

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Housing Appeals and Review Panel **Date:** Thursday, 4 August 2011

Place: Committee Room 1, Civic Offices, High Street, Epping **Time:** 2.30 - 4.30 pm

Members Present: Councillors B Rolfe (Chairman), Mrs J Sutcliffe (Vice-Chairman), Ms J Hart and Mrs J Lea

Other Councillors:

Apologies: Councillors Mrs R Gadsby and Ms Y Knight

Officers Present: A Hall (Director of Housing), G Lunnun (Assistant Director (Democratic Services)) and R Wallace (Housing Options Manager)

10. SUBSTITUTE MEMBERS

It was noted that Councillor Mrs J Lea was substituting for Councillor Mrs R Gadsby.

11. DECLARATIONS OF INTEREST

There were no declarations of interest by members of the Panel under this item.

12. 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 item of business set out below as it 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 No. | Subject | Exempt Information Paragraph No. |
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13. APPEAL NO. 4/2011

Introduction

The Panel considered an appeal against a decision made by officers acting under delegated authority concerning a Housing Register banding review. The applicant attended the meeting to present her case accompanied by her sister. Mr R Wallace, Housing Options 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 to the appellant. 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:
 - (i) her application to the Housing Appeals and Review Panel dated 20 May 2011;
 - (ii) copy of letter dated 26 April 2011 from the Council's Assistant Director of Housing to the appellant;
 - (iii) copy of letter dated 9 March 2011 from the appellant to the Council;
 - (iv) copy of letter dated 29 March 2011 from the appellant to the Assistant Director of Housing;
 - (v) copy of letter dated 23 March 2011 from the Housing Options Manager to the appellant;
 - (vi) copy of letter dated 26 July 2011 from the appellant's employer to the Council (tabled at the meeting);
- (b) a summary of the case including the facts of the case;
- (c) the case of the Housing Options Manager;
- (d) copies of documents submitted by the Housing Options Manager, namely:
 - (i) copy of letter dated 28 January 2004 from the Principal Housing Officer (Allocations) to the appellant;
 - (ii) copy of letter dated 17 May 2006 from the Housing Assistant (Needs) to the appellant;
 - (iii) copy of form of refusal of the offer of a Council property dated 24 August 2006 from the appellant to the Head of Housing Services;
 - (iv) copy of letter dated 29 June 2007 from the Housing Assistant (Needs) to the appellant;
 - (v) copy of letter dated 18 February 2011 from the Assistant Housing Options Officer to the appellant;
 - (vi) copy of letter dated 23 March 2011 from the Housing Options Manager to the appellant;
 - (vii) copy of letter dated 26 April 2011 from the Assistant Director of Housing to the appellant;

(viii) copy of the Council's Housing Allocations Scheme (tabled at the meeting).

Presentation of the Appellant's Case

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

(a) the appellant should be in Band 3 (or Band 1) as she had more than moderate medical health problems and suffered severe hardship with one of her sons having special needs which had not been properly taken into account;

(b) in addition the appellant might qualify under criterion 4(c) of Band 4 (homeseekers living in the District for more than a year immediately prior to application, needing to move or to be nearer to their place of work) which, in conjunction with the Criterion for Band 3 that had already been accepted as being met, would enable the appellant to be in Band 3; the appellant had been made redundant recently and now worked for a charitable organisation in Chestnut;

(c) the appellant was not a high earner and suffered severe hardship; she struggled to pay the rent of her current private accommodation and could not envisage owning her own property;

(d) the appellant was required to provide a lot of support for her younger son aged 16 and found it extremely hard to balance her work with her family responsibilities;

(e) it was unfair that someone being offered long term employment in the District with similar medical grounds to the appellant would be entitled to be placed in Band 3 of the Council's Allocation Scheme whilst the appellant remained in Band 4.

Questions from the Housing Options Manager to the Appellant

The appellant gave the following answers to questions from the Housing Options Manager:

(a) Criterion 4(c) of the Council's Allocations Scheme was not understood by the appellant despite the explanation contained in the letter dated 26 April 2011 from the Assistant Director of Housing;

(b) the appellant had struggled to cope all of her life and the Council should recognise that she suffered severe hardship.

14. ADJOURNMENT

The appellant became distressed and left the meeting room. The appellant's sister advised the Panel that in addition to the stress of attending the meeting, the appellant had recently received some distressing news about her health. The Chairman adjourned the meeting.

After a few minutes the appellant returned to the meeting room and confirmed that she would like the meeting to proceed.

