

Key Decision Required:	NO	In the Forward Plan:	NO
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CORPORATE DIRECTOR OF OPERATIONS AND DELIVERY

20 NOVEMBER 2020

A) PAYMENT OF DEVELOPERS FEES ASSOCIATED WITH APPROVAL OF ALTERATION REQUESTS – 30 AND 32 KEATS CRESCENT, BRIGHTLINGSEA

(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 relevant requests received from the tenants of 30 and 32 Keats Crescent, Brightlingsea for permission to carry out alterations to this property.

EXECUTIVE SUMMARY

30 and 32 Keats Crescent, Brightlingsea are gifted properties that the Council acquired on 19 October 2020. This proposal is for the Council to meet any charges payable to the developer in connection with any requests for permission to erect a shed or other structure or to carry out any other external additions or alterations to the properties within the first ten years. Payment of this fee is a requirement of the agreed restrictive covenants for 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 ten 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

Brightlingsea

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Council acquired numbers 30 and 32 Keats Crescent, Brightlingsea on 19 October 2020 as gifted properties from Hopkins Homes Limited.

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

'Not within 10 years from the date hereof to erect or construct any buildings or structures on any part or parts of the Property and not to make any external alterations or additions to the building(s), structure(s) or the driveway or any parking space now constructed or erected on any part or parts of the Property or to alter or remove any screen, wall or fence thereon until plans, sections, elevations and specifications thereof have been submitted to and approved by the Transferor (such approval shall be at the Transferor's absolute discretion and approval is not guaranteed) provided that on any such application for approval the Transferee shall pay to the Transferor a fee of £100 plus value added tax for considering such application whether or not the approval of the Transferor to such application shall be given'.

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 30 and 32 Keats Crescent, Brightlingsea 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 ten year period.

FURTHER HEADINGS RELEVANT TO THE REPORT

None

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

None