

Key Decision Required:	No	In the Forward Plan:	No
-------------------------------	-----------	-----------------------------	-----------

**PORTFOLIO HOLDER FOR HOUSING AND PLANNING
DEEDS OF VARIATION RELATING TO S106 AGREEMENTS IN RESPECT OF PARCELS OF
LAND IN THE DISTRICT OF TENDRING**

30 January 2024

(Report prepared by Saira Mahboob)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To obtain approval and authorisation for the completion of deeds of variation relating to parcels of land under Section 106 Town and Country Planning 1990 planning agreements (“s106 Agreements”) relating to the properties referred to in the Background Section of this report.

EXECUTIVE SUMMARY

Eastlight Community Homes Limited (formerly known as Colne Housing Society Limited) purchased parcels of land as referred to in the list below and entered into S106 Agreements with Tendring District Council in 1992, 1993 and 2004 to build housing developments.

The housing developments are currently being mortgaged by Santander UK plc. In the current s106 Agreements attached as Appendix A, there is no mortgagee protection clause included. Eastlight Community Homes Limited are seeking to raise finance and Santander UK Plc requested for a mortgage protection clause to be included in the S106 Agreements by way of deeds of variation. The mortgage protection clause will protect those administrators in bankruptcy and housing administrators as well as the lender.

Appendix B is the agreed deed of variation incorporating the mortgage protection clause. The consequence of the varied clause will mean lenders/administrators will not be bound by the terms of the Section S106 Agreements in the event of a repossession by a lender, administrators in bankruptcy or housing administrators. The housing developments affected are listed below.

S106 Agreement dated 16 December 1993 for Land at Rochford Road, St Osyth
S106 Agreement dated 15 October 1993 for Land at Ingrams Piece, Ardleigh
S106 Agreement dated 13 June 2004 for Land Thorpe Road, Kirby Cross Frinton-on-Sea.

The proposed amendments to the existing mortgagee clause in the S106 Agreements referred to in this report are standard amendments requested by lenders when housing associations re-finance their housing property portfolios.

RECOMMENDATION(S) CHECK!

That the Portfolio Holder for Housing notes the contents of the report and approves:

- (i) The completion of the deeds of variation relating to the S106 Agreements referred to in this report.

PART 2 – IMPLICATIONS OF THE DECISION**DELIVERING PRIORITIES**

The content of this report helps to support Eastlight Community Homes Limited in managing properties within Tendring.

FINANCE, OTHER RESOURCES AND RISK

There are no direct nor indirect financial risks to the Council. However, should the Council not agree to the deeds of variation to the S106 Agreements, Eastlight Community Homes Limited will find it difficult to finance/re-finance its property portfolio to enable it to manage affordable housing within the district of Tendring.

If the properties are sold under a power of sale or by repossession by the lender, administrators in bankruptcy or housing administrators consequently the properties become standard properties to be sold on the open market. The potential risk to the Council is that the Council would lose affordable housing properties within the district.

If the Council does not complete the deeds of variation, Eastlight Community Homes Limited may not be able to re-finance the properties making it potentially difficult to manage these properties in Tendring. This will pose a greater risk for the Council of losing affordable housing within the district possibly resulting in the sale of the properties as open market properties with the Council's consent. Therefore, completing the deeds will mitigate the risk of losing the affordable housing properties within the district.

LEGAL

In accordance with the Scheme of Delegation under the Property Dealing Procedure of the Council's Constitution, the Portfolio Holder has the delegated powers to make this decision.

OTHER IMPLICATIONS

None for the Council.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Appendix A: S106 Agreements referred to Executive Summary above.

Appendix B: Agreed deeds of variation to the s106 Agreements