



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

**Case Reference** : CAM/33UH/RTB/2018/0005

**Property** : 20, The Packway, Wortwell, Harleston, IP20 0HE

**Appellant** : Mrs P Phinn

**Respondent** : Saffron Housing Trust

**Type of Application** : Appeal against denial of tenant’s right to buy  
under Schedule 5 Housing Act 1985 as amended  
(‘the Act’)

**Tribunal Members** : Judge J Lancaster **Chairman**  
Mr R Thomas MRICS **Valuer Member**

**Date of inspection** : 15/11/18

**Date of Decision** : 15/11/18

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**DECISION**

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**For the reasons detailed below the appeal fails.**

1. The Appellant has applied to the Respondent to exercise her right to buy the Property which is presently let by the Respondent to the Appellant.
2. By notice to the Appellant dated 06/08/18 the Respondent refused the right to buy stating that;
  - a) the Property was first let before 1 January 1990
  - b) that it is particularly suitable for occupation by elderly persons
  - c) that it was let for occupation by a person aged 60 or more.

## **The Law**

3. The principal statute which sets out the qualifying conditions to the right to buy is the Act. Schedule 5 deals with those cases where the right to buy does not apply and the Respondent is relying on paragraph 11, the relevant provisions of which say;

*11(1) The right to buy does not arise if the dwelling house*

*a) is particularly suitable, having regard for 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 years or more (whether the tenant or predecessor or another person)*

*11(2) In determining whether a dwelling house 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*

*11(6) This paragraph does not apply unless the dwelling-house concerned was first let before 1 January 1990.*

## **The Appeal**

4. The Appellant's application for a determination by the Tribunal as to whether the Property is suitable for occupation by elderly persons was dated 27/09/18, and was lodged within the statutory period.

## **The Appellant's Case**

5. The main points of the Appellant's case may be summarised as follows:

a) the village is unsuitable for elderly or disabled tenants, as you need access to a car or be able to walk to the bus stop, and there is no local shop

b) the tenants in almost all the other nearby properties are of working age

c) the Landlord does not let the bungalows solely for the elderly/disabled but as general needs properties

d) 3 bungalows have in the past been sold

e) 2 other bungalows have been offered for sale recently, 1 in the VRTB pilot scheme, and the other as a RTB. The only tenants who seem not eligible to buy a bungalow appear to be the elderly: this seems to be discriminatory

e) paramedics struggle to get stretchers out of the bungalow

## **The Landlord's Case**

6. The main points of the Landlord's case may be summarised as follows;

a) it has always been the Landlord's policy to deny the right to buy applications where they are allowed to do so under Housing Act 1985, schedule 5, para 11, ie the property was first let before 1/1/90, has been let to a tenant aged 60 or over, and is particularly suitable for elderly people aged 60 or over. These conditions apply in this case.

b) properties can be sold under 2 different schemes – only one has the exclusion for properties particularly suitable for occupation by elderly people, and this is the scheme under which the Tenant has applied

c) the other scheme the Tenant refers to, the VRTB pilot, ran from January 2016 to March 2017

d) since formation in 2004, the Landlord has sold 24 bungalows and denied the right to buy 55 bungalows. One bungalow was sold in the previous 12 months because it could not be shown ever to have been let to a person over 60.

## **The Inspection**

7. The Tribunal inspected the Property in the presence of the Appellant. It is a semi-detached bungalow, approximately 50 years old, built of brick and tile, with UPVC double-glazing, located in an area of similar residential properties on the edge of a small village, less than 800m from a bus stop with a daily week-day service to Harleston, approximately two and a half miles away. Access is via a flat path, to the front door with one step approximately 20 cm high. There is a front garden, with a parking space, and a small rear garden, with a pergola and a shed belonging to the Tenant. The accommodation originally consisted of a hall, living room, kitchen, bathroom/WC and 2 bedrooms. The Tenant has added a storm porch, a conservatory, and converted a shed to a dining room/office, as well as renovated the kitchen fittings and flooring. There is gas-fired central heating, which can be left on overnight. The condition of the Property appeared satisfactory.

## **The Decision**

8. This appeal can only succeed if all the statutory criteria set out in paragraph 3 above are not met. The Respondent stated that the Property had first been let before 1 January 1990, and had been let for occupation by a person aged 60 or more. This was not challenged by the Appellant. In determining whether the Property is particularly suitable for occupation by elderly persons the Tribunal must taking into account location, size, design, heating system and 'other features'. The Tribunal is required to assess whether the Property is particularly suitable for elderly persons, that is someone 60 or over, who is reasonably fit for that age, not someone with physical disabilities, or who needs a walking frame/wheelchair.

9. The Tribunal decided that the size, design and heating system are particularly suitable for occupation by elderly persons. The access via one moderate-sized step does not make the Property unsuitable for occupation by elderly persons, nor does the size of the garden, nor does the location, given that there is a bus-stop within 800m, and a regular week-day service to the nearby town of Harleston, with all basic facilities, as noted above.

10. With regard to other bungalows nearby being sold/for sale, this is not relevant to this determination, which must be made on the facts of this case, and the criteria to be applied in this case, as set out in paragraph 3 above.

11. It is therefore the Tribunal's decision that this appeal fails.

Judge Lancaster  
22 November 2018

**Caution:** For the purpose of reaching a decision the Tribunal inspected the subject property. Such inspection is not a structural survey and only takes a few minutes. Any comments about the condition of the property in this Statement of Reasons are made as a result of casual observation rather than a detailed inspection. Please do not rely upon such comments as a guide to the structural condition of the property.

## **ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.

