

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

20 SEPTEMBER 2022

A) PAYMENT OF DEVELOPERS FEES ASSOCIATED WITH APPROVAL OF ALTERATION REQUESTS – 4, 6 AND 8 OPAL WAY, ALRESFORD

(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 4, 6 and 8 Opal Way, Alresford for permission to carry out alterations to these properties.

EXECUTIVE SUMMARY

4, 6 and 8 Opal Way, Alresford are gifted properties that the Council acquired in May 2022. This proposal is for the Council to meet any charges payable to the developer in connection with requests for permission to erect any building or structure on the property or to erect or make any extension of alteration to the exterior of the dwelling within an initial five year period. 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 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

Alresford

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Council acquired numbers 4, 6 and Opal Way, Alresford in May 2022 as gifted properties from Taylor Wimpey UK 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 to erect any building or structure on the Property nor to erect or make any extension or alteration to the exterior of the dwelling thereon without having first obtained....the approval of the Transferor to the plans elevations and specification of any such building structure extension or alteration to be carried out within five years of the date hereof (the application for approval to be accompanied by the appropriate fee set from time to time by the Transferor in respect of such application)

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 these properties 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