



# Epping Forest District Council

## ***HOUSING APPEALS AND REVIEW PANEL Wednesday, 25th April, 2007***

<b>Place:</b>	Civic Offices, High Street, Epping
<b>Room:</b>	Members Room
<b>Time:</b>	10.00 am
<b>Democratic Services Officer</b>	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

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**1. APOLOGIES FOR ABSENCE**

**2. MINUTES (Pages 5 - 26)**

To agree the minutes of the meetings of the Panel held on 25 January 2007, 15 February 2007 and 27 February 2007 (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. 3/2007	1 and 2
7	Application No. 2/2007	1 and 2
8	Previous Appeals and Applications – Current Position	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. 3/2007 (Pages 27 - 48)**

To consider a restricted report.

**7. APPLICATION NO. 2/2007**

To note a restricted report to be made orally on the reasons for this application no longer needing to be reviewed by the Panel.

**8. PREVIOUS APPEALS AND APPLICATIONS - CURRENT POSITION (Pages 49 - 54)**

To consider a restricted report – attached.

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## EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Housing Appeals and Review Panel      **Date:** Thursday, 25 January 2007

**Place:** Civic Offices, High Street, Epping      **Time:** 4.00 - 6.15 pm

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

**Other Councillors:**

**Apologies:**

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

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### 22. MINUTES

#### RESOLVED:

That the minutes of the meeting of the Panel held on 23 November 2006 be taken as read and signed by the Chairman as a correct record.

### 23. SUBSTITUTE MEMBERS

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

### 24. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor Mrs P Richardson declared a personal interest in agenda item 7 (Appeal No 8/2006) by virtue of being an acquaintance of the appellant. She determined that her interest was prejudicial and that she would leave the meeting for the duration of the consideration of the request.

### 25. EXCLUSION OF PUBLIC AND PRESS

#### RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the items of business set out below as they 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
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6	Application No 9/2006	1 and 2
7	Appeal No 8/2006	1 and 2

**26. APPLICATION NO. 9/2006**

The Panel considered an application for a review of a decision of the Assistant Housing Needs Manager (Homelessness) acting under delegated authority that the applicant had made herself homeless intentionally from temporary accommodation provided by the Council and that the duty on the Council to provide her with temporary accommodation had been discharged. The applicant attended the meeting to present her case. Mr J Hunt (Assistant Housing Needs Manager (Homelessness)) attended the meeting to present his case assisted by Mr B Howland (Hostel Manager). 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 application. The Chairman introduced the members of the Panel and officers present to the applicant 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 forming part of the agenda for the meeting;
- (b) the case of the Assistant Housing Needs Manager (Homelessness);
- (c) copies of documents submitted by the Assistant Housing Needs Manager (Homelessness) namely:
  - (i) the applicant's Licence to occupy a room at the Council's Homeless Hostel;
  - (ii) letter dated 7 September 2006 from the Deputy Hostel Manager to the applicant;
  - (iii) letter dated 9 October 2006 from the Hostel Manager to the applicant;
  - (iv) letter dated 16 October 2006 from the Hostel Manager to the applicant;
  - (v) letter dated 2 November 2006 from the Hostel Manager to the applicant;
  - (vi) report of the Hostel Manager regarding the applicant;
  - (vii) letter dated 6 November 2006 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
  - (viii) letter dated 15 November 2006 from the Assistant Housing Needs Manager (Homelessness) to the applicant;
- (d) a copy of the application to the Housing Appeals and Review Panel by the applicant dated 6 December 2006.

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

- (a) the applicant had understood the need to follow the signing in process on a daily basis at the Council's Hostel but her mother had been admitted to hospital after suffering a minor stroke and it had been necessary for the applicant to return to the family home to look after her sisters and brother; during this time, she had been unable to follow the signing in process;
- (b) the staff at the Hostel had been aware of the applicant's absence and her reasons for living at her mother's home, which had been agreed by the Hostel staff, provided she returned to the Hostel by 3 October 2006;
- (c) the applicant had been diagnosed as suffering from post-natal depression, a condition that she was not aware existed until approximately September 2006; she had not understood why she had felt so low and the need to shut herself away from everyone; she had not approached her doctor earlier as she had thought he might consider that she was not in a fit state to look after her daughter;
- (d) the applicant's doctor had prescribed anti-depressants and had advised attendance at counselling sessions which the applicant was attending;
- (e) a friend of the applicant had appreciated the applicant's problems and had invited her to stay with her until she felt better; when the applicant had stayed with her friend, she had been unable to follow the signing in process at the Council's Hostel; the applicant's friend's partner had returned home from the Army and had been very upset about the applicant and her daughter's presence and they had to leave that accommodation;
- (f) the applicant had been quite happy before the birth of her daughter but had been unable to concentrate on matters since that time; she was now starting to get her life back on track and her housing situation was one of the main issues which she needed to resolve.

