

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Monday, 5 August 2013

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 5.25 pm

Members Present: Councillors B Rolfe (Chairman), K Avey, Ms J Hart, Ms G Shiell and Mrs J H Whitehouse

Other Councillors:

Apologies: Councillor Mrs J Lea

Officers Present: A Hall (Director of Housing), G Lunnun (Assistant Director (Democratic Services)), H Thorpe (Housing Assets Manager) and J Hunt (Assistant Housing Options Manager (Homelessness))

6. MINUTES

RESOLVED:

That the minutes of the meeting of the Panel held on 3 June 2013 be taken as read and signed by the Chairman as a correct record.

7. SUBSTITUTE MEMBERS

Members were advised that Councillor Shiell was substituting for Councillor Lea.

8. DECLARATIONS OF INTEREST

There were no declarations of interest made by members of the Panel in pursuance of the Code of Member Conduct.

9. 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 paragraph 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 Number	Subject	Exempt Information Paragraph Number
6	Appeal No 2/2013	1

10. APPEAL NO 2/2013**Introduction**

The Panel considered an appeal against a decision made by officers under delegated authority to refuse to undertake a disabled adaptation to the appellant's property.

The appellant's son, who had power of attorney with regard to the appellant's health and welfare, attended the meeting to present his mother's case supported by his wife. Mr H Thorpe, Housing Assets Manager, attended the meeting to present his case. Mr A Hall, Director of Housing, attended the meeting to advise the Panel as required on relevant legislation and national and local housing policies relative to the appeal.

The Chairman introduced the members of the Panel and officers present to the appellant's son and his wife.

The Chairman explained the procedure to be adopted for the meeting 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 case including background information, and information concerning the Council's disabled adaptation policy, the Council's housing waiting list, and the Council's disabled adaptation budget;
- (b) the case of the Housing Assets Manager;
- (c) copies of documents submitted by the Housing Assets Manager, namely:
 - (i) a copy of a letter dated 26 April 2013 from the Council's Housing Officer (Tenant Liaison) to the appellant;
 - (ii) an extract from the minutes of the Council's Housing Committee meeting held on 17 November 1998 regarding the disabled adaptation policy;
 - (iii) a copy of a letter dated 29 April 2013 from the appellant's son to the Housing Assets Manager;
 - (iv) a copy of a letter dated 2 May 2013 from Mrs Eleanor Laing MP to the Housing Assets Manager;
 - (v) a copy of a letter dated 10 May 2013 from the Housing Assets Manager to the appellant's son;
 - (vi) a copy of a letter dated 19 June 2013 from Mrs Eleanor Laing MP to the Director of Housing;
 - (vii) a copy of a letter dated 1 July 2013 from the Director of Housing to Mrs Eleanor Laing MP;

- (d) copies of documents submitted on behalf of the appellant, namely:
 - (i) her application to the Housing Appeals and Review Panel dated 12 June 2013;
 - (ii) a copy of a letter dated 26 April 2013 from the Housing Officer (Tenant Liaison) to the appellant;
 - (iii) a copy of a letter dated 29 April 2013 from the appellant's son to the Housing Assets Manager;
 - (iv) a copy of a letter dated 10 May 2013 from the Housing Assets Manager to the appellant's son.

Presentation of the Case of the Housing Assets Manager:

- (a) the appellant had moved into her property, a three bedroom house, on 4 April 1983 and, after bringing up a family in the property, remained as the sole occupier;
- (b) on 23 April 2013, the Council's Housing Assets Section had received a request from an Essex County Council Social Care Occupational Therapist recommending the removal of the bath and the installation of a wet room disabled adaptation; the appellant had been advised that, in view of the Council's Disabled Adaptation Policy, disabled adaptations costing in excess of £2,000 would not be undertaken where a property was under-occupied by two or more bedrooms;
- (c) the appellant's son had lodged an appeal against that decision and Mrs Eleanor Laing MP has also asked for the decision to be reconsidered;
- (d) the Housing Assets Manager had considered the appeal and had upheld the original officer decision; in his decision letter he had given the appellant's son an opportunity to provide additional information which he might consider justified an exception being made to the Council's policy; the appellant's son had not provided any additional information;
- (e) the Council's Disabled Adaptation Policy was intended to contain expenditure within the disabled adaptation budget; where tenants were living in accommodation which was considered too large for their needs, the policy and the under-occupation provision provided an incentive for tenants to move to more suitably-sized accommodation;
- (f) the Disabled Adaptation Policy, together with the Council's incentive payments scheme, allowed for a sum of up to £2,000 to be paid to tenants who moved into smaller accommodation;
- (g) the Disabled Adaptation Policy and the incentive payment were intended to free-up under-occupied larger family accommodation for which there was a great demand in the District;
- (h) the Council's Housing Register as at the end of June 2013 highlighted the need for larger family accommodation; at that time there were 1,853 applicants seeking two bedroom accommodation and 840 applicants seeking three bedroom accommodation;

