



Epping Forest District Council

HOUSING APPEALS AND REVIEW PANEL **Monday, 7th March, 2016**

Place: Committee Room 1, Civic Offices, High Street, Epping

Time: 2.30 pm

Democratic Services Officer Adrian Hendry - Directorate of Governance
democraticservices@eppingforestdc.gov.uk

Members:

Councillors B Rolfe (Chairman), A Mitchell (Vice-Chairman), J Lea, L Mead and G Shiell

1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 3 - 10)

To agree the minutes of the meetings of the Panel held on 11 January 2016.

3. SUBSTITUTE MEMBERS

(Assistant to the Chief Executive) 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	Application No. HS/RW/MB/01/2016	1

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the

exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

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

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

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

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

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

6. APPLICATION NUMBER: HS/RW/MB/01/2016 (Pages 11 - 54)

To consider the attached restricted report and appendices.

The Applicant attended the meeting to present her case supported by her Mother.

Mr J Hunt, Assistant Housing Options Manager (Homelessness) attended the meeting to present his case. Mr R Wilson, Assistant Director (Housing Operations) attended the meeting to advise the Panel as required on relevant legislation and on national and local housing policies relevant to the application.

The Chairman asked everyone present to introduce themselves to the Applicant.

The Chairman explained the procedure to be adopted for the meeting in order to ensure that proper consideration was given to the review of 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) Copy of the Assured Shorthold Tenancy Agreement between the Landlord and the Applicant;
 - (ii) A Notice Requiring Possession, and Order for Possession and a Notice of Eviction;
 - (iii) Notice from the Letting Agent / Landlord advising the Council that the Applicant had been served notice due to rent arrears;
 - (iv) Note of a formal interview between the Applicant and Officers dated 14 April 2015, 24 June 2015 and 15 July 2015;
 - (v) A schedule of Housing Benefit awarded to the Applicant from 17 June 2014 until 15 January 2015;
 - (vi) An income and expenditure statement supplied to the Council from the Applicant;
 - (vii) A copy of the Housing Benefit Statement paid to the Applicant from July 2014 to January 2015;
 - (viii) A letter to the Applicant dated 28 October 2014 informing her of that the Discretionary Housing Benefit that was applied for had been granted;
 - (ix) A letter to the Applicant dated 16 September 2015 advising the Applicant that the Council considered she had made herself homeless intentionally under section 191 under the Homelessness Act 2002;
- (d) Copies of documents submitted by the Applicant, namely:
 - (i) The Applicant's application letter to the Housing Appeals and Review Panel dated 11 October 2015;
 - (ii) A letter from Chipping Ongar Primary School dated 12 October 2015; and
 - (iii) A letter from Shelter received on the 27 November 2015.

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 40 years of age, her household consists of her and her husband and four dependent children. She held an assured shorthold tenancy from March 2013 until April 2015.

(b) The Letting Agent advised the Council that notice had been served on the Applicant due to "rent arrears" and added that the property was "dirty". The rent arrears were totalled £6,279.29 at the end of the tenancy. The Homelessness Legislation required this Council to be satisfied that she had not made herself intentionally homeless.

(c) The Applicant was interviewed by her Homelessness Assessment Officer and asked why she did not pay the rent. She said that she had a snack bar business which was stolen and so she lost her main source of income. She added that her husband was unemployed and depressed. She completed an affordability assessment showing the limited income they claimed to have with which to pay the rent.

(d) In the first months of the tenancy the rent was paid in full. The arrears increased significantly from July 2014. The Applicant received Housing Benefit every two weeks and a Discretionary Housing Payment paid weekly. After receiving Housing Benefit and the Discretionary Housing Payment there was a shortfall in the rent of £310.61 per month.

(e) In January 2015 both the Housing Benefit and the Discretionary Housing Payments stopped as the Housing Benefit Department became aware that the Applicant's Husband had been working and did not disclose this or his income. No rent was paid in February, March or April 2015,

(f) It was considered that the Applicant's failure to keep the property in a reasonable condition and to pay the rent in full and on time were deliberate omissions. In consequence of this, the Applicant's Landlord served her with notice and she ceased to occupy the property. It was considered that the property would have been available for the Applicant to occupy had she complied with the terms of her tenancy and kept the property clean and paid her rent in full. It is also believed that the property would have been reasonable for her to occupy as it was a three bedroomed property suitable for her and her families needs.

(g) The Homelessness Officer decided that the Applicant had made herself intentionally homeless and she was informed of this. She requested a review of the decision by this Panel.

In making homelessness decisions, this 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 (11.7) states that: *a person becomes homeless, or threatened with homelessness, intentionally if:*

- i) *he or she deliberately does or fails to do anything in consequence of which he or she ceases to occupy accommodation (or the likely result of which is that he or she will be forced to leave accommodation)*
- ii) *the accommodation is available for his or her occupation, and*
- iii) *it would have been reasonable for him or her to continue to occupy the accommodation.*

(h) In conclusion the Assistant Housing Options Manager (Homelessness) said that the Applicant had made herself homeless by wilful and persistent refusal to pay her rent. The property would have continued to be available to her and her family for continued occupation had she paid the rent.

Questions from the Applicant on the case of the Assistant Housing Options Manager (Homelessness)

The Applicant had no questions for the Officer.

