

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

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

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 3.25 pm

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

Other Councillors:

Apologies:

Officers Present: R Wallace (Housing Needs Manager), G Lunnun (Assistant Director Democratic Services) and R Smith (Area Housing Manager North)

13. SUBSTITUTE MEMBERS

It was noted that there were no substitute members present at this meeting.

14. DECLARATIONS OF INTEREST

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

15. 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 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:

Agenda Item No.	Subject	Exempt Information Paragraph Number
5	Appeal No: 6/2009	1
6	Application No: 4/2009	1

16. APPEAL NO. 6/2009

The Panel considered an appeal against a decision made by officers under delegated authority regarding the banding of the appellant's housing application. The appellant attended the meeting to present her case accompanied by her partner and

her partner's mother. Ms T Selley, Assistant Housing Options Manager (Allocations) attended the meeting to present her case. Mr R Wallace, Housing Options Manager, 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 members of the Panel and officers present to the appellant and sought the consent of the appellant and the Assistant Housing Options Manager (Allocations) to Mrs R Smith attending the meeting as an observer. Both parties agreed to Mrs Smith being present. The Chairman 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 2 June 2009;
- (b) a summary of the case including the facts of the case;
- (c) the recommendation of the Assistant Housing Options Manager (Allocations);
- (d) copies of documents submitted by the Assistant Housing Options Manager (Allocations) namely:
 - (i) letter dated 17 March 2008 from the Assistant Head of Housing (Operations) to the appellant;
 - (ii) letter dated 22 April 2009 from the appellant's GP to "whom it may concern";
 - (iii) letter dated 29 April 2009 from the Assistant Director of Housing (Operations) to the appellant;
 - (iv) a copy of the Council's Housing Allocations Scheme dated April 2009.

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

- (a) the appellant should be moved from Band 2 to Band 1 on strong medical grounds;
- (b) the appellant needed to be living with her partner as living apart had a detrimental affect on her mental health; she was suffering with depression, anxiety and panic attacks;
- (c) as the appellant was not suffering from a physical disability she had not been given sufficient consideration by officers;
- (d) the situation was also having a detrimental effect on the appellant's partner who suffered with depression and on their son;
- (e) the appellant's partner was the principal carer for his father living with his father and other members of his family in a property some distance from the appellant's current property; whilst the appellant's partner visited the appellant frequently his visits were restricted by virtue of having to care for his father.

The appellant, her partner and her partner's mother answered the following questions of the Assistant Housing Options Manager (Allocations) and the Panel:-

(a) (To the appellant) Are you consulting the Mental Health Team? No but I have seen a counsellor although not on a regular basis; the last time I saw a counsellor was three months' ago and I am on a waiting list for another appointment; I have had six or seven appointments with a counsellor over three or four years.

(b) (To the appellant) Are you seeing a Community Psychiatric Nurse? – No.

(c) (To the appellant) How could you accept a Council property some distance from the property where your partner is currently living bearing in mind that he needs to be close to his father as the principal carer? If it were possible for my partner to come home every evening matters would be much easier; at present I do not know when he will be able to visit me; I am prepared to wait for a Council property to become available close enough to my partner's family home so that travelling between the two would not be a problem; I would not bid for a property some distance from my partner's family home.

(d) What distance from your partner's family home would be acceptable to you? Three to four miles.

(e) (To the appellant's partner) Who else currently lives in your family home? My mother and my two brothers; but I am the principal carer; my father has mood swings and on one occasion when I was about to cut the grass at the property it was necessary for me to visit my partner urgently; I told my father that I would cut the grass on my return but he attempted to cut the grass and had an accident which resulted in the amputation of a foot; my father is also a diabetic and has heart problems; he takes eight or nine tablets a day altogether including tablets for diabetes.

(f) (To the appellant's partner's mother) What care duties are you able to undertake? I cannot get my husband in and out of bed and he will not take tablets from me.

(g) (To the appellant's partner's mother) How long have you lived with your husband? – 40 years.

(h) (To the appellant's partner) Do you know what medicine your father is taking for his diabetes? No.

(i) (To the appellant) Are you able to undertake every day duties without your partner being present? Yes although sometimes I feel unable to leave my property; my parents have moved some distance away and are unable to help me; I take my son to school and I have a car; 3 months ago I took an overdose because of the pressure.

