

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Monday, 26 September 2011

Place: Committee Room 2, Civic Offices, High Street, Epping **Time:** 2.30 - 3.15 am

Members Present: Councillors B Rolfe (Chairman), Mrs J Sutcliffe (Vice-Chairman), Mrs R Gadsby, Ms J Hart and Mrs J Lea

Other Councillors:

Apologies: Councillor Ms Y Knight

Officers Present: A Hall (Director of Housing), G Lunnun (Assistant Director Democratic Services)

25. SUBSTITUTE MEMBERS

It was noted that Councillor Mrs J Lea was substituted for Councillor Ms Y Knight.

26. DECLARATIONS OF INTEREST

There were no declarations of interest by members of the Panel under this item.

27. 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 will involve the likely disclosure of exempt information as defined in the paragraph of Part I of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information

Agenda Item Number	Subject	Exempt Information and Paragraph Number
5	Application No 3/2001	1

28. APPLICATION No 3/2011

The Assistant Director (Democratic Services) reported that the Panel at its meeting on 21 June 2011 had received evidence from the applicant and the Council's Assistant Housing Options Manager (Homelessness) in relation to the applicant's request for a review of the decision made by officers under delegated authority that the applicant was not homeless.

At that meeting the Panel had expressed concern that, despite the applicant's request, she had not been given the opportunity to see documents held on her housing files in order to assist her in the preparation of her case. Accordingly, the Panel had not made a decision on the application and had adjourned that meeting in order to allow sufficient time for:

- (a) the necessary retrieval, information review and copying process in relation to the applicant's homelessness and housing application files;
- (b) the submission to the applicant of copies of the files and consideration by the applicant of whether there were any documents held on those files which she had not already submitted to the Panel but wished to do so in support of her case;
- (c) the provision by the applicant of any further information which she wished to submit to the Panel in relation to any documents identified in accordance with (b) above; and
- (d) the submission of further information to the Panel by the Council's Assistant Housing Options Manager (Homelessness) in response to any additional information submitted by the applicant.

The Assistant Director (Democratic Services) reported that a letter containing the Panel's resolution had been sent to the applicant on 23 June 2011. Members noted that on 6 July 2011 the applicant had been sent a copy of her housing files following consideration of their contents by the Housing Options Manager, the Assistant Housing Options Manager (Homelessness) and the Council's Data Protection Officer. Third party information contained on the files had not been passed to the applicant for data protection reasons.

The Assistant Director (Democratic Services) advised that as no reply had been received from the applicant, an e-mail had been sent to her on 26 July 2011 reminding her of the decisions taken by the Panel on 21 June 2011. The e-mail also had asked her to submit without further delay any additional documents in support of her case. Members noted that later that day the Assistant Housing Options Manager (Homelessness) had received a telephone call from the applicant during which she had advised him that she had found new accommodation in Harlow, had moved into that accommodation and did not wish to proceed with her application to the Panel. The Assistant Director (Democratic Services) reported that a further e-mail had been sent to the applicant on 28 July 2011 asking her to confirm in writing that she did not wish to proceed with her application to the Panel. No reply had been received to the e-mails sent to the applicant and on 8 August 2011 a letter had been sent to her repeating the need for her to put her intentions in writing. No reply had been received to that letter but the Assistant Director (Democratic Services) had eventually made contact with the applicant on her mobile telephone. During that telephone conversation the applicant had advised that she still wanted the Panel to make a decision on her application but did not wish to submit any additional evidence to the Panel and saw no reason to attend this reconvened meeting.

The Panel determined the application on the evidence submitted to it at its meeting on 21 June 2011. In coming to its decision, the Panel focused on the background to the applicant's occupation of her privately rented property, the physical conditions of that property and whether it was reasonable and suitable for her to continue to occupy that property having regard to those conditions. The Panel took account of the views of one of the Council's qualified Environmental Health Officers regarding the condition of the property following an inspection and the decisions taken by the

applicant not to contact the landlord of the property regarding the condition of the property and not to take steps herself to remove mould from the property.

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 the Assistant Housing Options Manager (Homelessness) in writing and orally, the decision of the officers that the applicant was not homeless be upheld for the following reasons:

(a) the applicant made a homelessness application to the Council on 12 April 2011; the applicant presented herself as homeless with her mother as part of her household since the applicant was her mother's carer; the applicant presented herself as homeless because she had been served with notice to vacate a privately rented property on 27 April 2011;

(b) the applicant was offered interim accommodation in the Council's Homeless Persons Hostel but she declined that offer without inspecting the Hostel or knowing what type of accommodation was being offered in the Hostel, because she assumed hostel-type accommodation would be unsuitable for her mother;

(c) the applicant chose instead to move to another privately rented property which she viewed prior to signing a lease of the property;

(d) after taking possession of this further privately rented property the applicant considered she was still homeless because it was not reasonable for her to continue to occupy that property due to its physical conditions; however, officers disagreed and as a result a "not homeless" decision was issued to the applicant by officers having regard to the Housing act 1996;

(e) in considering whether it was reasonable and/or suitable for the applicant to continue to occupy her privately rented property we have taken account of the following:

(i) the evidence submitted by the applicant relating to damp and mould in the property; the expense of heating the property; the problems associated with leaving windows open to ventilate the property due to the ease with which the property could be accessed from the outside; the lack of storage space; the limited size of the second bedroom; the difficulties experienced by the applicant's mother in entering/leaving the property; and disturbances experienced at night;

(ii) the report of one of the Council's qualified Environmental Health Officers following an inspection of the property in which she had drawn attention to five minor items of disrepair but had stated that: the mould and other defects could easily be remedied; the property did not contain any Category 1 hazards as defined under the Housing Health and Safety Rating System of the Housing Act 2004; the dwelling was not statutory overcrowded; and the property was in a reasonable condition to occupy;

(iii) references made by the applicant to an environment group coming to a different conclusion to the Council's Environmental Health Officer were not supported with evidence;

- (iv) an earlier report prepared by the Council's Environmental Health Officer when a previous tenant had been in occupation of the property after inspecting the property following a water tank leak and remedial action undertaken by the landlord; at that time the then tenant had been reassured that the property was fit to live in and had expressed satisfaction with the situation;
- (f) we have also taken account of the following facts:
 - (i) the applicant chose not to report any defects in the property to her landlord because she assumed he was already aware of some of them and she did not want to antagonise him as he had said he would not hold her to her lease conditions if she was able to find another property before the end of the lease period; and
 - (ii) the applicant chose not to clean the mould in the property herself as she was concerned about the effect this would have on her health;
 - (g) in reaching her conclusions the Council's Environmental Health Officer was aware and took account of the general housing circumstances prevailing in the district; accordingly, we do not consider that the condition of the applicant's property was so bad in comparison with other accommodation in this district as to make it unreasonable to expect someone to continue to live in it;
 - (h) in consequence of the above, we do not consider the applicant to be homeless;
- (2) That prior to the applicant making her application to the Panel we consider that there was no deficiency or irregularity in the way officers reached their decision; and
- (3) That although the Panel was concerned that officers refused to allow the applicant access to certain documents on her housing file to which she was entitled the Panel (i) notes that having been provided subsequently with all the relevant documents the applicant chose not to submit any additional evidence to the Panel and (ii) has been assured that procedures have been changed in order to avoid a reoccurrence of this situation in future.

CHAIRMAN