provoked the attack;
- (d) in mid 2004, the appellant and her husband had been moved to a Council maisonette in another part of the District; they had regarded the move as temporary and were advised that the move would not affect their priority on the Housing

Register; the appellant's husband and daughter had problems negotiating the stairs to the maisonette; the daughter's school, their doctors and clinic were all several miles away as were other family members being supported by the appellant;

(e) in late 2004, the appellant and her family had been moved again to a part of the District which met their needs but they had soon began to experience problems with neighbours; the Council had obtained an interim injunction against a neighbour but the harassment had continued; the Panel had before them incident numbers provided by the Police and details of those incidents including criminal damage by the neighbour's son to the appellant's husband's car and Council property; the appellant and her family had lived in fear whilst at this property; a Social Worker had liaised with the Police and the Council to establish whether the appellant and her family were at risk and should be moved and this had not been mentioned in the Council's case; the Police and Social Services had tried to get the family moved but the Council had not considered it necessary; it was surprising that the Council had not found temporary accommodation for the appellant and her family at that time in view of the problems they had faced with their neighbours; it had been equally surprising that the Council had taken no action to evict the appellant's neighbour;

(f) in 2006, the appellant and her family had accepted another Council maisonette in that part of the District from which they had moved in late 2004; they still occupied that property; since moving in they had been subjected to abuse from youths from an adjoining area and had suffered noise and disturbance; they had found it necessary to clean up waste from outside their property at least once a week; the lift to the maisonette had been locked by the Council because of anti-social behaviour; various Police Officers were aware of the situation; there were problems for all tenants in the locality; the appellant's daughter had started to copy the bad language used by the youths; the appellant's, her husband's and her daughter's medical conditions justified a move to a more suitable property; the appellant and her husband had been unable to provide documents supporting their medical conditions as their doctors had asked for £35 per letter and this could not be afforded; however, it was plain to a layman that the appellant's current property was unsuitable; in addition, in her current location, the appellant could not support her parents or grandmother;

(g) the appellant's daughter suffered from ADHD, mobility problems, co-ordination problems, no awareness of danger, speech and bowel conditions; she had two paediatrician consultants, a school nurse, special education and occupational therapist; she attended a school which provided a special curriculum to help her needs; travelling daily to the school was a problem but any move to a suitable school closer to the appellant's home would adversely affect the progress the daughter had made since being at her current school; the appellant's husband drove 100 miles a week taking the appellant's daughter to and from school; if the car was not available, it cost £30 per week to travel by bus; the journeys made the daughter very tired in the evenings; the stairs and the balcony at the maisonette presented particular problems and dangers in view of the appellant's daughter's medical condition; it was possible the daughter would need an operation shortly; the Council's Medical Advisor had misunderstood the appellant's daughter's problems by referring to static balance instead of addressing the difficulties she suffered with dynamic balance; equally, his reference to using parks and play areas showed a complete lack of knowledge of the locality;

(h) the references by the Council to the appellant's rent arrears should be ignored as they were no longer an issue;

- (i) the appellant's comments about seeking a mutual exchange to other parts of the country had only been made in desperation and should be disregarded;
- (j) the appellant met at least one criterion for Band 1 in the Allocations Scheme in that there were strong medical and welfare grounds; the appellant's daughter's medical condition alone was sufficient to justify inclusion within Band 1;
- (k) the appellant had been told by the Council that it was not in her family's best interest to move to their current property but they had been desperate in view of the harassment they had suffered.

The appellant, her husband and her representatives answered the following questions of the Assistant Head of Housing Services (Operations) and the Panel:-

- (a) When were the photographs taken which show anti-social behaviour on the estate where you currently live? - Yesterday, at approximately 12 noon;
- (b) Is the anti-social behaviour directed towards you or to residents in general? - We live between two properties with older children and this attracts other youths; we ask them to move from the front of our property but they are reluctant to do so; the youths come from an adjoining London Borough where they are subject to ASBO's;
- (c) Do you have evidence from the Police to support your submissions? - We were advised by the Council that they did not want such information;
- (d) Do you not remember Council Officers encouraging you to provide as much evidence as possible in support of your request for a transfer? - Yes, but that was during one of our previous tenancies;
- (e) Were you not clear that the Council would welcome Police evidence to support your request for a move? - Yes, and Social Services also advised us to do so; evidence was provided when we were tenants at one of our previous properties but we got nowhere;
- (f) Are you aware that even if your appeal is allowed, and you are placed within Band 1 of the Council's Allocations Scheme, it may still be some considerable time before you are offered an alternative property? - Yes, but if I get placed in Band 1, I will be moved eventually;
- (g) You have recently referred to a possible mutual exchange to Southampton; is this still a possibility? - No, it is not practical for my daughter;
- (h) Is Loughton the only area to which you are prepared to move? - Preferably Loughton, but also Buckhurst Hill if it is on a bus route;
- (i) If you are placed in Band 1 what type of accommodation would you require? - A two-bedroom ground floor flat with a garden or a bungalow;
- (j) It is regrettable that you feel the Council has attempted to show you in a bad light by referring to the background to this case; be assured that this information is confidential to the Panel and it is necessary for all the relevant facts to be considered; are you able to now manage your rent satisfactorily? - Yes; at the time of the arrears, I was only in receipt of allowances for my daughter; I had only just met my husband at that time; the arrears arose because of a misunderstanding between the Council's Housing Benefit Section and DSS;

