

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

CORPORATE DIRECTOR (OPERATIONS AND DELIVERY)

3 APRIL 2024

A) GRANTING A DEED OF VARIATION FOR SHARED EQUITY LEASE – 21 WILLIAM GROOM AVENUE, DOVERCOURT

(Report prepared by Emma Norton)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To obtain approval from the Corporate Director (Operations and Delivery) to grant a Deed Of Variation, including a lease extension, relating to the shared equity lease for 21 William Groom Avenue, Dovercourt in accordance with the Leasehold Reform Act 1967.

EXECUTIVE SUMMARY

21 William Groom Avenue is a shared equity property with a 99-year lease.

The current lessee has requested that the lease be extended by a Deed of Variation and in accordance with the Leasehold Reform Act 1967. The existing lease also needs to be varied to reflect the Council's current position regarding buildings insurance and to add specific provisions regarding the mutual right to support.

The Leasehold Reform Act 1967 entitles leaseholders of qualifying houses the right to extend their leases in accordance with the Act. The Council are obligated to implement those provisions when it receives an application from a leaseholder.

There are exemption rights in Section 17, 18 and 19 of the Act relating to the Landlord's right to redevelopment, occupy or retain management rights but these are not considered to apply to these properties.

In accordance with the Leasehold Reform Act 1967, to qualify to extend the lease for a house:

1. the tenant must have to have owned (but not necessarily lived in) the house for at least two years;
2. the original lease must be longer than 21 years and not expired;
3. must not have been extended before;
4. must be at a low rent.

Subject to the first criteria, which will have to be assessed on an individual basis, all of the Shared Equity Scheme leases are considered to fulfil the remaining criteria.

The current lessee of 21 William Groom Avenue also meets the ownership criteria set out in point (1) above.

Where the qualification criteria are met, the legislation entitles the tenant to a new lease:

- For a term of 50 years plus the remainder of the term of the existing lease; and

- At a "modern" rent from the start of the new 50 year term.

No premium is paid for the lease extension but the tenant is required to pay the Landlord's valuation and conveyancing costs associated with the grant of the extended lease. The modern rent has been determined by the Council's valuer to be £33.13 per week, based on a 48 week year.

RECOMMENDATIONS

That, in accordance with the Council's Property Dealing Procedure, the Corporate Director (Operations and Delivery) agrees to the granting of and completing a Deed of Variation, including a lease extension.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

This Deed of Variation will contribute to the Council's priority relating to pride in our area and services to residents.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

The lessee will be responsible for meeting the Council's legal and valuation costs.

Risk

By not extending the lease, the current lessee is likely to face future difficulties in selling their property as, if a potential purchaser is applying for a mortgage to finance the purchase, lenders may be reluctant to provide finance for a lease with less than 70 years of the lease term remaining.

There is a risk in that the current lease places responsibility on the Council for insuring the property, which it is not doing, and there could be liability for future claims against this.

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. The Council has the power to vary the shared equity lease for 21 William Groom Avenue is an administrative procedure dealt and determined within the Property Dealing Procedure,

The Leasehold Reform Act 1967 entitles leaseholders of qualifying houses the right to extend their leases in accordance with the Act and the Council is obligated to implement those provisions when it receives an application from a leaseholder.

Both parties to the lease will agree the amendments to the lease to be included in the Deed of Variation and this will be registered with the Land Registry.

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

Dovercourt All Saints

PART 3 – SUPPORTING INFORMATION**BACKGROUND**

In 1989, the Council introduced a shared ownership scheme to assist those on lower incomes with the part purchase of a property. The scheme, known locally as the Council's "Shared Equity Scheme" enabled eligible applicants to purchase a long lease of a purpose built property with the Council retaining ownership of the land for which a weekly rent is payable. The initial leases granted were for 99 years with the lessees having full repair and maintenance responsibilities during this term. This responsibility was reflected in a reduction in the rent calculation for the proportion of the property owned by the Council.

At the time of the scheme's introduction, no provision was made for the extension of the leases beyond their initial term.

The current lessee of 21 William Groom Avenue wishes to extend their lease and this will also allow the lease to be varied to reflect the following:

1. Buildings Insurance

Although a requirement of the lease, the Council ceased insuring its shared equity properties a number of years ago and all leaseholders were advised accordingly at this time. The reason for this was that the Council's block policy was considered too expensive by lessees, who found it was much cheaper to arrange their own buildings insurance on the open market, which they all proceeded to do. However, most of the Council's leases were not amended at this time and so still state that the Council will insure their property and the lessee will be recharged for this.

2 Rights of Support

Schedule 5 of the lease deals with the freehold conveyance and the Eighth Schedule is part of the draft Freehold Conveyance. This includes a right of support and protection and so the presumption has always been that this support has always been intended to be in the body of the lease itself.

However, it is understood that these are now a requirement of mortgage lenders.

3. Extension of Lease

When the Council introduced its shared equity housing scheme in 1989, no provision was made for the extension of leases beyond their initial term. With the oldest lease now having less than 70 years to run, it is becoming increasingly difficult for existing lessees to sell their interest as mortgage lenders are often reluctant to offer mortgages on leasehold property where the lease has a term of this length or less. The Council has now been asked to consider extending this lease.

The Leasehold Reform Act 1967 entitles leaseholders of qualifying houses the right to extend their leases in accordance with the Act. The Council are obligated to implement those provisions when it receives an application from a leaseholder.

There are exemption rights in Section 17, 18 and 19 of the Act relating to the Landlord's right to redevelopment, occupy or retain management rights but these are not considered to apply to these properties.

In accordance with the Leasehold Reform Act 1967, to qualify to extend the lease for a house:

1. the tenant must have to have owned (but not necessarily lived in) the house for at least two years;
2. the original lease must be longer than 21 years and not expired;
3. must not have been extended before;
4. must be at a low rent.

Subject to the first criteria, which will have to be assessed on an individual basis, all of the Shared Equity Scheme leases are considered to fulfil the remaining criteria.

The current lessee of 21 William Groom Avenue also meets the ownership criteria set out in point (1) above.

Where the qualification criteria are met, the legislation entitles the tenant to a new lease:

- For a term of 50 years plus the remainder of the term of the existing lease; and
- At a "modern" rent from the start of the new 50 year term.

No premium is paid for the lease extension but the tenant is required to pay the Landlord's valuation and conveyancing costs associated with the grant of the extended lease. The modern rent has been determined by the Council's valuer to be £33.13 per week, based on a 48 week year.

In accordance with the Council's Property Dealing Procedure, extensions to shared equity leases, via a Deed of Variation, are delegated to the Corporate Director (Operations and Delivery) and this approval is being requested.

CURRENT POSITION

It is recommended that a Deed of Variation, including a lease extension, is approved to address the above mentioned issues.

FURTHER HEADINGS RELEVANT TO THE REPORT

None

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

None