- (i) since 1 June 2012 there had been 80 vacancies including bungalows and sheltered accommodation suitable for residents over 60 years of age and 14 of those properties were considered local to the appellant's property; a bungalow less than 0.3 miles from the appellant's property was currently under offer;
- (j) a large percentage of bungalows and sheltered accommodation suitable for residents over 60 years of age had already benefitted from disabled adaptations; the need to make full use of those adapted properties was essential in terms of making the best use of the social housing stock and the disabled adaptation budget;
- (k) Essex County Council Social Care Occupational Therapists recommended disabled adaptations to the Council based solely on the long-term needs of the tenant; the vast majority of referrals were classified as "substantial" and as the Council did not have the medical expertise to assess the long-term needs of tenants, the disabled adaptation works has to be prioritised in date order;
- (l) due to a lack of available budget, a backlog of disabled adaptations was regularly held over from one financial year for completion in the subsequent financial year;
- (m) over the last five years the average number of level-access shower requests had represented 65% of the total disabled adaptation requests received; figures so far available for the current year showed that the demand for disabled adaptations was far in excess of previous years levels;
- (n) the budget for disabled adaptations was normally set at £400,000 per annum; however in 2012/13 additional funding of £75,000 had been made available as part of the housing improvements and service enhancements programme specifically to deal with the backlog of disabled adaptation recommendations; the disabled adaptation budget for 2012/13 had remained at £475,000;
- (o) despite the increased disabled adaptation budget, a total of 47 disabled adaptations had been held over for completion in 2013/14, of which 36 were for level-access shower installations;
- (p) the average cost of a level-access shower installation was £4,095; the demand for level-access shower installations in 2013/14 could reach 140 based on the level of new referrals received during the first quarter, potentially resulting in an overspend of £173,000 for 2013/14; the projected overspend figure did not include any other type of disabled adaptation or the backlog of 36 level-access shower requests carried over from 2012/13;
- (q) during 2012/13 there had been six disabled adaptation requests refused as a result of tenants not meeting the requirements of the Disabled Adaptation Policy;
- (r) the need and requirement to ensure accommodation was suitably adapted for disabled and elderly tenants had to be given the highest possible priority; however, it was also necessary for the property to be appropriate; the appellant's property was a three bedroom house and in assessing the long-term needs of the appellant it was anticipated that there would be a need for additional disabled adaptations to be made to the property;
- (s) the Panel was asked to dismiss the appeal as it was not considered there were any exceptional circumstances which justified setting aside the Council's policy.

Questions from the Appellant's Son on the Case of the Housing Assets Manager

The Housing Assets Manager gave the following answers to questions from the appellant's son:

- (a) until recently it had not been possible for the Council to build new houses; following a change in the law the Council had recently commenced a house-building programme, which was concentrated on the development of garage sites;
- (b) the Council had recognised the pressure on the disabled adaptation budget and as a result had increased that budget by £75,000 in each of the last two financial years;
- (c) he was not aware whether any other council applied an under-occupancy provision in relation to disabled adaptation requests (by leave of the Chairman, the Director of Housing advised that this was a policy of the Council and not a requirement and whereas some other authorities might have adopted a similar policy it was probably not common practice);
- (d) as required by the decision of the Council's former Housing Committee in November 1998 the effects of the agreed policy changes had been reviewed (by leave of the Chairman, the Director of Housing advised that the effects of the policy changes had been reviewed by the Housing Committee in June 1999 and at that time the decision had been that no further changes should be made to the adaptation policies);
- (e) the figure of £2,000 for the cost of works relating to under-occupation included in the Disabled Adaptation Policy had not been increased since 1998.

