

<b>Key Decision Required:</b>	<b>No</b>	<b>In the Forward Plan:</b>	<b>No</b>
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## FURTHER REVISED REPORT – FOR CORPORATE DIRECTOR OPERATIONS AND DELIVERY

11 January 2022

(Report prepared by Saira Mahboob and Megan Blake)

### PART 1 – KEY INFORMATION

#### PURPOSE OF THE REPORT

To authorise completion of the transfer of Plots 13 and 14 St Johns Wood, Clacton (also known as 2 and 4 Melinda Lane, Clacton-on-Sea, Essex CO16 8HX) to the Council as Affordable Housing Dwellings at the revised price of £210,000 each (total purchase price £420,000). The Council is not required to become a member of any management company. However, it is for the Council and adjoining owners to agree what works and/or maintenance is required and the costs involved to any party walls, fences or any private services which are not adopted or the responsibility of other statutory undertakers.

#### EXECUTIVE SUMMARY

Leisure Fame Ltd submitted a planning application under reference number 18/00379/OUT, and following the Planning Committee's approval, permission was granted for residential development of up to 14 dwellings upon completion of a Section 106 Agreement ("Agreement"). The Agreement was dated 29 November 2018 and 11 December 2018 which included the provision of Affordable Housing.

Plots 13 and 14 were originally offered to a housing association, who were not able to purchase these properties on the basis that the housing association had reached its capacity to purchase newly developed properties.

Affordable Housing is the subject of the Second Schedule of the Agreement and provides for the option to accept two 2 bedroom dwellings being Plot 13 and 14 to be transferred to the Council for the sum of £210,000 each in lieu of the delivery of the Affordable Housing Scheme. The Dwelling must be constructed in accordance with the Specification approved by the Council, and capable of being occupied for its intended purpose.

Affordable Housing is defined as meaning "*Affordable Rented Housing*" and the same is defined as "*rented housing let by local authorities or private Approved Bodies to Persons in Housing Need where rent controls require a rent of no more than 80% of the local market rent (including service charges, where applicable) and the expressions "Affordable Rented Housing Dwelling" and "Affordable Rented Housing Dwellings" shall be construed accordingly.*"

The dwellings have been inspected by Housing Services and they are satisfied with the built dwellings. Completion will take place on this basis.

The Second Schedule contains additional obligations over the tenure and transfer of the dwellings.

The obligations and restrictions contained within the Agreement shall not bind a Protected

Tenant, meaning any tenant who has exercised any statutory right to buy in respect of the dwellings.

1. In accordance with the Agreement, the Transfer Deed to the Council contains a reference to the Agreement under which the transfers of plots 13 and 14 are being granted.
2. All rights of access and passage of services and all other rights reasonably necessary for the beneficial use and enjoyment of the Affordable Housing ;and
3. Such other covenants and reservation as the Owners may reasonably require including but not limited to the maintenance of the Development once it is completed and the preservation of the appearance thereof.

The Transfer Deed (shown attached as **Appendix A**) has been received from Lane Homes Construction Ltd, who took ownership of the property on 11 April 2019. The draft deed includes standard provisions, rights and covenants in respect of the Property to be transferred, however particular attention is drawn to the following:

- Restrictive Covenants:

Clause 15 of the Transfer Deed contains a number of restrictive covenants which the Council will be bound by in addition to observing and performing the covenants stipulations and restrictions set out in clause 16. Further, clause 12.5 sets out matters which will need to be included within the tenancy agreement to the nominated tenant so as to ensure the Council can control performance of its obligations. None of these are unreasonable and compliance will be monitored through the normal tenancy management arrangements.

- Maintenance and repairs:

The Council is not required to become a member of any management company; and any green verge/grassland within the development is to be maintained by Leisure Fame Ltd. The Council will not be required to contribute towards the maintenance of these areas.

The Council and adjoining owners will however, have to agree any works and/or maintenance required to any party walls or fences. We have received the completed Section 104 drainage agreement under the Water Industry Act 1994, Sections 38 and 278 Highway 1980 highway adoption agreements confirming once the necessary works are completed and approved by the relevant statutory undertakers, the services will be adopted and will be the responsibility of the statutory undertakers.

#### **RECOMMENDATION(S)**

That the Corporate Director (Operations and Delivery) notes the contents of the report and is authorises:

- (i) Completion of the transfer of Plots 13 and 14 St Johns Wood, Clacton (also known as 2 and 4 Melinda Lane, Clacton-on-Sea, Essex CO16 8HX) to the Council as Affordable Housing Dwellings at the purchase price of £210,000 each (total purchase price £420,000).

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

Cabinet recommended its Corporate Plan for 2020 to full Council, which was adopted at its meeting in January 2020.

The content of this report helps to support Building Sustainable Communities for the Future and building and managing our own homes.

### FINANCE, OTHER RESOURCES AND RISK

#### Finance and other resources

Under the Local Government and Housing Act 1989, s.76, local housing authorities are under a duty to prevent a debit balance on the Housing Revenue Account. This requires an authority to set and implement their rent levels to avoid such a debit. While this exercise does not necessarily require the setting of individual rents, as opposed to a global figure for rental income, it will necessarily have an impact on the levels of rent. The requirement in s.76 (6) is to review rent levels and take reasonably practicable steps, if it becomes apparent that a debit will arise on the H.R.A. This may also require authorities to implement a rent increase.

#### Risk

The risks and mitigation are set out within the body of the report.

### LEGAL

Pursuant to Section 9 of the Housing Act 1985 (“the 85 Act”), a local housing authority may provide housing accommodation by acquiring houses. Section 24 of the 85 Act provides that the Council acting as a housing authority may make such reasonable charges as they may determine for the tenancy or occupation of their houses.

The Corporate Director (Operations and Delivery) has the delegated powers to make this decision on the terms set out in the Joint Report of the Corporate Finance and Governance Portfolio Holder and the Housing Portfolio Holder and in accordance paragraph (b) of the Cabinet Decision dated 17 December 2021.

### OTHER IMPLICATIONS

Any person exercising their Right to Buy in respect of this property would have to observe the same obligations and covenants as outlined in the Transfer Deed.

### BACKGROUND PAPERS FOR THE DECISION

Section 106 Agreement dated 29 November 2018 and 11 December 2018 relating to land at and rear of 820 and 824 St John’s Road, Clacton-on-Sea, CO16 8BS.

### APPENDICES

**Appendix A:** Draft Transfer Deed TP1