15. RESUMPTION OF MEETING - APPEAL NO 4/2011**Questions from Members of the Panel to the Appellant**

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

- (a) the appellant's job was based in Chestnut;
- (b) the appellant's elder son aged 19 was not in employment; he had recently completed a college course and was receiving benefit payments; he did not assist with the payment of the rent of the appellant's current property;
- (c) the appellant had refused the offer of a Council property in Chigwell in 2006 because at that time she had been settled in Waltham Abbey with children in local schools and she had not wished to disrupt their education; the appellant accepted that at that time her Housing Register application indicated that she would be prepared to accept the offer of a property in several parts of the District including Chigwell;
- (d) in 2006 the appellant's current accommodation had been satisfactory as it was two bedroomed accommodation; this level of accommodation was now insufficient taking account of the requirements of herself and her two sons;
- (e) when the appellant had initially moved to Waltham Abbey from London she had been accommodated in a flat provided by her sister; this had been a one bedroom flat which had not been adequate for the long term;
- (f) the appellant had not thought about applying to be placed on the Housing Register for Broxbourne Borough Council; she had established a life in Waltham Abbey and should be allowed to continue to live there;
- (g) the appellant received assistance for her rent;
- (h) the appellant's younger son suffered with asthma and eczema and from severe behavioural problems; he had also been diagnosed as having a severe nut allergy; he did not listen to advice and refused to carry his epipen leading to problems for the appellant; the appellant did not have letters from a qualified professional medical person to support her case but could have obtained letters from The London Hospital in relation to her younger son's personality problems and from his social worker;
- (i) the appellant suffered from depression and had sought medical assistance;
- (j) the appellant's younger son had been expelled from school.

Presentation of the case of the Housing Options Manager

The Panel considered the following submissions in support of the case of the Housing Options Manager:

- (a) the appellant had completed and submitted a housing application form to the Council on 16 September 2003; as part of the application, the appellant had stipulated that she was seeking accommodation for herself and her two sons;
- (b) the Council had advised the appellant on 28 January 2004 that she was to be placed in Band 4 of the Council's Housing Allocations Scheme;

- (c) in 2004 the appellant had been an assured tenant with a housing association of a property in London;
- (d) the Council had received a change of circumstances form from the appellant on 4 April 2005 advising that the appellant was now resident in Waltham Abbey, renting private accommodation from an independent landlord;
- (e) a further change in circumstances form had been received from the appellant on 15 May 2006 advising that the appellant and her family had moved to another property in Waltham Abbey which was being rented through a managing agent;
- (f) on 17 May 2006, the appellant had been advised that in accordance with the terms of the Council's Housing Allocations Scheme, at that time, she was to be placed in Band 5;
- (g) on 22 August 2006 the appellant had received a formal offer of accommodation from the Council for a property in Chigwell; the applicant had decided to refuse this property;
- (h) following a review of the housing application submitted by the appellant she had been advised in June 2007 that her application was now in Band 4;
- (i) since 2005, the appellant had submitted a number of completed self assessment medical forms on behalf of herself and her younger son; the appellant had advised that her younger son suffered from asthma and eczema; the appellant had advised that she suffered from depression, asthma and psoriasis; on receipt of these medical forms an assessment had been sought from the Council's Medical Adviser;
- (j) the most recent medical forms submitted by the appellant had been received by the Council on 19 January 2011; these had been assessed by the council's Medical Adviser; the appellant had been notified on 18 February 2011 that there would be no additional preference granted on health grounds;
- (k) the appellant had requested a review against her banding level in March 2011; that review had been undertaken by the Housing Options Manager who had concluded that placement in Band 4 was correct;
- (l) the appellant had appealed against that review and in April 2011 the Council's Assistant Director of Housing had agreed with the view of the Housing Options Manager;
- (m) the appellant was now seeking a further appeal to this Panel against the decision of the Assistant Director of Housing;
- (n) the Assistant Director of Housing had considered all of the essential facts and had concluded that Band 4 was the correct banding for the appellant under the Council's Housing Allocations Scheme;
- (o) in considering the matter it was essential that consideration was given to the housing conditions prevailing across the Epping Forest District; the Council currently had a housing stock in the region of 6,500 properties and approximately 5,300 applicants on the Housing Register;