Questions from the 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 Applicant advised that her husband owed the Inland Revenue money and that they made her husband bankrupt and ordered him to sell their house to pay the monies that were owed back to them.
- (b) As far as I am aware the Applicant received the balance of the monies after all their debts were paid and they did not each receive £74,374..
- (c) The Applicant stated that she had paid six months rent on the rental property in Ongar, bought three cars two of which were for her and her husband and one for a friend that she owed money to, a couple of holidays and that she had also bought the snack bar.

Presentation of the Applicant's Case

The Panel considered the following submissions made by the Applicant:

- (a) The Applicant advised the Panel that her husband was made bankrupt in 2013 by the Inland Revenue and was ordered to sell their house to pay them back the monies he owed. After the sale of the house and all the debts were paid off the remaining amount of money totalling £74,374 was paid to her.
- (b) The Applicant said that they moved to a rental property in Ongar and the remaining money from the sale of their house was spent on:
 - 6 months rent paid up front to secure the tenancy;
 - They bought a snack bar business;
 - They bought a new car each;
 - They bought another car for a friend who they owed money to; and
 - Holidays to Italy and Euro Disney.
- (c) In May 2014 the snack bar business was stolen and due to this and their loss of income they could not afford to pay the shortfall in the rent.

Questions from the Assistant Housing Manager (Homelessness) to the Applicant

The Applicant gave the following answers to questions from the Assistant Housing Options Manager (Homelessness).

(a) The Applicant advised that they were living in a house that was going to be demolished and they were moved to a new house in the same area, this was the house that they bought and had to sell. The Inland Revenue did not have their new address and mail was being sent to the wrong address and they therefore they did not receive any mail from the Inland Revenue. The Applicant's husband owed the Inland Revenue money and as they did not receive any notice of this the debt grew with interest being added on. When the Inland Revenue did contact the Applicant's husband they took him to Court and he was made bankrupt and they were forced to sell their house to pay the debt.

Questions from Members of the Panel to the Applicant

The Applicant gave the following answers to questions from Members of the Panel.

(a) The Applicant advised that they did not incur any mortgage arrears on the house that they owned until her husband became ill and could not work. She said he was a minicab driver and that he had type 1 diabetes.

(b) We moved to Ongar because our eldest Child went to school in the area and we wanted our other children to go to the same school.

(c) When our snack bar business was stolen and we could not pay the rent so we applied for Housing Benefit and a Discretionary Housing Payment.

(d) The snack bar was stolen from outside our house and I did not have adequate insurance cover to make a claim.

(e) My husband could not get another job as a minicab driver because of he had type 1 diabetes.

(f) I was not aware that my husband had been working. I have been with him for 20 years and when he tells me he is going out I don't question him as to where he is going and how long he is going to be.

(g) When we moved to Ongar we were debt free and our financial difficulties did not occur until our snack bar was stolen.

Summing Up

Neither the Applicant nor the Assistant Housing Options Manager (Homelessness) had anything to add to their case.

Deliberation

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 of the outcome. The Applicant was advised that she could be given the decision by 11am the next day if she contacted the Democratic Services Officer by telephone. The Applicant and the Assistant Housing Options Manager (Homelessness) left the meeting.

In coming to its decision the Panel focussed on:

- a) whether the applicant deliberately did or failed to do anything as a consequence of which she ceased to occupy the property;
- b) whether the property would have been available for the applicant's continued occupancy had there not been any rent arrears; and
- c) it would have been reasonable for them to continue to occupy the accommodation.

RESOLVED:

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 the applicant and by the Assistant Housing Options Manager (Homelessness) in writing and orally, the decision of officers that the Applicant was homeless intentionally from the property that the Applicant, her husband and Children occupied from 27 March 2013 to 14 April 2015 be upheld for the following reasons:

- (a) the Applicant was aware that any breach of the tenancy agreement could result in the tenancy being terminated;
 - (b) the Letting Agent of the property (Balgores Lettings) had advised the Council that notice had been served on the Applicant due to "rent arrears";
 - (c) the arrears were £1,971.55 when notice was served and they had increased to £6,279.29 by the end of the tenancy;
 - (d) on being interviewed by the Homelessness Case Officer it was stated that the Applicant failed to pay the rent when her snack bar business was stolen;
 - (e) the Applicant was aware that she had to adhere to the terms of the tenancy agreement by paying the rent;
 - (f) for the reasons set out in (a) - (e), the Panel found that the Applicant had failed to comply with her tenancy agreement and was aware that any breaches of the agreement could result in the tenancy being terminated;
 - (g) the Panel further concluded that it would have been reasonable for the Applicant and her family to have continued to be housed at the property if the rent had continued to be paid;
 - (h) for the reasons set out above, the decision of the Panel is that the Applicant was intentionally homeless.
- (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 her licence at Norway House, the Council's Homeless Persons Hostel, the Council will continue to provide her and her family with interim accommodation for a notice period of six weeks (until

11.00am on Monday 29 February 2016) in order to allow her reasonable opportunity to secure alternative accommodation.

(4) That the Officers (with the Applicant's consent) would refer the Applicant to Children's Social Care Services to seek their assistance in helping her find alternative accommodation and that the officers continue to offer housing advice and assistance to the Applicant.

CHAIRMAN

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