



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

Case Reference : **MAN/00EC/RTB/2024/0002**

Property : **31 Hazelbank, Coulby Newham,
Middlesbrough TS8 0TH**

Applicant : **Mr J H Knott**

Respondent : **Thirteen Housing Group Ltd**

**Type of
Application** : **Housing Act 1985, Schedule 5 paragraph 11 as
amended by the Housing Act 2004, Section 181**

Tribunal Members : **Mr J A Platt FRICS, FTPI (Chairman)
Mr J Fraser FRICS**

Date : **23 April 2024**

DECISION

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Application

1. An application from Mr Knott, the tenant of 31 Hazelbank, Coulby Newham, Middlesbrough TS8 0TH (“the Property”) for a determination, under Paragraph 11 (4) of Schedule 5 to the Housing Act 1985, as to whether the grounds set out in Paragraph 11 are satisfied in respect of his notice of intention to exercise the right to buy the Property to the Landlord; Thirteen Housing Group Ltd (“Thirteen”) under paragraph 122 of the Housing Act 1985.
2. Following an application by Mr Knott to purchase the Property, Thirteen issued a notice on 15 January 2024 stating that Mr Knott had been denied the right to buy on the grounds set out in paragraph 11 of Schedule 5 to the Housing Act 1985.
3. On 8 February 2024 Mr Knott applied to the First-tier Tribunal (Property Chamber) for a determination under Paragraph 11(4).
4. The Tribunal advised the parties that the case would be determined on the written evidence only, following an inspection of the Property, unless either party requested an oral hearing. Neither party requested an oral hearing. Both parties submitted written representations.

The Law

5. Paragraph 11 of Schedule 5 of the Housing Act 1985 provides that-
 - (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 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.*
....
 - (6) *This paragraph does not apply unless the dwelling-house concerned was first let before 01 January 1990.*

Facts, submissions and deliberations

6. Thirteen's notice dated 15 January 2024 details the reasons for the denial of Mr Knott's right to buy under Paragraph 11, Schedule 5, Housing Act 1985 as:

7. The property:

- *was first let before 1 January 1990*
- *is particularly suitable for occupation by elderly persons, and*
- *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 predecessor or another person).*

8. Thirteen has provided evidence that the property was constructed in 1985, was first let before 1 January 1990 and was let to Mr & Mrs Knott on 27 August 2012. Mr Knott's successor tenancy commenced 21 June 2022.

9. Mr Knott states that his date of birth is 15 October 1941 and, within his application, accepts that the Property is suitable for elderly persons.

10. The Tribunal first considered whether it had jurisdiction. Paragraph 11 (4) of Schedule 5 to the Housing Act 1985 details the requirements for an application:

If an application for the purpose is made by the tenant to the appropriate tribunal or authority before the end of the period of 56 days beginning with the service of the landlord's notice under section 124, the question shall be determined by the appropriate tribunal or authority.

11. The tribunal determined that the application had been made before the end of the period and hence it had jurisdiction.

12. The Tribunal inspected the property on 23 April 2023. Mr Knott's daughter-in-law, Mrs Knott, attended the inspection. Neither Mr Knott nor Thirteen attended.

13. The Property consists of a two bedroomed semi-detached bungalow. There is step free access to both the front and rear doors. The bathroom is a level access walk-in wet room. Heating to the Property is by gas central heating with radiators in the living room, kitchen, wet room and both bedrooms.

14. The Property is reasonably convenient to public transport and the local shop. There is a bus stop within 500 metres of the Property serving frequent services into Middlesbrough Bus Station. Tesco Extra is within 650 metres of the Property and sells a wide range of products including basic foodstuffs; bread, milk, cereal and tinned goods. The Parkway Shopping Centre is only a little further away.

15. The relevant test under paragraph 11 of Schedule 5 is whether the property is particularly suitable for elderly persons. Guidance from the Office of the

Deputy Prime Minister published in December 2004 (circular 07/2004) specifies that 'elderly persons' be taken to mean individuals over the age of 60 who are able to live independently despite some limitations owing to age.

16. It is common ground that the tenancy commenced on 27 August 2012 at which date the Tenant was 70 years of age (dob 15 October 1941). Thirteen provided evidence that the property was first let from January 1985.
17. At the time the tenancy was granted the tenant was, therefore, over the age of 60 years and the Property was first let before the 01 January 1990.

The Tribunal's conclusions are:-

18. The Tribunal has to look at the Property in the abstract and cannot take into account any particular tenant's personal circumstances, nor the suitability or otherwise of other nearby properties for occupation by the elderly. The Tribunal is bound by the provisions of the primary legislation.
19. The Tribunal has considered each of the requirements of paragraph 11 and the details set out in the ODPM circular 07/2004 which provides guidance that may, but not necessarily, need to be taken into account when considering whether a property is particularly suitable for the needs of the elderly. Both parties had obtained and referred to this guidance.
20. The inspection revealed that the Property is in a favourable location taking into account guidance in the circular. There are no significant gradients, public transport and shopping are nearby, the property has no more than 2 bedrooms and provides a good standard of heated and accessible accommodation.
21. The Tribunal concludes it is particularly suitable for occupation by elderly persons taking into account its location, size, design, heating system and other features.

Decision

22. Following the Tribunal's conclusion in relation to each of the requirements of paragraph 11, it determines that Thirteen is entitled to deny the Applicant the Right to Buy the Property.

J A Platt (Chairman)