

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

6 APRIL 2021

A) PAYMENT OF DEVELOPERS FEES ASSOCIATED WITH APPROVAL OF ALTERATION REQUESTS – 8 BRUNSWICK GARDENS, MISTLEY

(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 or management company in connection with relevant requests received from the tenants of 8 Brunswick Gardens, Mistley for permission to carry out alterations or additions to this property.

EXECUTIVE SUMMARY

8 Brunswick Gardens, Mistley is a gifted property that the Council added to its housing stock on 11 December 2020. This proposal is for the Council to meet any charges payable to the developer or management company in connection with any requests for permission to alter the exterior of the building or erect any additional buildings, walls, hedges or fences on the property within five years from the transfer of the property. 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 or management company should this arise.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The payment of this charge has the potential to contribute to the Council priority relating to building and managing our own homes.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

In the event of any relevant applications for permission being received, 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, Climate Change and any significant issues are set out below.

None

Ward

Lawford, Manningtree and Mistley

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Council added number 8 Brunswick Gardens, Mistley to its housing stock on 11 December 2020 as a gifted property from Go-Develop (Mistley) Ltd.

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

Alterations: The Transferee must not, within five years from the date hereof, make any alterations to the exterior of the buildings now or subsequently erected on the Property or to the walls hedges and fences on the Property nor erect any additional buildings walls hedges and fences on the Property except with the written approval of the Transferor whose fees and those of its professional advisers in connection with the consideration of any such application whether granted refused or withdrawn shall be paid by the Transferee

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 tenant(s) of 8 Brunswick Gardens, Mistley

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