(k) You have mentioned possible mutual exchanges to several places; why did you do this? - I was desperate; I considered mutual exchanges and undertook web searches for suitable locations; transfers were not practical in view of the needs of my daughter; it is very hard to get a mutual exchange from a property on the estate where I currently reside and I did seriously consider a proposed mutual transfer to Southampton but the accommodation there was not suitable for my daughter;

(l) The Council has stated that when your husband left you for a period in 2005, you advised that you would be happy to remain in the property where you were residing at that time; is this correct? - No; I was concerned for the welfare of my daughter; at that time, the problems affected both myself and my husband and the latter left because he could not take the pressure; a brick was thrown through our window; a youth was climbing up our property and continually shouting nasty comments; in relation to the injunction action against the neighbour, I took advice from my father who is a solicitor;

(m) Did you not suffer more pressures living alone with your daughter? - I had lots of friends close by; I stopped the injunction action because of likely problems; the Housing Office at The Broadway, Loughton were asked for statements but the Police had to do it because the Council could not get it right; I was told I would not have to go to Court but that was not correct;

(n) When you moved to your current property, did you not consider that it would be difficult to get your daughter to and from school? - I did not appreciate the heavy traffic between my property and the school; I had been led to believe that Social Services would pay for school transport but my application was declined;

(o) Is the current anti-social behaviour on the estate by people who are not residents? - Yes;

(p) Is your daughter directly bullied? - I do not allow her out to play;

(q) How do you get on with your current neighbours? - They are very good but problems arise because their children attract other youths and this results in anti-social behaviour;

(r) Did you say that your father was a solicitor? - Yes; he retired fifteen years ago but he is still a partner in a firm;

(s) You have mentioned journeys to your daughter's school by car and bus; which do you use? - The car is old and unreliable and so it is also necessary to use the bus;

(t) How often do you use the bus? - On average, two days a week; sometimes we cannot get on the bus because there are a lot of other school children using it; sometimes a neighbour takes our daughter to school;

(u) Did you say that you do not qualify for school transport? - Yes; we are getting no help at present but we have a further meeting next week;

(v) How do the other children with special needs get to and from the school that your daughter attends? - They are taken by their parents;

(w) There is mention of your daughter attending a particular school for only two weeks prior to attending her current school; can you clarify the position? - Yes; that is correct, the school did not meet her needs; she was sent to the headmistress

because she pulled the hair of another child and the school did not appreciate her problems;

(x) When you moved in mid 2004, where did your daughter go to school? - She did not go to school at that time because it was a period during the summer holidays; when we returned to Loughton later that year, my daughter went to school for the two week period mentioned earlier but was then moved as we obtained a place at her current school in November 2004;

(y) Did you say that ground floor accommodation would be acceptable to you? - Yes, a ground floor maisonette or a bungalow, but we need a garden;

(z) Are you within the catchment area for your daughter's school? - No.

The Panel considered the following submissions of the Assistant Head of Housing Services (Operations):-

(a) apologies were made for the lengthy submissions regarding the background to the current appeal but it was felt necessary in order for members to understand what was a particularly long and complex case; the Assistant Head of Housing Services (Operations) advised that this was probably the most complex case that he had dealt with;

(b) on 9 January 2001, the appellant's first tenancy with the Council had commenced at a property in Loughton where she had lived with her daughter; in January 2003, her partner (now husband) had moved into the property; on 10 March 2003, the appellant had joined the Housing Register for a transfer and had become active on the list from 10 July 2003 and had been placed in Band 2 of the Council's Allocations Scheme; she had also registered for a mutual exchange on 17 March 2003;