Questions from Members of the Panel on the Case of the Housing Assets Manager

The Housing Assets Manager gave the following answers to questions from members of the Panel:

- (a) there was a discrepancy in the report before the Panel in that the length of the appellant's occupation of her property in one place had been stated as commencing in 1983 and in another place reference had been made to her occupying the property for over 50 years (by leave of the Chairman, the appellant's son clarified the position; he stated that his mother had moved into the property in 1961 and the reference to 1983 appeared to reflect the date that the Council's computer records began);
- (b) the appellant would be given priority if she wished to move to a smaller property but the timescale would depend on the properties available;
- (c) a wet room disabled adaptation would probably need replacing or updating after approximately 10 years;
- (d) the table in the report showed the number of level-access shower requests during the last five years;
- (e) the reference to the availability of a bungalow less than 0.3 miles from the appellant's property had been the situation when the report had been written, but by now the property would probably have been allocated; he was not aware whether

there were any other bungalows currently available which were local to the appellant's property;

(f) the appellant's bathroom was upstairs and she did not currently have a stairlift;

(g) Essex County Council Social Care Occupational Therapists referred disabled adaptations to the Council; those works were then either undertaken or the request was refused; the Council did not have the expertise to decide whether only part of the recommended works could be undertaken;

(h) when a new tenant moved into a three bedroom house which had had a wet room disabled adaptation they often requested that the bathroom be converted back with a bath, which was considered more practical for a family with young children;

(i) the disabled adaptation budget was fully used every year and a backlog of requests was usually carried over to the following year.

Presentation of the Appellant's Case by her Son

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

(a) the appellant was 96 years of age and lived alone in her property which she had occupied for over 50 years; with her late husband she had raised their family in the property and was adamant that she did not wish to move to another house at this stage in her life; the house provided all the happy memories of her life with her husband and family and any relocation would be likely to bring about a serious decline in her health and wellbeing;

(b) the appellant's family managed her independence with help from carers; the appellant had difficulty getting in and out of the bath without assistance and help could not be provided by the carers for health and safety reasons;

(c) the need for a wet room disabled adaptation had been identified over six months ago and the delay in the matter had resulted in considerable distress to the appellant;

(d) in the opinion of the Occupational Therapist a level-access shower was required so that the appellant could maintain basic personal hygiene;

(e) the appellant's son and daughter lived and worked in different parts of the country with a minimum of two and a half hours drive each to reach the appellant's property; accordingly the appellant's visits to her family were not frequent enough for her to have regular showers whilst in their homes; a regular bath or shower should be regarded as a basic necessity for someone in this situation; the figure of £2,000 for the cost of works relating to under-occupation should be reviewed, bearing in mind that it had not been increased since 1998 and it was apparent that the Council was receiving an increasing number of applications for disabled adaptations;

(f) in coming to its decision the Panel should have regard to the Disability Discrimination Act 2005 and equalities legislation;

(g) the appellant had poor eyesight and hearing and became disorientated when away from her property;

- (h) the possibility of moving into a care home had been raised with the appellant and she had been adamant that she did not want to move; she wanted to remain in the family home;
- (i) the Panel should determine that there were exceptional and compassionate grounds for setting aside the Council's policy.

Questions from the Housing Assets Manager to the Appellant's Son

The Housing Assets Manager advised that he did not wish to ask any questions.

Questions from Members of the Panel on the Case of the Appellant

The appellant's son gave the following answers to questions from members of the Panel:

- (a) the appellant was very frail; she had poor eyesight as a result of glaucoma and operations on or near her eyes; she had two hearing aids; she could move around her home because she was familiar with it but elsewhere she found it very difficult; she used a walking frame around the house and a wheelchair when she went out; the Council had fitted a second handrail in her house so that she could pull herself upstairs; she had an alarm with which she could summon help, if required, at the press of a button; she had a good neighbour who supported her; she had carers and meals on wheels; she had a gardener and a cleaner; at this level of support she was able to remain in her own home but bathing was the issue;
- (b) the appellant's family had invested in a battery-operated lift to help get the appellant into her bath but this was not a long term solution;
- (c) the subject of sheltered housing had been raised with the appellant but she had got very agitated at the suggestion and had been adamant that she did not wish to leave her property;
- (d) approximately eight years ago, when the appellant's health had been better she had been approached about moving close to the appellant's son's property but she had refused to consider it;
- (e) it was very doubtful that the appellant would be able to adjust to new surroundings;
- (f) it was understood by the appellant's son that, if the appellant's family got consent from the Council to undertake and pay for a wet room disabled adaptation themselves, it would be a condition that they would be required to convert the bathroom back to its original state in a very short timescale when the appellant's tenancy ceased;
- (g) the appellant's family had not asked the Occupational Therapist for a wet room, only a bath assessment; it had been the Occupational Therapist who had recommended a wet room;
- (h) the Occupational Therapist had been unaware of this Council's policy of not undertaking disabled adaptations to properties which were under-occupied by two or more bedrooms (by leave of the Chairman, Councillor Whitehouse explained from her experience as a County Councillor that Essex County Council had made occupational therapists self-employed and as a result they were not necessarily aware of local conditions);

