

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

**Committee:** Housing Appeals and Review Panel    **Date:** Thursday, 23 April 2009

**Place:** Committee Room 1, Civic Offices, High Street, Epping    **Time:** 2.30 - 4.10 pm

**Members Present:** Mrs C Pond (Chairman), Mrs R Gadsby (Vice-Chairman), Mrs J Lea, B Rolfe and Mrs J Sutcliffe

**Other Councillors:**

**Apologies:** Mrs J H Whitehouse and J Wyatt

**Officers Present:** Alan Hall (Director of Housing) and Graham Lunnun (Assistant Director Democratic Services)

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### **34. MINUTES**

#### **RESOLVED:**

That the minutes of the meeting of the Panel held on 19 March 2009 be taken as read and signed by the Chairman as a correct record.

### **35. SUBSTITUTE MEMBERS**

It was noted that Councillor Mrs J Lea was substituting for Councillor J Wyatt and that Councillor Mrs J Sutcliffe was substituting for Councillor Mrs J H Whitehouse.

### **36. DECLARATIONS OF INTEREST**

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

### **37. EXCLUSION OF PRESS AND PUBLIC**

#### **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:

| <b>Agenda Item No</b> | <b>Subject</b>                                   | <b>Exempt Information Paragraph Number</b> |
|-----------------------|--|--|
| 6                     | Appeal No 2/2009                                 | 1 & 2                                      |
| 7                     | Progress Report on previous appeals/applications | 1 & 2                                      |

**38. APPEAL NO. 2/2009**

The Panel considered an appeal against a decision made by officers under delegated authority not to take out the wet shower room and provide a bath in the appellant's property. The appellant attended the meeting to present her case accompanied by her former partner's uncle. Mr T Wyatt (Assistant Housing Repairs Manager) attended the meeting to present the case of the Housing Repairs Manager assisted by Mr H Thorpe (Housing Assets Manager). Mr A Hall (Director of Housing) 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 outlined the procedure 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) copies of documents submitted by the appellant namely, the application to the Housing Appeals and Review Panel dated 10 February 2009 and two photographs showing the appellant's son in a baby bath;
- (b) a summary of the case including the facts of the case;
- (c) the case of the Housing Repairs Manager;
- (d) copies of documents submitted by the Housing Repairs Manager namely:
  - (i) letter dated 23 February 2006 from a contractor to the Council quoting for proposed bathroom adaptations to the appellant's property;
  - (ii) the appellant's tenancy agreement dated 8 April 2008;
  - (iii) letter dated 26 March 2008 from the Assistant Housing Options Manager (Allocations) to the appellant;
  - (iv) notification dated 31 March 2008 from the appellant to the Council expressing an interest in receiving a formal offer of the tenancy of the appellant's current property;
  - (v) letter dated 7 April 2008 from the Assistant Housing Options Manager (Allocations) to the appellant;
  - (vi) letter dated 15 April 2008 from the local Member of Parliament to the then Head of Housing Services;
  - (vii) letter dated 11 April 2008 from the appellant to the local Member of Parliament;
  - (viii) letter dated 21 April 2008 from the Director of Housing to the local Member of Parliament;
  - (ix) letter received on 14 October 2008 from the appellant to the Council;
  - (x) letter dated 29 October 2008 from the Assistant Repairs Manager to the appellant;

- (xi) letter received on 20 November 2008 from the appellant to the Council;
- (xii) letter dated 9 December 2008 from the Housing Assets Manager to the appellant;
- (xiii) letter dated 14 December 2008 from the appellant to the Assistant Director of Housing;
- (xiv) letter dated 5 January 2009 from the Assistant Director Housing to the appellant.

