



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **BIR/00GL/RTB/2014/0010**

Property : **26 Dennington Crescent, Blurton, Stoke
on Trent ST3 3ES**

Applicant : **Mrs J Denham**

Respondent : **Stoke on Trent City Council**

Date of Application : **3rd May 2014**

**Date of Landlord's
Notice denying right to buy:** **31st March 2014**

Type of Application : **Paragraph 11(4) of Schedule 5 to the
Housing Act 1985 (the Act).**

Tribunal : **R. T. Brown FRICS
Mr P J Hawksworth**

**Date and venue of
consideration** : **7th July 2014
First-tier Tribunal (Property Chamber),
Bennett House, Town Road, Hanley, ST1
2QB.**

Dated : **11 JUL 2014**

DECISION

DECISION

1. The Tribunal determines that the Respondent is not entitled to rely on Paragraph 11 of Schedule 5 to the Housing Act 1985 to deny the Applicant the right to buy the subject property.

REASONS FOR DECISION

The Application and Introduction

2. This application is made by Mrs Denham tenant of the subject property under paragraph 11(4) of Schedule 5 to the Act for a determination as to whether the exception to the right to buy set out in paragraph 11(1) of Schedule 5 (property particularly suitable for occupation by elderly persons) applies to the subject property.
3. The Respondent served on the Applicants a notice in reply (RTB2) dated 31st March 2014, denying the Applicant's right to buy on the grounds set out in paragraph 11 of Schedule 5 to the Act.

The Property and the Tribunal's inspection

4. The members of the Tribunal inspected the property on the 7th July 2014 in the presence of the Applicant. The Respondent was not present.
5. The property is located on Dennington Crescent which is a residential area of Blurton, Stoke on Trent.
6. The property comprises a semi-detached bungalow of traditional brick and tile construction built in the mid 1960s. The property has upvc double glazing and full gas central heating. The accommodation comprises: Hall, living room, kitchen, bedroom and bathroom (full suite). Internally the property is level. Outside there is a very large lawned garden. There is a small step up to the side door which is the only access to the building.
7. The property is approximately 100 metres from the highway behind a common area of grass. There is therefore no vehicular access to the front door. The rooms are very small and access to the bathroom is restricted by the position of the door.
8. The Applicant had carried out no improvements to the property.
9. The nearest shops, including a small supermarket, are located approximately 1/2 a mile away.
10. The nearest bus stop is approximately 200 metres away with, the Tribunal are informed, regular buses.

The Law

11. The material parts of paragraph 11 of Schedule 5 to the Act are as follows:
 - (1) The right to buy does not arise if the dwelling house-

- (a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, and
- (b) was let to the tenant or a predecessor in title of his for occupation by a person who was aged 60 or more (whether the tenant or a predecessor or another person).

(2) In determining whether a dwelling is particularly suitable no regard shall be had to the presence of any feature provided by the tenant or a predecessor in title of his.

(3)

(4)

(5)

(6) This paragraph does not apply unless the dwelling house was let before the 1st January 1990.

12. The Office of the Deputy Prime Minister (ODPM) has issued circular 7/2004 (Right to Buy: Exclusion of Elderly Persons Housing), which sets out the main criteria to be taken onto account in determining the particular suitability of an individual dwelling house for occupation by elderly persons. The Tribunal is not bound by the circular, deciding each case on its merits, but it does have regard to the criteria contained in the circular as a guide.

The Hearing

13. A hearing was not requested and the Tribunal considered the matter with the benefit of their inspection and the papers submitted by the parties.

14. Mrs Denham in her application to the Tribunal explained that:

(a) It is a 50 yard walk from the property to the road.

(b) It is 100 yards to the bus stop.

(c) Access at the side of the property is not suitable for a wheelchair.

(d) The property is dark and isolated.

(e) The bathroom door hits the w/c.

(f) Her neighbour says they are 'studio bungalows' and not purpose built for the elderly.

15. She referred the Tribunal to 78 Church Road Blurton (and produced photographs) showing it to be a similar property where right to buy had been exercised.

16. The Respondent initially opposed the application but subsequently withdrew its opposition to the appeal in a letter to the Tribunal dated 21st May 2014.

17. Additionally no evidence was provided by the Respondent as to why it considered the property should be excluded.

The Tribunal's Deliberations

18. The Tribunal considered all the relevant written evidence presented and summarised above in its deliberations.

19. Notwithstanding the Respondents withdrawal the Tribunal finds with the benefit of its inspection, and for the reasons given above, that the property is not in any event suitable for the occupation by persons over the age of 60 years and thus Paragraph 11 of Schedule 5 to the Housing Act 1985 has no application

Appeal Provisions

42. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be made within 28 days of this decision (regulation 52 (2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rule 2013.

Robert T Brown
Chairman

11 JUL 2014