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

- (a) Do you have any documents in support of your case to place before the Panel? - No; I tried to get a doctor's appointment so that I could ask him to provide a letter regarding my condition but the earliest appointment I could get was the end of next week as my situation was not considered to be an emergency;
- (b) Why did you not contact staff at the Council's Hostel to explain your absences? - At the time I felt physically unable to see or talk to anyone and then I panicked and could not face up to my situation;
- (c) When did your mother suffer her stroke? - In September/October 2006; she had become numb on one side and after passing out in the doctor's surgery, had been admitted to hospital; at the time there had been no other member of the family available to look after my sisters and brother; my grandmother spends two months in England and two months in Spain at a time; when my mother came home from hospital she had said that I was not needed any more; my mother has shut me out of her life earlier;
- (d) Was there a land line telephone at your mother's house? - No;
- (e) Which doctor's surgery do you attend? - Market Square, Waltham Abbey;

(f) The Hostel Manager had stated that when a final warning letter regarding non occupation was delivered to your room at the Hostel on 2 November 2006, previous letters from the Council had been found unopened; when did you read those letters? - I read the final letter dated 15 November 2006 when I came to the Civic Offices in December 2006; I did not receive and did not open the previous five letters;

(g) What prompted you to come to the Civic Offices? - My friend's partner returned home from the Army and I needed to leave my friend's accommodation; I spoke to someone at the Council's Hostel and they told me my room there was no longer available and that I needed to contact the Civic Offices for an explanation;

(h) On your application form to the Panel you have included a friend as being part of your household as well as yourself and your daughter; can you clarify the position? - the person mentioned is the friend who I stayed with whose partner was in the Army;

(i) Do you agree, therefore, that she is not part of your household? - yes, I can confirm that I only require accommodation for myself and my daughter;

(j) Is the address you provided on your application form, the address of your friend? - yes.

(k) How long was your mother in hospital? - approximately one week; when she returned home she was still poorly and went back into hospital; she discharged herself and was in and out of hospital over a period of approximately one month;

(l) Where are you residing now? - in bed and breakfast accommodation provided by the Council; I have been there since 7 December 2006;

(m) Can you clarify the position with your mother and the family home? - after the birth of my daughter I was asked to leave the family home and I went to the Council's Hostel; when my mother became ill I returned to the family home but when she was better she asked me to leave again; I went to my friend's house but when her partner returned from the Army I was asked to leave that accommodation;

(n) You have said that your friend was concerned about you; why did she not telephone the Council to express her concerns about your situation? - I assume it did not cross her mind to do so;

(o) Did you ask your friend to contact the Council? – no, because I thought they would only speak to me;

(p) Can you explain further why your mother asked you to leave the family home? - before I became pregnant I was close with my mother; nothing in particular happened but my mother turned nasty towards me and said that she no longer wished to see me; when I became pregnant she calmed down and our relationship improved with the help of my sisters; once my daughter was born the two bedroom flat was not large enough for my mother, my two sisters, my brother, myself and my daughter so my mother put pressure on me to leave; when my mother became ill and I returned to the family home she had no option but to accept my help until her health improved;

(q) How old are your sisters and brother? - my sisters are 17 and 16 and my brother is 12;



(r) You have said that your mother was in hospital in September/October 2006 but you do not appear to have complied with the signing in procedure at the Council's Hostel before that time; can you clarify the position? - I moved into the Hostel in August 2006 and followed the signing in procedure during the first week; I was aware that I had to sign in twice a day but some days I did not as I generally forget to do so; I had not been in accommodation like that before and was not used to signing in every day; a lot of the time during the first couple of weeks I remained in my room; I phoned the Hostel on 20 August 2006 to ask for time off due to problems at my family home and indicated that I would be returning between 28 and 30 August 2006;

(s) Do you have your own transport? - no.

(t) How long did you spend at the family home at that time? - approximately 4 weeks;

(u) Do you have a mobile phone? - yes.

(v) Before you became pregnant were you on the Council's Housing List? - Epping Forest said that they would refer the matter to Broxbourne Borough Council for housing as they considered that I had no connection with the Epping Forest District but did have a connection with Broxbourne Borough; Broxbourne Borough Council refused to accept a referral;

(w) Since you have been in the bed and breakfast accommodation provided by the Council have you complied with the Terms of Occupancy? - yes I sign in every day; I spend most of my time there although one of my sisters is on study leave and I arrange to meet her sometimes.

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

(a) the applicant had made a homelessness application to the Council on 7 August 2006; the applicant was a single parent aged 22 and as part of her application for housing she had included her daughter now aged eight months; the applicant had been living at the family home in Waltham Cross but had been asked to leave by her mother; this Council had accepted a duty to accommodate the applicant but a referral had been made to Broxbourne Borough Council under Section 198 of the Housing Act 1996, as amended, as it had been considered that the applicant had no connection with the Epping Forest District but a connection arose with Broxbourne;

(b) the duty on the Authority was to ensure that temporary accommodation was made available to the applicant and her daughter; the Council fulfilled its duty by providing the applicant with accommodation at the Council's Hostel; the applicant moved into the Hostel on 8 August 2006;