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

- (a) the appellant had accepted the tenancy of the property when accommodated by the Council in its homeless hostel;
- (b) the appellant had been unable to view the property before accepting the tenancy and had been advised by Council officers that if she did not accept the tenancy the Council's duty to secure accommodation for her would end and she would be required to vacate the homeless hostel;
- (c) the appellant had moved into the property with her son who at the time had been three months old; it was only when she had moved into the property that she had realised it had a wet room shower and not a bath;
- (d) a wet room shower was totally unsuitable for a young child; it had been necessary for the appellant to bathe her son in a baby bath and as he had grown older this had become a health hazard as he was able to get out of the bath and on occasions had banged his head resulting in visits to the doctors;
- (e) it was necessary for the appellant to shower whilst her son was in the baby bath on the floor of the wet room shower;
- (f) the work to provide the wet room shower had been poor; there was black mould in the corners of the room and water did not drain away completely;
- (g) photographs taken by the appellant and a letter from the West Essex Primary Care Trust sent to the Council by the appellant had not been submitted to the Panel by Council officers (the Director of Housing drew the attention of the Panel to the requirement on the appellant to produce documents in support of her case and advised that copies of those documents could have been obtained from the tenancy file held at the Housing Office in the south of the district; he also advised that as this file was not held at the Civic Offices it could not now be provided to this meeting);
- (h) in justification of their decision, the Council officers had placed emphasis on the cost of £5,000 of installing a wet room shower; the appellant had not been a party to this work and the Panel should ignore this cost in coming to its decision; installing a bath had been estimated at £1,000 and this should be considered money well spent when taking account of the conditions to which the appellant's son was being subjected;
- (i) the officers had also placed emphasis on the appellant's failure to view the property before accepting it; the officers had given the appellant very little time to view the property and had advised her that if she refused the offer the Council would no longer have a duty to house her; the appellant received two letters from the

Council regarding the offer of the property; one letter had stated that the property was not available for occupation and that it should not be visited whilst works were being undertaken on it; the second letter had given a period of only five days to view the property; the appellant had been unable to view the property within this timescale as this would have necessitated her travelling from the homeless hostel to the Civic Offices to collect the keys to the property, attending the property, returning the keys to the Civic Offices by 5 pm on the day and then getting back to the homeless hostel; during that period the appellant's son had been ill;

(j) the appellant's son was being denied the benefits of playing in a bath available to other children of his age;

The appellant and her former partner's uncle answered the following questions of the Assistant Housing Repairs Manager and the Panel:

(a) The Council's letter to you dated 7 April 2008 advised you of the opportunity to view the property before signing an agreement and of the opportunity to request a review against a decision to end the Council's duty to secure accommodation for you; why did you not pursue these options? – A previous letter advised that the property was not available for viewing and the letter dated 7 April 2008 was sent only five days before the commencement of the tenancy; the property could not be viewed within that timescale bearing in mind the appellant's reliance on public transport;

(b) You stated that you shower whilst your son is in the baby bath; do you consider this is wise as you have said he can get out of the bath and has banged his head when doing so? – I have adopted this approach since I moved into the property;

(c) Were you aware of the existence of the wet room shower in the property before you moved into it? – No;

(d) You said you could not view the property within the set timescale because your son had been ill; why did you not telephone the Council officers and seek an extension of the time to view the property? – I had no money at that time to make a telephone call;

(e) Can you not prevent your son from crawling around the shower room by fixing child gates to doors? – He does not crawl around the shower room; he falls out of the baby bath in the shower room;

(f) Why do you not use the shower to bathe your son? – It is not suitable as it could run hot and scald him;

(g) Was there no one else with their own transport who you could have asked to take you to view the property? – No;

(h) Have you reported the current condition of the shower room to Council officers? – No, it has only deteriorated within the last couple of weeks;

(i) Do only yourself and your son live in the property? – Yes.

The Panel considered the following submissions of the Assistant Housing Repairs Manager:

(a) the property was a ground floor flat in a three storey traditionally built block with controlled door entry access;

