



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

**Case Reference** : **MAN/00CG/RTB/2024/0007**

**Property** : **71 Exeter Drive, Sheffield, S3 7TT**

**Applicant** : **Mrs Fadumo Yussuf**  
**Assisted by** : **Ms Shukri Ibrahim**

**Respondent** : **Sheffield City Council**

**Type of Application** : **Right To Buy A Dwelling, Housing Act 1985, Schedule 5, Paragraph 11, As Amended By The Housing Act 2004, Section 181.**

**Tribunal Members** : **Judge C. P. Tonge, LLB, BA.**  
**Mrs S. A. Kendall, BSc, MRICS.**

**Date of Decision** : **30 September 2024**

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**DECISION**

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## **Application and Background**

1. Mrs Fadumo Yussuf (the Applicant) gave notice under section 122 of the Housing Act of 1985 (the Act) to the landlord, Sheffield City Council (the Respondent), of her intention to exercise her right to buy her dwelling 71 Exeter Drive, Sheffield, S3 7TT (the property).
2. The Council then served a notice (form RTB 2) dated 3 April 2024 on the Applicant under Section 124 of the Act denying the tenants' right to buy on the grounds set out in paragraph 11 of Schedule 5 of the Act.
3. By an application dated 23 April 2024, the tenant applied to the First-tier Property Tribunal under paragraph 11(4) of Schedule 5 of the Act for a determination as to whether the grounds set out in paragraph 11 are satisfied. The tenant has at all times been assisted by her daughter Ms Shukri Ibrahim.
4. The tenant's application was copied to the Respondent by the Tribunal. In reply the landlord served a notice indicating an intention to oppose the tenants' appeal.
5. Neither of the parties requested an oral hearing and therefore the case was listed to proceed with an inspection and paper determination on 30 September 2024. The parties were informed accordingly.
6. The tenant's representations are contained in the application to the Tribunal and a one page letter, that is undated, attaching a photograph of one of the three exits from the building that contains the property, a death certificate and a copy of a prior acknowledgement from the Respondent stating that the Applicant had previously been permitted to purchase the property. The Respondent's representations are contained in a letter, dated 25 July 2024, attaching bus service timetables for the 81 and 82 bus service and a plan of the area.

## **The Property**

7. The Tribunal inspected the property and surrounding area, commencing at 11.30 am on 30 September 2024. The Applicant and her daughter, Ms Shukri Ibrahim were present, no one attended to represent the Respondent. The Applicant is unable to speak English, but Ms Shukri Ibrahim translated for the Tribunal and showed the Tribunal around the interior of the property.

8. The property is a three bedroomed maisonette in a purpose built block of maisonettes in an estate of similar properties. The estate is very close to Ecclesall Road, that being a main road, with a bus stop approximately 120 yards away from the property, served by the 81 bus route that provides a frequent bus service to Sheffield City Centre. There are two supermarkets within a five minute walk from the property along Ecclesall Road, Select and Save and the Waitrose. The supermarkets and bus stop can be accessed along relatively flat pavements that can be walked along by an elderly person of 60 years of age and over who is capable of living independently despite some limitations owing to age and who is not frail or severely disabled.
9. The block of maisonettes housing the property has three common entrance paths, two of which lead into the building from the pavement, the third gives access to a children's play area in the middle of a complex of similar buildings. Each of the entrance paths that give access to the pavements involves climbing two flights of concrete steps that have a total of 14 steps with a six inch rise and then walking along a flat path inside the building to the only exterior door that the property has. The path that gives access to the play area in the middle of the set of similar buildings has one step onto a path that leads into the grassed play area. There is no lift to assist elderly persons with access to the property. These flights of 14 steps are not suitable for use by elderly persons.
10. The property has a wooden door giving access to an entrance hall. Windows within the property are uPVC double glazed and there is a gas fired central heating system capable of heating all rooms in the property. On the first level of the property there is a bathroom, containing a bath with an electric shower over the bath. There is also a handrail and tiled area over the bath, and a sink. There is a separate toilet with a sink. Both rooms have central heating radiators. There are two bedrooms, one being a double bedroom and the second having two single beds, each bedroom having a radiator.
11. The property has a staircase with 12 steps leading down to the lower level of the property. The staircase has handrails but there is no room to fit a stair lift. Each step has a rise of five inches. This staircase is not suitable for use by elderly persons.
12. On the lower level of the property there is a third single bedroom with a radiator. There is a sitting room with two radiators and a narrow fitted kitchen, having wall cupboards and a radiator. The tenant has provided her own white goods. There is an exterior door giving access to a small ground floor balcony area that is protected by railings which overlooks the grounds, but has no access to the grounds.