(c) at this time, the appellant had advised the Council, the Police and other agencies that she was experiencing difficulties at this address; these included concerns about not having a garden, the busy road which ran in front of the property and the fact that her daughter had no room to play; in addition, she had stated that she was experiencing problems with depression, and difficulties with her neighbour; the appellant had made it clear that she wanted to move from this property; she could not afford renting a property in the private sector at that time and she had high arrears of rent with the Council who were considering possession proceedings against her; on 7 March 2003, the Council had served the appellant with a notice of seeking possession although this had not led to her eviction;

(d) at this time, the Council had referred the case to its Medical Advisor who had decided that no additional preference would be given to her place on the Housing Register; with regard to the difficulties with her neighbour, an incident had taken place between the appellant's husband and their neighbour which had resulted in the appellant's husband being assaulted and the neighbour being found guilty of assault;

(e) in May 2004, the Council had considered a request from the appellant for a priority move; it had been agreed, following discussions with the Police, that the circumstances of the case were not strong enough to warrant a priority move; at that time, the appellant and her husband had advised the Assistant Head of Housing Services (Operations) that they hoped to move to Minehead; at a later date, the appellant had advised that it was her ambition to move to Manchester;

(f) in July 2004, the appellant had become eligible for an offer of alternative accommodation under the Council's Allocations Scheme and had accepted the tenancy of a 3/4th floor maisonette at Chigwell; the tenancy had commenced on 26 March 2004; twenty-three days after the commencement of the tenancy, the appellant had completed a transfer application stating that she had wanted to move from this property because her husband had angina and depression, her child had special needs and she had back problems; in addition, she wanted to move back to Loughton to be nearer to her daughter's school which could address her daughter's special needs, learning difficulties and behavioural problems; on 2 September 2004, the case had been considered by the Council's Medical Advisor and, as a result, due to the special needs of the appellant's daughter, the appellant had been awarded a strong degree of preference and her application had been placed in Band 1 of the Council's Allocations Scheme;

(g) during the appellant's time in Band 1, she had been in regular contact with Council Officers and had contacted her local councillor; she had requested an offer of a property in Loughton which she believed was either vacant or about to become vacant; on 7 October 2004, the appellant had been offered the tenancy of that property, being a two bedroom ground floor flat; her tenancy had commenced on 25 October 2005; between January and April 2005, a number of complaints had been received by the Council from the appellant regarding noise nuisance emanating from a neighbour's property; these had been investigated but the Council could not establish that a statutory nuisance had been occurring; confrontations had taken place between the appellant's husband and the neighbour and in April 2005, the Council had obtained an interim injunction against the neighbour pending a hearing in July 2005; the neighbour had advised that he had every intention of contesting this action and at this time the appellant had approached the Council seeking a priority move; the request had not been agreed as following many discussions with the Police had become established that there was no substantial risk to the appellant if she remained in the property;

(h) in June 2005, arrangements had been made for this Panel to hear an appeal from the appellant for a priority transfer to another property; on 17 June 2005, a Council Officer had visited the appellant and had been advised that the appellant's husband had left the property and the appellant had confirmed that as the majority of the problems were caused by him, she was happy to remain living at the property and no longer wished to proceed with the appeal to this Panel and would be stopping the injunction action against the neighbour; at this time, the appellant had advised a Housing Officer that her husband had antagonised the neighbour into hitting him;

(i) on 29 June 2005, the appellant had notified the Council that her husband had returned and was again living with her; on 25 July 2005, the Council had served a notice of seeking possession upon the appellant for rent arrears; in August 2005, the appellant had began contacting the Council and other agencies regarding further incidents concerning neighbours; in October 2005, the Council had been advised that the appellant was seeking a mutual exchange to the Portsmouth area; on 3 November 2005, the Council had received a transfer application from the appellant due to the flat not being suitable for her daughter, having a remote garden and having difficulties with neighbour nuisance;

(j) on 30 November 2005, the Council's Medical Advisor had awarded the appellant strong social preference due particularly to the problems she was experiencing with neighbours and the effect this was having on the wellbeing of her daughter; she had therefore been placed in Band 1 of the Council's Allocations Scheme;

(k) in March 2006, the appellant had been offered, at her request, a property in Chigwell being a 1/2nd floor maisonette; the appellant had been advised at that time that the property might not be the best option for her bearing in mind that she had requested a move from that estate previously; however, the appellant had accepted the property; five days after the tenancy had commenced, the appellant had submitted a transfer application; she had said that she wanted to move due to her daughter's health, her own back problems and depression and a desire to move back to Loughton to live close to her mother and nearer to her daughter's school;