(c) attention was drawn to the Licence Agreement signed by the applicant to occupy accommodation at the Hostel; the Agreement listed the obligations of the Landlord to the Licensee and also the responsibilities of the Licensee whilst in occupation of the accommodation; in particular, paragraph 4(3) stated that all absences must be reported to the Council staff on site and that the signing in process had to be followed on a daily basis; in addition the agreement required an occupier to seek approval from the Hostel Manager for all absences from the Hostel of longer than one night; the agreement further stated that any unauthorised absence might result in the termination of the Licence to Occupy;

(d) on 7 September 2006, the applicant had received her first warning letter regarding non-occupation; the applicant had contacted staff at the Hostel to make them aware that she had been looking after her mother but that she would be moving back in on 3 October 2006; the applicant had not moved back to the Hostel and due to continued non-occupation, three further warning letters had been issued dated 9 October 2006, 16 October 2006 and 2 November 2006; the warning letters had made it clear that not occupying the room and consequently not signing the register would result in the applicant's Licence to Occupy the room being terminated; on 7 November 2006 the applicant had been served with notice and her Licence to Occupy the room had ended on 13 November 2006; on 15 November 2006 a letter had been sent to the applicant discharging the Council's duty to accommodate her because it was considered that she had made herself homeless intentionally; as a result, the Council no longer had a duty to provide the applicant with temporary accommodation under Section 193 of the Housing Act 1996, as amended; in that notification the applicant had been given 21 days in which to seek a review of the decision and on 6 December 2006 she had contacted the Council and had been made aware of her right to seek a review through this Panel; the applicant had attended the Civic Offices and had completed an application form to the Panel; the applicant had accepted that she had not been staying at the Hostel and had been staying with a friend who had now asked her to leave;

(e) the Council had exercised its discretion to accommodate the applicant in bed and breakfast accommodation pending the outcome of this review;

(f) in making homeless decisions, the Council must have regard to the Code of Guidance which is used by local authorities to assist with the interpretation of the homelessness legislation; the Code of Guidance states that a person became homeless, or threatened with homelessness, intentionally if:

(i) he or she deliberately did or failed to do anything in consequence of which he or she ceased to occupy accommodation (or the likely result of which was that he or she would be forced to leave accommodation);

(ii) the accommodation was available for his or her occupation; and

(iii) it would have been reasonable for him or her to continue to occupy the accommodation;

(g) the Code of Guidance further stated that under Section 193(2) of the Act, the housing authority would cease to be subject to the duty (to accommodate) if an applicant became homeless intentionally from accommodation made available under that section (temporary accommodation);

(h) the applicant's failure to comply with her Licence requirement to occupy her room at the Council's Hostel was considered to have been a deliberate act on her part, a consequence of which she had been served with notice after being sent four warnings; the accommodation that the applicant had occupied at the Hostel would have continued to be available to her, had she complied with her Licence conditions; the accommodation was considered to be reasonable for the applicant to occupy as she had a normal sized room that would have been sufficient for her needs and support for her was available from the Hostel staff;

(i) the applicant had signed her Licence Agreement and by doing so had agreed that she would occupy her room at the Hostel, sign the register to demonstrate her occupancy and report any absences to the staff at the Hostel; the applicant had failed to do so despite repeated warnings and this had led to her homelessness; the

applicant was considered to have made herself homeless intentionally from the temporary accommodation made available to her under Section 193 of the Housing Act 1996 as amended, and the Council had discharged its duty to provide her with housing;

(j) in the event of the officer decision being upheld, it was recommended that reasonable notice should be given to the applicant to vacate her bed and breakfast accommodation and a referral made to Social Care in order that the provisions of the Children Act 1989 could be applied.

The applicant advised that she did not wish to ask any questions of the Assistant Housing Needs Manager (Homelessness). The Assistant Housing Needs Manager (Homelessness) answered the following questions of the Panel:

(a) Did the applicant sign the Licence to Occupy in the presence of a Council Officer? - the Licence would have been signed in the office of the Hostel with a Hostel member of staff present;

(b) Is it normal for Hostel staff to explain the terms of the Licence to an occupier? - yes;

(c) Can you clarify the meaning of the final paragraph of your letter dated 15 November 2006? - following a change in an applicant's circumstances a file is passed from the Homelessness Section to the Housing Allocations Team so that the records are kept up-to-date; in practice there are two issues, the homelessness application before the Panel and an application for permanent housing on the Housing Register which needs to be kept up-to-date at all times;

(d) When the letters addressed to the applicant were found unopened in her room at the Hostel, what action did you take? - the letters were returned to the Civic Offices unopened for placing on the applicant's file, as we did not know her whereabouts;

(e) Can you clarify the period when the applicant first failed to sign in at the Hostel? - Appendix 6 states that she signed in on 9, 11, 14, 16 and 17 August 2006 and that on 20 August 2006 she telephoned to ask for a week away to look after her mother who was ill; she subsequently signed in on 28, 29 and 30 August 2006; she failed to sign in during the following week and was sent her first warning letter on 7 September 2006; she did not sign in at all throughout September; she subsequently telephoned to say that she was looking after her mother but would be moving back to the Hostel on 3 October 2006; she failed to sign in all of that week and was sent a second non-occupation letter on 9 October 2006; she failed to sign in the following week and was sent a third non-occupation letter on 16 October 2006; as she had not signed in since 30 August 2006, she was sent a final warning regarding non-occupation on 2 November 2006;

