



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

Case Reference : HAV/00HB/RTB/2025/0001

Property : 7 Armada House, Dove Street,
Bristol, BS2 8JX

Applicant : Mohamed Suleiman Mohamed

Representative : None

Respondent : Bristol City Council

Representative : None

Type of Application : Refusal of Right to Buy

Tribunal Member : Regional Surveyor J Coupe FRICS
Mr M Jenkinson

Date of Decision : 19 March 2025

DECISION

Summary Decision

The Tribunal determines that the Applicant is not entitled to purchase the Property under the provisions of Paragraph 11 of Schedule 5 to the Housing Act 1985. Accordingly, the application fails.

Background

1. By an application in the prescribed form, dated 24 January 2025 and received by the Tribunal on the 27 January 2025, the Applicant seeks to appeal the denial of the right to buy 7 Armada House, Dove Street, Bristol, BS2 8RX (“the property”). The denial was issued on 3 December 2024 by Bristol City Council on the grounds that paragraph 11 of Schedule 5 to the Housing Act 1985 (as amended) (“the Act”) applies to the property. The Tribunal accepted the application as having been made in time.
2. The Tribunal issued Directions on 29 January 2025 indicating that it considered that the application was likely to be suitable for determination on the papers alone without an oral hearing, but with the benefit of an inspection, and would be so determined in accordance with rule 31 of the Tribunal Procedure Rules 2013 unless a party objected in writing within 28 days. No objection has been received. The property was inspected on 14 March 2025 and the application thereafter determined on the papers.
3. The Tribunal Directions required the Respondent to respond to the Applicant’s case to which the Applicant could reply and, the Respondent, thereafter, to prepare a hearing bundle. Reference to page numbers in the bundle are shown as [].
4. A bundle extending to 133 electronic pages was submitted by the Respondent and included:
 - i. Form RTB1 ‘Notice Claiming the Right to Buy’, signed and dated by the Applicant 24 October 2024; [4]
 - ii. Form RTB2 ‘Notice in Reply to Tenant’s Right to Buy Claim’ dated 3 December 2024, as issued by the Respondent in response to the Applicant’s claim; [19]
 - iii. Completed appeal form; [22]
 - iv. Witness Statement on behalf of the Respondent; [34]
 - v. Associated documentation.
5. These reasons address in summary form the key issues raised by the parties. The reasons do not recite each point referred to in submissions but concentrate on those issues which, in the Tribunal’s view, are critical to this decision. In writing this decision the Chairman has had regard to the Senior President of Tribunals Practice Direction – Reasons for Decisions, dated 4 June 2024.

The Issue

6. The application is based on the Respondent's decision to deny the Applicant the right to buy the property on the grounds in paragraph 11 of Schedule 5 to the Housing Act 1985. The Applicant requires the Tribunal to determine whether the exception from the right to buy for occupation by elderly persons applies to the property.
7. The Respondent has denied the Applicant the right to buy the property on the grounds that it was first let before 1 January 1990, is particularly suitable for occupation by elderly persons and was let for occupation by a person aged 60 or more all in accordance with paragraph 11 of schedule 5 of the Housing Act 1985.

The Inspection

8. The Tribunal inspected the property at 10.30am on 14 March 2025 in the presence of the Applicant, Mr Mohamed, and Ms Mckay, representing the Respondent, Bristol City Council.

The Property

9. The property is a third-floor flat in a fourteen-storey building of some 85 flats. The building is said to have been built in 1967. Entry to the building is from Armada Place, via one kerb step of standard height. Alternative access is from Dove Street. There are no communal grounds or parking facilities. The flat is accessed either using a lift or internal staircase, both located just inside the Armada Place entrance. Alternative access, via a longer route, is off the Dove Street entrance where, we are told, a second lift gives access to all floors.
10. Accommodation comprises an entrance hall, living room with balcony, kitchen, bedroom and bathroom with a walk-in shower, WC and wash hand basin.
11. Electric storage heating is provided in the hallway, living room and bedroom. Wall mounted electric heaters are located in the kitchen and bathroom. Each heater operates independently. Windows are double glazed throughout.