(l) the case had again been referred to the Council's Medical Advisor who, at this time, had awarded moderate preference on social welfare grounds; as a result, the appellant had been placed in Band 4 of the Council's Allocations Scheme; as the appellant had not been happy with this decision, the Council had referred the case to a further independent Medical Advisor who had considered that the current accommodation was reasonable for the appellant's needs on medical grounds, and that no medical priority accrued; the Medical Officer had further stated that although the appellant had been awarded additional preference (Band 4) it was his view that she should in fact be in Band 5; the Council had not accepted this advice and the appellant had remained in Band 4 even though this banding might have overstated her actual need;

(m) the Council had made great efforts over recent years to meet the appellant's housing need; although the appellant had stated that she suffered with back problems, her current accommodation was only on 1/2nd floors with one flight of stairs (15 stairs in total) leading to her balcony, with access to a lift it was considered to be suitable; the Council's Medical Advisor had stated that there was nothing to impede significantly the appellant's mobility;

(n) the Council had received reports about incidents of anti-social behaviour taking place on the estate where the appellant currently lived; the Council's Crime and Disorder Co-ordinator had advised that youths had been visiting the estate from a neighbouring borough; the Police Community Support Officers were carrying out targeted patrols, some stolen vehicles had been recovered and arrests made; a number of further initiatives were planned to combat anti-social behaviour; it would be inappropriate to place the appellant in Band 1 for this reason alone as it could lead to many other tenants expecting the same treatment;

(o) in recent weeks, there had been a great improvement in the situation on the estate;

(p) the appellant was requesting two bedroom accommodation and was currently in Band 4; her areas of choice were Abridge, Theydon Bois, Loughton, Buckhurst Hill, Epping or Waltham Abbey; of those areas, only Loughton or Waltham Abbey offered any real opportunity for assistance; the appellant was currently 108th in Band 4; if she was promoted to Band 1, she would be 17th on the list and might still have to wait some time for an offer of a property;

(q) on 8 November 2006, the appellant had made an application for permission to effect a mutual exchange with a tenant of a property in Southampton; the reasons given for the mutual exchange were health reasons; the appellant had stated that if she was successful with her current appeal she would withdraw this application;

(r) throughout this case, the Council had not received sufficient evidence from the Police to justify an increase in the appellant's priority; account had been taken of the view of the Council's independent Medical Advisor and it was considered that the

appellant's current position within Band 4 of the Council's Allocations Scheme was correct.

The Assistant Head of Housing Services (Operations) answered the following questions of the appellant, her husband, her representatives and the Panel:

(a) Is it normal for the Council's Medical Advisor not to see an appellant? - The Medical Advisor will sometimes speak to an appellant's GP to base his assessment on that discussion and the submitted paperwork; in view of the number of cases referred to the Medical Advisor, it would not be possible for every appellant/applicant to be seen by him;

(b) If there is more medical evidence now available, can that be submitted to the Council's Medical Advisor? - If the Panel dismiss the appeal, it would be open to the appellant to submit further evidence which would be considered;

(c) Bearing in mind that the main consideration in relation to this case relates to a five year old child, do you not think that weight should be given to the views of social workers? - It has been difficult with such large files to include every letter of representation; I accept that the Council may have received a letter from a Social Worker but I do not remember this containing strong evidence in support of the appellant's case (at this stage in the proceedings the appellant handed in a letter dated 28 February 2006 to the Council from the Child Assessment Team); the Assistant Head of Housing Services (Operations) then found a note on file indicating that the Area Housing Manager had discussed the case with the Child Assessment Team and they had agreed that a stronger case could not be made at that time;

(d) You have referred to a lack of housing but there are currently a number of empty properties on the estate where the appellant is residing; why could the appellant have not been provided with temporary accommodation on this estate when she was suffering the problems at the property in Loughton? - There are currently seven or eight empty properties on the estate where the appellant resides but these are all under offer; temporary accommodation can be offered in extreme circumstances where an applicant is effectively homeless; whilst the appellant was residing at the property in Loughton, there was insufficient support from the Police to justify a temporary move;

(e) The Police are under-manned; do you accept that a Police Officer spoke to Housing Officers about the problems being experienced by the appellant and her family? - Yes, but there was insufficient evidence provided to enable the Council to give the appellant greater priority; greater priority was subsequently granted but this was on medical evidence not Police evidence;

(f) Why was nothing done about the loud music played by the appellant's neighbour when she resided at a property in Loughton? - One of the Council's Environmental Health Officers investigated the complaint and took measurements; these did not constitute a statutory noise nuisance and so it was not possible to serve a Noise Abatement Notice;

(g) Why was the appellant not told of her position on the Housing Register when residing at the property in Loughton? - A letter dated 30 January 2006 from the Council's Compliments and Complaints Officer set out the position (at this point the appellant acknowledged that she had forgotten about that letter);