- (i) the appellant would probably be better off in sheltered accommodation but she was not prepared to move;
- (j) when the appellant stayed with her son she normally stayed for three or four days; she stayed in the same room which had an ensuite and kept the light on during the night.

Summing Up

The Housing Assets Manager and the appellant's son advised that they had nothing to add to their cases.

Deliberations

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

In coming to its decision, the Panel were very sympathetic about the appellant's situation and appreciated her reasons for wishing to remain in what had been her family home for over 50 years. However, the Panel focussed on the appellant's circumstances and whether in the light of those circumstances there were exceptional reasons for setting aside the Council's adopted Disabled Adaptation Policy. The Panel were reminded that their Terms of Reference did not extend to changing the adopted policy.

RESOLVED:

- (1) That, having taken into consideration the information presented on behalf of the appellant and by the Council's Housing Assets Manager in writing and orally, the appeal be dismissed and the decision of officers to refuse to remove a bath and install a wet room disabled adaptation in the appellant's property be upheld for the following reasons:
 - (a) the Panel cannot change adopted Council policy but can determine whether there are exceptional reasons for setting it aside;
 - (b) the Council's adopted Disabled Adaptation Policy states that disabled adaptations costing in excess of £2,000 will not be undertaken where a property is under-occupied by two or more bedrooms;
 - (c) the Disabled Adaptation Policy aims to contain expenditure within the approved budget; the under-occupancy provision provides an incentive for tenants to move to more suitably sized accommodation with up to £2,000 paid to tenants who move to smaller accommodation;
 - (d) there is a great demand in the District for two and three bedroom properties; as at June 2013, the Council's Housing Waiting List included 1,853 applicants seeking two- bedroom accommodation and 840 applicants seeking three-bedroom accommodation;
 - (e) the appellant is the sole occupier of a three-bedroom house, and is therefore under-occupying the property by two bedrooms;

(f) the average cost of providing a level access shower installation (wet room) is £4,095 per installation;

(g) the appellant's application is contrary to the Council's Disabled Adaptation Policy; accordingly, the Panel has considered whether there are any exceptional reasons for setting aside that policy; in coming to its conclusion the Panel has taken account of the following:

(i) the appellant's age and the fact that she has occupied the property since 1961 and does not wish to move to another property at this stage of her life;

(ii) the appellant has difficulty in getting in and out of the bath without assistance and that assistance cannot be provided by carers for health and safety reasons;

(iii) the requirements of the Equalities Act;

(iv) the appellant is very frail with poor eyesight and hearing and easily becomes disorientated away from her property which is so familiar to her;

(v) with support from carers, family, a neighbour and others the appellant is able to continue to live alone in her property;

(h) the Panel, whilst being extremely sympathetic with the appellant's circumstances, is of the opinion that these are not exceptional in that with an ageing population there have been similar cases and there is likely to be an increase in such cases in the future;

(2) That, whilst appreciating the appellant's reluctance to move from her property, given her needs, she be encouraged to give further consideration to moving to a smaller property and that, if necessary, she request the assistance of the Council's Under-Occupation Officer in pursuing this suggestion, who can provide practical support and assistance; and

(3) That the Housing Portfolio Holder be requested to review the monetary value of £2,000 for the cost of works relating to under-occupation currently included in the Council's Disabled Adaptation Policy bearing in mind that this figure has remained unchanged since 1998.

11. APPLICATION NO 3/2013

The Panel considered an application for a review of a decision made by officers under delegated authority that the applicant was intentionally homeless.

Ms A Emery, the applicant's floating support worker from Family Mosaic, attended the meeting to present the applicant's case. She advised that she had been unable to persuade the applicant to attend. Mr J Hunt, Assistant Housing Options Manager (Homelessness), attended the meeting to present his case. Mr A Hall, Director of Housing, attended the meeting to advise the Panel as required on relevant legislation and national and local housing policies relevant to the application.