The Law

12. The material parts of paragraph 11 to 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.

13. The Office of the Deputy Prime Minister (ODPM) issued circular 7/2004 (Right to Buy: Exclusion of Elderly Persons Housing), which sets out the main criteria to be taken into 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 Submissions and Evidence

The Applicant

14. Mr Mohamed's date of birth is provided as 1 June 1949. His tenancy of 7 Armada House commenced on 8 July 2013, when he was 64 years of age.

15. Mr Mohamed's reasons for challenging the Respondent's decision to refuse him the right to buy the property are set out within the application form [25] and expanded upon within his reply to the Respondent's statement of case [47]. The grounds are summarised as follows:

- i. The property is located on the third floor flat of a fourteen-storey tower block;
- ii. The majority of residents in the building are young families or working age individuals;
- iii. The building is served by one lift; alternative access is via six flights of stairs;
- iv. The property is situated on a back-street, a few minutes walk to a main street;
- v. It is irrelevant that all accommodation is on a single level;
- vi. One bedroom flats are common throughout the city;
- vii. Double glazing, storage heating and a level-access shower are energy-efficiency features, as opposed to elderly-specific features;
- viii. The flat lacks specific adaptations for elderly occupation e.g. emergency pull chords, low level kitchen units, ramps or wide doorways.

- ix. There are no communal spaces, gardens or social facilities for use by elderly residents;
- x. The absence of an age restriction in his tenancy agreement demonstrates the building is considered general purpose housing;

The Respondent

- 16. The Respondent relies upon a witness statement of Ms McKay, submitted in her capacity as Home Ownership Services Manager of the Housing and Landlords Services Directorate. The statement was signed, dated and included a statement of truth.
- 17. Ms McKay agrees that Armada House is a large development of flats situated within Bristol city centre and that the property is located on the third-floor. She says that accommodation comprises a living room, bedroom, kitchen and bathroom, all of which are on one level. The bathroom has a level access shower. The flat has electric storage heating and double glazing.
- 18. Ms McKay states that the Applicant has occupied the property as a secure tenant since 8 July 2013.
- 19. In reaching a decision to refuse the tenant's application, Ms McKay says that regard was had to Statutory provisions of the Act and to the Ministerial Circular ODPM. In particular, that the tenant was aged 64 at the start of the tenancy on 8 July 2013, his date of birth being 1 June 1949. Furthermore, that the property was first let before 1 January 1999, as evidenced by a printout from the Respondent's Rent Accounting System Property Screen; appendix JM2 [45].
- 20. Turning next to the test as to whether the property is particularly suitable for an elderly person, Ms McKay says that this third floor flat is accessed via one step leading to the communal entrance, lift and staircase. The flat has a level access shower and, as far as she is aware, reliable heating to all rooms which may safely be left on overnight. The flat is conveniently located for shops and public transport within 100 yards, whilst Bristol Royal Infirmary is 800 yards.
- 21. Ms McKay agrees with the Applicant that the property is situated on a *back street, a few minutes walk to a main street.*
- 22. Having considered the grounds of the tenant's appeal, Ms McKay remains of the opinion that the Respondent has satisfied the tests set out in Paragraph 11(1)(a) and (b) of Schedule 5 of the Act, and the criteria set down by the ODPM Circular.

Finding of Facts and Determination

23. The Tribunal's jurisdiction is to determine whether the conditions contained in paragraph 5 of Schedule 11 of the Housing Act 1985 are met.
24. In making its determination the Tribunal is guided, but not bound, by the ODPM circular referred to.
25. The Council is entitled to refuse an application where the property was first let before 1 January 1990, the tenant is 60 or over and the property is particularly suitable for persons aged 60 or over.
26. In considering the ODPM circular's section on whether a property is "particularly suitable" the term "elderly persons" does not mean persons who are frail or severely disabled; provision is made in other paragraphs of Schedule 5 of the Act to exclude dwelling houses for such persons from the right to buy legislation. The Tribunal is obliged to examine suitability from the perspective of an elderly person who can live independently.
27. In the Upper Tribunal decision, *Milton Keynes v Bailey* [2018] UKUT 207 (LC), P D McCrea commented: "The question in a case such as this is whether the property is particularly suitable. Some features may tend in one direction, while others point the other way. Some features may be so significant in themselves that they make the property positively unsuitable (for example that it could only be reached by a very steep staircase). But what is required is an assessment of the whole."
28. In reaching our determination the Tribunal considered whether the property was first let before 1 January 1990. The Respondent relies upon exhibit JM2 [45], a printout from an in-house Rent Accounting System Property Screen. The Tribunal finds that the printout is dated 15 November 2018, a date later than 1 January 1990 but, at point 28 of the screen shot, that the build date is listed as 24 July 1967.
29. The Tribunal has regard to the fact that there is no suggestion from the Applicant that the property has, at any time since 1967, been utilised as anything other than social housing.
30. Having carefully considered the evidence adduced, the Tribunal is satisfied, on the balance of probabilities, that the property was let prior to 1 January 1990. The Respondent stated such in a Witness Statement and has provided internal documentation referencing a date in 1967. The Applicant has not challenged the point and has provided no evidence to refute the Respondent's position.
31. Turning next to the requirement that the property was let to the tenant, or a predecessor in title of his, for occupation by a person who was aged 60 or more. The Tribunal finds that the Applicant was aged 64 at the commencement of the tenancy. The requirement is therefore satisfied.