(f) If you had been aware of the circumstances for the applicant not signing in would she have been sent the non-occupation letters? - no, if she had remained constantly in touch to advise that she was still looking after her mother there would have been no problem; however, she had not signed in since 30 August 2006 and has telephoned only once to state that she would be moving back to the Hostel on 3 October 2006 but failed to do so;

(g) If you knew the appellant was staying with her mother, did you make any attempt to contact her at that address? - no;

(h) Why not? - most of the families in the Council's Hostel have issues and there is a limit to what can be done; it is the responsibility of the occupiers to inform the staff of their situation and not for staff to chase up issues on behalf of the occupiers; it should be noted that when the majority of non-occupation letters were sent, the applicant was staying with her friend at that time and not at the family home;

(i) Prior to 3 October 2006 did you know that she was at her mother's property? - yes;

(j) After 3 October 2006 was any attempt made to speak to the applicant directly? - no; it is the responsibility of the occupiers of the Hostel to advise staff of their situation.

The Chairman asked the applicant if she wished to raise any further issues in support of her case.

The applicant advised that prior to becoming depressed she had worked and had had no problems with day-to-day issues. However, when she had become depressed she had felt so low that she felt unable to do anything and could not cope with day-to-day issues. She now accepted that she could have handled things better but had felt unable to do so at the time. With the assistance of anti-depressants she was now able to cope with her daughter and life generally.

The Chairman asked the Assistant Housing Needs Manager (Homelessness) if he wished to raise any further issues in support of his case. He advised that he had nothing further to add.

The Chairman indicated that the Panel would consider the matter 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 and the Assistant Housing Needs Manager (Homelessness) then left the meeting.

The Panel considered all of the evidence which had been placed before it. The Panel concluded that a decision could not be made without medical evidence in relation to the applicant's apparent post-natal depression. Members emphasised that they felt officers had determined the application in a fair and thorough way but had made their decision possibly without knowledge of all of the relevant facts. As this review required the Panel to consider the matter afresh it would be possible to take into account medical evidence regarding post-natal depression, which had not been available to the officers.

**RESOLVED:**

(1) That a decision on this application be deferred to the next meeting of the Panel on 15 February 2007 pending receipt of medical evidence regarding the applicant's post-natal depression;

(2) That the Council's Medical Adviser be requested to provide general advice to the Panel about post-natal depression and its effects, including debilitating effects and information about how long after birth the condition can arise and how long it can take for someone to recover with the help of drugs;

(3) That the applicant be urged to attend the appointment she has arranged with her doctor and to seek a letter from him in support of her application;

(4) That the applicant be advised that her application will be determined at the meeting on 15 February 2007 even if she has not submitted a letter from her doctor in time for that meeting;

(5) That the applicant and the Assistant Housing Needs Manager (Homelessness) be advised that their attendance will not be required at the meeting on 15 February 2007 as the decision will be made on the information presented at this meeting, in writing and orally, and the medical evidence and advice received in accordance with (2) and (3) above; and

(6) That the Council continues to exercise its discretion to accommodate the applicant in bed and breakfast accommodation pending the outcome of a final decision by the Panel.

## **27. APPEAL NO: 8/2006**

The Head of Housing Services reported that the Panel at its last meeting had dismissed an appeal against a decision not to place the appellant in Band 1 of the Council's Housing Allocations Scheme. At that meeting the Panel had also resolved that the appellant be informed that if she was in receipt of written advice from a medically qualified practitioner which was not presented at the meeting and which supported 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.

The Panel noted that following those decisions, the appellant had submitted for consideration a further self-assessment medical form, two further letters from the Rectory Lane Health Centre and a letter from her daughter's school. These additional documents had been forwarded to the Council's independent Medical Advisor for consideration. The Advisor had informed the Council that, having considered this additional information, it remained his view that the appellant's current accommodation was reasonable on all medical grounds and that no medical priority accrued. This information had been communicated to the appellant by Housing Services and in response a request had been made by the appellant and her advocate at the original Panel meeting for the Panel to hear a further appeal on the basis that the further information submitted was materially different from the previous information considered by the Panel and that, as a result, warranted increased priority.

The Panel considered the appellant's request.

### **RESOLVED:**

That the position is not materially different from that previously considered at the meeting held on 23 November 2006 and further consideration of the matter by the Panel is not justified.

**CHAIRMAN**

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## **EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES**

**Committee:** Housing Appeals and Review Panel      **Date:** Thursday, 15 February 2007

**Place:** Civic Offices, High Street, Epping      **Time:** 4.00 - 4.40 pm

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

**Other Councillors:**

**Apologies:** Mrs P Smith

**Officers Present:** R Wilson (Assistant Head of Housing Services (Operations)) and G Lunnun (Democratic Services Manager)

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### **28. SUBSTITUTE MEMBERS**

The Panel noted that there were no substitute members present as only those members who had been at the last meeting of the Panel held on 25 January 2007 could determine the application before this meeting.