The Chairman introduced the members of the Panel and officers present to Ms Emery.

The Chairman explained the procedure to be adopted for the meeting in order to ensure that proper consideration was given to the application.

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

- (a) a summary of the case including the facts of the case;
- (b) the case of the Assistant Housing Options Manager (Homelessness);
- (c) copies of documents submitted by the Assistant Housing Options Manager (Homelessness), namely:
 - (i) medical advice to the Council dated 12 December 2012;
 - (ii) a summary of the applicant's address history;
 - (iii) a rent statement between April 2008 and August 2009 from the landlord of the applicant's Housing Association property;
 - (iv) a typed copy of notes of an interview of the applicant by a Housing Officer dated 19 April 2013;
 - (v) a copy of a letter dated 21 May 2013 from the Assistant Housing Options Manager (Homelessness) to the applicant;
- (d) copies of documents submitted by the applicant, namely, his application to the Housing Appeals and Review Panel dated 13 June 2013.

Presentation of the Case of the Assistant Housing Options Manager (Homelessness)

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

- (a) the applicant was British and 51 years of age; he had applied as homeless to this Council when he had been unable to continue living in a tent in the area of Waltham Abbey and Waltham Cross;
- (b) the applicant had received an Antisocial Behaviour Order which prevented him from entering the Borough of Broxbourne;
- (c) the applicant had a mobility problem, was visually impaired, had mental ill health and a history of excessive alcohol use;
- (d) the applicant had been the sole assured tenant of a Housing Association property in Waltham Cross between 29 April 1996 and 16 August 2009; the landlord of the property had been B3 Living Housing Association (the Broxbourne Borough Council stock transfer housing association);
- (e) officers had determined that the applicant was eligible for assistance because he was British and homeless because he had no accommodation available to him; it was also decided that the applicant was in priority need as he was vulnerable due to his mental health problems;

(f) the officers had determined that the applicant's last settled address had been the Housing Association property which he had occupied until August 2009; since that time he had been accommodated for approximately eight months in interim accommodation provided by the London Borough of Enfield whilst his homelessness application to that authority had been assessed; he had also spent time in prison and living in a tent;

(g) the applicant had been evicted from his Housing Association property for rent arrears and had owed £2,318.74 at the end of his tenancy; B3 Living had informed this Council that the applicant's receipt of incapacity benefit had reduced the amount of housing benefit he had received; in addition, the rent had included a charge for sewerage and water which had not been eligible for housing benefit; the applicant had not consistently paid his landlord the shortfall between his rent and the housing benefit;

(h) the applicant had been given the right of reply to the adverse information this Council had received regarding his tenancy of the Housing Association property; an interview had been held with the applicant and he had stated that he had not received full housing benefit towards the rent because of the amounts of other benefits he had received; he had also stated that he could not remember the reason why he had rent arrears because of the drugs and alcohol he had consumed; he had also informed officers that he had a problem with his eyesight which meant that he could not read letters;

(i) officers had determined that the applicant was intentionally homeless; in making homelessness decisions, the Council must have regard to the Code of Guidance which was required to be used by local authorities to assist with the interpretation of the homeless legislation; the Code of Guidance on Homelessness (Paragraph 11.7) stated that a person became homeless, or threatened with homelessness, intentionally if he or she deliberately did or failed to do anything in consequence of which he or she ceased to occupy accommodation, the accommodation was available for his or her occupation, and it would have been reasonable for him or her to continue to occupy the accommodation;

(j) it was considered that the applicant's persistent refusal to pay his rent for the Housing Association property had been a deliberate act; in consequence of this the applicant had been evicted and ceased to occupy the Housing Association property; it was believed that the Housing Association property would have been reasonable for the applicant to continue to occupy as it had been a one bedroom property with an affordable rent;

(k) the Panel was invited to uphold the officers' decision; in the event that the officers' decision was upheld it was recommended that the applicant should be given reasonable notice to vacate his bed and breakfast hotel and that a referral should be made to Essex County Council under the National Assistance Act 1948 due to the applicant's apparent need for care and attention.

Questions from the Applicant's Floating Support Worker

Ms Emery stated that she had no questions to ask of the Assistant Housing Options Manager (Homelessness).