32. Prior to considering whether the property is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, the Tribunal reminded itself that the term 'elderly persons' does not mean persons who are frail or severely disabled.
33. The Tribunal finds that the most convenient access to the property is from the Armada Place entrance, which requires a resident to navigate a single step of average height. A lift or internal staircase provides access to the third floor. Alternative access is possible using a lift on the opposite side of the building, albeit involving a slightly longer walk and a significant slope. The Tribunal find that satisfactory access to the flat is provided and that the single step would not preclude an elderly person accessing the building.
34. It is common ground that this third-floor flat provides one-bedroom accommodation, which is all on one level. During our inspection the Tribunal were shown the wet-room housing a walk-in shower with a fold down shower seat, a toilet and wash hand basin. Directly outside the bathroom, the Tribunal noted a wall mounted handrail. The parties concur that the bathroom was adapted by the Respondent approximately ten years ago in response to Mr Mohamed's health needs, and that the handrail was fitted by the Respondent to assist Mr Mohamed with his mobility. An additional wall mounted rail in the bedroom is said to be used for the airing of clothes. Whilst the Tribunal finds that a wet-room and handrail are not an essential facility for the elderly, nevertheless, their presence in the property does enhance the flat's suitability for occupation by an elderly person.
35. The Tribunal finds that the property has electric heaters throughout and, in the absence of any submissions or evidence to the contrary, that the heating is reliable and may be safely left on overnight.
36. The property is located within 800 metres of Cheltenham Road, which provides a range of convenience stores, a Post Office, bakery, eateries and cafes, and a number of bus stops. Accordingly, the Tribunal finds that the property is convenient for shops and public transport.
37. On inspection, it was apparent to the Tribunal that in order to walk to the facilities on Cheltenham Road, a resident of Armada House would be required to navigate either Ninetree Hill or Thomas Street, neither of which provides flat access. The Applicant made no submissions on the point. However, the Tribunal did not find that the gradient of access would be so difficult so as to preclude an elderly person from reaching the local shops or public transport.
38. The tenant relies upon the flat not having been adapted for elderly living, that his tenancy agreement does not impose an age restriction, and that the majority of occupiers are young families or professionals. The Tribunal's jurisdiction in this matter is to determine whether the conditions contained in paragraph 5 of Schedule 11 to the Housing Act

1985 are met. The Tribunal finds that the bathroom adaptations, undertaken by the Respondent, are suitable for elderly living, and that no weight is attributable to any lack of further adaptations for elderly persons. The absence of any age-restrictions within Mr Mohamed's tenancy agreement, and the age and working-status of other occupiers in the building are not relevant factors in reaching our determination.

39. The Tribunal is satisfied, when assessing the characteristics of the property in the aggregate and not individually, that the property fulfils the requirements of the ODPM circular. The Tribunal is further satisfied, given the guidance handed down by the Upper Tribunal in *Milton Keynes v Bailey*, that taking the features of the property as a whole, the property is particularly suitable for occupation by elderly persons.
40. We find that the property was first let before 1 January 1990, it is particularly suitable for occupation by elderly persons and it was let for occupation by a person aged 60 or more, all in accordance with paragraph 11 of schedule 5 of the Housing Act 1985.
41. **In view of the above the application must fail and the Tribunal determines that the Applicant is not entitled to purchase the subject Property under the provisions of Paragraph 11 of Schedule 5 to the Housing Act 1985.**

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.