### **29. DECLARATIONS OF INTEREST**

Pursuant to the Council's Code of Member Conduct, Councillor J Wyatt declared a personal interest in agenda Item 5 (Application No: 9/2006) by virtue of having the same general practitioner as the applicant. He determined that his interest was not prejudicial and that he would remain in the meeting for the duration of the consideration and voting on the application.

### **30. 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:

<b>Agenda Item No.</b>	<b>Subject</b>	<b>Exempt Information Paragraph Numbers</b>
5	Application No: 9/2006	1 and 2

### **31. APPLICATION NO: 9/2006**

The Panel gave further consideration to an application for a review of a decision made by the Assistant Housing Needs Manager (Homelessness) acting under delegated authority which had been deferred at the last meeting.

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

- (a) a letter dated 7 February 2007 (received by the Council on 15 February 2007) from the applicant's general practitioner to "whom it may concern"; and
- (b) an e-mail dated 7 February 2007 from the Council's Medical Adviser giving advice about post-natal depression.

Members were reminded that the applicant was seeking a review of the decision that she had made herself homeless intentionally from temporary accommodation provided by the Council and that the duty on the Council to provide her with temporary accommodation had been discharged.

In coming to its decision, the Panel focused on the applicant's personal circumstances, her actions during the period August-November 2006, the medical evidence submitted by her doctor and advice from the Council's Medical Adviser.

**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) and the advice of the Council's Medical Adviser, in writing and orally, the decision of the Assistant Housing Needs Manager (Homelessness) that the Council has discharged its duty to the applicant, under Section 193 of the Act be upheld for the following reasons:

- (a) the applicant confirmed that she had fully understood the terms and conditions of her licence to occupy accommodation at the Council's Homeless Persons' Hostel including the requirements to sign the register each day and to seek approval from the Hostel staff for any absences from the Hostel of more than one night;
- (b) the applicant moved into the Council's Homeless Persons' Hostel on 8 August 2006; she signed the register on 9, 11, 14, 16 and 17 August; on 20 August she informed the Hostel staff of an absence of one week to look after her mother who had been ill; she signed the register again on 28, 29 and 30 August; she did not sign the register throughout September 2006; she telephoned the Hostel staff to advise that she would return to the hostel on 3 October 2006; she failed to return on that date and had not signed the register again up to the time the notice to terminate the licence to occupy accommodation at the Hostel was issued on 6 November 2006;
- (c) had it not been for these deliberate acts (failure to sign the register daily and/or inform Hostel staff of all absences of more than one night) the accommodation at the Homeless Persons' Hostel would have been available and reasonable for the applicant to continue to occupy;



- (d) account has been taken of the evidence of the applicant regarding the need to look after her mother, her sisters and brother; it is noted that this need ceased in early October 2006;
  - (e) account has also been taken of the evidence submitted by the applicant's doctor and the advice regarding post-natal depression submitted by the Council's Medical Adviser;
  - (f) on balance, it is not considered that the evidence submitted under (d) and (e) above is sufficient to show that the applicant was unable to manage her affairs, and, in particular, was unable to meet the requirements of her licence to occupy accommodation at the Council's Homeless Hostel;
- (2) That no deficiency or irregularity has been identified in the original decision made by the Assistant Housing Needs Manager (Homelessness) or in the manner in which it was made, accepting that he was not made aware and had no evidence when making his decision about the applicant's medical condition;
- (3) That the Council continues to provide interim accommodation for a period of twenty-eight 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 the officers refer the applicant to Social Care to seek assistance in helping the applicant find alternative accommodation.

**CHAIRMAN**

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## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Housing Appeals and Review Panel      **Date:** Tuesday, 27 February 2007

**Place:** Committee Room 1, Civic Offices, High Street, Epping      **Time:** 4.00 pm - 5.40 pm

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

**Other Councillors:**

**Apologies:**

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

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### 32. SUBSTITUTE MEMBERS

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

### 33. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

### 34. EXCLUSION OF PUBLIC AND PRESS

#### RESOLVED:

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

<b>Agenda Item Number</b>	<b>Subject</b>	<b>Exempt Information Paragraph Numbers</b>
5	Application No 2/2007	1 & 2
6	Appeal No 1/2007	1 & 2

### 35. APPLICATION NO 2/2007

The Panel was advised that this was a case referred back to the Council for a further review by a court. In order to comply with the statutory deadline for completion of the fresh review, the matter should have been considered at this meeting. However, the solicitors acting for the applicant had been unable to submit updated evidence in time

for this meeting and in the circumstances they had agreed to an extension of the deadline for completion of the review until the end of March 2007.

Members were further advised that on receipt of the new evidence, initially the Council's Housing Officers would consider the matter further and if they decided to approve the application in the light of the new evidence it would not be necessary for the matter to be referred to the Panel. The Panel considered a date for their next meeting in the event that it would be necessary to undertake this review.

