

**THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE**

**DECISION OF THE MIDLAND RESIDENTIAL PROPERTY TRIBUNAL  
ON AN APPLICATION UNDER PARAGRAPH 11(4) OF SCHEDULE 5  
TO THE HOUSING ACT 1985**

**Housing Acts 1985 and 2004**

**Property:** 18 Lodge Grove, Walsall, West Midlands WS9 0AG

**Applicant:** Mr Alan Davis (tenant)

**Respondent:** Walsall Housing Trust (landlord)

**Date of inspection:** 11 May 2006

**Members of the residential property tribunal:**

Lady Wilson  
Mr S Berg FRICS  
Mrs N Jukes

**Date of the tribunal's decision:**

17 May 2006

## **Background**

1. This is an application by the tenant of 18, Lodge Grove, Walsall (“the property”) under paragraph 11(4) of Schedule 5 to the Housing Act 1985 (“the Act”) for a determination that he has the right to buy the property under Part 5 of the Act from the respondent, which is a registered social landlord. The landlord says that the property is exempt from the right to buy provisions of Part V of the Act because it comes within paragraph 11(1) of Schedule 5 to the Act which provides:

*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).*

By paragraph 11(2), in determining whether a dwelling is particularly suitable for occupation by elderly persons, no regard is to be had to any feature provided by the tenant or a previous tenant, and, by paragraph 11(6), the paragraph does not apply unless the property was first let before 1 January 1990.

2. It is not disputed that the tenant was aged 60 or more when the property was let to him, and that the property was first let before 1 January 1990.

3. This application was determined without an oral hearing under regulation 8 of the Residential Property Tribunal (Right to Buy Determinations) (Procedure) (England) Regulations 2005, the tribunal having given 28 days’ notice of its intention to proceed without a hearing and neither

the tenant nor the landlord having requested a hearing.

4. The tribunal inspected the property on 11 May 2006 in the presence of a friend of the tenant. It is a semi-detached bungalow on a development of 12 similar properties in a quiet cul-de-sac leading from the busy Birmingham Road. The property has two rooms, a kitchen and shower room. It is set back behind a small garden and has a small private garden at the rear. Space heating is provided by a gas fire in the living room and gas central heating elsewhere. There is a small step at each of the front and rear entrances, and a very small step to the rear entrance lobby. An alarm call system is installed but we have had no evidence that it was provided by the landlord and we have disregarded it. There are bus stops in the main road, near the end of the cul-de-sac in which the property is situated, and a frequent bus service to Aldridge town centre, which is approximately half a mile from the property and is very well provided with a comprehensive range of shops and other facilities. There was said by the landlord to be, in addition, a local newsagent which sold bread and milk, but no bread or milk was available at the time of our inspection.

#### **The tenant's case**

5. The tenant says that, in the past, either Walsall Metropolitan Borough Council or Walsall Housing Group have sold identical or very similar properties under the Right to Buy Scheme, which he considered to set a precedent.

#### **The landlord's case**

6. Mr Phil Turner, the landlord's Property Ownership Manager, said that the property was easily

accessible by foot and was in close proximity to public transport and local amenities. He enclosed bus timetables and confirmed that all pensioners in the area were entitled to concessionary bus passes. He said that no properties on the development or on similar developments had been sold by the landlord, although occasionally, if properties which were particularly suitable for elderly persons became vacant, and there were no persons aged 60 or over on the waiting list, they were let to applicants under 60 in order to avoid a loss of rental income.

### **Determination**

7. We are satisfied that the property is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons. It is in a quiet development, with easy access to a good public transport system and thereby to a wide range of shops and other facilities. It is all at ground floor level with few steps, there is only one bedroom, there is an adequate and modern space heating system, and the property appears to be easy to maintain and to keep warm. We do not believe that the landlord has ever sold a similar property under the Right to Buy scheme, although we appreciate that it may occasionally have let one to a person under 60 for reasons of management practice, but this is irrelevant to the issue we have to decide.

8. Accordingly we determine that the landlord is entitled to rely on paragraph 11(1) of Schedule 5 to the Act and the tenant does not have the right to buy it under Part V of the Act.

**CHAIRMAN**.....

**DATE**..... 17 May 2006