



Epping Forest District Council

HOUSING APPEALS AND REVIEW PANEL **Monday, 16th November, 2015**

Place: Committee Room 2, Civic Offices, High Street, Epping

Time: 2.30 pm

Democratic Services Officer Adrian Hendry - Directorate of Governance - 01992 564246
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. SUBSTITUTE MEMBERS

(Director of Governance) To report the attendance of any substitute members for the meeting.

3. MINUTES (Pages 3 - 10)

To agree the minutes of the meetings of the Panel held on 30 September 2015.

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 Paragraph Number	Information
6	Application No. HS/RW/MB/06/2015	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 NO. HS/RW/MB/06/2015 (Pages 11 - 98)

To consider the attached restricted report and appendices.

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Wednesday, 30 September 2015

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 3.35 pm

Members Present: Councillors B Rolfe (Chairman), A Mitchell MBE (Vice-Chairman), L Mead, G Shiell and M Sartin

Other Councillors:

Apologies: J Lea

Officers Present: R Wilson (Assistant Director (Housing Operations)), J Hunt (Assistant Housing Options Manager (Homelessness)), J Leither (Democratic Services Officer) and A Hendry (Senior Democratic Services Officer)

7. SUBSTITUTE MEMBERS

The Panel were advised that Councillor M Sartin was substituting for Councillor J Lea.

8. MINUTES

RESOLVED:

That the minutes of the Panel held on 2 September 2015 be taken as read and signed by the Chairman as a correct record.

9. DECLARATIONS OF INTEREST

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

10. 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	Application No. HS/RW/MB/05/2015	1

11. Application No. HS/RW/MB/05/2015**Introduction**

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

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

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 and her Partner.

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 Mr S Goldstein and the Applicant;
 - (ii) A Notice Requiring Possession, and Order for Possession and a Notice of Eviction;
 - (iii) Notice from the Landlord advising the Council that the Applicant had been served notice due to rent arrears and abuse of the property;
 - (iv) Note of a formal interview between the Applicant and Officers dated 25 June 2015;
 - (v) Homeless Case Notes by Officers;
 - (vi) Letter from the Environmental Health Officer to the Applicant advising of the findings from a recent property inspection;
 - (vii) A schedule of Housing Benefit awarded to the Applicant from 22 June 2008 until 1 April 2015; and
 - (viii) Letter to the Applicant dated 24 July 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 completed application to the Housing Appeals and Review Panel dated 20 July 2015;

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

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

(a) The Applicant's household consists of her partner and two children. She held an assured shorthold tenancy from June 2008 to January 2015.

(b) The Landlord advised the Council in November 2014 that notice had been served on the Applicant due to "abuse of the property" and "rent arrears" which totalled £3,200 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 in receipt of full Housing Benefit, which was paid directly to the Landlord. When her Partner moved into the property in June 2012 he was in full time employment so the Housing Benefit was reduced accordingly and the shortfall in rent was to be paid directly by them to the Landlord.

(d) The Applicant was interviewed by her Homelessness Case Officer and asked why she did not pay the shortfall in the rent. She said when her Partner moved in he had a lot of debts which led to the rent being either late or not paid as they struggled to pay the debts and the rent.

(e) The Homelessness Case Officer referred to the neglect and cleanliness of the property. He advised that an Environmental Health Officer from this Council visited the property and found that there were repairs to be carried out by the Landlord but was also concerned regarding the overall condition and cleanliness of the property, in particular to the condition of the toilet, the cooker, the carpets and the mould growing on the walls of the bedrooms. The Environmental Health Officer believed the property to have been kept in such a poor condition that there were concerns about the risk of neglect to the children and a safeguarding referral was made to Essex County Council Children's Social Care.

(f) It was considered that the Applicants 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 tidy 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 two bedroom property suitable for her needs. Although the Landlord had repairs to carry out, the maintenance problems were not so serious as to deem the property unreasonable to occupy.

