

<b>Key Decision Required:</b>	<b>NO</b>	<b>In the Forward Plan:</b>	<b>NO</b>
-------------------------------	-----------	-----------------------------	-----------

## CORPORATE DIRECTOR OF OPERATIONS AND DELIVERY

10 NOVEMBER 2020

### **A) PAYMENT OF DEVELOPERS FEES ASSOCIATED WITH APPROVAL OF ALTERATION REQUESTS – 4 KIDBY WAY, WEELEY HEATH**

(Report prepared by Emma Norton)

#### **PART 1 – KEY INFORMATION**

##### **PURPOSE OF THE REPORT**

To seek approval from the Corporate Director, Operations and Delivery, to meet the charges payable to the developer in connection with any requests received from the tenant of 4 Kidby Way, Weeley Heath for permission to carry out alterations to this property.

##### **EXECUTIVE SUMMARY**

4 Kidby Way is a gifted property that the Council acquired on 15 January 2020. This proposal is for the Council to meet the £150 charge, plus VAT (if applicable), payable to the developer in connection with any requests for permission to erect a shed or other structure or to carry out any other addition or structural alteration to the property within the first five years. Payment of this fee is a requirement of the agreed restrictive covenants for this property.

If the Council meets this charge it will ensure that the tenant of this property is not financially disadvantaged or has this aspect of their tenancy managed in a different way to other tenants simply by having been allocated this property.

##### **RECOMMENDATIONS**

That the Corporate Director for Operations and Delivery approves the payment of the applicable fee to the developer should this arise.

#### **PART 2 – IMPLICATIONS OF THE DECISION**

##### **DELIVERING PRIORITIES**

The payment of this charge has potential to contribute to the Council priority to deliver a quality living environment by:

- Supporting the supply of affordable housing.

##### **FINANCE, OTHER RESOURCES AND RISK**

Finance and other resources

In the event of any relevant applications for permission being received within the specified initial five year period, the cost of these fees would be met from the budget that has been designated for the payment of all management and other fees associated with gifted properties.

Risk

There is no recognised risk with the proposed transactions. However, there is a risk if the Council

requires the tenant to meet this charge and they are financially disadvantaged as a result when compared to other tenants.

#### **LEGAL**

In coming to decisions in relation to the management or procurement of assets, the Council must act in accordance with its statutory duties and responsibilities.

Section 97 of the Housing Act 1985 as amended states that, 'it is a term of every secure tenancy that the tenant will not make any improvement without the written consent of the landlord.... This consent shall not be unreasonably withheld and, if unreasonably withheld, shall be treated as given'.

This statutory right to make improvements, with consent, applies to all secure tenants and is not subject to the payment of any charges.

#### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of Crime and Disorder, Equality and Diversity, Health Inequalities, Consultation/Public Engagement and Wards; and any significant issues are set out below.

None

#### **Ward**

Weeley and Tendring

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

The Council acquired number 4 Kidby Way on 15 January 2020 as a gifted property from South East Developments Ltd.

The transfer documents for this property included a number of restrictive covenants that are in common with other properties on the development. One of these covenants states that:

'Not within five years of the date hereof to erect or place or suffer to be erected or placed upon any part of the Property any outbuilding shed or hut nor within the said period of five years to make any addition or structural alterations to any building now or hereafter erected on the Property unless plans and necessary specifications thereof shall first have been submitted to and approved by the Council in writing (such approval not to be unreasonably withheld or delayed) and the Developer's fee of £150 plus VAT (if applicable) shall first have been paid.'

The requirement to obtain this permission from the developer is in addition to the requirements to obtain the Council's permission in accordance with the Housing Act 1985 and the Council's Secure and Introductory Tenancy Agreement.

Section 97 of the Housing Act 1985 as amended states, 'it is a term of every secure tenancy that the tenant will not make any improvement without the written consent of the landlord.... This consent shall not be unreasonably withheld and, if unreasonably withheld, shall be treated as given'.

This is supported by the Council's Secure and Introductory Tenancy Agreement which states that secure tenants have 'the right to improve or alter the property, as long as you get our written permission first.'

As all secure tenants have a statutory right to make alterations, it is unreasonable and inequitable for a financial cost to be attached to this condition for the tenants of 4 Kidby Way when other secure tenants do not have to pay a fee in connection with these requests.

There is sufficient funding in the budget to meet the costs of these fees should the need arise.

#### **CURRENT POSITION**

It is recommended that the Council accepts responsibility for meeting these costs in the event of any request for permission for alterations being received within the initial five year period.

#### **FURTHER HEADINGS RELEVANT TO THE REPORT**

None

#### **BACKGROUND PAPERS FOR THE DECISION**

None

#### **APPENDICES**

None