**RESOLVED:**

That the next meeting of this Panel be held on 22 March 2007 as previously scheduled but commencing at 10 am.

**36. APPEAL NO 1/2007**

The Panel considered an appeal against a decision of the Area Housing Manager (North) acting under delegated authority that the appellant be required to transfer to alternative accommodation due to under-occupation following his succession to a tenancy. The appellant attended the meeting to present his case accompanied by Mrs A Anson (Epping Citizens Advice Bureau) and Ms J Goddall (Safe – St Margaret's Hospital). Mr N Taylor (Area Housing Manager) 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 officers present to the appellant and his representatives 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 Area Housing Manager;
- (c) copies of documents submitted by the Area Housing Manager, namely:
  - (i) letter dated 11 September 2006 from the Assistant Area Housing Manager (North) to the appellant;
  - (ii) letter dated 26 September 2006 from a community psychiatric nurse to the Assistant Head of Housing Services;
  - (iii) letter dated 11 October 2006 from the Ongar Health Centre to the Assistant Head of Housing Services;
  - (iv) letter dated 30 October 2006 from Voluntary Action Epping Forest to the Assistant Head of Housing Services;
  - (v) letter dated 3 November 2006 from the North Essex Mental Health Partnership to the Assistant Head of Housing Services;
  - (vi) letter dated 20 November 2006 from the Council's medical adviser to the Assistant Head of Housing Services;

- (vii) file note dated 28 November 2006 made by the Council's Housing Welfare Officer;
- (viii) letter dated 6 December 2006 from the Assistant Head of Housing Services to the North Essex Mental Health Partnership;
- (ix) letter dated 9 December 2006 from the Assistant Head of Housing Services to the appellant;
- (d) a copy of the application to the Panel by the appellant dated 22 January 2007;
- (e) copies of documents submitted by the appellant namely:
  - (i) letter dated 30 October 2006 from Voluntary Action Epping Forest to the Assistant Head of Housing Services;
  - (ii) letter dated 3 November 2006 from the North Essex Mental Health Partnership together with explanations of forms of severe anxiety;
  - (iii) letter dated 11 October 2006 from the Ongar Health Centre to the Assistant Head of Housing Services;
  - (iv) letter dated 26 September 2006 from a community psychiatric nurse to the Assistant Head of Housing Services;
- (f) representations made on behalf of the appellant by the Epping Citizens Advice Bureau including a letter dated 22 February 2007 from a community psychiatric nurse to the Bureau and a letter from Broomfield Hospital to the appellant in respect of an appointment on 7 March 2007.

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

- (a) the appellant was aged 62 years; he had lived in his current property for 38 years; the whole of his life had been centred around this locality;
- (b) the appellant suffered from a severe anxiety disorder and did not find it easy to make friends or to fit into a community; he could not face the thought of moving; it made him feel very frightened;
- (c) the appellant had for many years cared for his father on a 24 hour basis in very difficult circumstances in order to ensure that his father did not go into care;
- (d) the appellant suffered from his own mental health issues and after the death of his father had felt unable to go on with life; the appellant was very depressed and professional health workers were working with the appellant to ensure a continuity of care for him; his mental health was considered by those professionals to be very precarious;
- (e) the appellant and his father had worked the land in the locality most of their working lives and the appellant had been born in the street where he currently lived; the appellant's family had been re-housed to the appellant's current property from another property in the road which they had been required to vacate in approximately 1970;

- (f) any move in the appellant's place of residence would be likely to have a further detrimental effect on both his physical and mental health;
- (g) a statement attributed to a community psychiatric nurse in the Council's case was not recognised by that nurse whose correct views had been expressed in the letter dated 22 February 2007 to Epping Citizens Advice Bureau;
- (h) the appellant had only completed a Housing Register application form for an alternative property because he felt he had no option; this act should not be seen as indicating acceptance of a move; the appellant's desire was to remain in his current home;
- (i) the evidence presented by the Council's medical adviser was inaccurate both at the time it had been written and currently, due to new circumstances; the appellant had been receiving specialist treatment for colitis for many years and was taking medication for this condition; reference in the medical adviser's letter that the appellant had not been hospitalised for his anxiety problems was now out of date as the appellant had been admitted to Chelmer Ward at St Margaret's Hospital under Section 2 of the Mental Health Act 1983 at his psychiatrist's instigation; the appellant had been admitted on 12 December 2006 and had been discharged on 16 January 2007; the Council must have been aware of his admission as they had taken papers relating to this review to the hospital and handed them to the appellant on the ward;
- (j) the Council had failed to consider the appellant's circumstances fully when coming to the decision that he should transfer to alternative accommodation; great weight had been placed on the Council's medical adviser's report which was now shown to be inaccurate in its assessment of the appellant's health and now out of date with regards to the appellant's anxiety issues;
- (k) the Council should have given more weight to the combined effects of the appellant's age, the length of time he had lived at his home, the financial contribution he had made to the home, and other support given to his father; these matters would be taken into consideration by a judge should the matter go to County Court;
- (l) the Panel should take a broader view of the appellant's circumstances than had been taken to date and consider more closely the appellant's particular vulnerabilities should he be required to transfer to alternative accommodation.