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

The Panel noted the relevant homelessness legislation and that 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*

(g) In conclusion the Assistant Housing Options Manager (Homelessness) said that the Applicant had made herself homeless by wilful and persistent refusal to pay the shortfall in her rent and that she had not kept the property clean and in good repair. The flat would have continued to be available to her for continued occupation had she paid the shortfall in the rent, on time and had kept the property clean and in good repair.

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) To my knowledge and belief there were no property checks prior to 2014.

Presentation of the Applicant's Case

The Panel considered the following submissions made by the applicant:

(a) The applicant had moved into the property in June 2008 and was on housing benefit which was paid directly to the Landlord. In February 2012 her partner moved into the property, he was working full time and therefore the housing benefit was adjusted accordingly. Her partner brought a lot of debts into the relationship and they struggled to find the shortfall in the rent that they had to pay and therefore the rent fell into arrears.

(b) The property was in a bad state of repair not all due to the tenants. The Landlord did not inspect the property and made no attempt to do any of the repairs that were reported. They were advised on numerous occasions by the Landlord that it was their fault so they had to do the repairs. They stopped contacting the Landlord and the property fell into neglect and disrepair.

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

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

(a) I had no family support as my mother lived too far away and did not drive. My partners father lived across the road but he had remarried and had a family of his own,

(b) We did not want to involve Environmental Health as we thought we could sort out the problems with the Landlord.

Questions from Members of the Panel to the Applicant

The applicant gave the following answers to questions from Members of the Panel:

- (a) I did not go the Citizens Advice Bureau because my partner was working and I thought I would be able to manage our finances and pay the rent shortfall.
- (b) After the visit from Environmental Health they referred us to Social Services who visited and told us that the property was a health hazard to our children and that we had 2 weeks to clean it up to an acceptable level. When they revisited 2 weeks later they were satisfied with the cleanliness of the property and said that we had to keep it to this standard. The never visited us again.
- (c) The hot water tap in the kitchen had been broken for just over a year and we used to boil a pot on the cooker for hot water. Although my partners brother is a plumber he did not have the time to fix the tap.
- (d) I know in the case notes it said I had a good relationship with the Landlord but I disagree with that I have never had a good relationship with him.
- (e) No, the property was not in a good condition when I moved there in 2008, the floorboards were uneven and the bath was on blocks of wood.
- (f) Yes, I painted the property regularly.
- (g) Everything I have said today I told our housing officer when we were interviewed.
- (h) In the earlier days my Mother used to live close by and help, but she has moved and does not drive so I have not received any help from her.

Summing Up

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

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 in writing of the outcome. The applicant was advised that she could be given the decisions 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 abuse of the property and 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 Partner and Children occupied from 22 June 2008 to 5 January 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 Landlord of the property had advised the Council that notice had been served on the Applicant due to "abuse of the property" and "large rent arrears";
 - (c) the arrears were £3,000 when notice was served and they had increased to £3,200 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 full rent from when her Partner had moved in. He was employed at that time and the housing benefit was cut as he was able to pay the shortfall in the rent;
 - (e) her Partner was made redundant in December 2014 but he had accrued debts before this period;
 - (f) an Environmental Health Officer from this Council visited the property and found that there were repairs to be carried out by the Landlord but was also concerned regarding the overall condition and cleanliness of the property. The Environmental Health Officer believed the property to have been kept in such a poor condition that there were concerns about the risk of neglect to the children and a safeguarding referral was made to Essex County Council Children's Social Care;
 - (g) the Applicant was aware that she had to adhere to the terms of the tenancy agreement by paying the shortfall in the rent and keeping the property in a good state of decorative order. She failed to pay this regularly and failed to keep the property clean and in a good state of decorative order and in January 2015 she became homeless;
 - (h) for the reasons set out in (a) - (g), 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;
 - (i) 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 and the property been maintained in accordance with the tenancy agreement;
 - (j) 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 16 November 2015) 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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