- (p) the Council had in place a structured Housing Allocations Scheme that met the statutory requirements of the Housing Act 1996, Part VI;
- (q) in considering the appeal, account should be taken of the particular needs and priority of the local area; when the Council's Medical Adviser assessed medical grounds she was always made aware of the numbers in the various bands; at the time she had undertaken her latest assessment in relation to the appellant there had been 4,791 applicants in Band 4 and 112 applicants in Band 1; applicants satisfying the requirement to have strong medical grounds had normally suffered long term hospitalisation or similar problems; therefore, this level did not apply to the appellant;
- (r) the appellant qualified under Band 4 as she met Criterion (b); the reason Criterion (c) of Band 4 did not apply to the appellant had been set out in the letter to the appellant from the Assistant Director of Housing dated 26 April 2011; in order to move to Band 3 it was necessary for the appellant to meet the criteria of Band 4(a) or (b) of Band 4,, and one other criterion in Band 4 (which could also include (a) or (b)); no other criteria in Band 4 applied to the appellant;
- (s) the appellant's situation had been reassessed several times since 2003 with account being taken of her medical self assessment forms;
- (t) there were a large number of households suffering similar problems to the appellant and in order to be fair it was necessary to adhere strictly to the Council's adopted Housing Allocations Scheme.

Questions from the Appellant on the case of the Housing Options Manager

The Housing Options Manager gave the following answers to questions from the appellant:

- (a) Criterion 4(c) of Band 4 did not apply to the appellant as it was not necessary for her to move to be nearer to her place of work, or to take up an offer of employment, or a long term (full time) training opportunity leading to employment; in order to meet this criterion it would be necessary for an applicant to demonstrate to the Council that they needed to move to an alternative location in order to sustain employment or a training opportunity;
- (b) if an applicant lived in Waltham Abbey but had an offer of a job in another part of the district, say Ongar, the requirement of Criterion (c) of Band 4 might apply;
- (c) the Council's Housing Allocations Scheme was reviewed annually following consultation with numerous interested parties including the Housing Scrutiny Panel and local Tenants and Leaseholders Federation;
- (d) a person working for a charity would not normally be classed as a key worker; a key worker was essentially someone in a profession tied to a particular area e.g. a health worker or a teacher; in any event, the Council's Allocations Scheme did not take account of key worker status;
- (e) other people were currently struggling with day to day expenses and had similar problems to the appellant; it was necessary for the Council to match demands with availability; the Council's Medical Adviser took hardship into account when making an assessment.

(By leave of the Panel, the Director of Housing drew attention to the double asterisk note following Band 6 of the Allocations Scheme which explained how welfare and hardship were assessed).

Questions from Members of the Panel to the Housing Options Manager

(a) the Council's Homelessness Prevention Team offered advice to families finding it difficult to meet the costs of housing;

(b) the Council's Medical Adviser had considered the medical grounds of the appellant and her younger son cumulatively;

(c) the current make-up of the appellant's household did not entitle her to accommodation with one or more additional bedrooms;

(d) it was possible for an applicant to be on both the Council's Housing Register and that of one or more local housing associations; however, a number of the local housing associations did not run their own lists and relied on nominations from the Council.

Closing Statement by the Appellant

The Panel should have regard to the letter submitted by the appellant's employer. A charity worker should be considered a key worker.

Closing Statement by the Housing Options Manager

The Council had structured its Housing Allocations Scheme in accordance with statutory requirements. The system of adopting bandings had been in operation for approximately five or six years. Applying the appellant's circumstances to the current bands resulted in the appellant being correctly placed in Band 4.

Deliberations

The Chairman indicated that the Panel would consider the matter in the absence of both parties and that the appellant and the Housing Options Manager would be advised in writing of the outcome. The appellant, her sister and the Housing Options Manager then left the meeting.

The Panel focused on the assessment of the appellant's and one of her son's medical conditions by the Council's Medical Adviser, the submissions which had been made in relation to the appellant's welfare and employment situation and the officers' application of the Allocations Scheme.

At the request of the Panel, the Director of Housing inspected the appellant's file and advised the Panel of the appellant's record of expressions of interest in Council properties through the Council's choice based lettings scheme, including two expressions of interest for properties in Loughton within the last year.

The Panel concluded that the appellant was correctly placed in Band 4 of the Council's Housing Allocations Scheme.