The Area Housing Manager advised that he did not wish to ask the appellant or his advisers any questions. The appellant and his advisers answered the following questions of the Panel:-

- (a) You have indicated that you do not move far from your home but on your application form to the Panel you have listed several dates on which you would have been unable to attend a meeting; can you advise where you were going on those dates? – The appellant's adviser from the Citizens Advice Bureau informed the Panel that the dates quoted were ones which were not convenient to her rather than the appellant;
- (b) How often do you get out of your house? – Not a lot; I visit a few local people and look after graves in the churchyard; I am too nervous to go further;
- (c) Do you drive? – A little but only locally;
- (d) The appellant's adviser from Safe, St Margaret's Hospital was asked about her role and what support she had provided to the appellant when he had been

discharged from hospital – She advised that she was a formal advocate; after the appellant's discharge she had made telephone calls to him; she was commissioned to work with in-patients only and she did not make home visits; she advised that the appellant had another support worker who was unable to be here today who did provide support in the community and visited the appellant at home; the appellant also received home visits from a community psychiatric nurse approximately every two weeks; in addition the appellant visited his General Practitioner at the surgery in Ongar;

(e) What level of medication are you taking at present? - I take medication for diabetes and colitis but I do not take any medication for anxiety; the medical professionals have tried to persuade me to take medication for anxiety but I have refused to do so; I already take approximately 20 tablets a day and I do not want to take any more;

(f) I understand you have lived in your current home and one other property in the same road all of your life, is this correct? – I was born in a house in the road and I have lived in this road all of my life except for a period of approximately six months when the family lived in an adjoining village;

(g) Can you tell us about your father's and your own employment? – Both myself and my father worked on the fields in the locality.

The Panel considered the following submissions of the Area Housing Manager:

(a) the Council's policy for dealing with succession of tenancy has its base in the Housing Act 1985 which determines who can succeed to a tenancy and in what circumstances remaining occupants can stay in the home or be asked to move to smaller accommodation; this legislation seeks to provide a balance between those who are left in a Council home when a tenant dies and those on the Council's waiting list requiring accommodation; landlords are given some discretion in this matter;

(b) the Council has adopted a policy for dealing with successions of tenancies and members reviewed this policy in 1992 and 2000; the policy provides officers with guidance on how to deal with successor tenants who under-occupy accommodation; a person, other than the husband or wife of a deceased tenant, who is aged over 60 and has been in occupation for more than 10 years is allowed to remain in their home if they under-occupy the home by one bedroom; in other cases the person will be asked to move to smaller accommodation unless there are exceptional reasons;

(c) the appellant's father became the tenant of the appellant's current property, a three-bedroom semi-detached house, in January 1969; the appellant has lived in the property since that time; the appellant's father passed away in August 2006 aged 93, leaving the appellant who is 62 years of age in sole occupation; the appellant legally succeeds to the tenancy of the property but has been asked to move to smaller accommodation, in line with the legislation and the Council's policy;

(d) in making their decision on this matter, officers had taken account of letters of support of the appellant from medical professionals and advice from the Council's medical adviser; in view of the very delicate nature of this case, a meeting had taken place between the Council's Housing Welfare Officer and the appellant's support workers before a decision had been taken by officers; it was unfortunate that no formal notes had been produced of that meeting by the organisers, especially since it was now apparent that there was some disagreement as to what had been said at that meeting; in making his decision the Area Housing Manager had regard to the file note taken by the Council's Housing Welfare Officer; it is unfortunate that it is only at

this Panel meeting, that a different interpretation has been given of what had been said;

(e) the appellant had reluctantly completed a housing application form and in the event of his appeal being dismissed an offer of more suitable accommodation would be made as soon as possible;

(f) very careful consideration had been given to this case and the officers' decision had been made having regard to the relevant legislation, the Council's policy and the medical evidence available at the time the decisions were made.

The Area Housing Manager answered the following questions of the appellant's advisers and the Panel:-

(a) Can you confirm that Council officers were aware of the appellant's admission to hospital as they attended the ward to deliver the letter advising of their review and the steps to be taken to appeal to this Panel? – Yes, it was agreed at the meeting on 28 November 2006 that the letter should be delivered to the appellant;

(b) As the officers knew that the appellant was in hospital and that their decision had taken account of advice from the Council's medical adviser based on the appellant not having psychiatric hospital admission, did you not consider reviewing the matter again and seeking further advice from the Council's medical adviser? – I had already made my decision by that time; circumstances change from week to week and the situation has moved on since I made my decision;

(c) You have said that an offer of more suitable accommodation will be made to the appellant as soon as possible; how readily available is more suitable accommodation? – Properties become available as and when, but in view of the circumstances of this case and in order to avoid possible legal action an offer will be made without undue delay;

(d) I get the impression that you may have come to a different decision if the evidence available before us today had been before you when you made your decision, is that correct? – I had to base my decision on the evidence available to me at the time; if I had been in receipt of all of the medical evidence now available, I would have asked the Council's medical adviser for their views and, in particular, whether he stood by his initial advice;