- (b) the former tenant prior to the appellant had required a disabled adaptation to the property – the installation of a wet room; in June 2007 after receiving a referral from Social Services the Council had appointed a contractor to install a wet room which had included the shower unit; the cost of the installation had been £4,450;
- (c) on 5 December 2007 a “Notification under the Housing Act” had been sent to the appellant informing her that her application for additional housing assistance had been successful; the letter had outlined actions that would be taken if she refused to accept suitable accommodation;
- (d) a further letter had been sent to the appellant on 12 December 2007 regarding the Council’s change in the way it allocated vacant properties and the introduction of the “Choice Based Lettings” Scheme;
- (e) the former tenant of the property had passed away and the property had become vacant on 26 February 2008; a void property inspection had taken place on 28 February 2008 and refurbishment works had been ordered; the total cost of these works had been £4,890 and in addition the property had been allocated a decoration allowance of £270;
- (f) at this time the appellant had been residing in temporary accommodation in the Council’s homeless hostel; she had expressed an interest in the property and had been offered the tenancy on 26 February 2008; the tenancy had been offered as a one year introductory tenancy and the appellant had accepted and signed the tenancy agreement on 8 April 2008 for the tenancy to commence on 14 April 2008; the records showed that the appellant had not viewed the property before signing the tenancy agreement;
- (g) the formal offer letter had given the appellant the opportunity to view the property before signing the tenancy agreement and also had advised her that if she was not happy with the offer she could request a review;
- (h) on 17 April 2008 a letter had been received from the local Member of Parliament requesting information about the appellant’s bathroom facilities; the Director of Housing had replied to the local Member of Parliament pointing out that it was the appellant’s choice to bid for the property under the Home Options Scheme and that if she had not been happy with the property she could have appealed in the form of a review of her case; the appellant had not requested a review;
- (i) officers had also received an enquiry from a local councillor regarding the bathroom facilities at the property; a management officer had responded that there was no duty to replace the shower but that the appellant could put her case to the Repairs Manager;
- (j) on 14 October 2008 the appellant had written to the Council stating that there was no bath in the property and had requested the Council to install a bath; the Assistant Repairs Manager had responded pointing out that the Council relet properties with a washroom consisting of a shower or bath facilities and that these facilities would not be changed;
- (k) a letter was received on 29 September 2008 from the West Essex Primary Care Trust in support of the appellant’s request for a bath to be installed; a reply had been sent to the Primary Care Trust pointing out that the increased demand for adaptation works was far in excess of the budget available but that the appellant could appeal by writing to the Assistant Director of Housing;

(l) a further letter had been received from the appellant on 20 November 2008 enclosing photographs of the baby bath being used and again requesting that a bath be installed; the Housing Assets Manager had responded drawing attention to the criteria for disabled adaptation works and that a bath could not be funded from the disabled adaptation budget; the appellant's attention had been drawn to the Council's complaints procedure;

(m) on 17 December 2008 the Assistant Director of Housing (Property and Resources) had received a letter from the appellant outlining her case to have a bath fitted in place of a shower; the appellant had claimed that the Council had carried out a similar request in another council property; the Assistant Director of Housing had responded upholding the previous decisions not to install a shower; he had also advised that following investigations into the claim that similar works had been carried out at another property, it had become apparent that in that case the existing shower had been installed 15 years ago and because parts were no longer available it had been cost effective to install a bath;

(n) the wet room had been installed only 10 months prior to the appellant's taking the tenancy at a cost in excess of £4,400; to replace a wet room with a bath would cost in excess of £1,000;

(o) it was clear from the correspondence that the appellant had been given every opportunity to view the property before signing the tenancy agreement but she had failed to do so; it was also clear that despite being made aware of the opportunity for a review of her position the appellant had not requested a review;

(p) in the past the Council had installed cubicle showers for disabled but it now provided wet room showers which were suitable for everyone and could be found in hotels and sports centres; last year 56 wet room showers had been installed and in the current year it was estimated there would be 80 installations; when a property which had been provided with a wet room shower for a disabled person became vacant it could be let quickly because there was no need to convert the bathroom facilities for an able bodied person;

(q) the officers could not recall any previous case in which the problems faced by the appellant had been an issue.