Questions from Members of the Panel on the Case of the Assistant Housing Options Manager (Homelessness)

The Assistant Housing Options Manager (Homelessness) gave the following answers to questions from members of the Panel:

- (a) the proportion of the rent of the applicant's Housing Association property which was not met by housing benefit was the difference between the weekly charge of £61.34 in 2008/9 and £66.17 in 2009 and the housing benefits payments shown on the rent statement;
- (b) there were gaps in the address history provided by the applicant;
- (c) immediately before presenting himself as homeless to this Council the applicant had been living in a tent on the Waltham Abbey/Waltham Cross border; he had been prevented from entering the Borough of Broxbourne as a result of his Antisocial Behaviour Order;
- (d) the applicant's Antisocial Behaviour Order prevented him from using threatening, abusive, insulting or aggressive words or behaviour within the County of Hertfordshire and from entering the Borough of Broxbourne;
- (e) officers had determined that the applicant was in priority need taking account of the medical advice it had received;
- (f) the Council had only been provided with the applicant's rent statements from April 2008; at that time he had been in arrears amounting to £1,571.24;
- (g) it was not known whether at the time of his arrears the applicant had been offered support similar to that now provided to him by Family Mosaic.

Presentation of the Applicant's Case

The Panel considered the following submissions made by Ms Emery in support of the applicant's case:

- (a) it was unlikely that the applicant had received support from an organisation like Family Mosaic at the time of his rent arrears, as unlike in Essex, there was no such support provided in Hertfordshire for those over 25 years of age;
- (b) it was likely that there had been times when the applicant's benefits had been stopped when he had been in mental health units but attempts to get information from the various agencies had been unsuccessful;
- (c) the applicant currently attended doctors' appointments with representatives of Family Mosaic or the Citizens Advice Bureau; security staff had to be present due to the applicant's behaviour;
- (d) it had not been possible to obtain details of the applicant's medical conditions, possibly due to data protection issues;
- (e) housing benefit had not covered the whole of the applicant's rent because he had been in receipt of incapacity benefit which had been paid at a higher rate and housing benefit had not covered sewerage and water charges;
- (f) the applicant could not recall having received any letters from B3 Living about his arrears or court action; it was possible this was due to the alcohol and drugs he had consumed;

- (g) the applicant had been asked to attend this meeting but had refused to do so;
- (h) the applicant needed a wheelchair the whole time;
- (i) the applicant had been unable to read letters but, with the assistance of Family Mosaic, had recently been provided with glasses;
- (j) the applicant had stated that he was of the view that some of his medical records had been burnt by a doctor who was now in prison; this had been raised with the NHS who had disputed this allegation;
- (k) it was understood that the applicant had not worked for a considerable time;
- (l) it would be very difficult for the applicant to secure housing in the private rented sector.

Questions from the Assistant Housing Options Manager (Homelessness) to Ms Emery

Ms Emery gave the following answers to questions from the Assistant Housing Options Manager (Homelessness):

- (a) the applicant was not attending Alcoholics Anonymous or a similar organisation but was trying to reduce his alcoholic intake.

Questions from Members of the Panel to Ms Emery

Ms Emery gave the following answers to questions from members of the Panel:

- (a) when visiting doctors, the appellant was not allowed to know the doctors' names due to his behaviour; the appellant needed doctors' certificates to prove that he was unfit for work;
- (b) the applicant tended to get very agitated and angry when put in front of people; the applicant felt that the world was against him;
- (c) the applicant was an intelligent person capable of making decisions;
- (d) it was not known what the applicant's benefits had been spent on; currently he had to pay for his food other than breakfast and it was known that he travelled to Waltham Abbey on occasions by taxi; the applicant could be preyed upon – if someone asked him for money he would help them;
- (e) the applicant expected his future housing needs to be met as a result of this meeting;
- (f) Essex County Council Social Services had no knowledge of the applicant other than that he kept breaking wheelchairs;
- (g) the applicant could be asked to seek specialist advice about his alcohol dependency but it would be his decision on whether to attend;
- (h) appointments could be made for the applicant to attend the Community Health Team or other specialists but it was considered unlikely that he would meet these appointments;

(i) it had been very difficult to put forward a case on behalf of the applicant without access to detailed information.

Summing Up

The Assistant Housing Options Manager (Homelessness) and Ms Emery stated that they had nothing to add to their cases.

Deliberations

The Chairman thanked Ms Emery for attending the Panel and presenting a case on behalf of the applicant despite the difficulties which she had faced in obtaining any detailed information.