(e) You have said that it was agreed at the meeting on 28 November 2006 that a letter could be delivered to the appellant in hospital; however, he was not in hospital on 28 November 2006; - The file note taken by the Council's Housing Welfare Officer states that it was agreed that she or another Council officer would deliver the decision letter by hand to the appellant while on an accompanied visit, not necessarily to a hospital ward;

(f) At some stage officers did become aware that the appellant was in hospital because the letter was delivered to the hospital ward, is that correct? – Yes; some time between 28 November 2006 and 12 December 2006, Council officers became aware of the appellant's admission to hospital but I do not have any information as to when or how this information was received (Ms J Goddall advised that there had been a telephone call from the Community Mental Health Team in Waltham Abbey to the Council which had advised officers of the situation);

(g) Are the Council's medical advisers a voluntary body? – The Head of Housing Services advised that they were from a profit-making company who provided advice



to local authorities for a fee; the Council sought advice from them on the medical condition of applicants in relation to the provision of Council housing;

(h) The law has moved on since 1985 in relation to succession of tenancies; a widow would be allowed to stay in a property, would the remaining partner of a same sex couple be allowed to stay in a property? – The Head of Housing Services advised that yes if there had been a civil partnership; if not, but the couple had been in a co-habiting situation which could be demonstrated, the remaining partner would be treated in the same way as a son or daughter of the tenant.

By leave of the Chairman, the Head of Housing Services asked the appellant if he could elaborate on the financial and other support he had provided when his father had been alive – The appellant advised that he had cared for his father 24 hours a day; although the property had been in his father's name, he had paid Council Tax and rent and had contributed a substantial amount to general expenses incurred in running the home; his father had only been in receipt of the old age pension and a small pension from a local farm;

The Chairman asked the appellant and his advisers if they wished to raise any further issues in support of the appellant's case.

The appellant's adviser from the Citizens Advice Bureau emphasised that the appellant had resided in his current property for 38 years and had lived in the area for all of his life. Moving home was stressful at any time but it would be more stressful than usual for the appellant in view of his circumstances.

The Chairman asked the Area Housing Manager if he wished to raise any further issues in support of his case.

The Area Housing Manager advised that his decision had been based on the evidence available at the time, taking account of the relevant legislation and the Council's policy for dealing with successions of tenancies.

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

The Panel considered all of the evidence which had been placed before it. The attention of the Panel was drawn to the relevant provisions of the Housing Act 1985. Members noted that if a person had a right of succession but was under-occupying property as defined in the Council's policy, it was possible to seek possession provided that the successor tenant was offered suitable alternative accommodation. In recognition that the successor tenant had security of tenure if a tenant did not transfer voluntarily, it would be necessary for the Council to go to court to obtain a possession order. Members were advised that in the event of the matter going to court certain issues would be taken into account, as set out in the Housing Act 1985 (Grounds for Possession). These would include the age of the tenant, the period that the tenant had occupied the property as his only or principal home and the financial and other support which the tenant had given to the previous tenant.

The Panel discussed the three issues which would be considered by a court, taking account of the Council's policy in relation to the first two issues. Members noted that the third issue was not covered by the Council's policy.

The Panel was advised that, although the Council's policy had last been reviewed in 2000, there had been no significant changes to the policy since 1992. The Head of Housing Services advised on the application of the policy.

The Panel concluded that there were exceptional circumstances in this case having regard to the combination of the age of the tenant, his significant period of occupation and the financial and other support which he had provided to his father, the previous tenant. Members also concluded that the tenant was vulnerable in that his feelings of anxiety and depression were likely to intensify if he was required to move to alternative accommodation. Members expressed disappointment that incomplete information appeared to have been submitted to the Panel in the written case of the Area Housing Manager.

**RESOLVED:**

(1) That, having regard to the provisions of the Housing Act 1985 and having taken into consideration the information presented by and on behalf of the appellant and by the Area Housing Manager, in writing and orally, the appeal against the decision of the Area Housing Manager that the appellant be required to transfer to alternative accommodation due to under-occupation be allowed for the following reasons:

(a) it is considered there are exceptional circumstances in this case; the appellant is 62 years of age and has occupied his property as his only home for 38 years; during the majority of that period the appellant acted as a carer for his father, the then tenant of the property, and made a substantial financial contribution towards the running of the home;

(b) having taken account of all of the medical evidence submitted, the appellant is considered to be vulnerable and his feelings of anxiety and desperation are considered likely to intensify if he is required to move to alternative accommodation; and

(2) That the Area Housing Manager be advised that the Panel is disappointed that incomplete information appeared to be submitted in his written case forming part of the agenda for the meeting, in that no mention was made of the appellant's admission to hospital under Section 2 of the Mental Health Act 1983, although this was known when the report was prepared and that the Council's medical adviser's advice on which he had relied had been based on the appellant not having psychiatric hospital admission, which had subsequently changed.

**CHAIRMAN**

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

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