(h) Do you not accept that, due to the pressure suffered by the appellant whilst in the property at Loughton she had no option but to move even though she was aware

that she was moving to a property which was not ideal? - Housing Officers have to make fair decisions; the Council's investigations and advice from the Police did not reveal that the appellant and her family were at risk whilst in the property at Loughton; the appellant was advised that the move to her current property might not be in her best interests but she was determined to take the property;

(i) Has the Council received direct any written communication from the Police? - (The Assistant Head of Housing Services (Operations) looked through the files and could not find any document); the appellant was always encouraged to get evidence including Police reports and to submit them to the Council; if evidence had been submitted by the Police which indicated that the appellant had been at risk, the Council would have taken appropriate steps but no evidence was received;

(j) You said there was no evidence but you have heard that the appellant's neighbour kicked in a door and smashed a window; - It is not for Housing Officers to investigate incidents such as those; it is a matter for the Police and for the Police to notify the Council;

(k) Is the amount of time spent on the Housing Register an issue in relation to priority? - The more time an applicant spends on the Housing Register the more likely they are to obtain greater priority but movement between bands normally requires something more specific;

(l) How frequently do priority moves occur in a year? - One or two at the most;

(m) Is there a requirement for a tenant to notify the Council of others residing with them? - Yes;

(n) Is it open to the appellant to make a new application if she considers there has been a change in her circumstances since she submitted her application to this Panel? - Yes; if there have been further developments e.g. the medical condition of her daughter, these should be submitted to the Council; they will be forwarded to the Council's Medical Advisor for his views;

(o) The appellant has suffered harassment from neighbours at four different properties; two of those have been in Loughton; how widespread are such problems in Loughton? - Problems are not particularly widespread but when allocating a property, it is difficult to know how neighbours will get on with each other;

(p) If you are aware that a tenant is particularly difficult, do you take this into account when allocating an adjoining property? - If we are faced with extreme problems, we make a careful allocation;

(q) How often do tenants request a move shortly after moving into a property? - Not very often; extremely rare.

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

The appellant's representatives stated that the appellant was seeking placement in Band 1 due to her daughter's medical condition. In addition, it was submitted that anti-social behaviour was affecting this family possibly more than others. It was submitted that the current accommodation was not suitable for the family's needs taking account of the medical condition of the appellant, her husband and her daughter. When the appellant accepted her current property, she was aware that it was not in her best interests but at that time she had been desperate to move

because of the problems with her neighbour. If the appellant had been aware that the neighbour would have been going to prison she would have been happy to have stayed in her property in Loughton. There was concern about the apparent lack of Police evidence on the Council's files in view of the incident lists submitted by the appellant. It was accepted that the appellant had moved several times and now wanted to move back to Loughton again. However, it should be borne in mind that the appellant would not have moved from Loughton had it not been for her disruptive neighbours. Loughton was the favoured location for the appellant to ensure that her daughter could receive consistent schooling.

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 when undertaking the review of this case, he had taken everything into account and had concluded that Band 4 of the Council's Allocations Scheme was the correct position for the appellant. He advised that if the appellant's daughter's medical condition had worsened since his review, it was open to the appellant to submit additional evidence so that he could seek the further views of the Council's Medical Advisor.

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

The Panel considered all of the evidence which had been placed before it. The Panel considered whether there was sufficient medical or welfare grounds for the appellant to be placed within Band 1 of the Council's Allocations Scheme. The Panel noted that the submissions made regarding a deterioration in the appellant's daughter's medical condition had not been supported by written material from a qualified medical practitioner.

RESOLVED:

(1) That, having regard to the Council's Allocations Scheme, and having taken into consideration the information presented by and on behalf of the appellant and by the Assistant Head of Housing Services (Operations), in writing and orally, the decision of the Assistant Head of Housing Services (Operations) not to promote the appellant to Band 1 of the Council's Allocations Scheme be upheld for the following reason:

having regard to the advice currently available from medically qualified practitioners, including the Council's independent Medical Advisor, based on information provided to him about the appellant's family health, it is considered that the appellant is correctly placed within Band 4 of the Council's Allocations Scheme and does not meet the criteria for being included in Band 1;

(2) That the appellant be advised that, if she is in receipt of written advice from a medically qualified practitioner which was not presented to the Panel and which supports her being placed in a different band of the Council's Allocations Scheme, she should submit that advice to the Council's Housing Services for consideration; and

(3) That the Officers in Housing Services be congratulated on the fair and thorough way in which they have dealt with this case over a long period of time.

CHAIRMAN

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