The Chairman indicated that the Panel would consider the matter in the absence of both parties and that the applicant and the Assistant Housing Options Manager (Homelessness) would be advised in writing of the outcome.

Ms Emery and the Assistant Housing Options Manager (Homelessness) then left the meeting.

In coming to its decision, the Panel focussed on which property had been the applicant's last settled accommodation and having reached a decision on that aspect, the circumstances of the applicant becoming homeless from that settled accommodation.

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 on behalf of the applicant and by the Assistant Housing Options Manager (Homelessness) in writing and orally, the decision of the officers that the applicant was homeless intentionally from the housing association property he occupied from April 1996 until August 2009 be upheld for the following reasons:

(a) the applicant when applying to this Council as homeless in 2013 had been eligible for assistance being British, homeless because he had no accommodation available to him and in priority need being vulnerable due to his mental health problems;

(b) the applicant had been the sole assured tenant of a housing association rented property from 29 April 1996 and 16 August 2009;

(c) although the address history completed by the applicant had gaps in it, the evidence presented to the Panel showed that the applicant had occupied interim accommodation provided by another Council for approximately eight months whilst his homelessness application to that authority had been assessed, had been in prison for several months, and had lived in a tent for several months, since being evicted from his housing association rented property and applying to this Council as homeless:

(d) having regard to (c) above, it is considered that the applicant's housing association rented property in Waltham Cross was his last settled accommodation;

- (e) the applicant had owed £2,318.74 in unpaid rent when the housing association had evicted him due to rent arrears;
- (f) the applicant had received Housing Benefit towards the rent of the housing association property but this had not met the full amount as it had been reduced in recognition of the applicant also being in receipt of Incapacity Benefit and because Housing Benefit had not covered charges for sewerage and water; the evidence before the Panel showed that: (i) in 2008, the housing association's charges to the applicant had been £61.34 per week and Housing Benefit payments into his rent account had amounted to £191.68 every four weeks, leaving a shortfall of approximately £54 per month to be met from his Incapacity Benefit and the other benefits he had received; and (ii) in 2009, the housing association's charges to the applicant had been £66.17 per week and Housing Benefit payments into his rent account had amounted to £216.28 every four weeks, leaving a shortfall of approximately £48 per month to be met from his Incapacity Benefit and the other benefits he had received;
- (g) in coming to its decision, the Panel took account of the following matters:
- (i) the applicant's decision not to attend this meeting to present his case;
 - (ii) the lack of any evidence as to why the applicant had rent arrears and the applicant's statement that he could not remember the reasons because of the drugs and alcohol he had consumed;
 - (iii) the inability of the applicant to recall receiving any correspondence from the housing association about his arrears;
 - (iv) the suggestion that the applicant's Housing Benefit payments may have been stopped at times when he was in mental health institutions although no evidence was submitted to support this suggestion as the applicant's floating support worker had tried unsuccessfully to obtain information from the various agencies involved; and
 - (v) B3Living, the landlord of the applicant's property in Waltham Cross is known to be a Registered Provider of Social Housing, which must comply with the Housing Regulatory Code and, in the absence of any evidence to the contrary, the Panel would reasonably expect B3Living to have informed the applicant of his rent arrears and the action being taken by them both before and after the court hearing at which the Possession Order was granted;
- (h) whilst representations were made about the applicant's medical conditions, mobility problems and mental illness these did not influence the decision of the Panel in relation to the matter before it, namely, whether the applicant was intentionally homeless; no evidence was submitted to suggest that the applicant was incapable of managing his affairs and he was described at the Panel meeting by his floating support worker as an intelligent man capable of making decisions;
- (i) had it not been for the deliberate act of refusing to pay the rent of the housing association rented property it is the Panel's view that the property would have continued to be available and reasonable for the applicant to occupy bearing in mind that the rent was affordable with Housing Benefit, Incapacity Benefit and other benefit payments;

(2) That no deficiency or irregularity has been identified in the original decision made by the Council Officers or the manner in which it was made;

(3) That, provided the applicant complies with the terms of his occupation of the bed and breakfast accommodation provided for him, the Council will continue to provide him with interim accommodation for a period of six weeks (until 11.00am on Monday 23 September 2013) in order to allow him reasonable opportunity to secure alternative accommodation: and

(4) That the officers refer the applicant to Essex County Council under provisions of the National Assistance Act 1948 due to his apparent need for care and attention.

CHAIRMAN