13. Complaints were made about damp in various areas, but the Tribunal could see no evidence of the damp and it is likely to be caused by condensation.
14. The property is designed to provide a family home and it is not particularly suitable for occupation by elderly persons.

### **The Law**

Paragraph 11 of Schedule 5 of The Act provides that:-

- 1) The right to buy does not arise if the dwelling-house
  - a) is particularly suitable, having regard to size, design, heating system, and other features, for occupation by elderly persons, and
  - b) was let to the Tenant or 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 the title of his...
- 6) This paragraph does not apply unless the dwelling house concerned was first let before the 1<sup>st</sup> day of January 1990.

The Circular from The Office of the Deputy Prime Minister (ODPM Circular 07/2004) sets out guidance as to the floor plan and design features of a property that can be considered to be particularly suitable for occupation by elderly persons of age 60 and over. It also provides guidance as to what the surrounding area should contain. Further it defines an elderly person as being a person of 60 years of age and over who is capable of living independently despite some limitations owing to age and who is not frail or severely disabled.

### **The Issues**

15. The Applicant has raised the issue that similar maisonettes have been sold.
16. The Respondent states that the premises had first been let prior to 1 January 1990 and this has not been challenged by the Applicant. The Respondent's records do not agree with the Applicant's account of the start date of the tenancy and the ages of the occupiers. The Applicant has provided a death certificate for her husband that supports her version of these facts. On both versions of the facts the Applicant was over 60 years of age when the tenancy began.

17. The only matter for the Tribunal to determine is whether under Paragraph 11(1) (a) of The Act the dwelling house is particularly suitable... for occupation by elderly persons.

### **Written Submissions**

18. The Respondent submits that the property is particularly suitable for occupation by elderly persons. The Applicant takes a contrary view.

### **The Deliberations**

19. The Tribunal determines that paths to the nearby bus stop and supermarkets can easily be walked by a person of 60 years of age and over who is capable of living independently despite some limitations owing to age and who is not frail or severely disabled. The bus services are frequent and provide access to Sheffield City Centre.
20. The property itself is not suitable for occupation by a person of 60 years of age and over who is capable of living independently despite some limitations owing to age and who is not frail or severely disabled. The exterior concrete steps are too high. The interior staircase has too many steps. The maisonette has too many bedrooms and is not on one level.
21. The Tribunal does not know the circumstances in which other similar properties may have been sold in the area and therefore cannot comment upon this representation.
22. The Tribunal notes the earlier undated letter from the Respondent indicating that on a prior occasion the Respondent had decided that the Applicant did have the right to buy the property. The Tribunal determines that on that occasion the Respondent made the correct decision.
23. The Tribunal determines that the property is not particularly suitable for occupation by elderly persons.

### **The Decision**

24. The requirements of Paragraph 11 (1) (b) of the Act as to date of the first letting and the age of the occupier are met.
25. The flat does not provide a home that is particularly suitable for occupation by elderly persons.
26. The Tribunal therefore determines that the grounds set out under paragraph 11 of schedule 5 of the Act are not satisfied and that Sheffield

City Council may not rely on those grounds to deny the Applicant her right to buy.

27. If either party to this case should wish to appeal against this Decision, appeal is to the Upper Tribunal. That party has 28 days to deliver to this First-tier Tribunal an application for permission to appeal, stating the grounds of appeal and the particulars of the grounds, also stating the result that the appellant seeks in raising the appeal.

Judge C. P. Tonge

7 October 2024