RESOLVED:

(1) That, having regard to the provisions of the Housing Act 1996, as amended, and the Council's adopted Housing Allocations Scheme and having taken into consideration the information presented by and on behalf of the appellant and by the Housing Options Manager in writing and orally, the decision of the officers not to promote the appellant from Band 4 to Band 1 or Band 3 of the Allocations Scheme be upheld for the following reasons:

(a) the appellant is currently in Band 4 of the Council's Housing Allocations Scheme by virtue of meeting the following criterion:

"4(b) Homeseekers living in the District for more than a year immediately prior to the application, needing to move on moderate medical or welfare grounds or for reasons of disability, or needing to move to a particular locality in the District where failure to do so will result in them or others suffering hardship";

(b) to be promoted to Band 1 the appellant needs to meet one of the criteria in that Band; she considers that she meets Criterion 1(b) of Band 1 (Homeseekers living in the District for more than a year immediately prior to application, needing to move on strong medical or welfare grounds or for reasons of disability); we have taken account of the fact that the appellant has submitted a number of medical self assessment forms for herself and one of her sons; the appellant states that she suffers from depression, asthma and psoriasis and that her younger son has special needs, suffers from asthma and eczema and has a nut allergy; the appellant's sister also drew our attention to a further illness being suffered by the appellant; in accordance with the Council's Allocations Scheme, medical priorities are assessed by the Council's Medical Adviser taking account of all known facts relating to the application; we note that the medical forms submitted by the appellant have been assessed by the Council's Medical Adviser and that she has determined the need for the appellant to move on moderate medical grounds as required under Band 4 (Criterion (b)) but not strong medical grounds as required under Band 1 (Criterion (b)); we are therefore of the opinion that the appellant does not have a need to move on strong medical grounds;

(c) the appellant considers that she also meets Band 1 Criterion (b) by virtue of suffering severe hardship in that she struggles to pay the rent on her current property and feels she will never have enough money to purchase her own property; she also referred to the difficulties of caring for her younger son whilst working; in accordance with the Council's Allocations Scheme, hardship grounds are assessed on the receipt of written evidence by the Housing Options Manager in consultation with the Council's Medical Adviser and one other member of the Housing Option Section as appropriate; we note that this assessment has to have regard to the housing conditions prevailing across the District; the Council currently has housing stock in the region of 6,500 properties and approximately 5,300 applicants on the Housing Register; we have been advised by the Housing Options Manager that there are currently a large number of households on the Council's Housing Register facing similar hardship to that described by the appellant; we are of the

opinion that the appellant does not meet the requirement of Band 1(b) of needing to move on strong welfare or hardship grounds;

(d) having regard to (b) and (c) above we do not consider that the appellant satisfies the requirements of Criterion (b) of Band 1; no evidence has been submitted to indicate that the appellant meets any of the other criteria in that Band;

(e) in order to be promoted to Band 3 of the Allocations Scheme, the appellant needs to meet the criteria of Band 4(a) or (b), and one other criterion in Band 4 (which can also include (a) and (b));

(f) in addition to meeting Criterion 4(b), which has been accepted by officers, the appellant also considers that she meets Criterion 4(c) (All homeseekers living in the District for more than a year immediately prior to application, needing to move to or be nearer to their place of work, or to take up an offer of permanent employment, or a long term (full-time) training opportunity which will lead to employment);

(g) the appellant currently lives in Waltham Abbey and has submitted a letter from her employer stating that she works in the adjoining Borough of Broxbourne in Cheshunt; however, no evidence has been submitted that the appellant has an offer of alternative employment or a long-term (full-time) training opportunity which will lead to employment necessitating a move to be nearer a new place of work_or training establishment; we do not consider, therefore, that the appellant needs to move to be nearer her place of work; she currently lives in Waltham Abbey which is the part of the Epping Forest District that is closest to the appellant's place of work in Cheshunt; in coming to our conclusion we have also taken account of the fact that the appellant's housing file shows that, during the last year, she has expressed bids of interest in two Council properties in Loughton which is a lot further from Cheshunt than her existing home in Waltham Abbey;

(h) having regard to (g) above, we do not consider that the appellant satisfies the requirements of Criterion (c) of Band 4; no evidence has been submitted to suggest that the appellant meets any of the other criteria listed in Band 4 apart from Criterion (b); therefore we are satisfied the appellant has been correctly assessed for Band 4;

(2) That the appellant be advised that in the event of her own or her children's medical situations deteriorating in the future she can submit further medical evidence at that time for a further assessment by the Council's Medical Adviser; and

(3) That the appellant be advised that if she wishes to move even closer to her place of work she may wish to consider applying for inclusion on Broxbourne Borough Council's Housing Register as well as remaining on this Council's Register.

CHAIRMAN