(j) (To the appellant) How often do you see your partner? We try to see each other once a day.

(k) (To the appellant's partner) Do your brothers help care for your father? One is working and the other does not get on with him.

(l) (To the appellant) Is your current property privately rented? It is social housing provided by the local authority in whose area I am residing.

(m) (To the appellant's partner) Are you working? No.

- (n) (To the appellant's partner) What is the age of your father? – 70.
- (o) (To the appellant) Have you considered renting a property in the private sector which would be closer to your partner's family home? I have looked in the past but some landlords are not prepared to accept Housing Benefit and it is also necessary to have a substantial sum for a deposit.
- (p) (To the appellant's partner) Who is looking after your father today? His brother has visited him and has taken him out for the day.

The Panel considered the following submissions of the Assistant Housing Options Manager (Allocations):

- (a) the appellant's partner had registered with the Council in his sole name for housing in February 2002; at that time he had been living with his parents and brothers in a property in this District;
- (b) in March 2004, the appellant's partner had advised the Council that the appellant was pregnant and was now living with him; in July 2004 their son had been born;
- (c) in December 2004, following investigations it was discovered that the appellant held the tenancy of a one-bedroom Council flat in an adjoining borough; this had been her home since June 2004;
- (d) in January 2005, the appellant's partner had advised the Council that he had parted from the appellant and wished his application to be continued in his sole name; in June 2007 the appellant's partner had advised the Council that he wanted to include the appellant as joint applicant and to add their son to his application; the appellant's partner had confirmed that he was still living with his parents but they had moved to a three-bedroom house in another part of the District whilst the appellant was continuing to live in a flat in an adjoining borough with their son; the application had been assessed at that time in accordance with the Council's Allocations Scheme and had been placed in Band 4 (homeseekers living in the District for more than one year immediately prior to application, and sharing accommodation with another household);
- (e) in January 2008, the Council's Medical Adviser had awarded additional preference on the basis of the appellant's depression and high blood pressure, promoting the application from Band 4 to Band 3;
- (f) in January 2008, the appellant's partner had successfully expressed an interest in a two-bedroom flat in the District; prior to making the offer, a home visit had been undertaken at the appellant's address in order to satisfy officers that the appellant's circumstances had not changed; the officer had visited early in the morning and the appellant's partner had been at the property; during the visit, the appellant's four year old son had stated that his father came home every night and went to work to earn money; it was also noted at that time there were items of men's clothing and trainers in the property; the visiting officer had not been satisfied that the circumstances were as previously stated as it appeared that the appellant's partner was living with the appellant and not with his parents; accordingly the application had been re-assessed and demoted to Band 5 as a family living outside of the District;
- (g) the appellant's partner had asked for this decision to be reviewed and the Assistant Director of Housing (Operations) had concluded that there was insufficient evidence to suggest that the flat in the adjoining borough was the appellant's

partner's only and principal home; the application had therefore been reinstated to Band 3;

(h) in August 2008, further medical evidence had been received in respect of the appellant's partner's father for whom the appellant's partner received carer's allowance; this evidence had been assessed but it had been decided that the priority awarded was appropriate for the circumstances and there were no grounds to move the application to Band 1;

(i) the applicants had been unhappy with the decision and had asked for their application to be reviewed again in September 2008 but no change was made to their priority;

(j) a self assessment medical form had been received in October 2008 but no increase was made to their priority following the assessment of the appellant's partner's health problems which had been stated as severe depression and anxiety;

(k) in November 2008, the appellant had contacted the Council to request that their application be placed in Band 2 of the Council's Allocations Scheme under the category of homeseekers having to live apart from other members of their household because of lack of accommodation, but not for personal reasons where the applicant or their partner have lived in the District for more than one year immediately prior to application;

(l) the Assistant Director of Housing (Operations) had again reviewed the case and had agreed that in all the circumstances the family could be reasonably expected to live together but were unable to do so due to the appellant's partner being his father's main carer and needing to live with him; their application had been placed in Band 2 at this time;

(m) in March 2009, the appellant had completed a self assessment medical form giving her health problems as high blood pressure for four years, anxiety and depression for seven years and severe anxiety and depression for one year; the Council's Medical Adviser had not felt that there was sufficient evidence to promote the application from Band 2 to Band 1;

(n) the appellant had disagreed with this decision and had asked for a further review by the Assistant Director of Housing (Operations); before making any decision, the appellant had been given an opportunity to provide any further evidence to be taken into account; a letter had been provided from the appellant's GP dated 24 April 2009;

(o) the Assistant Director of Housing (Operations) had considered all of the available evidence and had concluded that the Council's Medical Adviser's recommendation should stand and that the application should remain in Band 2;

(p) the Panel were asked to dismiss the appeal on the grounds that there was insufficient evidence to warrant the application being promoted to Band 1.

