



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

Case Reference : CAM/33UH/RTB/2019/0001

Property : 5, Stewart Close, Tibenham, Norwich, NR16 1QJ

Appellant : Mr S Salmon

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 : **Judith Lancaster** Chairman
Gerard Smith MRICS FAAV Valuer Member

Date of inspection : 10/04/19

Date of Decision : 10/04/19

DECISION

For the reasons detailed below the appeal succeeds.

1. The Appellant has applied to the Respondent to exercise his right to buy the Property which is presently let by the Respondent to the Appellant.
2. By notice to the Appellant dated 17/12/18 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 relies 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. This appeal was lodged within the eight-week statutory period allowed for such appeals. Neither party requested a hearing, but submitted written representations.

The Appellant's Case

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

a) the location is very remote, 6 miles from nearest doctor etc. Anyone unable to drive would struggle to live at the Property

b) when the Appellant moved into the Property he was assured by the Respondent that he would keep his right to buy

c) both the Appellant and his wife are under 60

The Respondent's Case

6. The Respondent made no written representations prior to the inspection. However, in an email dated 23/04/19, in response to a letter from the Tribunal on 10/04/19 requesting further information, the Respondents informed the Tribunal that the Property was first let on 12/03/12 and was not let to a person aged 60 or more.

The Inspection

7. The Tribunal inspected the Property in the presence of the Appellant. It is a modern barn-style bungalow, built approximately 8 years ago, of traditional brick and timber frame construction, with double-glazed windows and doors, and central heating by air-source heat pump. It is located in a village, with no public transport within 800m, although there is a farm shop within 800m, but this only sells a very limited range of goods. It has gardens front and rear, with 2 parking spaces, and the access is flat with no steps. The accommodation consists of a hall, fitted kitchen/diner, sitting room, 2 double bedrooms and a bath/WC with shower over the bath.

The Decision

8. As the Property has not been let for occupation by a person aged 60 or more, and was not first let before 01/01/90, the criteria set out in paragraph 11 of Schedule 5 of the Act have not all been met.

9. It is therefore the Tribunal's decision that this appeal succeeds.

Judge Lancaster
30/04/19

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 properties 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 properties.