The Assistant Housing Repairs Manager and the Housing Assets Manager answered the following questions of the appellant and the Panel:

(a) Is it Council policy to offer a property with a wet room shower to a family with young children? – Yes;

(b) Were Council officers aware of the problems with the condition of the shower in the property as described by the appellant? – No there is no record of any problems being reported;

(c) In a letter dated 9 December 2008, officers stated that there was a disabled application waiting list and that 81 of the 120 disabled adaptations were for wet rooms and level access showers; in view of this demand why do you offer properties with wet room showers to people who are not disabled? – Disabled adaptations are undertaken following advice from an occupational therapist and enable a tenant to stay in their own properties; when a property with a wet room shower disabled adaptation becomes void it is offered to the next appropriate person;

- (d) Why did officers send the appellant the letter dated 9 December 2008? – The letter was sent to explain how adaptations were funded;
- (e) Why was the appellant not advised of the existence of a wet room shower when the property was offered? – The appellant was given an opportunity to view the property;
- (f) What is the policy in relation to the timescale for viewing a property? – The timescale given to the appellant is normal; a letter is sent advising that a tenancy will commence on the Monday of the following week;
- (g) Should more have been said about the opportunity to seek a review? – It could be argued that the position could have been explained clearer;
- (h) When a prospective tenant views a property do they not receive details similar to that provided by an estate agent? – The position has now changed with the “Choice Based Lettings” Scheme and the onus is on an interested party to view the property;
- (i) If the appellant had refused the offer of the property because of the lack of a bath would she have remained at the same position on the housing list? – I regret that this is not within my remit;
- (j) Is there any guidance available about the suitability of wet room showers for young children? – I am not aware of any;
- (k) Could the appellant seek a mutual exchange to overcome her problem? – I regret that again this is not within my remit.

The Chairman asked the appellant if she wished to raised any further issues in support of her case. The appellant stated that she had nothing further to add.

The Chairman asked the Assistant Housing Repairs Manager if he wished to raise any further issues in support of his case. The Assistant Housing Repairs Manager stated that he had nothing further to add.

By leave of the Panel, the Director of Housing drew attention to the appellant's tenancy agreement which stated that in addition to herself and her son, her partner was also to occupy the property. He asked the appellant if her partner had moved into the property with her. The appellant stated that her partner had been with her at the Council's homeless hostel and had moved into the property with her but had subsequently moved out.

The Chairman indicated that the Panel would consider the matter in the absence of both parties and the appellant and the Assistant Housing Repairs Manager would be advised in writing of the outcome. The appellant, her former partner's uncle, the Assistant Housing Repairs Manager and the Housing Assets Manager then left the meeting.

The Panel considered all of the evidence and the submissions which had been made by and on behalf of the appellant and by the Assistant Housing Repairs Manager and the Housing Assets Manager.

In coming to its decision the Panel focused on the appellant's housing situation at the time she expressed an interest in the property, the steps she took before signing the Tenancy Agreement, the Council's policy in relation to disabled adaptations and the

letting of adapted properties on becoming vacant and the correspondence sent to the appellant by Housing Officers.

**RESOLVED:**

(1) That, having taken into consideration the information presented by and on behalf of the appellant and by the Housing Repairs Manager, the Assistant Housing Repairs Manager and the Housing Assets Manager in writing and orally, the appeal be dismissed and the decision of the officers not to take out a wet room shower and replace it with a bath in the appellant's property be upheld for the following reasons:

(a) based on the evidence submitted, no deficiency or irregularity has been identified in relation to the decision made by officers or in relation to their application of Council policy;

(b) in view of the cost of providing, and the suitability of wet room showers for all ages it is not considered appropriate to take them out and replace them with baths where the only reason for doing so is in response to a request to accommodate young children;

(c) the appellant expressed an interest in the property in accordance with the Council's Choice Based Lettings Scheme and was given the opportunity to view the property before signing the Tenancy Agreement but chose not to do so;

(2) That the Housing Repairs Manager make arrangements for the shower in the appellant's property to be checked and repaired if necessary.

(3) That, if possible, when advertising vacant properties in accordance with the Council's Home Based Lettings Scheme details of the bathroom facilities be included; and

(4) That although it is considered the wording of formal offer letters is clear, in future the officers strengthen the wording to advise prospective tenants to view the property before signing the Tenancy Agreement rather than suggesting that they may wish to view it.

**CHAIRMAN**

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