The Assistant Housing Options Manager (Allocations) answered the following questions of the appellant, her partner, her partner's mother and the Panel:-

(a) You have produced one letter from my GP but two have been sent in, is this correct? Yes, but one was sent in prior to the request for a review.

(b) Do you accept that my son told your visitor what I have told him which was a lie in order to keep the truth from him? Yes.

(c) In view of the appellant's situation do you not think it was reasonable for some of her partner's clothing to be at the flat in the adjoining borough? Yes and that is why the Assistant Director Housing (Operations) overruled the original decision.

(d) There is reference in the paperwork to the Social Welfare Panel; what does that comprise? It is made up of a Council Officer and the Council's Medical Adviser.

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

The Chairman asked the Assistant Housing Options Manager (Allocations) if she wished to raise any further issues in support of her case. With the consent of the Chairman the Assistant Housing Options Manager (Allocations) was allowed to ask a further question of the appellant. The appellant was asked why she had not bid for any properties within the last two cycles. The appellant stated that there had been nothing appropriate and that she was awaiting the outcome of this appeal before submitting more bids. The Assistant Housing Options Manager (Allocations) drew attention to a property which had been advertised in the last cycle which had been fairly close to the appellant's partner's family home. The appellant reiterated that she had decided to await the outcome of this meeting before submitting further bids.

The Chairman indicated that the Panel would consider the matter in the absence of both parties and the appellant and the Assistant Housing Options Manager (Allocations) would be advised in writing of the outcome. The appellant, her partner, her partner's mother and the Assistant Housing Options Manager (Allocations) then left the meeting.

In coming to its decision the Panel focused on the evidence submitted regarding the appellant's health problems and the circumstances which had resulted in her living apart from her partner.

RESOLVED:

(1) That having regard to the Council's Housing Allocations Scheme and having taken into consideration the information presented by and on behalf of the appellant and by the Assistant Housing Options Manager (Allocations), in writing and orally, the decision of the officers not to promote the appellant from Band 2 to Band 1 of the Allocations Scheme be upheld for the following reasons:

(a) the appellant is currently in Band 2 by virtue of being a homeseeker having to live apart from her partner who is the father of her son because of lack of accommodation and the need for the appellant's partner to live close to his father in order to fulfil his duties as principal carer for his father; with the appellant or her partner having lived in the Epping Forest District for more than one year prior to the current application;

(b) having regard to the advice currently available from qualified medical practitioners, including the Council's independent Medical Adviser based on the information provided to him about the appellant's health problems, it is considered that the appellant is correctly placed within Band 2 and does not meet the criteria of having strong medical or welfare grounds for being included in Band 1;

(c) on 8 April 2009 the appellant was allowed a period of 14 days to provide further medical evidence supporting her claim to be in Band 1 and in response a letter was received from her GP but this failed to provide any information about the appellant's health problems;

(2) That based on the evidence submitted, no deficiency or irregularity has been identified in the decision made by officers and the manner in which it was made.

17. APPLICATION NO. 4/2009

The Panel was advised that consideration of this application had been deferred at the meeting on 2 July 2009 at the request of the applicant's solicitors so that they could properly advise their client.

Members noted that since 2 July 2009, letters had been sent to the applicant in order to establish whether it was her intention to attend this meeting to present her case. No replies had been received but when attempting to contact the applicant by telephone an officer had spoken to the applicant's sister who had advised that the applicant would not be attending this meeting and did not wish to pursue her application to the Panel. As a result a further letter had been sent to the applicant on 17 July 2009 advising her that her application was being treated as withdrawn unless she indicated otherwise by return. No response had been received.

Members were also informed that the applicant's solicitors had advised that they had been unable to obtain any instructions from the applicant and were not in a position to make any representations on her behalf.

RESOLVED:

That application 4/2009 be regarded as having been withdrawn.

CHAIRMAN